

LAW OFFICES

**MILES & STOCKBRIDGE**

A PROFESSIONAL CORPORATION

10 LIGHT STREET

BALTIMORE, MARYLAND 21202-1487

TELEPHONE 410-727-6464

FAX 410-385-3700

19569

300 ACADEMY STREET  
CAMBRIDGE, MD 21613-1865

101 BAY STREET  
EASTON, MD 21601-2718

11350 RANDOM HILLS ROAD  
FAIRFAX, VA 22030-7429

30 WEST PATRICK STREET  
FREDERICK, MD 21701-6903

22 WEST JEFFERSON STREET  
ROCKVILLE, MD 20850-4286

600 WASHINGTON AVENUE  
TOWSON, MD 21204-3965

1450 G STREET, N.W.  
WASHINGTON, D.C. 20005-2001

JOHN A. STALFORT  
410-385-3424

August 16, 1995

via DHL WORLDWIDE EXPRESS

Interstate Commerce Commission  
12th and Constitution Avenue, N.W.  
Washington, D.C. 20423  
Attention: Mrs. Janice Fort  
Recordation

0100740006

Re: Our File No.: 258-1502

Dear Mrs. Fort:

Enclosed for recordation as a primary document pursuant to the provisions of 49 U.S.C. §11303 are one original and one notarized copy of the following document:

Loan, Security Agreement and Assignment dated August 16, 1995 between Railcar, Ltd (1819 Peachtree Road, N.E., Suite 315, Atlanta, Georgia 30309) and First Maryland Leasecorp (25 South Charles Street, Baltimore, Maryland 21201).

Also enclosed is a check in the amount of \$21.00 to cover the costs of recordation.

Once this document has been recorded, please return the same to: John A. Stalfort, Esquire, Miles & Stockbridge, A Professional Corporation, 10 Light Street, Baltimore, Maryland 21202.

Thank you for your prompt attention to this matter. If you have any questions, please call me at (410) 385-3425.

Sincerely,

*John A. Stalfort /ms*  
John A. Stalfort

JAS:mes  
Enclosures

RECEIVED THE  
OFFICE OF THE  
SECRETARY  
AUG 18 10 22 AM '95  
LICENSING BRANCH



Interstate Commerce Commission  
Washington, D.C. 20423-0001

8/18/95

Office Of The Secretary

John A. Stalfort-Esquire  
Miles & Stockbridge  
10 Light Street  
Baltimore, MD., 21202-1487

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 8/18/95 at 10:30AM, and assigned recordation number(s). 19569 and 19550-B.

Sincerely yours,

Vernon A. Williams  
Secretary

Enclosure(s)

(0100740006)  
(0100740007)

\$ 2.00 The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid and in no way indicates acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one typed on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had an opportunity to examine your document.

Signature

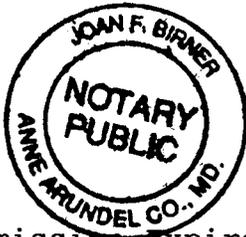
19589

AUG 4 10:05 AM

STATE OF MARYLAND, COUNTY OF ANNE ARUNDEL, TO WIT:

I HEREBY CERTIFY that the attached Loan, Security Agreement and Assignment is a true and complete copy of said Loan, Security Agreement and Assignment.

WITNESS my hand and seal this 16<sup>th</sup> day of August, 1995.



Joan F. Birner  
Notary Public

My Commission Expires: 6/24/97

**LOAN, SECURITY AGREEMENT AND ASSIGNMENT**

This Loan, Security Agreement and Assignment ("Security Agreement") is entered into as of the ~~10th~~ day of August, 1995 between Railcar, Ltd. ("Debtor") and First Maryland Leasecorp ("Secured Party").

WHEREAS, pursuant to that certain Lease Agreement dated as of April 1, 1995 between Debtor as lessor and Canadian National Railway Company ("Lessee") as lessee (together with any amendment, modification, rider, exhibit and attachment, the "Lease"), Debtor has leased the equipment ("Equipment") described in the Lease to Lessee and in Exhibit A attached hereto and made a part hereof; and

WHEREAS, in order to finance the purchase and refurbishment of the Equipment, Debtor proposes to borrow from Secured Party the aggregate sum of \_\_\_\_\_ or such lesser amount as is advanced from time to time and to give Secured Party Debtor's Secured Note for each such advance.

NOW, THEREFORE, in order to induce Secured Party to make the Loan, and in consideration of its doing so, and for other good and valuable consideration, the receipt and sufficiency of which Debtor hereby acknowledges, Debtor and Secured Party hereby agree as follows:

1. **Loan Advances.** Subject to the fulfillment of the conditions specified in Section 7 hereof, Secured Party hereby agrees to lend to Debtor the aggregate principal sum of up to \_\_\_\_\_ in such amounts and at such times as hereinafter provided (the "Loan"). The obligation of Debtor to repay all sums advanced to it under the Loan shall be evidenced by Debtor's Secured Notes in substantially the form attached hereto as Exhibit B (the "Notes"). The Notes shall bear interest and be payable in the manner and at the times set forth therein and as hereinafter provided.

2. **Prepayment.** Debtor may prepay the principal sum outstanding as provided in the Notes.

3. **Loan Procedure.**

a. It is anticipated by Debtor and Secured Party that there will be up to five (5) advances of the Loan. On the date hereof, assuming Debtor is not then in default hereunder and the conditions to such advance hereinafter set forth are satisfied, Secured Party will advance to Debtor. The obligation of Debtor to repay such advance shall be evidenced by Debtor's Secured Note in substantially the form attached hereto as Exhibit B (the "First Note").

b. Upon at least five business days' notice, Debtor may request Secured Party to make a second advance of the Loan in an amount up to \_\_\_\_\_ times the number of additional Cars (as defined in the Lease) accepted by Lessee since the date of the First Note and subject to

the Lease, but in any event not more than the amount of the Loan minus the principal amount of the First Note. Upon receipt of such request, and assuming Debtor is not then in default hereunder, and provided the conditions to such advance hereinafter set forth are satisfied, Secured Party will advance such sum to Debtor. Such advance shall be evidenced by Debtor's Secured Note in substantially the form attached hereto as Exhibit B (the "Second Note"); provided, however, the interest rate borne by the Second Note shall be equal to the fixed rate per annum which is 175 basis points in excess of the Secured Party's Cost of Funds (as hereinafter defined) as of the date two (2) business days prior to such second advance. In addition, the Overdue Rate under the Second Note shall be      per annum in excess of the interest rate calculated as set forth in the proviso of the immediately preceding sentence.

c. Upon at least five business days' notice, Debtor may request Secured Party to make a third advance of the Loan in an amount up to      times the number of additional Cars accepted by Lessee since the date of the Second Note and subject to the Lease, but in any event not more than the amount of the Loan minus the combined principal amounts of the First Note and the Second Note. Upon receipt of such request, and assuming Debtor is not then in default hereunder, and provided the conditions to such advance hereinafter set forth are satisfied, Secured Party will advance such sum to Debtor. Such advance shall be evidenced by Debtor's Secured Note in substantially the form attached hereto as Exhibit B (the "Third Note"); provided, however, the interest rate borne by the Third Note shall be equal to the fixed rate per annum which is      basis points in excess of Secured Party's Cost of Funds (as hereinafter defined) as of the date two (2) business days prior to such third advance. In addition, the Overdue Rate under the Third Note shall be      per annum in excess of the interest rate calculated as set forth in the proviso of the immediately preceding sentence.

d. Upon at least five business days' notice, Debtor may request Secured Party to make a fourth advance of the Loan in an amount up to      times the number of additional Cars accepted by Lessee since the date of the Third Note and subject to the Lease, but in any event not more than the amount of the Loan minus the combined principal amounts of the First Note, Second Note, and Third Note. Upon receipt of such request, and assuming Debtor is not then in default hereunder, and provided the conditions to such advance hereinafter set forth are satisfied, Secured Party will advance such sum to Debtor. Such advance shall be evidenced by Debtor's Secured Note in substantially the form attached hereto as Exhibit B (the "Fourth Note"); provided, however, the interest rate borne by the Fourth Note shall be equal to the fixed rate per annum which is      basis points in excess of Secured Party's Cost of Funds (as hereinafter defined) as of the date two (2) business days prior to such third advance. In addition, the Overdue Rate under the Fourth Note shall be      per annum in excess of the interest rate calculated as set forth in the proviso of the immediately preceding sentence.

e. Upon at least five business days' notice, Debtor may request Secured Party to make a fifth advance of the Loan in an amount up to      times the number of additional Cars accepted by Lessee since the date of the Fourth Note and subject to the Lease, but in any event not more than the amount of the Loan minus the combined principal amounts of the First Note, Second Note, Third Note, and Fourth Note. Upon receipt of such request, and assuming Debtor is not then in default hereunder, and provided the conditions to such advance hereinafter set forth

are satisfied, Secured Party will advance such sum to Debtor. Such advance shall be evidenced by Debtor's Secured Note in substantially the form attached hereto as Exhibit B (the "Fifth Note"); provided, however, the interest rate borne by the Fifth Note shall be equal to the fixed rate per annum which is            basis points in excess of Secured Party's Cost of Funds (as hereinafter defined) as of the date two (2) business days prior to such third advance. In addition, the Overdue Rate under the Fifth Note shall be            per annum in excess of the interest rate calculated as set forth in the proviso of the immediately preceding sentence.

f. For purposes hereof, "Secured Party's Cost of Funds" shall mean the cost of funds as reported by the Treasury Department of the First National Bank of Maryland for a term equal to the average life (as computed by Secured Party) of the relevant Note.

g. Notwithstanding anything herein to the contrary, the first            advanced hereunder shall bear interest at the rate of            per annum.

4. **Application of Lease Payment.** Debtor hereby agrees to (i) direct each lessee to wire transfer or pay by check to Secured Party at 25 South Charles Street, Baltimore, Maryland 21201, Mail Code 101-460, Attn: Whitney H. Kerridge, all rentals and other sums payable to Debtor under the terms of the Leases (all such payments, the "Collections"), and (ii) deliver to Secured Party all Collections, if any, received by Debtor, within two (2) Banking Days of receipt thereof, and in precisely the form received, except for the endorsement of Debtor where necessary to permit the collection of the same. Debtor hereby authorizes Secured Party to apply from the Collections all sums necessary to pay as and when due the principal of and/or interest on, and all other sums due under, the Notes. Notwithstanding anything herein to the contrary, to the extent the Collections received by Secured Party exceed the payments then due under the Notes, Secured Party shall remit the Collections to Debtor for Debtor's own use, provided no Event of Default has occurred and is continuing under this Security Agreement.

5. **Effect of Casualty to Equipment.** The amounts received from time to time by Secured Party which constitute settlement by Lessee of the casualty, stipulated loss, or similar value for any item of Equipment pursuant to the Lease, shall be applied in accordance with the terms of the Notes; provided, however, any payments received after the occurrence of an Event of Default hereunder may be applied by Secured Party as Secured Party alone may deem appropriate.

6. **Closings.** Secured Party has agreed to make the Loan to Debtor on the express condition that Debtor secure its obligations hereunder by assigning to Secured Party all of its rights, title and interests in and to the Leases and the equipment leased pursuant thereto.

The closings on the Loan shall take place at the offices of Miles & Stockbridge, counsel to Secured Party, at 10 Light Street, Baltimore, Maryland 21202 or at such other place as the parties may designate, on such day or days as the parties shall specify at least two (2) banking days prior to such closing.

**7. Conditions Precedent.**

a. **Initial Advance.** The obligation of Secured Party to make the initial advance of the Loan shall be subject to Debtor's satisfaction of the following conditions precedent:

(i) Delivery to Secured Party of a fully-executed copy of each of the following documents:

(A) this Agreement;

(B) the First Note;

(C) the Notice duly executed on behalf of Debtor and Lessee, in form and substance satisfactory to Secured Party;

(D) an acceptance certificate duly executed on behalf of Lessee, in form and substance satisfactory to Secured Party, with respect to 93 Cars;

(E) the executed bill of sale from the seller of such Cars.

(ii) All legal matters incident to the Loan and all documents necessary in the opinion of Secured Party to the making of the Loan shall be satisfactory in all material respects to Secured Party and its counsel;

(iii) Secured Party shall receive on the date hereof: (a) a certificate of the Secretary of Debtor, in a form acceptable to Secured Party in all respects, dated as of the date hereof and certifying (i) that attached thereto is a true, complete and correct copy of resolutions adopted by the Board of Directors of Debtor duly authorizing the execution, delivery and performance of this Agreement and the other Loan documents, and the Obligations, and (ii) as to the incumbency and specimen signature of each officer of Debtor executing this Agreement and the other Loan documents, and a certification by the President or any Vice President of Debtor as to the incumbency and signature of the Secretary of Debtor; (b) such other documents as Secured Party may reasonably require Debtor to execute, in form and substance acceptable to Secured Party; and (c) such additional information and reports as Secured Party may reasonably deem necessary.

(iv) On or prior to the date hereof, this Agreement and the Lease or a memorandum thereof shall have been duly filed with the Interstate Commerce Commission ("ICC") pursuant to 49 U.S.C. § 11303 and in accordance with 49 C.F.R. Part 1177 and shall have been deposited with the Registrar General of Canada pursuant to Section 90 of the Railway Act of Canada.

(v) Debtor shall have good and marketable title to all of the Collateral, free and clear of all liens, encumbrances and interests of those claiming by, through or under Debtor (except the lien hereof and the Lease) and Secured Party will be given a first priority chattel mortgage lien on and security interest in all such Collateral.

b. **Additional Advances.** The obligation of Secured Party to make additional advances of the Loan shall be subject to the satisfaction of the following conditions precedent:

(i) Debtor shall deliver to Secured Party a fully-executed copy of the Second, Third, Fourth, or Fifth Note, as the case may be.

(ii) Debtor shall deliver to Secured Party a fully-executed copy of the (First, Second, Third, or Fourth, as appropriate) Amendment to Loan, Security Agreement and Assignment, in the form attached hereto as **Exhibit C** and made a part hereof, and same shall have been duly filed with the ICC pursuant to 49 U.S.C. § 11303 and in accordance with 49 C.F.R. Part 1177 and shall have been deposited with the Registrar General of Canada pursuant to Section 90 of the Railway Act of Canada, and UCC-1s shall have been duly filed as appropriate to the reasonable satisfaction of Secured Party.

(iii) There shall not have occurred any Event of Default hereunder or any event which with the giving of notice or lapse of time would constitute an Event of Default hereunder.

(iv) Debtor shall deliver to Secured Party an acceptance certificate duly executed on behalf of Lessee, in form and substance satisfactory to Secured Party, with respect to the additional Cars to be financed.

(v) Debtor shall deliver to Secured Party a copy of the executed bill of sale from the seller of such Cars.

8. **Unconditional Obligations.** The payment and performance by Debtor of the Obligations shall be absolute and unconditional, irrespective of any defense or any rights of set-off, recoupment or counterclaim it might otherwise have against Secured Party, and Debtor shall pay absolutely net during the term of the Loan all of the Obligations, free of any deductions and without abatement, diminution or set-off; and until payment in full of all of the Obligations, Debtor: (a) will not suspend or discontinue any payments provided for in the Notes, (b) will perform and observe all of its other agreements contained in this Security Agreement, including (without limitation) all payments required to be made to Secured Party, and (c) will not terminate or attempt to terminate this Security Agreement for any cause.

9. **Grant of Security Interest and Subordination.** In order to secure the due and punctual payment of the sums due and to become due under each Note and the performance of all covenants, agreements and undertakings on the part of Debtor hereunder (collectively, the "Obligations"), Debtor hereby:

a. grants to Secured Party a continuing security interest in the following things (the "Collateral"): (i) the Equipment (including all warranties and indemnities pertaining thereto, and any claim for damages for breach thereof, and any additions, modifications, upgrades and improvements thereto which become the property of the Lessor); (ii) all leases of the Equipment, including the Lease (the "Leases"); and (iii) all sums due under the Lease or any extension thereof and any such other lease (including, without limitation, rentals, car hire, interest, late charges,

payments, taxes, income, revenues, issues, profits, insurance proceeds, awards and proceeds in respect of any taking, casualty, salvage, damage or termination, and all other amounts, of every kind and nature, now or hereafter payable to or receivable by Debtor in respect of the Equipment, the Lease or any such other lease);

b. absolutely and unconditionally subordinates each and every right and interest the Debtor may now have or hereafter acquire in the Collateral (whether as owner, lessor, lessee, secured party or otherwise) to the security interest and other interests therein which are granted to Secured Party pursuant to this Security Agreement; and

c. agrees that such security interest and other interests granted to Secured Party shall be and remain prior in right and senior to the interests of Debtor in the Collateral as if such security interest and other interests had been granted and perfected prior in time to any interest which Debtor has or may acquire therein.

Secured Party acknowledges that under the current Lease, Lessee, and not Debtor, is entitled to car hire.

10. **Assignment.** In addition to the security interests granted in §9 above, and as a transfer separate and distinct therefrom, Debtor hereby presently and unconditionally assigns and sets over to Secured Party as additional collateral all of its right, title and interest in (a) the Lease, including:

i. all sums due thereunder or any extension thereof, including, without limitation, rentals, car hire, interest, late charges, payments, taxes, income, revenues, issues, profits, insurance proceeds, awards and proceeds in respect of any taking, casualty, salvage, damage or termination, and all other amounts, of every kind and nature, now or hereafter payable to or receivable by Debtor in respect of the Equipment or the Lease (hereinafter "Payments");

ii. all claims, rights, privileges, options, elections, powers and remedies, now existing or hereafter arising, of Debtor under or pursuant to any provision of the Lease; and

iii. all other rights of Debtor to give, make, enter into or receive any agreement, amendment, notice, consent, demand, waiver or approval with, to or from Lessee under or in respect of the Lease or any of the Equipment, to accept surrender of any of the Equipment, or to terminate or cancel the Lease;

and (b) the Bill of Sale dated August 16, 1995 (the "Bill of Sale") from First Union Rail (a division of First Union Commercial Corporation) to Debtor, including all claims, rights and remedies now existing or hereafter arising of Debtor under or pursuant to the Bill of Sale;

in each case together with full power and authority, in the name of Debtor or Secured Party, to enforce, collect, receive and receipt for any or all of the foregoing. Secured Party acknowledges that under the current Lease, Lessee, and not Debtor, is entitled to car hire.

11. **Notice and Acknowledgment of Assignment.** Pursuant to a letter to Lessee dated August 9, 1995, constituting a Notice and Acknowledgment of Assignment (the "Notice"), Debtor has irrevocably directed Lessee to remit the Payments to or as directed by Secured Party. The foregoing assignment is effective immediately and is not conditioned on the occurrence of any Event of Default or any other event or contingency. In no event shall the foregoing assignment impose on Secured Party any obligation whatsoever of the lessor under the Lease. It is expressly agreed that, anything herein contained to the contrary notwithstanding, Debtor shall remain liable under the Lease to perform all the obligations assumed by it thereunder.

12. **Termination of Security Interest and Assignment.** Upon payment in lawful money of the United States of America and performance in full of the Notes, Secured Party shall execute and deliver to Debtor, at the expense of Debtor, such documents as Debtor shall reasonably request to evidence the termination of the foregoing security interest, subordination and assignment of the Lease granted by Debtor.

13. **Representations and Warranties of Debtor.** In order to induce Secured Party to make the Loan and accept the Notes, Debtor hereby represents and warrants as follows:

a. Debtor is a corporation duly organized, validly existing and in good standing under the laws of the State of Georgia. The chief executive offices and principal place of business of Debtor are located at 1819 Peachtree Road, N.E., Suite 315, Atlanta, Georgia 30309-1847.

b. Debtor is the sole owner of the Equipment, free and clear of all liens, claims, encumbrances or charges other than the Lease.

c. Debtor is the sole lessor under the Lease, and has full and sole right to assign its right, title and interest in the Lease to Secured Party pursuant to Sections 9 and 10 above.

d. The execution, delivery and performance by Debtor of this Security Agreement, the Notes and the Notice (together the "Loan Documents") are within Debtor's corporate powers, have been duly authorized by all necessary corporate action on its part, and are not in contravention of law or the rights of its creditors nor in contravention of the terms of its charter documents or bylaws or of any provision of any indenture, agreement or undertaking to which it is a party or by which it or any of its assets may be bound. The Loan Documents, and their respective execution and delivery, will constitute the legal, valid and binding obligations of Debtor, enforceable against it in accordance with their respective terms except as such enforceability is limited by public policy or by bankruptcy, insolvency, reorganization, moratorium, usury or other laws affecting creditors' rights generally, and except as the remedy of specific performance or of injunctive or other equitable relief is subject to the discretion of the court before which any proceeding therefor may be brought.

e. Debtor has not entered into any agreement which would limit the rights of Secured Party under the Loan Documents.

f. No event of default and no event which, with the passing of time or the giving of any notice or both, would constitute an event of default, has occurred and is continuing under either the Security Agreement or, to the best of Debtor's knowledge, the Lease.

g. Upon (i) the due recordation with the Interstate Commerce Commission ("ICC") of a copy of this Security Agreement and of a Memorandum of Lease Agreement with respect to the Lease, and (ii) the due filing and recordation of the appropriate financing statements and other appropriate documents in the appropriate jurisdictions, Secured Party will have a first priority lien and security interest in the Collateral, free and clear of all claims, liens, security interests and other encumbrances (collectively, "Liens") except the rights of the Lessee under the Lease. The Lease is in full force and effect, and Debtor's rights in and to the Lease and to the rents and other sums payable thereunder, are free and clear of all Liens except those specified above.

h. Except for the Lease and the Loan Documents, there exist no material agreements, commitments or understandings to which Debtor is a party or by which Debtor is bound relating to the Collateral which have not been delivered to Secured Party.

i. There is no action, suit, proceeding or investigation before any court, public board or body, or arbitrator, pending or, to Debtor's knowledge, threatened against Debtor which could adversely affect the transactions contemplated by or the validity or enforceability of the Loan Documents.

j. Except for the filing and recordation referred to in §13g above, no approval, consent or withholding of any objection is required to be obtained by Debtor from any governmental authority with respect to the entering into or performance by Debtor of any of its obligations hereunder.

k. Debtor has filed all tax returns required by law and has paid in full all taxes levied on or, to the knowledge of Debtor, assessed against it or any of its assets which are now due and payable, and no deficiency assessment for federal or state income taxes, or proposed adjustment of such taxes, is pending or, to Debtor's knowledge, threatened against Debtor, except for taxes, assessments or adjustments currently being contested in good faith by appropriate proceedings and with respect to which Debtor has set aside reserves reasonably deemed by it to be adequate.

l. The transactions contemplated in the Loan Documents will not violate or result in a violation of the Securities Act of 1933 as amended, the Securities Exchange Act of 1934 as amended, or any regulations issued pursuant thereto, including, without limitation, Regulation U of the Board of Governors of the Federal Reserve System, 12 C.F.R., Chapter II. Neither Debtor nor any agent, broker, dealer or other person authorized by it has offered the Notes for sale to any prospective purchaser other than Secured Party.

14. **Affirmative Covenants.** Debtor hereby covenants and agrees that, so long as the Notes remain unpaid or otherwise unperformed, in whole or in part, it will:

a. preserve and maintain its existence as a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, and (if in the reasonable opinion of Secured Party such qualification is necessary to the enforcement of its rights under the Lease against the Lessee) duly qualified as a foreign corporation authorized to transact business in a jurisdiction in which a lessor of the Equipment is required to be so qualified;

b. promptly notify Secured Party in writing of any change in its name or in the location of its chief place of business from its address specified herein (or any address specified by it pursuant thereto);

c. except as otherwise provided in §4 above, hold in trust for the exclusive benefit of Secured Party all Collateral received by it (other than the monthly rents due under the Lease prior to the date of the first payment under the Notes), and taxes relating thereto and will forthwith deliver to Secured Party the identical checks, drafts, cash and other forms of payment received with such endorsements and assignments thereof as Secured Party may reasonably request;

d. keep accurate and proper books of account and records relating to the Collateral and furnish to Secured Party, at Secured Party's expense, copies of such records, and permit representatives of Secured Party to discuss the Collateral or any part thereof with its officers, at such times and as often as may be reasonably requested, and furnish to Secured Party such information concerning the Collateral or any part thereof as Secured Party from time to time may reasonably request in writing;

e. give prompt notice in writing, with a full description to Secured Party, of all litigation and of all proceedings before any court or any governmental or regulatory agency affecting Debtor which, if adversely decided, would in any manner affect the Collateral or Debtor's performance of its obligations under the Loan Documents;

f. at its expense defend the title to the Collateral (or any part thereof), and promptly upon request execute, acknowledge and deliver any financing statement, renewal, affidavit, deed, assignment, continuation statement, security agreement, certificate or other document Secured Party may require in order to perfect, preserve, maintain, protect, continue and/or extend the lien hereof and its priority or to obtain the full benefits of the assignment hereunder and of the rights, powers and benefits granted in this Security Agreement. Debtor shall be solely liable for and pay to Secured Party on demand all taxes, costs and expenses incurred by Secured Party in connection with the preparation, execution, recording and filing of any such document or instrument;

g. give Secured Party prompt written notice of any event or condition constituting an event of default or casualty under any Lease, upon a responsible officer of Debtor having actual knowledge of such event or condition providing the details of the occurrence thereof. For purposes of this Section a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of Debtor in this Security Agreement contained, any corporate officer of Debtor who, in the normal performance of his operational responsibilities, would have knowledge of such event or condition and the requirements of this Agreement with

respect thereto. Debtor further agrees that it will provide Secured Party with an officer's certificate of a duly authorized officer of Debtor, certifying to the existence of such an occurrence; and, in the case of an event of default, whether or not the Lessee has undertaken to cure or has cured such default; and in the case of a casualty, (a) whether or not the Lessee has repaired or replaced the item or items of Equipment affected thereby, or (b) the amount which the Lessee shall be obligated to pay as a result of such casualty under the terms of the Lease and any adjustments to the rental obligations of the Lessee under the Lease as a result of such payment. This certificate shall be provided to Secured Party within ten (10) business days of Debtor's having actual knowledge of such event.

h. give Secured Party prompt written notice of the actual Commencement Date (as defined in the Lease).

15. **Negative Covenants.** Debtor hereby covenants and agrees that, so long as the Notes remain unpaid or otherwise unperformed, in whole or in part, it will not:

a. without the prior written consent of Secured Party further sell, lease, assign or otherwise dispose of all or any part of its right, title and interest in and to the Collateral;

b. assert any claim or exercise any right, privilege, option, election, power or remedy, now existing or hereafter existing, under or pursuant to any of the provisions of the Lease to the extent that such assertion or exercise would adversely affect Secured Party's interest in the Collateral;

c. waive or consent to the breach of any warranties and indemnities forming part of the Collateral;

d. take any action in connection with any Collateral which could impair or jeopardize the validity, priority or perfection of any security interest granted herein, the effectiveness of the assignment contained herein or the value of any of the Collateral;

e. create, incur, assume or suffer to exist any lien or encumbrance on any of its right, title and interest in and to any of the Collateral, except (i) the respective liens created by the Lease and this Security Agreement, and (ii) liens which the Lessee is obligated to discharge in accordance with the express terms of the Lease;

f. enter into any amendment, supplement, modification or termination of the Lease.

16. **Events of Default.** Each of the following is an "Event of Default":

a. Default (for any reason, but subject to cure by Lessee or Debtor within the same grace periods as are provided to Lessee under the Lease, and, in the case of a Default under §20(i) of the Lease, five (5) days after the giving of written notice thereof by Secured Party) in the due and punctual payment of any installment of principal and interest on any of the Notes;

b. Default in the due observance and performance of any other covenant, agreement, obligation or undertaking on the part of Debtor contained in this Security Agreement, and the continuance thereof for thirty (30) days after the giving of written notice thereof by Secured Party;

c. Debtor (i) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of it or of all or a substantial part of its property, or (ii) is generally unable, or admits in writing its inability, to pay its debts as they become due, or (iii) makes a general assignment for the benefit of creditors, or (iv) commences a voluntary case under the Federal bankruptcy laws (as now or hereafter in effect), or (v) is adjudicated a bankrupt or insolvent, or (vi) files a petition in bankruptcy or a petition or an answer seeking reorganization or a composition or arrangement with creditors or to take advantage of any insolvency law or an answer admitting the material allegations of a petition filed against it in any bankruptcy, reorganization or insolvency proceedings, or (vii) acquiesces in writing to, or fails to controvert in a timely or appropriate manner, any petition filed against it in an involuntary case under such bankruptcy laws, (viii) ceases doing business, dissolves, liquidates or terminates its existence, or (ix) authorizes any of the foregoing actions;

d. A case or other proceeding shall be commenced against Debtor seeking its liquidation, reorganization, dissolution, winding up, or composition or readjustment of debts, or the appointment of a trustee, receiver, custodian, liquidator or the like of it or of all or a substantial part of its assets, or any similar action with respect to it under any laws relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, and such case or proceeding shall continue undismissed, or unstayed and in effect, for a period of thirty (30) days, or an order for relief against the Debtor shall be entered in an involuntary case under the Federal bankruptcy laws (as now or hereafter in effect);

e. Any representation or warranty (whether or not conditioned upon the accuracy of representations and warranties made by others) made by Debtor in this Security Agreement, or made by the Lessee in the Notice, or made by Debtor or Lessee in any certificate or instrument furnished hereunder or thereunder or in connection herewith or therewith, shall prove to have been incorrect in any material respect when made; or

f. The occurrence of any Event of Default (as defined in the Lease) under the Lease or the breach by Lessee of any provision of the Notice, provided that such Event of Default or such breach shall not have been cured within five (5) days after the giving of written notice thereof by Secured Party.

17. **Acceleration.** If an Event of Default shall have occurred and be continuing, Secured Party may by written notice to Debtor declare the entire unpaid principal balance of, premium (if any) then due on, and all interest accrued and unpaid on the Notes to be immediately owing and payable; and the entire unpaid principal balance of the Notes, such premium, and all interest accrued and unpaid thereon shall thereupon become forthwith due and payable without any presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by Debtor. Debtor shall have the right, but not the obligation, to pay to Secured Party the full amount due and payable in accordance with the preceding sentence plus any other amounts

due under this Security Agreement, in which case the security interest, subordination and assignment granted hereunder shall terminate in accordance with §12 hereof, and thereafter Secured Party shall have no interest in the Equipment or the Lease or any Payments, nor shall Secured Party have any further rights or remedies pursuant to this Security Agreement.

18. **Remedies.**

a. In case an Event of Default shall have occurred and be continuing, and regardless of whether the right of acceleration under the preceding Section is exercised, Secured Party shall have all of the rights, options and remedies of a secured party, and Debtor shall have the rights and duties of a debtor, under the Maryland Uniform Commercial Code as then in effect.

b. Secured Party also shall be entitled, and is hereby authorized and empowered, whether or not the right of acceleration under the preceding Section is exercised, to pursue any other remedy (including, without limitation, injunctive relief and specific performance) available to Secured Party by statute, at law, in equity or otherwise to enforce payment of the Notes, its rights under the Lease, the Notice, and this Security Agreement and its rights in, and to dispose of, the Collateral or any part thereof, including, without limitation, but subject in all cases to the rights of Lessee under the Lease and to any mandatory requirements of applicable law, the right:

(i) to take immediate possession of all or any part of the Collateral not then in its possession, and to remove such Collateral from the possession of Debtor and all other persons, and to hold, operate and manage the Collateral and receive all earnings, income, rents, issues and proceeds accruing with respect thereto or any part thereof, Secured Party being under no liability for or by reason of any such taking of possession, holding, operation or management;

(ii) without regard to the adequacy of the security for the Notes by virtue of this Security Agreement, any Collateral or other security or source of payment, or to the solvency of Debtor or Lessee, to institute legal proceedings for the sale of any of the Collateral under the order of a court of competent jurisdiction or under other legal process;

(iii) to dispose of the Collateral, or any part thereof, on the premises of Debtor or, if such shall be permitted under the Lease or otherwise by Lessee, on the premises of Lessee or to require Debtor to assemble the Collateral or any part thereof and make it available to Secured Party at a place to be designated by Secured Party which is reasonably convenient to Secured Party and Debtor;

(iv) to dispose of the Collateral or any part thereof by public or private proceedings, as a whole or from time to time in part, and if in part in such order and manner as Secured Party, in its sole discretion, shall elect, either for cash or on credit and on such terms as Secured Party shall determine;

(v) to exercise all claims, rights, powers, privileges, options, elections and remedies of Debtor in respect of the Collateral, either in the name of Debtor or in the name of Secured Party, but for the use and benefit of Secured Party; and

(vi) to perform any covenant, condition or agreement contained in the Lease on the part of Debtor or Lessee to be observed or performed, which covenant, condition or agreement Debtor or Lessee has failed to observe or perform, provided that Secured Party shall at no time be under any obligation to perform any such covenant, condition or agreement.

c. In the event reasonable notice is required to be given to Debtor under any applicable law, such notice shall be deemed to have been given if mailed, postage prepaid, certified or registered mail, return receipt requested, at least ten (10) days prior to the happening of the event for which such notice is being given, to Debtor at its address specified in Section 33 hereof (or the last address specified by Debtor pursuant thereto).

d. At any sale of the whole or any part of the Collateral, Secured Party may purchase the same or any part thereof, and there may be applied upon the purchase price the unpaid principal balance of, premium (if any) and all interest (including interest at the Overdue Rate provided in the Notes) accrued and unpaid on the Notes.

e. In case of any sale of the Collateral or any part thereof, pursuant to any judgment or decree of any court or otherwise, in connection with the enforcement of any of the terms of this Security Agreement, the Notes, if not previously due, all premium due thereon, and all interest accrued and unpaid thereon, shall at once become immediately due and payable.

f. In case any proceeding to enforce any right under this Security Agreement, the Notes, the Notice or the Lease, or under any law for foreclosure, sale, entry or otherwise, shall have been discontinued or abandoned for any reason or shall have been determined adversely, then and in every such case Debtor and Secured Party shall be restored to their former positions, rights and obligations hereunder and thereunder as if such proceeding had not been brought.

19. **Receipt a Sufficient Discharge.** Upon any sale of the Collateral or any part thereof or any interest therein, whether pursuant to foreclosure or power of sale or otherwise, the receipt of the officer making the sale under judicial proceedings or of Secured Party shall be sufficient discharge to the purchaser for the purchase money, and such purchaser shall not be obligated to see to the application thereof. Secured Party shall not be required in any such sale to make any representations or warranties with respect to the Collateral or any part thereof, and Secured Party shall not be chargeable with any of the obligations or liabilities of Debtor with respect thereto.

20. **Waiver of Appraisal, Valuation, Etc.** The right of Secured Party to take possession of and sell any of the Collateral in compliance with the provisions of this Security Agreement shall not be affected by the provisions of any applicable reorganization or other similar law of any jurisdiction; and Debtor covenants that it shall not take advantage of any such law or agree to allow any agent, assignee or other person to take advantage of such law in its place, to

which end Debtor, for itself and all who may claim through it, as far as it or they now or hereafter lawfully may do so, hereby waives, to the fullest extent permitted under applicable law, any rights or defenses arising under any such law, and hereby agrees that any court having jurisdiction to foreclose upon and against the security interest granted in this Security Agreement may order the sale of the Collateral subject to such jurisdiction as an entirety or severally. Debtor hereby waives, to the full extent it may lawfully do so, the benefit of all appraisement, valuation, stay, extension and redemption laws now or hereafter in force and all rights of marshaling in the event of any sale of the Collateral or any part thereof or any interest therein.

21. **Sale a Bar.** Any sale of the Collateral or any part thereof or any interest therein, whether pursuant to foreclosure or power of sale or otherwise hereunder, shall be free and clear of any right, claim, equity title or interest of Debtor therein, and shall forever be a perpetual bar against Debtor.

22. **Application of Proceeds.** All monies and other proceeds of the exercise of any remedy hereunder shall be paid or applied as follows:

a. first, to the costs and expenses of any suit or other proceeding to collect any or all of the amounts due under the Notes, the Lease, or any other lease of the Equipment, to foreclose or otherwise take possession of or collect upon the Collateral or any part thereof or to enforce or protect any or all of the Collateral or Secured Party's rights or interests therein, to the costs and expenses of re-taking, holding, preparing for sale or disposition and selling and disposing of the Collateral and other similar expenses, and to the payment of all taxes, assessments and liens on the Equipment, if any there be, superior to any security interest granted herein (except any of the same subject to which any sale of the Collateral was made), including, without limitation, the curing of any breach of any of Lessee's covenants contained in the Lease (together with interest on each amount so expended by the Secured Party to cure any such breach, at the Overdue Rate under the Notes, from the time of expenditure until paid), and reasonable compensation of Secured Party's agents, brokers, attorneys and counsel paid in connection with any of the foregoing;

b. second, to the payment of all principal, premium and interest at the time due and payable on the Notes, together with interest on each such amount, from its due date until paid, at the Overdue Rate under the Notes; and in case such moneys shall be insufficient to pay in full the amounts so due and unpaid upon the Notes, then, with such priority of application between principal, premium and interest as the Secured Party may determine in its sole discretion;

c. third, to the payment of the surplus, if any, to Debtor or to whomever may be lawfully entitled to receive the same.

Any provision to the contrary in the Loan Documents or any other agreement between Debtor and Secured Party notwithstanding, Secured Party hereby agrees that, to the extent Secured Party shall have received payment of any liquidated damages pursuant to §20 of the Lease, Secured Party will be solely liable and responsible for making payment to Lessee of any Refund pursuant to such §20 of the Lease, and further hereby agrees to indemnify and hold Debtor harmless from and against

any claim or expense (including without limitation reasonable attorneys fees) which Debtor may incur with respect to any Refund owed to Lessee under the Lease.

23. **Appointment of Attorney.** Until the security interest granted herein shall terminate, but without limiting the assignment made in Section 10 hereof, Debtor hereby irrevocably appoints Secured Party its true and lawful attorney, with power of substitution, for Debtor and in Debtor's name or Secured Party's name, for the use and benefit of Secured Party, to collect, receive payment of, receipt for and give discharges and releases of all claims of amounts due and to become due under the Notes or Lease, to make demand with respect to, settle, compromise, compound or adjust any claims in respect of the Collateral, to commence and prosecute in Secured Party's name or in Debtor's name or otherwise any suits, actions or proceedings at law or in equity, in any court of competent jurisdiction, to collect any such claims or to enforce any rights in respect thereof, generally to sell, assign, transfer, pledge, make any agreement with respect to or otherwise deal with any of such claims and also (if an Event of Default shall have occurred and be continuing) all of the Collateral as fully and completely as though Secured Party were the absolute owner thereof for all purposes, and to file and record such copies or memoranda of this Security Agreement and financing statements, continuation statements and other instruments or documents with respect to the security interest granted herein as Secured Party may deem desirable fully to protect its interests hereunder and thereunder, and for such purpose Debtor hereby authorizes Secured Party to effect any such filings or recordings without the signature of Debtor to the extent permitted by applicable law. For the purposes of exercising Secured Party's rights under this Section, Secured Party may endorse, in the name of Debtor, checks and drafts given in full or partial payment of all claims. The powers conferred on Secured Party by this Section are solely to protect its interests and shall not impose any duties upon Secured Party to exercise any such powers. Notwithstanding any provision hereof to the contrary, unless and until an Event of Default hereunder shall have occurred and be continuing, Secured Party agrees (i) not to sell, assign, transfer, pledge, make any agreement with respect to, or otherwise deal with the Collateral except to the extent expressly made subject to Debtor's rights therein, and (ii) to remit to Debtor any payments received by Secured Party with respect to the Collateral in excess of the amounts then due and owing to Secured Party under the Notes or this Security Agreement.

24. **Obligations of Secured Party; Exercise of Rights and Remedies.** Secured Party shall not assume or be obligated to perform any duties, obligations or liabilities of Debtor in respect of the Collateral or any part thereof for any reason or at any time. Secured Party shall have no duty as to the collection or protection of any of the Collateral or any income with respect thereto, nor as to the preservation of rights against Lessee, Debtor or any other person, nor as to the preservation of any rights pertaining to any of the Collateral beyond reasonable care in its custody. Secured Party may exercise its rights and remedies with respect to any of the Collateral without resort or regard to other security or sources of payment.

25. **Limitation of Liability.** Any provision of the Notes, the Security Agreement or any certificate, opinion or document of any nature whatsoever to the contrary notwithstanding, Secured Party shall not have any claim, remedy or right to proceed (at law or in equity) against Debtor, or any director, officer, employee or shareholder of Debtor, for any obligation under the Loan Documents from any source other than the Collateral. Secured Party hereby waives and

releases any personal liability of Debtor for or on account of any obligation under the Loan Documents, and Secured Party hereby agrees to look solely to the Collateral for the payment or performance of any obligation under the Loan Documents. Notwithstanding the foregoing provisions of this Section, Debtor acknowledges that it shall nevertheless be personally liable for any damages caused by fraud, misapplication of funds, or materially false representation or warranty made by Debtor and contained in this Security Agreement or the Notes or any certificate or other document delivered in connection with the transaction contemplated hereby or thereby or Debtor's failure to comply with the provisions of Section 15 hereof, but in all events excluding the obligation to pay principal, premium and interest payable on the Notes or any amounts due under this Security Agreement. Except for the foregoing limitation of recourse and any other limitation expressly set forth in the Notes or this Security Agreement, Secured Party shall not be limited, restricted or impaired with respect to its rights to accelerate the maturity of the Notes upon a default thereunder, to bring suit and obtain a judgment against Debtor on the Notes and this Security Agreement or to exercise all rights and remedies provided hereunder, or to otherwise realize upon the Collateral.

26. **Collateral for Balloon Payments under Notes.** Any provision of the Notes, the Security Agreement, or any certificate, opinion or document of any nature whatsoever to the contrary notwithstanding, with respect to the balloon payment due under each Note (described in Exhibit A to the Note), the Collateral (and the assignment pursuant to Section 10) under this Security Agreement shall be limited solely to the Equipment and proceeds from the sale or other disposition thereof (and shall not include rentals or car hire under the initial term of the Lease). Accordingly, Secured Party may satisfy the balloon payment under each Note only out of the proceeds of the sale or other disposition of the Equipment after the termination of the the initial term of the Lease with respect to that Equipment (or out of insurance proceeds or other proceeds attributable to the Equipment if the Lease of the Equipment terminates on account of an Event of Loss pursuant to Section 18 of the Lease).

27. **Further Assurances.** At any time or from time to time upon Secured Party's written request, Debtor will, at its expense, execute and deliver such further documents and do such other acts and things as Secured Party may reasonably request in order fully to effectuate the purposes of this Security Agreement, to provide for the payment of the Notes and Lease in accordance with the terms thereof, and to vest more completely in and assure to Secured Party its rights under this Security Agreement and in and to the Collateral, and its rights to, and its interest created by the Lease in, the Equipment.

28. **Waivers: Rights Cumulative.** Debtor agrees that Secured Party shall be entitled to exercise any of its rights and remedies under this Security Agreement, or under applicable law, without resort to judicial process, and Debtor hereby waives, to the extent permitted by law, its rights to notice and hearing under any law to determine whether probable cause exists entitling Secured Party to any such exercise. No failure to exercise, and no delay in exercising, on Secured Party's part, any right, power or privilege under this Security Agreement, the Notes, the Notice, the Lease, or under applicable law or otherwise, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights

and remedies of Secured Party herein and therein are cumulative and not exclusive of any rights or remedies now or hereafter provided at law, in equity or by statute.

29. **Terms Subject to Applicable Law.** All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Security Agreement invalid, unenforceable or not entitled to be recorded, registered or filed under any applicable law. If any term of this Security Agreement or any application thereof shall be held to be invalid, illegal or unenforceable, the validity of the other terms of this Security Agreement or any other application of such term shall in no way be affected thereby.

30. **Successors and Assigns.** This Security Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties, including, in the case of Secured Party, the holder from time to time of the Notes.

31. **Amendment and Waiver.** This Security Agreement may be amended, and the observance of any term of this Security Agreement may be waived, only by an instrument in writing signed by Secured Party and Debtor.

32. **Consent to Jurisdiction.** Debtor hereby agrees and consents that any action or proceeding arising out of or brought to enforce the provisions of this Security Agreement may be brought in any appropriate court in the State of Maryland or in any other court having jurisdiction over the subject matter, all at the sole election of Secured Party, and by the execution of this Security Agreement, Debtor irrevocably consents to the jurisdiction of each such court.

33. **Miscellaneous.**

a. The headings in this Security Agreement are for the purpose of reference only, and shall not limit or otherwise affect the meaning hereof.

b. All notices required or permitted to be delivered under this Security Agreement, and all communications in respect hereof, shall be in writing and shall be deemed to have been given when deposited in the United States mails, certified, first-class, postage prepaid and addressed to the parties at their respective addresses as follows:

(i) if to Debtor: Railcar, Ltd.  
1819 Peachtree Road, N.E., Suite 315  
Atlanta, Georgia 30309  
Attn: President

(ii) if to Secured Party: First Maryland Leasecorp  
25 South Charles Street  
Baltimore, Maryland 21201  
Attn: Transportation Division

with a copy to:

John A. Stalfort, Esquire  
Miles & Stockbridge  
10 Light Street  
Baltimore, Maryland 21202

or addressed to such other address or to the attention of such other person as the addressee shall have specified in a notice delivered pursuant to this subsection.

c. This Security Agreement may be executed in one or more counterparts. Each of such counterparts, when executed, shall be deemed an original, but such counterparts together shall constitute one and the same agreement, which shall be sufficiently evidenced by one of such original counterparts.

d. This Security Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Maryland.

34. **Expenses.** Debtor agrees to pay all out-of-pocket expenses of Secured Party (including the fees and expenses of its legal counsel) in connection with the preparation of this Security Agreement and the Loan Documents, the recordation of this Security Agreement, the Lease, all UCC-1s and UCC-3s, and all financing statements and such other documents, amendments, instruments, continuation statements or other filings as may be required by Secured Party at the time of, or subsequent to, the execution of this Security Agreement to secure the Obligations (including any and all recordation tax and other costs and taxes incident to recording), and, during the continuance of an Event of Default, the enforcement of any provision of this Security Agreement and the collection of the Obligations. Debtor agrees to indemnify and save harmless Secured Party for and from any liability resulting from the failure to pay any required recordation tax, transfer taxes, recording costs or any other expenses reasonably incurred by Secured Party in connection with the Obligations. The provisions of this Section shall survive the execution and delivery of this Security Agreement and the repayment of the Obligations. Debtor further agrees to reimburse Secured Party upon demand for all out-of-pocket expenses (including reasonable attorneys' fees and legal expenses) reasonably incurred during the continuance of an Event of Default by Secured Party in enforcing any of the Obligations or any security therefor, which agreement shall survive the termination of this Security Agreement and the repayment of the Obligations.

35. **Liability of Secured Party.** Debtor hereby agrees that Secured Party shall not be chargeable for any negligence, mistake, act or omission of any accountant, examiner, agency or attorney employed by Secured Party (except for the gross negligence or willful misconduct of any person employed or engaged by Secured Party) in making examinations, investigations or collections, or otherwise in perfecting, maintaining, protecting or realizing upon any lien or security interest or any other interest in the Collateral or other security for the Obligations.

36. **Waiver of Jury Trial.** DEBTOR HEREBY WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH DEBTOR AND

SECURED PARTY MAY BE PARTIES, ARISING OUT OF OR IN ANY WAY PERTAINING TO THE NOTES OR THIS SECURITY AGREEMENT. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS SECURITY AGREEMENT. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY DEBTOR, AND DEBTOR REPRESENTS THAT NO REPRESENTATION OF FACT OR OPINION HAS BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OR TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. DEBTOR FURTHER REPRESENTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS SECURITY AGREEMENT AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH SUCH COUNSEL.

IN WITNESS WHEREOF, Debtor and Secured Party have caused these presents to be executed and delivered by each one to the other in Baltimore, Maryland by its officer hereunto duly authorized as of the day and year first above written.

FIRST MARYLAND LEASECORP

RAILCAR, LTD.

By: Roger Weaver  
Name/Title: Roger Weaver, A.K.P.

By: Eugene N. Martini  
Name/Title: Eugene N. Martini - EVP

State of Georgia  
County of Fulton

On the 14th day of August, 1995 personally appeared before me Eugene N. Martini, to me personally known, who being by me duly sworn, said that he is the Executive Vice Pres of Railcar, Ltd., that the seal affixed to the foregoing instrument is the corporate seal of such corporation, that such instrument was signed and sealed on behalf of such corporation by the authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of such corporation.

Jay J. Warden  
Notary Public  
My commission expires:

Notary Public, Coweta County, Georgia  
My Commission Expires March 30, 1999  
[NOTARIAL SEAL]

State of Maryland  
City of Baltimore

On the 16th day of August, 1995 personally appeared before me Roger Weaver, to me personally known, who being by me duly sworn, said that he is the Asst. Vice Pres of First Maryland Leasecorp, that the seal affixed to the foregoing instrument is the corporate seal of such corporation, that such instrument was signed and sealed on behalf of such corporation by the authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of such corporation.

Mary C. Meach  
Notary Public  
My commission expires: May 1, 1999

[NOTARIAL SEAL]

**EXHIBIT A**

*Equipment*

Description: 50 Ft., 70 Ton Cushioned Underframe Double Door Boxcars

Quantity: Ninety - three (93)

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CNA 557892	CNA 557904	CNA 557920
CNA 557917	CNA 557962	CNA 557826
CNA 557958	CNA 557885	CNA 557808
CNA 557854	CNA 557815	CNA 557848
CNA 557942	CNA 557866	CNA 557903
CNA 557950	CNA 557908	CNA 557937
CNA 557915	CNA 557819	CNA 557832
CNA 557918	CNA 557868	CNA 557877
CNA 557939	CNA 557858	CNA 557935
CNA 557919	CNA 557910	CNA 557956
CNA 557883	CNA 557906	CNA 557889
CNA 557921	CNA 557924	CNA 557865
CNA 557957	CNA 557864	CNA 557834
CNA 557955	CNA 557835	CNA 557933
CNA 557961	CNA 557873	CNA 557896
CNA 557946	CNA 557861	CNA 557831
CNA 557928	CNA 557874	CNA 557814
CNA 557952	CNA 557870	CNA 557907
CNA 557929	CNA 557843	CNA 557905
CNA 557931	CNA 557818	CNA 557853
CNA 557948	CNA 557849	CNA 557911
CNA 557959	CNA 557894	CNA 557890
CNA 557846	CNA 557859	CNA 557829
CNA 557951	CNA 557823	CNA 557900
CNA 557806	CNA 557888	CNA 557810
CNA 557827	CNA 557872	CNA 557902
CNA 557936	CNA 557943	CNA 557909
CNA 557820	CNA 557912	CNA 557925
CNA 557941	CNA 557947	CNA 557852
CNA 557945	CNA 557837	CNA 557932
CNA 557867	CNA 557813	CNA 557838

**EXHIBIT B**

*Secured Notes*

**SECURED NOTE**

\_\_\_\_\_, 1995

Railcar, Ltd., a Georgia corporation ("Maker"), for value received, hereby promises to pay to First Maryland Leasecorp ("Lender"), or order or assigns, on or before the Maturity Date (defined below), as hereinafter provided, the principal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) together with interest on the principal balance hereof from time to time outstanding from the date hereof until paid, at the rate of \_\_\_\_% per annum (except that the first \$ \_\_\_\_\_ of the original principal balance hereof -- the "Refinanced Amount" -- shall bear interest at the rate of 9.47% per annum), computed as if each year consisted of 360 days, but charged for the actual number of days that the amount is outstanding. Principal and interest hereunder shall be payable at 25 South Charles Street, Baltimore, Maryland 21201, Attn: Transportation Division, or at such other address as Lender may designate from time to time in writing to Maker, without presentation of this Note in lawful money of the United States. Principal and interest hereunder shall be payable in accordance with Exhibit A attached hereto. Whenever any payment hereunder is not made within ten days after the due date thereof, Maker shall pay interest on such overdue payment at a rate (the "Overdue Rate") equal to the lesser of (a) \_\_\_\_% per annum or (b) the maximum interest rate permitted by law from such due date to the date of payment thereof.

Terms used in this Note and not otherwise defined herein have the meanings indicated in that certain Loan, Security Agreement and Assignment dated August \_\_\_, 1995 between Maker as Debtor and Lender as Secured Party (the "Security Agreement").

For purposes of this Note, "Maturity Date" means the earlier of June 30, 2003 or the date ninety (90) months after the Commencement Date under the Lease (as defined therein).

Each payment hereunder (including, without limitation, any prepayment) shall be applied first to the payment of all interest accrued and unpaid on this Note, then to payment of any prepayment fees, then to payment on account of the principal hereof (applying it pro rata to the outstanding Refinanced Amount and the remainder of the outstanding principal balance).

Whenever payment hereunder is to be made on a day other than Lender's business day, such payment shall be due and payable on the immediately following business day for Lender.

The Note is issued pursuant to, and is entitled to the benefits of, and is subject to, and secured as provided in the provisions of the Security Agreement. Reference is hereby made to the Security Agreement for a description of the provisions upon which the Note is to be issued and secured, the nature and extent of the security and the rights of the holder of the Note and others in respect of the Note and such security.

During the continuance of an Event of Default under the Security Agreement, the principal hereof and the interest accrued and unpaid hereon may be declared to be due and payable forthwith as provided in the Security Agreement.

Should this Note be placed in the hands of an attorney for collection after default, Maker agrees to pay, in addition to the principal and interest due and payable hereon, all costs of collecting this Note, including attorneys' fees and expenses.

In the event that one or more of the items of Equipment (as defined in the Security Agreement) sustains an Event of Loss (as defined in the Lease (as defined in the Security Agreement)), Maker, after payment of all costs, unpaid late charges, if any, and all accrued but unpaid interest then due, shall pay (and/or shall cause any party providing indemnity with respect to such Event of Loss to pay) to Lender the Casualty Value (as defined in the Lease) of each item of Equipment sustaining an Event of Loss. All monies received by Lender pursuant to the provisions of this paragraph with respect to an item of Equipment shall, after payment of all outstanding late charges, if any, and accrued but unpaid interest, be applied to prepay (without premium) the remaining principal installments due under the Note (as defined in the Security Agreement) evidencing the advance made with respect to that item of Equipment. Thereafter, Lender shall promptly furnish to Maker a revised schedule of payments of principal and interest thereafter due to be made, and Maker shall make such payments at the times, in the amounts and in the manner specified in such schedule.

This Note is without recourse to Maker, and Lender shall look only to the Collateral (described in the Security Agreement) for payment of Maker's obligations hereunder. Lender, for itself, its successors and assigns, and on behalf of any holder of this Note, hereby agrees not to seek judgment against Maker for a deficiency in any action to enforce Lender's rights (or the rights of any other holder of this Note) under the Security Agreement. Maker acknowledges that it shall nevertheless be personally liable for any damages caused by fraud, misapplication of funds, or materially false representation or warranty made by Maker and contained in the Security Agreement or this Note or any certificate or other document delivered in connection with the transaction contemplated hereby or thereby or Maker's failure to comply with the provisions of Section 15 of the Security Agreement, but in all events excluding the obligation to pay principal, premium and interest payable on this Note or any amounts due under the Security Agreement (and any attorneys' fees for the collection thereof). Except for the foregoing limitation of recourse and any other limitation expressly set forth in this Note or the Security Agreement, Lender shall not be limited, restricted or impaired with respect to its rights to accelerate the maturity of this Note upon a default hereunder, to bring suit and obtain a judgment against Maker on this Note or to exercise all rights and remedies provided hereunder, or otherwise to realize upon the Security Agreement and the Collateral.

Maker hereby agrees and consents that any action or proceeding arising out of or brought to enforce the provisions of this Note may be brought in any appropriate court in the State of Maryland or in any other court having jurisdiction over the subject matter, all at the sole election of Lender, and by the execution of this Note Maker irrevocably consents to the jurisdiction of each such court.

**MAKER HEREBY WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH MAKER AND LENDER MAY BE PARTIES,**

ARISING OUT OF OR IN ANY WAY PERTAINING TO THIS NOTE OR THE SECURITY AGREEMENT. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS NOTE. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY MAKER, AND MAKER REPRESENTS THAT NO REPRESENTATION OF FACT OR OPINION HAS BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OR TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. MAKER FURTHER REPRESENTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS NOTE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH SUCH COUNSEL.

DURING THE CONTINUANCE OF AN EVENT OF DEFAULT UNDER THE SECURITY AGREEMENT AND SUBJECT TO THE LIMITATION OF RECOURSE AND ANY OTHER LIMITATION EXPRESSLY SET FORTH IN THIS NOTE OR THE SECURITY AGREEMENT, MAKER HEREBY AUTHORIZES AND EMPOWERS ANY ATTORNEY OF ANY COURT OF RECORD TO APPEAR FOR AND CONFESS JUDGMENT AGAINST MAKER WITHOUT PRIOR NOTICE, OR OPPORTUNITY FOR PRIOR HEARING, IN FAVOR OF LENDER FOR AN AMOUNT EQUAL TO THE UNPAID PRINCIPAL AMOUNT, PLUS ACCRUED AND UNPAID INTEREST THEREON, ALL OTHER AMOUNTS PAYABLE BY MAKER TO LENDER UNDER THIS NOTE OR THE SECURITY AGREEMENT, COSTS OF SUIT AND AN ATTORNEY'S FEE OF 15% OF THE UNPAID PRINCIPAL AMOUNT AND INTEREST THEN DUE HEREUNDER, HEREBY WAIVING AND RELEASING, TO THE EXTENT PERMITTED BY LAW, ALL ERRORS AND ALL RIGHTS OF EXEMPTION, APPEAL, STAY OF EXECUTION, INQUISITION AND EXTENSION UPON ANY LEVY ON REAL ESTATE OR PERSONAL PROPERTY TO WHICH MAKER MAY OTHERWISE BE ENTITLED UNDER THE LAWS OF THE UNITED STATES OF AMERICA NOW IN FORCE OR WHICH MAY HEREAFTER BE PASSED. THE AUTHORITY AND POWER TO APPEAR FOR AND ENTER JUDGMENT AGAINST MAKER SHALL NOT BE EXHAUSTED BY ONE OR MORE EXERCISES THEREOF, OR BY ANY IMPERFECT EXERCISE THEREOF, AND SHALL NOT BE EXTINGUISHED BY ANY JUDGMENT ENTERED PURSUANT THERETO. SUCH AUTHORITY AND POWER MAY BE EXERCISED ON ONE OR MORE OCCASIONS, FROM TIME TO TIME, IN THE SAME OR DIFFERENT JURISDICTIONS, AS OFTEN AS LENDER SHALL DEEM NECESSARY OR DESIRABLE, FOR ALL OF WHICH THIS NOTE SHALL BE SUFFICIENT WARRANT.

With respect to the balloon payment described in Exhibit A attached hereto [i.e., \$\_\_\_\_\_ (representing \$5,000 times the number of Cars being financed), payable in a single balloon payment on the Maturity Date], Lender's Collateral and Lender's right of payment shall be limited as provided in Section 26 of the Security Agreement.

Maker hereby waives presentment, demand, notice of dishonor, protest, and all other demands and notices in connection with the delivery, acceptance, performance and enforcement of this Note. No delay or omission on the part of the holder of this Note shall operate as a waiver of such right or any other right under this Note. No waiver shall be effective unless in writing and signed by the holder of this Note, and any such waiver shall not be construed as a bar to or waiver of any right on any future occasion.

Maker may at its option prepay all or any of the principal of this Secured Note before maturity, which payments shall be applied in the inverse order of the maturity of installments of principal hereunder; provided, however, that if any portion of the principal amount of this Secured Note is prepaid for any reason, whether as a result of acceleration of the indebtedness evidenced hereby or otherwise (except amounts received in respect of an Event of Loss) as hereinabove provided), Maker shall pay to Lender simultaneously with such prepayment, as a prepayment fee, an amount determined in accordance with the following formula:

$$L = \frac{(R-T) \times P \times D}{360}$$

L = amount payable to Lender as a prepayment fee

R = interest rate payable under this Secured Note

T = effective interest rate at which United States Treasury instruments maturing on the maturity date of this Secured Note and in the same amount hereof can be purchased by the First Maryland Leasecorp on the day of such prepayment

P = amount of principal prepaid

D = number of days remaining until the maturity of this Secured Note as of the date of such prepayment

All funds advanced hereunder which have been repaid may not be reborrowed.

This Note shall be governed by the laws of the State of Maryland and shall be binding on the successors and assigns of the Maker.

IN WITNESS WHEREOF, Maker has caused this Note to be signed by its duly authorized officer on the day and year first above written.

**RAILCAR, LTD.**

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

Name/Title: \_\_\_\_\_

EXHIBIT A

*To Secured Note of Railcar, Ltd. Dated as of \_\_\_\_\_, 1995*

- Until the Commencement Date under the Lease (as defined therein), interest only shall be payable monthly in arrears, commencing on \_\_\_\_\_, 1995;
- Thereafter, principal and interest shall be payable (in advance) in ninety (90) equal monthly installments of \$ \_\_\_\_\_ each, commencing on the earlier of January 1, 1996 or the first day of the first month of the first Lease Year (as defined in the Lease) and continuing on the same day of each month thereafter through the Maturity Date.
- Unless sooner paid, the entire outstanding principal balance and all accrued but unpaid interest (including a balloon payment of \$ \_\_\_\_\_, representing \$5,000 times the number of Cars being financed) shall be payable in full on the Maturity Date.

**EXHIBIT C**

*Supplement*

**[FIRST] [SECOND] [THIRD] [FOURTH] AMENDMENT TO  
LOAN, SECURITY AGREEMENT AND ASSIGNMENT**

This **[FIRST] [SECOND] [THIRD] [FOURTH] AMENDMENT TO LOAN, SECURITY AGREEMENT AND ASSIGNMENT**, dated and effective as of \_\_\_\_\_, 1995, is by **RAILCAR, LTD.** ("Debtor") and **FIRST MARYLAND LEASECORP** ("Secured Party").

**WHEREAS**, Debtor and Secured Party are parties to, inter alia, that certain Loan, Security Agreement and Assignment dated August \_\_, 1995, as the same may be amended, restated, modified or supplemented from time to time (such agreement, as in effect from time to time, the "Security Agreement"; capitalized terms which are used herein without definition and which are defined in the Security Agreement shall have the same meanings herein as in the Security Agreement); and

**WHEREAS**, in accordance with §7(b)(ii) of the Security Agreement, the Security Agreement is to be amended as hereinafter set forth;

**NOW, THEREFORE**, in consideration of the premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Amendment to the Security Agreement.**

(a) Without limiting the scope and meaning of the term "Equipment" as used in the Security Agreement, the parties expressly acknowledge and agree that such term includes the railroad rolling stock described in Exhibit A attached hereto and made a part hereof, and Debtor hereby grants to Secured Party a continuing security interest in such rolling stock.

(b) In addition to the security interests granted to Secured Party pursuant to the Security Agreement, as hereby amended, and as a transfer separate and distinct therefrom, Debtor hereby presently and unconditionally assigns and sets over to Secured Party as additional collateral all of its right, title and interest in the Bill of Sale dated \_\_\_\_\_, 1995 (the "[Second] [Third] [Fourth] [Fifth] Bill of Sale") from \_\_\_\_\_ to Debtor, including all claims, rights and remedies now existing or hereafter arising of Debtor under or pursuant to the [Second] [Third] [Fourth] [Fifth] Bill of Sale, together with full power and authority, in the name of Debtor or Secured Party, to enforce, collect, receive and receipt for any or all of the foregoing.

2. **Ownership of Rolling Stock.** Debtor represents and warrants that it is the sole owner of the Equipment described in Exhibit A attached hereto, free from any adverse lien, security interest

or encumbrance, except for the security interest created by the Security Agreement, as amended by this Amendment, and the Lease.

3. **Filing of Amendment with ICC.** Debtor shall promptly file two original fully executed, notarized copies of this Amendment with the Interstate Commerce Commission (the "ICC") and deliver to Secured Party copies hereof stamped by the ICC acknowledging recordation pursuant to Section 11303 of Title 49 of the U.S. Code.

4. **Effect of Amendment.**

(a) Each reference in the Security Agreement to "this Agreement," "hereunder," "hereof," "herein" or words of like import shall mean and be a reference to the Security Agreement as amended hereby.

(b) Except as specifically amended hereby, the Security Agreement shall remain in full force and effect to the same effect as if this Amendment were originally a part thereof (including, without limitation, application of Sections 25 and 26 thereof to the provisions of this Amendment) and is hereby ratified and confirmed by Debtor and Secured Party.

(c) The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of Secured Party under the Security Agreement.

(d) The execution, delivery and effectiveness of this Amendment shall not operate to release any previously given pledge or assignment of Collateral under the Security Agreement.

5. **Governing Law.** This Amendment shall be construed and enforced in accordance with and governed by the laws of the State of Maryland.

6. **Miscellaneous.** The headings of each section of this Amendment are for convenience only and shall not define or limit the provisions hereof. If any term of this Amendment shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby, and this Amendment shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein.

**FIRST MARYLAND LEASECORP**

**RAILCAR, LTD.**

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

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

*[Notary blocks on next page]*

State of Georgia  
County of Fulton

On the \_\_\_\_\_ day of \_\_\_\_\_, 1995 personally appeared before me \_\_\_\_\_, to me personally known, who being by me duly sworn, said that he is the \_\_\_\_\_ of Railcar, Ltd., that the seal affixed to the foregoing instrument is the corporate seal of such corporation, that such instrument was signed and sealed on behalf of such corporation by the authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of such corporation.

\_\_\_\_\_  
Notary Public  
My commission expires:

[NOTARIAL SEAL]

State of Maryland  
City of Baltimore

On the \_\_\_\_\_ day of \_\_\_\_\_, 1995 personally appeared before me \_\_\_\_\_, to me personally known, who being by me duly sworn, said that he is the \_\_\_\_\_ of First Maryland Leasecorp, that the seal affixed to the foregoing instrument is the corporate seal of such corporation, that such instrument was signed and sealed on behalf of such corporation by the authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of such corporation.

\_\_\_\_\_  
Notary Public  
My commission expires:

[NOTARIAL SEAL]