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EQUIPMENT LEASE AGREEMENT

By and Between

AMERICAN FINANCE GROUP

and

CONSOLIDATED RAIL CORPORATION

Dated as of:

November 3, 1995

THIS EQUIPMENT LEASE AGREEMENT (the "Lease") is entered into as of this 3rd day of November, by and between AMERICAN FINANCE GROUP a Massachusetts general partnership (hereinafter referred to as "Lessor"), and CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation (hereinafter referred to as "Lessee").

WHEREAS, Lessee desires to lease from Lessor and Lessor desires to lease to Lessee all of the items of equipment specified in Exhibit A attached hereto (hereinafter collectively referred to as the "Units" and singularly referred to as "Unit") on the terms and conditions stated herein.

NOW, THEREFORE, in consideration of the mutual premises, covenants and agreements set forth herein, the parties hereby agree as follows:

1. **Lease of Units**. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the Units, to have and to hold the same unto Lessee, for an interim term beginning on the date which Lessee takes possession of the Units, or any Unit (the "Acceptance Date") up to and including November 30, 1995 ("Interim Term") and for a base term of 36 months commencing on December 1, 1995 (the "Commencement Date") and continuing through and including November 30, 1998 (the "Termination Date"). The period of time commencing on the earliest Acceptance Date and ending on the Termination Date shall sometimes hereinafter be referred to as the "Term." If the Term is extended, the Term shall be deemed to refer to all extended terms, and all provisions of this Lease shall apply during such Term, as extended, except as may be otherwise specifically modified in writing.

2. **Base Rental.** Lessee agrees to pay to Lessor, when due, in coin or currency which at the time is legal tender for the payment of public and private debts in the United States of America, at Lessor's lockbox at PO Box 360176, Pittsburgh, PA 15251, or to such other persons or at such other places as the Lessor may direct from time to time by written notice to Lessee or by electronic funds transfer to the account of Lessor at Natwest Bank, NA 175 Water St., New York NY 10038, ABA # 021-200-339 Acct No. 2181-01-7572, the amount of Interim Rent, as defined below, and the monthly rental specified in Exhibit B ("Base Rental") attached hereto, and all other sums due and payable hereunder. Interim Rent is due and payable in full on the Commencement Date. Interim Rent is computed by multiplying the daily equivalent of the Base Rental by the number of days in the Interim Term. The Base Rental provided for herein and then in effect shall be due and payable beginning December 1, 1995 and shall continue in advance on the first day of each calendar month thereafter during the Term of this Lease, with the final payment of Base Rental due on November 1, 1998, unless otherwise extended under the terms of this Lease, without demand or setoff. The Lessee shall also pay, as additional rent, all such other sums of money as shall become due and payable by Lessee to Lessor under this Lease (the

Interim Rent, Base Rentals and any additional rent due hereunder shall hereinafter be referred to as the "Gross Rental"). All past due installments of Gross Rental, or other sums due and payable hereunder, shall bear interest from the due date until the date payment is received by Lessor at the greater of (a) fourteen percent (14%) per annum or (b) the annual rate of five percent (5%) plus the prime rate announced from time to time by the Chemical Bank of New York during the period of delinquency, but in no event greater than the maximum rate permitted by applicable law.

This Lease is a net lease and, except as expressly provided herein, the Lessee shall not be entitled to an abatement of Gross Rental , or setoff against or recoupment or reduction of Gross Rental, including, but not limited to, abatements, setoffs, reductions or recoupments due or alleged to be due by reason of any past, present or future claims or counterclaims of the Lessee against the Lessor under this Lease. Except as expressly provided herein the Lessee's obligations hereunder, including its obligations to pay all Gross Rentals and other amounts due and payable hereunder, shall be absolute and unconditional under any and all circumstances, and, except as otherwise expressly provided herein, this Lease shall not terminate, nor shall the respective obligations of the Lessor or the 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, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, it being the intention of the parties hereto that the Gross Rentals and other amounts due and payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. So long as no Event of Default exists hereunder, if Lessor or anyone lawfully claiming under or through Lessor shall interfere with Lessee's possession and use of any Unit, Lessee's obligation to pay rent with respect to such Unit hereunder shall abate for so long as such interference continues and nothing in this Section 2 shall be deemed to constitute a waiver of any claim or right of action which Lessee may have against Lessor as a result of this Lease or otherwise.

3. **Delivery and Acceptance of Units**. Lessor will cause each Unit to be tendered to Lessee at such point or points as specified in Exhibit A on November 4, 1995. Lessee accepts delivery of all the Units and shall execute and deliver to Lessor a certificate in the form of Exhibit C hereto (the "Acceptance Certificate") signed by a responsible officer, or his designee, acknowledging the delivery of the Units by Lessor, the conformance of such Units to the requirements of the Interchange Rules of the Association of American Railroads and the acceptance of the Units by Lessee on the acceptance date stated hereon whereupon such Units shall be deemed to have been delivered to and

accepted by the Lessee under this Lease and shall be subject thereafter to all of the terms and conditions of this Lease, and such Acceptance Certificate shall be absolutely binding upon Lessee.

4. **Maintenance and Repairs.** At Lessee's sole cost and expense, each Unit will be maintained in the same operating condition, as and when received (reasonable wear and tear excepted). Each Unit will at all times be in compliance with all applicable laws and regulations including those of the Department of Transportation ("DOT") the Federal Railroad Association ("FRA"), and any other regulatory agencies directly concerned with the regulation of rolling stock and the rules of the Association of American Railroads ("AAR") and each Unit will have passed periodic brake safety and dead brake load testing as prescribed by the manufacturer and will at all times be in a condition which is suitable for immediate interchange use.

5. **Disclaimer of Warranties.** LESSOR, NOT BEING THE MANUFACTURER OF THE UNITS, NOR THE MANUFACTURER'S AGENT, HEREBY EXPRESSLY DISCLAIMS AND MAKES TO LESSEE NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO: THE FITNESS FOR USE, DESIGN OR CONDITION OF THE UNITS; THE QUALITY OR CAPACITY OF THE UNITS; THE WORKMANSHIP IN THE UNITS; THAT THE UNITS WILL SATISFY THE REQUIREMENTS OF ANY LAW, RULE, SPECIFICATION OR CONTRACT PERTAINING THERETO, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN LESSOR AND LESSEE, ARE TO BE BORNE BY LESSEE. LESSOR IS NOT RESPONSIBLE OR LIABLE FOR ANY DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGE TO OR LOSSES RESULTING FROM THE INSTALLATION, OPERATION OR USE OF THE UNITS OR ANY UNIT. Lessor hereby acknowledges that any manufacturer's and/or seller's warranties are for the benefit of both Lessor and Lessee. Lessee's acceptance of delivery of the Units shall be conclusive evidence, as between Lessor and Lessee, that each Unit described in any Lessee's certificate confirming such acceptance or deemed accepted by Lessee pursuant to Section 3 above, is in all of the foregoing respects satisfactory to the Lessee and pursuant to Section 3 the Lessee will not assert any claim of any nature whatsoever against Lessor based on all or any one of the foregoing matters.

6. **Use of the Units.** Lessee agrees, for the benefit of Lessor, to use the Units predominantly in the United States and to comply in all respects with all laws of the jurisdictions in which operations involving an Unit subject to this Lease may extend, with the Interchange Rules of the Association of American Railroads, if applicable, and with all rules and regulations of the Interstate Commerce Commission, the Department of Transportation, and any other legislative, executive, administrative, judicial or govern-

mental body exercising any power or jurisdiction over any such Unit, to the extent such laws and rules affect the ownership, possession, operations or use of such Unit; and Lessee shall and does hereby indemnify and hold harmless Lessor from and against any and all liabilities and damages that may arise from any violation of this Section 6, or of any such laws, rules or regulations by Lessee, its agents, employees, or any other person. In the event that such laws, rules or regulations require any alteration, change, modification or enhancement of any nature whatsoever to the Units or any Unit (the "Required Modifications"), Lessee, shall notify Lessor and, at its sole option, may: (i) make such alterations, changes, modifications and enhancements at its own expense and continue to use, maintain and operate such Units in full compliance with such laws, rules and regulations so long as such Units are subject to this Lease; provided, however, that Lessee may, in good faith, contest the validity or application of any such law, rule or regulation in any reasonable manner which does not, in the sole opinion of Lessor, adversely affect the rights of Lessor in the Units and hereunder, or (ii) terminate this Lease in accordance with the provisions of Section 12(ii), unless Lessor agrees, at its cost and expense, to make the necessary alterations, changes, modifications or enhancements, with the rental being abated while such alterations, changes, modifications or enhancements are being made.

7. **Filings.** Lessee agrees to prepare and deliver to Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of, and furnish a copy to, Lessor) any and all reports required to be filed by Lessor which Lessor has advised Lessee, in writing, are required to be filed by Lessor or reasonably requested by Lessor to be filed, with any federal, state or other regulatory authority by reason of the ownership by Lessor of the Units, the title of Lessor to the Units or the leasing of the Units to Lessee; provided, however, that Lessor shall be responsible for (i) filing this Lease with the Interstate Commerce Commission pursuant to 49 U.S.C. §11303 and (ii) depositing it with the Registrar General pursuant to Section 90 of the Railway Act of Canada.

Lessee will cause each Unit to be kept numbered with its identifying number as set forth in Exhibit A hereto and all other markings and stenciling required by the Interchange Rules of the Association of American Railroads, as the same may be amended from time to time, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the title of Lessor to the Units and the rights of Lessor under this Lease. Lessee will replace promptly any such words which may be removed, defaced or destroyed. Lessee will not change, or permit to be changed, the number on any Unit, except in accordance with a statement of new numbers to be submitted therefor which previously shall have been filed with the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease will have been filed, recorded or deposited.

Each Unit may be lettered in an appropriate manner for convenience of identification of the interests of Lessee therein. Except as above provided, Lessee will not

allow the name of any person, association or corporation to be placed on any of the Units as a designation which might be interpreted as a claim of ownership thereof.

8. **Taxes and Other Assessments.** Lessee shall be responsible for, and shall indemnify and hold Lessor harmless from, all taxes (including, without limitation, sales, use, excise, import, domestication, personal property, ad valorem, withholding, stamp, documentary and other taxes or amounts imposed in lieu of such taxes, but excluding any federal income taxes of Lessor or any state, local or foreign taxes imposed upon or measured by net income of Lessor or imposed in lieu of such taxes), license fees, assessments, charges, duties, fines and penalties (resulting solely from the acts or omissions of Lessee), currently or hereafter levied or imposed by any state, local, federal or foreign authority (all such expenses, taxes, license fees, assessments, charges, fines and penalties, being hereinafter called "Assessments") upon or in connection with or measured by this Lease, any Unit, the ownership thereof or any sale, purchase, rental, use, payment, shipment or delivery made pursuant to this Lease which are in addition to any taxes already imposed upon Lessor solely as a result of its ownership of the Units, and will keep at all times all and every part of the Units free and clear of all Assessments (other than assessments which are not the responsibility of Lessee pursuant to this Section 8) which might in any way affect the title of Lessor to any Unit or result in a lien upon any Unit. In the event that during the continuance of this Lease any reports with respect to Assessments involving the Units are required to be made, (which reports are customarily required to be made by lessors of railroad equipment, or Lessor has advised Lessee are required to be made by Lessor), Lessee will make such reports in such manner as to show the interest of the Lessor or, to the extent Lessee is not permitted by law to do so, Lessee shall furnish to Lessor such information in a manner that shall be satisfactory to Lessor. Lessee shall, whenever requested by Lessor, submit to Lessor copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to Lessor of Lessee's performance of its duties under this Section 8. Lessee shall also furnish promptly on request all data as Lessor shall reasonably require to permit Lessor's compliance with the requirements of taxing jurisdictions.

Notwithstanding any other provision of this Lease, Lessee shall at all times have the right to contest in good faith with the appropriate regulatory or judicial body any lien, tax, or application of law or regulation, for which Lessee would be liable under this Section 8, providing such contest does not jeopardize Lessor's rights, title, and interest in and to the Units.

To the extent that Lessee is prohibited by law from performing in its own name the duties required by this Section 8, and only to such extent, Lessor hereby authorizes Lessee to act in Lessor's name and on its behalf; provided, however, that Lessee shall indemnify and hold Lessor harmless from and against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of, or incident to, any

action by Lessee pursuant to such authorization, other than those resulting from the gross negligence or willful misconduct of Lessor.

In the event that, during the continuance of this Lease, the Lessee shall become liable for the payment or reimbursement of any Assessments pursuant to this Section 8, such liability shall continue, notwithstanding the expiration or earlier termination of this Lease, until such impositions are paid or reimbursed by Lessee.

9. **Indemnification.** Except as otherwise provided in this Lease, Lessee assumes liability for, and hereby agrees to indemnify, protect and keep harmless Lessor, its employees, agents, successors and assigns from and against any and all liabilities, obligations, losses, damages, injuries, claims, demands, penalties, actions, costs and expenses, including reasonable attorney's fees, of whatsoever kind and nature, arising out of any breach of this Lease by Lessee, or arising out of the possession, use, condition, operation, ownership, selection, delivery, leasing or return of the Units or any Unit, or the commodities loaded or shipped in any car pulled by any Unit, regardless of where, how and by whom operated other than those arising from the gross negligence or willful misconduct of Lessor. The indemnities and assumptions of liabilities and obligations herein provided for shall continue in full force and effect notwithstanding the expiration or other termination of this Lease. Lessee is an independent contractor and nothing contained in this Lease shall authorize Lessee or any other person to operate any of the Units so as to incur or impose any liability or obligation for or on behalf of Lessor.

10. **Lessor's Performance of Lessee's Obligations.** If Lessee shall fail to duly and promptly perform any of its obligations under this Lease with respect to the Units, Lessor shall have the option, but not the obligation, to perform any act or make any payment which Lessor deems necessary for the maintenance and preservation of the Units and Lessor's title thereto, including payments for satisfaction of liens, repairs, Assessments, levies and insurance and all sums so paid or incurred by Lessor, and any reasonable legal and accounting fees incurred by Lessor in connection therewith shall be additional rent under this Lease payable by Lessee to Lessor on demand. The performance of any act or payment by Lessor as aforesaid shall not be deemed a waiver or release of any obligation or default on the part of the Lessee, and Lessee shall continue to be liable for any such performance or payment by Lessor notwithstanding the expiration or earlier termination of this Lease.

11. **Insurance.** Lessee agrees to include the Units in its regular program of insurance for equipment similar to the Units but nothing in this Lease shall be deemed to require Lessee to change its insurance program or to take out separate insurance on the Units. Lessee will promptly notify Lessor of any material change in its insurance

program. Lessee will provide Lessor, no later than the date of execution of this Lease, evidence satisfactory to Lessor of such insurance coverage.

12. **Risk of Loss.** Except as set forth in section 13 & 17, Lessee assumes all risk of loss, damage, theft, condemnation or destruction of the Units. Except as provided in this Section 12, no such loss, damage, theft, condemnation or destruction of the Units, or any Unit, in whole or in part, shall impair the obligations of Lessee under this Lease, all of which shall continue in full force and effect. Whenever any Unit shall be or become worn out, lost, stolen, destroyed or damaged, from ordinary use, neglect, abuse, fire, the elements or any other cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called "Casualty Occurrences") during the Term of this Lease, Lessee shall, notify Lessor in writing of such Casualty Occurrence promptly after it shall have been determined that such Unit has suffered a Casualty Occurrence, but in any event within thirty (30) days after making such determination, or within such shorter time as may be required by any applicable rules or regulations of the American Association of Railroads. In the event any of the Units suffer a Casualty Occurrence, Lessee, at its sole option, shall either: (i) replace the affected Units with like equipment of at least equal value and utility in good repair, condition and working order, in which case Lessor shall reimburse Lessee for the cost of such replacement to the extent of the recovery, if any, actually received by Lessor from insurance or otherwise for such Casualty Occurrence; or (ii) pay to Lessor on the next Base Rental payment date following receipt of notice of the Casualty Occurrence, in addition to Base Rental and other sums due on that date, an amount equal to the Casualty Value thereof specified on Exhibit D. The Lease, solely as it relates to the Unit suffering the Casualty Occurrence, will terminate and ownership of the Unit suffering the Casualty Occurrence, including all claims for insurance proceeds or condemnation awards, will pass to Lessee upon receipt of such payment by Lessor. In the event of loss or damage to any Unit which does not constitute a Casualty Occurrence, Lessee shall promptly, at its sole cost and expense, repair and restore such Unit to the condition required by this Lease.

13. **Annual Report.** On or before March 1 of each year during the Term of this Lease, Lessee will furnish to Lessor, Lessee's certificate, as of the preceding December 31, (i) showing the amount, description and numbers of Units then leased hereunder and the amount, description and numbers of all Units that may have suffered a Casualty Occurrence during the preceding twelve (12) months (or since the Commencement Date in the case of the first such Lessee's certificate), and such other information regarding the condition and state of repair of the Units as Lessor may reasonably request, (ii) stating that, in the case of all Units repaired or repainted during the period covered thereby, the markings required by Section 7 hereof have been preserved or replaced, and (iii) containing all other information in the possession of Lessee that is required to be filed by Lessor with any division of the Association of American Railroads, the Interstate Commerce Commission, the Department of Transportation, or, any other federal, state, administrative,

judicial or governmental body having jurisdiction in the matter. Lessor shall have the right, but not the obligation, by its authorized representative upon proper notice to Lessee, and in such a manner as not to disrupt or interfere with the safe operation of Lessee's business to inspect the Units and the records of Lessee with respect thereto.

14. **Lessee Default**. Lessee shall be in default under this Lease upon the happening of any of the following events or conditions (hereinafter referred to as "Events of Default") during the Term of this Lease:

(a) If Lessee fails to pay any sum required to be paid hereunder on or before the due date and such failure continues for a period of five (5) business days after notice of nonpayment is received by Lessee;

(b) If Lessee fails at any time to procure or maintain any insurance coverage required by this Lease;

(c) If Lessee fails to observe or perform any of the material covenants, conditions and agreements on the part of Lessee to be observed or performed and contained herein (other than the payment of any sums required to be paid hereunder and other than the obligation to procure and maintain any insurance coverage required by this Lease) or any schedule or any supplement or rider hereto, and such default shall continue for thirty (30) days after written notice is received by Lessee of such default;

(d) If Lessee consents to the appointment of a receiver, trustee or liquidator of itself or of a substantial part of its property, or shall admit in writing its inability to pay its debts generally as they become due, or shall make a general assignment for the benefit of creditors, or shall file a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization in a proceeding under any bankruptcy law (now or hereafter in effect) or any answer admitting the material allegations of a petition filed against Lessee in any such proceedings, 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 a business, of providing for an agreement, composition, extension or adjustment with its creditors;

(e) If an order, judgment or decree shall be entered by any court of competent jurisdiction appointing, without the consent of Lessee, a receiver, trustee or liquidator of Lessee or of any substantial part of its property, or sequestering any substantial part of the property of Lessee, or granting any other relief in respect of Lessee under the federal bankruptcy laws, and any other such order, judgment or decree of appointment or sequestration shall remain in force undismissed, unstayed or unvacated for a period of sixty (60) days after the date of entry thereof;

(f) If a petition against Lessee in a proceeding under the federal bankruptcy laws or other similar insolvency laws (as now or hereafter in effect) shall be filed and shall not be withdrawn or dismissed within sixty (60) days thereafter, or if, under the provisions of any law providing for reorganization or winding up of corporations which may apply to Lessee, any court of competent jurisdiction shall assume jurisdiction, custody or control of Lessee or of 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;

(g) If Lessee shall make or permit any unauthorized assignment or transfer of this Lease, the Units or any interest therein; or

(h) If any material representation or warranty of Lessee contained in this Lease shall prove to be materially untrue or incorrect when made and the interests of Lessor are adversely and materially affected thereby.

15. Lessor's Remedies.

Upon the occurrence of an Event of Default Lessor shall have the following remedies, all of which are hereby authorized by Lessee. Lessee shall, without further demand, forthwith pay to Lessor (i) as liquidating damages for loss of a bargain and not as a penalty, the Casualty Value of the Units (calculated as of the Base Rental payment date next preceding the declaration of such Event of Default), and (ii) all payments of Base Rental and other sums due hereunder. Upon receipt of such amounts from Lessee, Lessor will transfer to Lessee, without recourse or warranty, all of Lessor's right, title and interest in and to such Unit. Lessor may, but shall not be required to, sell Units at private or public sale, in bulk or in parcels, with or without notice, and without having the Units present at the place of such sale, or Lessor may, but shall not be required to, lease or otherwise dispose of or keep idle all or part of the Units: and Lessor may use Lessee's premises for any or all of the foregoing without liability for rent, costs, damages or otherwise provided, however, that Lessor shall not store any Units on Lessee's premises beyond the expiration of the Term of this Lease plus any and all additional time specified in Section 17(b). The proceeds of sale, lease or other disposition, if any, shall be applied in the following order of priorities: (1) to pay all of Lessor's costs, charges and expenses incurred in taking, removing, holding, repairing and selling, leasing or otherwise disposing of Units, then (2) to the extent not previously paid by Lessee, to pay Lessor all sums due from Lessee hereunder; then (3) to reimburse to Lessee any sums previously paid by Lessee as liquidating damages; and (4) any surplus shall be retained by Lessor. Lessee shall pay any deficiencies in (1) and (2) above.

The foregoing remedies are cumulative, and any or all thereof may be exercised in lieu of or in addition to each other or any remedies at law, in equity, or under statute. Lessee

waives notice of sale or other disposition (and the time and place thereof), and the manner and place of advertising. Lessee shall pay the reasonable attorney's fees of the Lessor upon the Event of Default. The failure of Lessor to exercise the rights granted hereunder upon the Event of Default shall not constitute a waiver of any such right upon the continuation of any such Events of Default.

16. **End of Term Options**. So long as no Event of Default has occurred or is continuing hereunder, upon notice given to Lessor one-hundred and twenty (120) days prior to the expiration of the Term of this Lease, Lessee may with respect to all, but not less than all, of the Units leased hereunder (i) extend the Lease for twelve months at sixty-eight percent (68%) of the monthly Base Rental; (ii) extend the Lease for twenty-four months at sixty-three percent (63%) of the monthly Base Rental (each a "Renewal Term") or (iii) purchase the Units on an "AS-IS", "WHERE-IS" basis for cash at its then Fair Market Value (as defined below), not to exceed $164,125.00 per Unit ("Purchase Price"), plus all applicable sales taxes, if any. Lessee agrees to provide Lessor written notice of whether or not it will exercise its options to purchase the Units or renew this Lease not less than 120 days prior to the expiration of the Term of this Lease, or any extension thereof. If Lessee purchases the Units, upon payment of Purchase Price, plus all applicable sales tax, if any, in accordance with the payment instructions described in Section 2, Lessor shall convey title to the Units (together with manufacturer or vendor warranties, if any) to Lessee, as is, where is, and with all faults, without recourse or warranty, excepting liens and encumbrances created by Lessor. If Lessee exercises its option to renew, Lessee and Lessor will execute a Renewal Lease Schedule in substantially the form of Exhibit E attached hereto. At the expiration of the Renewal Term, or any extension thereof, Lessee shall have the option, with respect to all but not less than all of the Units, to (i) return the Units to Lessor in accordance with Section 17 hereof; (ii) purchase the Units on an "AS-IS", WHERE-IS" basis for cash at its then Fair Market Value or (iii) extend the Lease for a period of time agreed upon by Lessor and Lessee at the then Fair Rental Value (as defined below).

Fair Market Value and Fair Rental Value shall mean an amount which would be obtained in an arm's-length transaction between an informed and willing buyer-user or lessee and an informed and willing seller or lessor under no compulsion to sell or lease provided, however, that in such determination: (i) the Units shall be assumed to be in the condition in which it is required to be maintained and returned under the Lease; and (ii) costs of removal from its current location shall not be a deduction from such valuation. Fair Market Value and Fair Rental Value shall be determined by agreement of Lessor and Lessee prior to the one hundred and twenty (120) day notice.

17. **Return of Units**. At the direction of Lessor pursuant to Section 15 of this Lease or upon the expiration of the Term of this Lease, or any extension or renewal thereof, Lessee shall forthwith deliver possession of, all but not less than all of the Units to

Lessor. Each Unit and all its component parts will be in good operating condition, suitable for immediate interchange use and meeting all FRA requirements. Each Unit will not have cracked or bent frames and, beyond normal wear and tear, no undercarriage damage and no extensive structural or mechanical damage on any interior or exterior surface. All wheels will be of an identical model, type and size and will not be of a lesser grade or quality than those which were present on the Unit at the inception of this Lease. Wheels and brake shoes must average, for each Unit, fifty percent (50%) of original thickness when new, with no individual wheel or brake shoe having less than thirty five (35%) of original thickness when new.

At Lessor's request, as soon as practicable on or after the expiration of the Term of this Lease, but in no event later than ninety (90) days after the expiration of the Term of this Lease, Lessee will, at its own cost and expense, (a) Place the Units upon such storage tracks of Lessee as Lessee may reasonably designate and inform Lessor of the date on which all Units have been so placed (the "Storage Initiation Date"); (b) Permit Lessor to store such Units on such tracks at the risk of the Lessee until such Units have been sold, leased or otherwise disposed of by the Lessor, provided, however, that Lessor shall not be entitled to store such Units on such tracks for more than (180) days following the Storage Initiation Date (the "Storage Period"). Lessee will pay to Lessor for each day from expiration of the Term of this Lease until the Storage Initiation Date, an amount equal to 1/30th of the Base Rental. Lessee will transport the Units at Lessor's request during the Storage Period any time once to any place on the lines of railroad operated by Lessee or to any interchange with a connecting carrier for shipment, all as directed by Lessor. The assembling, delivery, storage and transporting of the Units shall be at the sole expense and risk of Lessee. All units will be maintained in the condition specified in this Lease throughout the Storage Period, except that Lessor agrees that during the Storage Period any Required Modifications shall be at the sole expense of the Lessor. If any Unit suffers a Casualty Occurrence during the Storage Period, Lessee will pay to Lessor those amounts applicable under Section 12 of this Lease. Any movement or continued storage of the Units after the expiration of the Storage Period shall be at the risk and expense of Lessor.

During the Storage Period, Lessee will reasonably permit the Lessor or any person designated by it, including representatives of prospective purchasers, lessees or users, to inspect the Units at Lessor's cost (including actual expenses incurred by Lessee in connection with such inspections). Lessor agrees to indemnify, protect and hold harmless Lessee, its employees, agents, successors and assigns from and against any and all liabilities, obligations, losses, damages, injuries, claims, actions, costs and expenses (including reasonable attorney's fees) for personal injuries or property damage arising out of such Lessor's inspection of the Units other than injuries or property damage resulting from the negligence and willful misconduct of Lessee, its employees, agents, successors or assigns.

18. **Notices**. Any notice required or permitted to be given by either party hereto to the other shall be in writing and shall be deemed given when sent by United States Certified or Registered Mail, Return Receipt Requested, postage prepaid, by guaranteed overnight courier service, or by facsimile addressed as follows:

TO LESSOR: American Finance Group
98 N. Washington Street
Boston, MA 02114
Attention: Vice President
Lease Operations

Fax #: (617) 523-1410

TO LESSEE: Consolidated Rail Corporation
Two Commerce Square 25-A
2001 Market Street
Philadelphia, PA 19103
Attention: Thomas J. McGraw
Director-Finance

Fax #: (215) 209-5346

or at such other place as the parties hereto may from time to time designate by notice, each to the other. If the term "Lessee" as used in this Lease refers to more than one person or entity, any notice, consent, approval, request, bill, demand or statement given as aforesaid to any one of such persons or entities shall be deemed to have been duly given to Lessee.

19. **Invalid Provisions**. 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.

20. **Assignment by Lessor**. Except as provided below Lessor may not sell, transfer, or assign the Lease without the prior written consent of Lessee which consent shall not be unreasonably withheld:

(a) Lessor may, without Lessee's consent, sell the Units and assign the Lease (i) to a trust or partnership of which Lessor or American Financing Group ("AFG"), or a subsidiary or affiliate of Lessor or AFG, is trustee or general partner, or (ii) to an

investment fund if the Lessor or AFG, or a subsidiary of affiliate of the Lessor or AFG, is or after additional sales, transfers or assignments will be at the time of such sale, transfer or assignment (A) the manager on behalf of the fund for the purposes of leasing, re-leasing or otherwise managing the Equipment or such portion of the Lease to which the Equipment relates, or (B) the manager of the assets of the fund itself. All such assignments, sales and transfers shall in each case be subject and subordinate to Lessee's rights hereunder. No such assignment shall increase Lessee's liabilities nor decrease Lessee's rights under the Lease.

(b) Lessor may sell, transfer or assign the Lease to a lender or other assignee in connection with the financing of Lessor's purchase of the Units, each subject and subordinate to Lessee rights hereunder, without notice to or consent by the Lessee. No such assignment shall relieve Lessor of its obligations hereunder. In any case, no such assignment shall increase the liabilities or obligations nor decrease Lessee's rights under the Lease. Lessee agrees, in the event it is notified in writing of a sale of the Units or assignment of the Lease, to execute and deliver an acknowledgment letter confirming that the assignee or lender has (and may exercise either in its own name or in the name of the Lessor) all of the rights, privileges and remedies, but none of the obligations, of Lessor under the Lease; and agreeing to make all payments of Gross Rental and other sums due under the Lease to the assignee or as Lessor may direct.

21. **Miscellaneous Provisions**. (a) This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the Units and supersedes all other agreements, oral or written, with respect to the Units. 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 officers of Lessor and Lessee.

(b) This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

(c) The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. §11303 and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof or out of the marking on the Units as shall be conferred by the laws of several jurisdictions in which this Lease or any assignment hereof shall be filed, recorded or deposited or in which any Unit may be located.

(d) Lessee may not, by operation of law or otherwise assign, transfer pledge, hypothecate or otherwise dispose of this Lease or any interest herein, or sublet any of the Units for more than six (6) months, without Lessor's prior written consent provided,

however, that no consent shall be required for an assignment or sublease to an affiliate of Lessee but further provided that no such assignment or sublease shall relieve Lessee of its obligations under this Lease.

(e) Except as noted in Sections 6 and 12 herein, Nothing contained herein shall give or convey to Lessee any right, title or interest in and to the Units leased hereunder except as a Lessee thereof, and the Units are and shall at all times be and remain the sole and exclusive property of Lessor.

(f) Any cancellation, termination or assignment of this Lease by Lessee or Lessor pursuant to the terms and provisions hereof, or any schedule, supplement, rider or amendment hereto, or any termination of the Term by lapse of time, shall not release Lessor or Lessee from any of its outstanding obligations and/or duties to Lessor or Lessee hereunder.

(g) To the extent there exists any conflict between the terms and provisions of this lease and the terms and provisions of the Interchange Rules of the Association of American Railroads, this Lease shall control.

(h) Lessee hereby authorizes Lessor, and agrees that Lessor shall be entitled, to access UMLER and receive all information thereon with respect to the Units, or the use and operation thereof, together with all other such information as may be available.

(i) Closing shall occur at Consolidated Rail Corporation on November 4, 1995 at 10:00 AM Eastern Standard Time or at some other mutually agreeable time. Units must be accepted as a condition of closing.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed as of the day and year first above written.

LESSOR:

AMERICAN FINANCE GROUP

By: _____

Name: Susan S. Franklin

Title: Vice President - Lease Operations

LESSEE:

CONSOLIDATED RAIL CORPORATION

By: _____

Name Thomas J. McGraw

Title: Director - Finance

COUNTERPART NO. 2 OF 6 SERIALLY NUMBERED MANUALLY EXECUTED COUNTERPARTS. TO THE EXTENT IF ANY THAT THIS DOCUMENT CONSTITUTES CHATTEL PAPER UNDER THE UNIFORM COMMERCIAL CODE, NO SECURITY INTEREST MAY BE CREATED THROUGH THE TRANSFER AND POSSESSION OF ANY COUNTERPART OTHER THAN COUNTERPART NO. 1

STATE OF Massachusetts)
) ss.
COUNTY OF Suffolk)

On this 3rd day of November, 1995, before me personally appeared Susan S. Franklin, to me personally known, who, being by me duly sworn, did say that he/she is the Vice President of **American Finance Group**, a Massachusetts General Partnership, that said instrument was signed on such date on behalf of said corporation by authority of its board of Directors, and he acknowledge that the execution of the foregoing instrument was the free act and deed of said corporation

(Seal)

Notary Public
My Commission Expires: _____

COMMONWEALTH OF PENNSYLVANIA)
) ss.
COUNTY OF PHILADELPHIA)

On this 3rd day of November, 1995, before me personally appeared Thomas J. McGraw, to me personally known, who, being by me duly sworn, did say that he is the Director of Financing of **Consolidated Rail Corporation**, a Pennsylvania corporation, that said instrument was signed on such date on behalf of said corporation by authority of its Board of Directors and he acknowledge that the execution of the foregoing instrument was the free act and deed of said corporation.

Suzanne J. Rossomando
Notary Public

NOTARIAL SEAL
Suzanne J. Rossomando, Notary Public
City of Philadelphia, Phila. County
My Commission Expires June 28, 1999

Exhibit A

DESCRIPTION OF UNITS

Type	Builder	Quantity	Lessee's Identification Numbers	Acceptance Location
2,250 H.P. Model B23-7 Diesel Electric Locomotives	General Electric Company	21	CR 1970 CR 1973 CR 1974 CR 1976 CR 1977 CR 1980 CR 1981 CR 1984 CR 1985 CR 1987 CR 1988 CR 1992 CR 1994 thru CR 1997 CR 1999 CR 2001 CR 2005 thru CR 2007	Oak Island, NJ

Exhibit B
TO
EQUIPMENT LEASE AGREEMENT DATED NOVEMBER 3, 1995

LESSEE:	CONSOLIDATED RAIL CORPORATION
LESSOR:	AMERICAN FINANCE GROUP
TERM:	INITIALLY 36 MONTHS
COMMENCEMENT DATE:	DECEMBER 1, 1995
TERMINATION DATE:	NOVEMBER 30, 1998
PAYMENT COMMENCEMENT:	DECEMBER 1, 1995
PAYMENT FREQUENCY:	MONTHLY IN ADVANCE
BASE RENTAL/UNIT:	$6,530.81 PER UNIT
BASE RENTAL/MONTH:	$137,147.01 PER MONTH
INTERIM RENT:	$123,432.31
NUMBER OF PAYMENTS:	36
LESSOR'S COST/UNIT:	$325,000.00
TOTAL LESSOR'S COST:	$6,825,000.00

LESSOR'S INITIALS: _____

LESSEE'S INITIALS: _____

Exhibit C

ACCEPTANCE CERTIFICATE

I, the duly authorized representative of the Consolidated Rail Corporation ("Lessee") under the Equipment Lease Agreement , dated November 3, 1995 (the "Lease"), do certify that I accepted delivery thereunder of the following Units described on Exhibit A attached hereto :

I do further certify that the foregoing Units are in good order and condition, and conform to the specifications, requirements and standards applicable therefore as provided in the lease.

_____

Authorized Representative of Lessee

ACCEPTANCE CERTIFICATE

I, the duly authorized representative of the Consolidated Rail Corporation ("Lessee") under the Equipment Lease Agreement, dated November 3, 1995 (the "Lease"), do certify that I accepted delivery thereunder of the following Units described on Exhibit A attached hereto.

I do further certify that the foregoing Units are in good order and condition, and conform to the specifications, requirements and standards applicable therefore as provided in the Lease.

Thomas J. McGraw - Director Financing

Authorized Representative of Lessee

EXHIBIT A

TYPE OF LOCOMOTIVE: GE B23-7 Diesel Electric Locomotive

PLACE ACCEPTED: Oak Island, NJ

ACCEPTANCE DATE : November 4th, 1995

NUMBER OF UNITS: 21

MARKED: Conrail

ROAD NUMBER(S): CR 1970
CR 1973
CR 1974
CR 1976
CR 1977
CR 1980
CR 1981
CR 1984
CR 1985
CR 1987
CR 1988
CR 1992
CR 1994 thru CR 1997
CR 1999
CR 2001
CR 2005 thru CR 2007

Exhibit D

CASUALTY VALUES
(Stated as a Percentage of Lessor's Cost)

AFTER PRIMARY TERM PAYMENT DUE	CASUALTY VALUE
Prior to 12/1/95	110.00
12/1/95	108.92
1/1/96	107.83
2/1/96	106.72
3/1/96	105.59
4/1/96	104.45
5/1/96	103.29
6/1/96	102.12
7/1/96	100.93
8/1/96	99.72
9/1/96	98.49
10/1/96	97.25
11/1/96	95.99
12/1/96	94.72
1/1/97	93.42
2/1/97	92.11
3/1/97	90.78
4/1/97	89.43
5/1/97	88.06
6/1/97	86.68
7/1/97	85.27
8/1/97	83.85
9/1/97	82.40
10/1/97	80.94
11/1/97	79.45
12/1/97	77.94
1/1/98	76.42
2/1/98	74.87
3/1/98	73.30
4/1/98	71.71
5/1/98	70.10
6/1/98	68.46
7/1/98	66.80
8/1/98	65.12
9/1/98	63.42
10/1/98	61.69
11/1/98	60.00

Exhibit E

RENEWAL RENT SCHEDULE NO. _____(The "Renewal Lease Schedule")
DATED AS OF _____
TO EQUIPMENT LEASE AGREEMENT (the "Equipment Lease")
DATED AS OF NOVEMBER 3, 1995

LESSOR

c/o AMERICAN FINANCE GROUP
98 N. WASHINGTON ST.
BOSTON, MA 02114

LESSEE

CONSOLIDATED RAIL CORPORATION
TWO COMMERCE SQUARE 25-A
2001 MARKET STREET
PHILADELPHIA, PA 19103

1. LEASE TERM. PAYMENT DATES.

This Renewal Lease Schedule, between American Finance Group, as lessor, lessor's interest therein having been previously sold and assigned to the above referenced Lessor and Lessee incorporates by reference the terms and conditions of the Equipment Lease. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor those Units described on the attached Schedule B, for the Renewal Lease Term and at the Renewal Term and at the Renewal Term Base Rentals payable on the Payment Dates hereinafter set forth on the attached Schedule A, on the terms and conditions set forth in the Equipment Lease.

2. BASE RENTAL

The Renewal Term Base rentals are computed by multiplying the Total Unit Cost by the Renewal Lease Rate set forth on the attached Schedule A.

3. SPECIAL RETURN CONDITIONS. CASUALTY OCCURRENCE.

(TO BE INSERTED DEPENDING UPON EQUIPMENT TYPE).

Notwithstanding the provision of Section 12 of the Equipment Lease, the Casualty Value for the Equipment during the Renewal Lease Term shall be equal to $.

4. ENTIRE AGREEMENT. MODIFICATION AND WAIVERS. EXECUTION IN COUNTERPARTS.

This Renewal Lease Schedule and the Equipment Lease constitute the entire agreement between Lessee and Lessor with respect to the leasing of the Units. Lessee hereby represents, warrants and certifies that the representations and warranties of lessee set forth in the Equipment Lease are true and correct as of the date hereof. Capitalized terms not defined herein shall have the meanings assigned to them in the Equipment Lease. To the extent any of the terms and conditions set forth in this Renewal Lease Schedule conflict with or are inconsistent with the Equipment Lease, this Renewal Lease Schedule shall govern and control. No amendment, modification or waiver of this Renewal Lease Schedule or the Equipment Lease will be effective unless evidenced in writing signed by the party to the charged. This Renewal Lease

Schedule may be executed in counterparts, all of which together shall constitute one and the same instrument.

The undersigned, being the duly authorized representative of the Lessee, hereby certifies that the Units described on the attached Schedule B have been duly delivered to the Lessee in good order and duly inspected and accepted by the Lessee as conforming in all respects with the requirements and provisions of the Equipment lease, as of the Renewal Term Commencement Date stated on the attached Schedule A

[LESSOR] Lessor	**CONSOLIDATED RAIL CORPORATION** Lessee
By: _____	By: _____
Title: _____	Title: _____

COUNTERPART NO. _____ OF 2 SERIALLY NUMBERED MANUALLY EXECUTED COUNTERPARTS. TO THE EXTENT IF ANY THAT THIS DOCUMENT CONSTITUTES CHATTEL PAPER UNDER THE UNIFORM COMMERCIAL CODE, NO SECURITY INTEREST MAY BE CREATED THROUGH THE TRANSFER AND POSSESSION OF ANY COUNTERPART OTHER THAN COUNTERPART NO.1

SCHEDULE A

TO

RENEWAL LEASE SCHEDULE NO. _____

LESSEE: _____

LESSOR: _____

RENEWAL LEASE SCHEDULE NO: _____

RENEWAL LEASE TERM: _____

RENEWAL TERM COMMENCEMENT DATE: _____

RENEWAL TERM EXPIRATION DATE: _____

PAYMENT FREQUENCY: _____

ADVANCE/ARREARS: _____

RENEWAL LEASE RATE: _____

RENEWAL TERM BASE RENT: $_____

NUMBER OF PAYMENTS: _____

TOTAL RENEWAL TERM BASE RENTALS: _____

TOTAL UNIT COST: $_____

LESSOR'S INITIALS: _____

LESSEE'S INITIALS: _____

SCHEDULE B

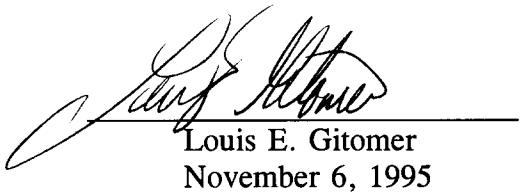
TO

RENEWAL LEASE SCHEDULE NO. _____

NO.	MANUFACTURER	DESCRIPTION	UNIT MARK

CERTIFICATION

I, LOUIS E. GITOMER, have compared this copy to the original Equipment Lease Agreement dated November 3, 1995, and found the copy to be complete and identical in all respects to the original document. I declare under penalty of perjury that the foregoing is true and correct.



Louis E. Gitomer
November 6, 1995