RECORDATION NO 18079 FILED 1425
DEC 31 1992 -11 05 AM
INTERSTATE COMMERCE COMMISSION

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RECORDATION NO 18079 FILED 1425
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December 31, 1992

RECORDATION NO 18079 FILED 1425
DEC 31 1992 -11 05 AM
INTERSTATE COMMERCE COMMISSION

new # -A -B -C -D

RECORDATION NO 18079 FILED 1425
DEC 31 1992 -11 05 AM
INTERSTATE COMMERCE COMMISSION

Mr. Sidney L. Strickland, Jr.
Secretary
Interstate Commerce Commission
Washington, DC 20423

Dear Mr. Strickland:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11303(a) are two (2) fully executed and acknowledged copies each of 1) a Trust Agreement dated as of December 31, 1992 and 2) an Equipment Lease (Ballast Railcars) dated as of December 31, 1992 and 3) an Equipment Lease (Hopper Railcars) dated as of December 31, 1992 (each a "primary document"); and 4) an Equipment Lease Supplement (Ballast Railcars) dated as of December 31, 1992 and 5) an Equipment Lease Supplement (Hopper Railcars) dated as of December 31, 1992 (each a "secondary document")

The names and addresses of the parties to the foregoing documents are:

<u>Trust Agreement</u>

Keycorp Leasing Ltd., as Owner Participant
54 State Street
Albany, New York 12207

Wilmington Trust Company, as Owner Trustee
1100 North Market Street
Rodney Square North
Wilmington, Delaware 19890-0001

Equipment Lease (Ballast Railcars)
and Supplement thereto
Equipment Lease (Hopper Railcars)
and Supplement hereto

Lessor : Wilmington Trust Company
1100 North Market Street
Rodney Square North
Wilmington, Delaware 19890-0001

Lessee : Southrail Corporation
111 East Capital Street
Jackson, Mississippi 39201

A description of the railroad equipment covered by the foregoing documents is attached hereto.

Also enclosed is a check in the amount of $90.00 payable to the order of the Interstate Commerce Commission covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,

Robert W. Alvord

RWA/bg
Enclosures

RECORDATION NO. 18079 FILED 1425

DEC 31 1992 -11 00 AM

INTERSTATE COMMERCE COMMISSION

EQUIPMENT LEASE AGREEMENT
(Ballast Railcars)

Dated as of December 31, 1992

Between

WILMINGTON TRUST COMPANY,
not in its individual capacity except
as expressly provided herein but
solely as trustee,
Lessor

and

SOUTHRAIL CORPORATION,
Lessee

100-ton Ballast Cars
(Converted from 100-ton, 3,300 cubic foot capacity, two-pocket, Covered Hopper Cars)

Filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 on December 31, 1992 at __:__ _.M. Recordation Number _____.

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EQUIPMENT LEASE AGREEMENT
(Ballast Railcars)

This EQUIPMENT LEASE AGREEMENT (Ballast Railcars) dated as of December 31, 1992 (this "Lease") is made, between WILMINGTON TRUST COMPANY, a Delaware banking corporation, not in its individual capacity except as expressly provided herein, but solely as trustee under the Trust Agreement ("Lessor"), and SOUTHRAIL CORPORATION, a Delaware corporation ("Lessee"),

W I T N E S S E T H :

Section 1. Definitions.

Unless the context otherwise requires, all capitalized terms used herein without definition shall have the respective meanings set forth in Appendix A hereto for all purposes of this Lease.

Section 2. Acceptance and Leasing of Equipment; Closing Matters.

2.1. Acceptance and Leasing of Equipment. Lessor hereby agrees (subject to satisfaction or waiver of the conditions set forth in Section 2.2 hereof), simultaneously with the delivery of each Unit from Seller to Lessor and acceptance thereof by Lessor, to accept delivery of such Unit from Seller, as evidenced solely by the execution and delivery by Lessee of a Certificate of Acceptance with respect to such Unit and thereafter to lease such Unit to Lessee hereunder, and Lessee hereby agrees (subject to satisfaction or waiver of the conditions set forth in Section 2.3 hereof) to lease from Lessor hereunder, such Unit, as evidenced by the execution and delivery by Lessee and Lessor of a Lease Supplement covering such Unit. Lessor hereby authorizes one or more employees of Lessee, designated by Lessee, to act on behalf of Lessor as its authorized representative or representatives to accept delivery of the Equipment, to execute and deliver such Certificate of Acceptance, all in accordance with Section 2.4 hereof. Lessee hereby agrees that such acceptance of delivery by such authorized representative or representatives on behalf of Lessor shall, without further act, irrevocably constitute acceptance by Lessee of such Unit for all purposes of this Lease.

2.2. Conditions Precedent to Investment by Lessor and Owner Participant. The obligations of Lessor to accept the Equipment and to lease it to Lessee hereunder on the Closing Date shall be subject to the following conditions:

(a) Execution of Operative Agreements. On or before the Closing Date, this Lease, the Trust Agreement and the Lease Supplement shall each be satisfactory in form and substance to Lessor and the Owner Participant, shall have been duly executed and delivered by the parties thereto (except that the execution and delivery of this Lease and the other documents referred to above by a party hereto or thereto shall not be a condition precedent to such party's obligations hereunder), shall each be in full force and effect and executed counterparts of each shall have been delivered to Lessor and the Owner Participant or its counsel on or before the Closing Date; and no event shall have occurred and be continuing that constitutes an Event of Default.

(b) Recordation and Filing. On or before the Closing Date, the Lessee will cause this Lease and the Lease Supplement to be duly filed, recorded and deposited in conformity with 49 U.S.C. § 11303 and in such other places within the United States as Lessor and the Owner Participant may reasonably request for the protection of Lessor's title to the Equipment and interest in this Lease, and will furnish Lessor and the Owner Participant proof thereof.

(c) Closing Certificate of Lessee. On the Closing Date, Lessor and the Owner Participant shall have received an Officer's Certificate dated such date of the Lessee, to the effect that the representations and warranties of the Lessee contained in Section 2.5 hereof are true and correct in all material respects on the Closing Date with the same effect as though made on and as of said date, except to the extent that such representations and warranties relate solely to an earlier date (in which case such representations and warranties were true and correct on and as of such earlier date), and that the Lessee has performed and complied with all agreements and conditions herein contained which are required to be performed or complied with by the Lessee on or before said date.

(d) Closing Certificate of Lessor. On the Closing Date, the Owner Participant and the Lessee shall have received an Officer's Certificate dated such date from Lessor, to the effect that the representations and warranties of Lessor contained in Section 2.6 hereof are true and correct in all material respects on the Closing Date with the same effect as though made on and as of said date, except to the extent that such representations and warranties relate solely to an earlier date (in which case such representations and warranties were true and correct on and as of such earlier date), and that Lessor has performed and complied with all agreements and conditions herein contained which are required to be performed or complied with by Lessor on or before said date.

(e) Opinions of Counsel. On the Closing Date, Lessor and the Owner Participant shall have received the favorable written opinion of each of (i) counsel to the Lessee, (ii) counsel to Lessor, (iii) counsel to the Owner Participant, (iv) counsel to the Seller, and (v) Special ICC Counsel, substantially in the forms agreed to by the parties listed in this paragraph; provided that, except as otherwise provided herein, receipt by a party hereto of a favorable written

opinion from counsel to such party shall not be a condition precedent to such party's obligations hereunder.

(f) Title. On the Closing Date, after giving effect to the transactions contemplated hereby, Lessor shall have good and marketable title to each Unit to be delivered on the Closing Date, free and clear of all Liens, except Permitted Liens.

(g) Bill of Sale. On the Closing Date the Seller shall have delivered to Lessor (with copies to the Owner Participant) the Bill of Sale dated such date covering the Units to be settled for on such date, transferring to Lessor good and marketable title to such Units free of all claims, liens and encumbrances of any nature, except Permitted Liens, and warranting to Lessor that at the time of delivery of each such Unit, the Seller had legal title thereto and good and lawful right to sell the same, and title thereto was free of all claims, liens and encumbrances of any nature, except Permitted Liens.

(h) Insurance Certificate. On or before the Closing Date, the Owner Participant shall have received any certificate relating to insurance that is required pursuant to Section 12 of this Lease.

(i) Corporate Documents. Lessor and the Owner Participant shall have received such documents and evidence with respect to the Lessee, the Owner Participant, Lessor and the Seller as they may reasonably request in order to establish the consummation of the transactions contemplated by this Lease, the taking of all corporate and other proceedings in connection therewith and compliance with the conditions herein or therein set forth.

(j) No Threatened Proceedings. No action or proceeding shall have been instituted nor shall governmental action be threatened before any court or governmental agency, nor shall any order, judgment or decree have been issued or proposed to be issued by any court or governmental agency at the time of the Closing Date, to set aside, restrain, enjoin or prevent the completion and consummation of this Lease or the transactions contemplated hereby.

(k) Closing Certificate of Owner Participant. On the Closing Date, Lessor shall have received an Officer's Certificate dated such date from the Owner Participant, to the effect that the representations and warranties of the Owner Participant contained in the Owner Participant Certificate and Agreement are true and correct in all material respects on the Closing Date with the same effect as though made on and as of said date, except to the extent that such representations and warranties relate solely to an earlier date (in which case such representations and warranties were true and correct on and as of such earlier date), and that the Owner Participant has performed and complied with all agreements and conditions herein contained which are required to be performed or complied with by the Owner Participant on or before said date.

(l) Closing Notice. The Owner Participant shall have received the written notice of the Closing Date required pursuant to Section 2.4 hereof.

(m) Closing Certificate of Seller. On the Closing Date, Lessor and the Owner Participant shall have received an Officer's Certificate dated such date of the Seller, to the effect that the representations and warranties of the Seller contained in the Seller Certificate and Agreement are true and correct in all material respects on the Closing Date with the same effect as though made on and as of said date, except to the extent that such representations and warranties relate solely to an earlier date (in which case such representations and warranties were true and correct on and as of such earlier date), and that the Seller has performed and complied with all agreements and conditions herein contained which are required to be performed or complied with by the Seller on or before said date.

(n) No Illegality. No change shall have occurred after the date of the execution and delivery of this Lease in applicable law or regulations thereunder or interpretations thereof by regulatory authorities that, in the opinion of Lessor or the Owner Participant or its counsel, would make it illegal for Lessor or the Owner Participant to enter into any transaction contemplated by the relative Operative Documents.

(o) Owner Participant's Investments. The Owner Participant shall have made available the Owner Participant Commitment.

(p) Consents. All approvals and consents of any trustees or holders of any indebtedness or obligations of Lessee which are required in connection with the transactions contemplated by this Lease, shall have been duly obtained and be in full force and effect.

(q) Governmental Actions. All actions, if any, required to have been taken on or prior to the Closing Date in connection with the transactions contemplated by this Lease on the Closing Date shall have been taken by any governmental or political agency, subdivision or instrumentality of the United States and all orders, permits, waivers, exemptions, authorizations and approvals of such entities required to be in effect on the Closing Date in connection with the transactions contemplated by this Lease on the Closing Date shall have been issued, and all such orders, permits, waivers, exemptions, authorizations and approvals shall be in full force and effect, on the Closing Date.

(r) Certificates of Acceptance. On or before the Closing Date a Certificate of Acceptance with respect to each Unit delivered by the Seller to Lessor on the Closing Date shall have been duly executed and delivered by the Lessee, individually and as the authorized representative of Lessor.

(s) Minimum Delivery. On the Closing Date, all of the Units scheduled to be delivered on the Closing Date (as set forth in Schedule 1) shall have been delivered.

(t) Appraisal. On or before the Closing Date, the Owner Participant shall have received the Appraisal.

(u) No Tax Law Change. No Change in Tax Law shall have occurred nor shall a judicial opinion on a tax issue have been rendered prior to the acceptance and delivery of the Equipment on the Closing Date which change, if enacted, adopted or made effective, in the same or substantially similar form of such judicial opinion, would, in the reasonable opinion of the Owner Participant, render it disadvantageous or inadvisable for the Owner Participant to enter into the transactions contemplated by the Operative Agreements unless the Lessee shall indemnify the Owner Participant to the Owner Participant's reasonable satisfaction for such Change in Tax Law.

2.3. Conditions Precedent to Investment by Lessee. The obligation of the Lessee with respect to acceptance of the Units under this Lease is subject to the following conditions as of the Closing Date:

(a) Corporate Documents. On or before the Closing Date, the Lessee shall have received such documents and evidence with respect to the Owner Participant and Lessor, as the Lessee may reasonably request in order to establish the consummation of the transactions contemplated by this Lease, the taking of all corporate and other proceedings in connection therewith and compliance with the conditions herein or therein set forth.

(b) Operative Agreements. On or before the Closing Date, the Operative Agreements shall have been duly authorized, executed and delivered by the respective party or parties thereto (other than the Lessee), and an executed counterpart of each thereof shall have been delivered to the Lessee or its special counsel.

(c) Title to Equipment. On the Closing Date, after giving effect to the transactions contemplated hereby, Lessor shall have received good and marketable title to the Equipment, free and clear of all Liens, except Permitted Liens attributable to the Lessee.

(d) Representations and Warranties True. On the Closing Date, the representations and warranties of Lessor contained in Section 2.6 hereof shall be true and correct in all material respects as of the Closing Date as though made on and as of such date, and the Lessee shall have received an Officer's Certificate dated such date from each of Lessor as described in Section 2.2(d) hereof and the Owner Participant Certificate and Agreement, addressed to the Lessee and certifying as to the foregoing matters insofar as they relate to Lessor and the Owner Participant, as the case may be.

(e) Opinions of Counsel. On the Closing Date, the Lessee shall have received the opinions of counsel for Lessor and Owner Participant, addressed to the Lessee.

(f) No Threatened Proceedings. No action or proceeding shall have been instituted nor shall governmental action be threatened before any court or governmental agency, nor shall any order, judgment or decree have been issued or proposed to be issued by any court or governmental agency at the time of the Closing Date, to set aside, restrain, enjoin or prevent the completion and consummation of this Lease or the transactions contemplated hereby.

2.4. Closing. The closing of the transactions contemplated hereby (the "Closing") shall take place at 11:00 A.M., New York City time, on the Closing Date at the offices of Key Bank USA N.A., 54 State Street, Albany, New York 12207, or at such other place or time as the parties hereto shall agree. Owner Participant on behalf of Lessor shall, subject to the conditions set forth in Section 2.2 hereof having been fulfilled to the satisfaction of the Owner Participant or waived by the Owner Participant, pay to the Seller, in immediately available funds, an amount equal to the Equipment Cost for the Units delivered on the Closing Date, and simultaneously therewith, (i) the Seller shall deliver the Units to Lessor, (ii) Lessor shall have accepted the Units, such acceptance to be conclusively evidenced by the execution and delivery by Lessor or its authorized representative of a Certificate of Acceptance with respect to the Units in the form attached hereto as Exhibit B (a "Certificate of Acceptance"), and (iii) Lessor shall, pursuant to this Lease, lease and deliver the Equipment delivered on the Closing Date to the Lessee, and the Lessee, pursuant to this Lease, shall accept delivery of the Units under this Lease, such lease, delivery and acceptance of the Units under this Lease shall be conclusively evidenced by the execution and delivery by the Lessee and Lessor of a Lease Supplement covering the Equipment so delivered. Each of the Seller, the Owner Participant, Lessor and the Lessee shall take all actions required to be taken by it in connection therewith and pursuant to this Section.

2.5. Representations and Warranties of Lessee. The Lessee represents and warrants to Lessor and the Owner Participant that, as of the date hereof:

(a) the Lessee is a corporation duly organized, validly existing, and in good standing under the laws of the State of Delaware, is a Class II railroad as defined in the Interstate Commerce Act, is duly licensed or qualified and in good standing in each jurisdiction in which the failure to so qualify would have a material adverse effect on its ability to enter into and perform its obligations under the Lessee Agreements, has the corporate power and authority to carry on its business as now conducted, and has the requisite power and authority to execute, deliver and perform its obligations under the Lessee Agreements;

(b) the Lessee Agreements have been duly authorized by all necessary corporate action (no shareholder approval being required), executed and delivered (or in the case of the Lease Supplement will on the Closing Date have been duly executed and delivered) by the Lessee, and constitutes (or in the case of the Lease Supplement will on the Closing Date constitute) the legal, valid and binding obligation of the Lessee, enforceable against the Lessee in accordance with its terms;

(c) the execution, delivery and performance by the Lessee of each Lessee Agreement and compliance by the Lessee with all of the provisions thereof do not and will not contravene any law or regulation, or any order of any court or governmental authority or agency applicable to or binding on the Lessee or any of its properties, or contravene the provisions of, or constitute a default by the Lessee under, or result in the creation of any Lien (except for Permitted Liens) upon the property of the Lessee under its certificate of incorporation or by-laws or any material indenture, mortgage, contract or other agreement or instrument to which the Lessee is a party or by which the Lessee or any of its property is bound or affected;

(d) except for those matters discussed in the financial statements provided to Lessor and the Owner Participant, there are no proceedings pending or, to the knowledge of the Lessee, threatened against the Lessee in any court or before any governmental authority or arbitration board or tribunal which individually or in the aggregate would materially and adversely affect the financial condition of the Lessee or impair the ability of the Lessee to perform its obligations under the Lessee Agreements or which questions the validity of any Lessee Agreement or any action taken or to be taken pursuant thereto;

(e) the audited consolidated balance sheets and consolidated statements of income and retained earnings and cash flows of MidSouth Corporation ("MidSouth") for the fiscal year ended December 31, 1991 fairly present, in conformity with generally accepted accounting principles, the consolidated financial position of the Lessee as of such date and the results of its operations for the period then ended. The unaudited consolidated balance sheets and consolidated statements of income and retained earnings and cash flows of MidSouth for the fiscal quarter ended September 30, 1992 fairly present, in conformity with generally accepted accounting principles, the consolidated financial position of MidSouth as of such date and the results of its operations for the period then ended, subject to normal year-end adjustments. Since September 30, 1992 there has been no material adverse change in such financial condition;

(f) neither the nature of the Lessee nor its businesses or properties, nor any relationship between the Lessee and any other Person, nor any circumstances in connection with the execution and delivery by the Lessee of the Lessee Agreements, is such as to require a consent, approval or authorization of, or filing, registration or qualification with, or the giving of notice to, any governmental authority on the part of the Lessee in connection with the execution and delivery by the Lessee of the Lessee Agreements, other than notices required to be filed with the ICC, which notices shall have been filed on the Closing Date and except as contemplated by Section 2.5(g) hereof;

(g) the Equipment is covered by the insurance required by Section 12 hereof and all premiums due prior to the Closing Date in respect of such insurance shall have been paid in full;

(h) the Lessee has timely filed all United States Federal income tax returns and all other material tax returns which (to its knowledge) are required to be filed by it and has paid all taxes due pursuant to such returns or pursuant to any assessment made against the Lessee or any of its assets, (other than assessments, the payment of which is being contested in good faith by the Lessee) and no tax liens have been filed and no claims are being asserted with respect to any such taxes, fees or other charges which could reasonably be expected to have a materially adverse effect on its ability to perform its obligations under this Lessee;

(i) the chief executive office and principal place of business of the Lessee is located at 111 East Capitol Street, #500, Jackson, Mississippi 39201, and the Lessee agrees to give Lessor and the Owner Participant at least 30 days' prior written notice of any relocation of said chief executive office or said principal place of business from its present location;

(j) no Event of Default has occurred and is continuing and no Event of Loss has occurred; and

(k) the Lessee is not an "investment company" or an "affiliated person" of an "investment company" within the meaning of the Investment Company Act of 1940.

2.6. Representations and Warranties of Lessor. Lessor, both in its individual capacity (except with respect to clauses (c) and (e) below which representations and warranties are made by it solely in its capacity as Lessor and not in its individual capacity) and as Lessor, represents and warrants to the Owner Participant and the Lessee, notwithstanding the provisions of Section 23 hereof, that, as of the date hereof:

(a) Lessor, in its individual capacity is a banking corporation duly organized and validly existing in good standing under the laws of the State of Delaware, has full corporate power and authority to carry on its business as now conducted and to enter into and perform its obligations hereunder and under the Trust Agreement and (assuming due authorization, execution and delivery of the Trust Agreement by the Owner Participant) has full power and authority, as Lessor and/or, to the extent expressly provided herein or therein, in its individual capacity, to enter into and perform its obligations under each of Lessor Agreements;

(b) Lessor in its trust capacity and, to the extent expressly provided therein, in its individual capacity, has duly authorized, executed and delivered the Trust Agreement and (assuming the due authorization, execution and delivery of the Trust Agreement by the Owner Participant) each of the other Lessor Agreements; and the Trust Agreement constitutes a legal, valid and binding obligation of Lessor, in its individual capacity, enforceable against it in its individual capacity or as Lessor, as the case may be, in accordance with its terms

except as the same may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and by general equity principles;

(c) assuming the due authorization, execution and delivery of the Trust Agreement by the Owner Participant, each of the Lessor Agreements (other than the Trust Agreement) to which it is a party constitutes, or when entered into will constitute, a legal, valid and binding obligation of Lessor, in its individual capacity or as Lessor, as the case may be, enforceable against it in its individual capacity or as Lessor, as the case may be, in accordance with its terms;

(d) neither the execution and delivery by Lessor, in its individual capacity or as Lessor, as the case may be, of Lessor Agreements nor the consummation by Lessor, in its individual capacity or as Lessor, as the case may be, of any of the transactions contemplated hereby or thereby, nor the compliance by Lessor, in its individual capacity, or as Lessor, as the case may be, with any of the terms and provisions hereof and thereof (i) requires or will require any approval of its stockholders, or approval or consent of any trustees or holders of any indebtedness or obligations of it, or (ii) violates or will violate its certificate of incorporation or by-laws, or contravenes or will contravene any provision of, or constitutes or will constitute a default under, or results or will result in any breach of, or results or will result in the creation of any Lien (other than as permitted under this Lease) upon its property under, any indenture, mortgage, chattel mortgage, deed of trust, conditional sale contract, bank loan or credit agreement, license or other agreement or instrument to which it is a party or by which it is bound, or contravenes or will contravene any law, governmental rule or regulation of the United States of America or the State of Delaware governing the banking or trust powers of Lessor, or any judgment or order applicable to or binding on it;

(e) there are no Taxes payable by Lessor, either in its individual capacity or as Lessor, imposed by the State of Delaware or any political subdivision thereof or by the United States of America in connection with the execution and delivery by Lessor in its individual capacity of the Trust Agreement, and, in its individual capacity or as Lessor, as the case may be, of this Agreement or the other Lessor Agreements; and there are no Taxes payable by Lessor, in its individual capacity or as Lessor, as the case may be, imposed by the State of Delaware or any political subdivision thereof in connection with the acquisition of its interest in the Equipment (other than franchise or other taxes based on or measured by any fees or compensation received by Lessor for services rendered in connection with the transactions contemplated hereby);

(f) there are no pending or, to its actual knowledge, threatened actions or proceedings against Lessor, either in its individual capacity or as Lessor, before any court or administrative agency which individually or in the aggregate, if determined adversely to it, would materially adversely affect the ability of Lessor, in its individual capacity or as Lessor, as the case may be, to perform its

obligations under the Trust Agreement or the other Lessor Agreements to be delivered on the Closing Date;

(g) both its chief executive office, and the place where its records concerning the Equipment and all its interest in, to and under all documents relating to the Trust Estate, are located at Wilmington, Delaware and Lessor, in its individual capacity, agrees to give the Owner Participant, the Seller and the Lessee at least 30 days' prior written notice of any relocation of said chief executive office or said place from its present location;

(h) no consent, approval, order or authorization of, giving of notice to, or registration with, or taking of any other action in respect of, any Delaware State or local governmental authority or agency or any United States federal governmental authority or agency regulating the banking or trust powers of Lessor, in its individual capacity, is required for the execution and delivery of, or the carrying out by, Lessor in its individual capacity or as Lessor, as the case may be, of any of the transactions contemplated hereby or by the Trust Agreement or of any of the transactions contemplated by any of the other Lessor Agreements, other than any such consent, approval, order, authorization, registration, notice or action as has been duly obtained, given or taken;

(i) on the Closing Date, Lessor's right, title and interest in and to the Equipment delivered on the Closing Date shall be free of any Lessor's Liens attributable to Lessor in its individual capacity;

(j) the proceeds received by Lessor from the Owner Participant pursuant to the Trust Agreement will be administered by it in accordance with Article IV of the Trust Agreement; and

(k) Lessor shall receive from the Seller such title as was conveyed to it by the Seller, subject to the rights of Lessor and the Lessee under this Lease.

Section 3. Term and Rent.

3.1. Lease Term. The basic term of this Lease (the "Basic Term") shall commence on the Basic Term Commencement Date and, subject to earlier termination pursuant to Sections 10, 11, and 15, shall expire at 11:59 P.M. (New York City time) on the Basic Term Expiration Date. Subject and pursuant to Section 22.1, the Lessee may elect one Renewal Term with respect to all, but not less than all, the Units.

3.2. Basic Rent. Lessee hereby agrees to pay Lessor Basic Rent for each Unit throughout the Basic Term applicable thereto in consecutive monthly installments payable on each Rent Payment Date. Each such payment of Basic Rent shall be in an amount equal to the product of the Equipment Cost for such Unit multiplied by the Basic Rent percentage for such Unit set forth opposite such Rent Payment Date on Schedule 1 hereof. Basic Rent shall be payable in arrears.

3.3. Supplemental Rent. Lessee also agrees to pay to Lessor any and all Supplemental Rent, promptly as the same shall become due and owing, or where no due date is specified, promptly after demand by Lessor, and in the event of any failure on the part of Lessee to pay any Supplemental Rent, Lessor shall have all rights, powers and remedies provided for herein or by law or equity or otherwise as in the case of nonpayment of Basic Rent. Lessee will also pay on demand, as Supplemental Rent, to the extent permitted by applicable law, an amount equal to interest at the Late Rate on any part of any installment of Basic Rent not paid when due for any period for which the same shall be overdue and on any payment of Supplemental Rent not paid when due or demanded, as the case may be, for the period from such due date or demand until the same shall be paid. All Supplemental Rent to be paid pursuant to this Section shall be payable in the type of funds and in the manner set forth in Section 3.4.

3.4. Manner of Payments. All Rent shall be paid by Lessee to the Owner Participant at its office at P.O. Box 1865, Albany, New York 12201-1865. All Rent shall be paid by Lessee in funds consisting of lawful currency of the United States of America, which shall be immediately available to the recipient not later than 12:00 noon (New York City time) on the date of such payment.

Section 4. Ownership and Marking of Equipment.

4.1. Retention of Title. Notwithstanding anything to the contrary contained herein, if prior to the Closing Date any Unit leased hereunder shall have been lost, destroyed, irreparably damaged or declared a casualty by a railroad, lessee, sublessee or other user of such Unit (any such event hereafter referred to as a "Pre-Closing Casualty"), such Unit shall be excluded from the definition of Equipment for all purposes of this Lease and any Rent paid by Lessee to Lessor in connection with such Unit shall be either refunded or credited toward the next payment of Basic Rent due and owing hereunder. Lessor shall and hereby does retain full legal title to and beneficial ownership of the Equipment notwithstanding the delivery of the Equipment to Lessee hereunder.

4.2. Duty to Number and Mark Equipment. As soon as practicable after the Closing Date, Lessee will cause each Unit to be numbered with its reporting mark shown on this Lease Supplement dated the Closing Date on which such Unit was delivered and covering such Unit, and will from and after such date keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting colors upon each side of each Unit, in letters not less than one inch in height, a legend substantially as follows:

"Leased from a Bank or Trust Company, as Trustee"

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect Lessor's right, title and interest in and to such Unit, its rights under this Lease. Except as provided hereinabove, Lessee will not place any such Units in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof, and will replace

promptly any such word or words in such legend which may be removed, defaced, obliterated or destroyed. Lessee will not change the reporting mark of any Unit except in accordance with a statement of new reporting marks to be substituted therefor, which statement shall be delivered to Lessor by Lessee and a supplement to this Lease with respect to such new reporting marks shall be filed or recorded in all public offices where this Lease shall have been filed or recorded.

4.3. Prohibition against Certain Designations. Except as above provided, Lessee will not allow the name of any Person to be placed on any Unit as a designation that might reasonably be interpreted as a claim of ownership; provided, however, that subject to the delivery of the statement specified in the last sentence of Section 4.2, Lessee may cause the Equipment to be lettered with the names or initials or other insignia customarily used by Lessee or any permitted sublessees on railroad equipment used by it of the same or a similar type.

Section 5. Disclaimer of Warranties; Right of Quiet Enjoyment.

5.1. Disclaimer of Warranties. Without waiving any claim Lessee may have against any seller, supplier or manufacturer, LESSEE ACKNOWLEDGES AND AGREES THAT, (i) EACH UNIT IS OF A SIZE, DESIGN, CAPACITY AND MANUFACTURE SELECTED BY AND ACCEPTABLE TO LESSEE, (ii) LESSEE IS SATISFIED THAT EACH UNIT IS SUITABLE FOR ITS PURPOSES, (iii) NEITHER LESSOR NOR THE OWNER PARTICIPANT IS A MANUFACTURER OR A DEALER IN PROPERTY OF SUCH KIND, (iv) EACH UNIT IS LEASED HEREUNDER SUBJECT TO ALL APPLICABLE LAWS AND GOVERNMENTAL REGULATIONS NOW IN EFFECT OR HEREAFTER ADOPTED, AND (v) LESSOR LEASES AND LESSEE TAKES EACH UNIT "AS-IS", "WHERE-IS" AND "WITH ALL FAULTS", AND LESSEE ACKNOWLEDGES THAT NEITHER LESSOR, AS LESSOR OR IN ITS INDIVIDUAL CAPACITY, NOR THE OWNER PARTICIPANT MAKES NOR SHALL BE DEEMED TO HAVE MADE, AND EACH EXPRESSLY DISCLAIMS, ANY AND ALL RIGHTS, CLAIMS, WARRANTIES OR REPRESENTATIONS EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, DESIGN, OPERATION, MERCHANTABILITY THEREOF OR AS TO THE TITLE, OF THE EQUIPMENT, THE QUALITY OF THE MATERIAL OR WORKMANSHIP THEREOF OR CONFORMITY THEREOF TO SPECIFICATIONS, FREEDOM FROM PATENT, COPYRIGHT OR TRADEMARK INFRINGEMENT, THE ABSENCE OF ANY LATENT OR OTHER DEFECT, WHETHER OR NOT DISCOVERABLE, OR AS TO THE ABSENCE OF ANY OBLIGATIONS BASED ON STRICT LIABILITY IN TORT OR ANY OTHER EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER WITH RESPECT THERETO, except that Lessor, in its individual capacity, represents and warrants that on the Closing Date, Lessor shall have received whatever title to the Equipment as was conveyed to Lessor by Seller and each Unit will be free of Lessor's Liens attributable to Lessor in its individual capacity. During the Lease Term so long as no Event of Default shall have occurred and be continuing, Lessor hereby appoints and constitutes Lessee its agent and attorney-in-fact during the Lease Term to assert and enforce, from time to time, in the name and for the

account of Lessor and Lessee, as their interests may appear, but in all cases at the sole cost and expense of Lessee, whatever claims and rights Lessor may have as owner of the Equipment against the seller, the manufacturers or any prior owner thereof.

5.2. Quiet Enjoyment. Each party to this Lease acknowledge notice of, and consents in all respects to, the terms of this Lease, and expressly, severally and as to its own actions only, agrees that, notwithstanding any other provision of any of the Operative Agreements, so long as no Event of Default has occurred and is continuing, it shall not take or cause to be taken any action inconsistent with Lessee's rights under this Lease or otherwise through its own actions in any way interfere with or interrupt the quiet enjoyment of the use, operation and possession of any Unit by the Lessee or any sublessee, assignee or transferee under any sublease, assignment or transfer then in effect and permitted by the terms of this Lease.

Section 6. Return of Equipment; Storage.

6.1. General.

(a) On the expiration of the Lease Term with respect to any Unit, Lessee will, at its own cost and expense, deliver possession of such Unit to Lessor at any interchange point on the tracks of Lessee, f.o.b. such interchange point, as Lessor may reasonably designate to Lessee in writing at least 30 days before the end of the Lease Term, in the absence of such designation, as Lessee may select or, if Lessor has requested storage pursuant to Section 6.3, to the location determined in accordance with Section 6.3. To the extent that any maintenance logs are kept with respect to any Unit returned pursuant to this Section 6.1 and such maintenance logs are customarily made available to the purchaser of equipment of a type similar to such Unit, upon the request of Lessor and at Lessor's expense, such maintenance logs shall be made available to Lessor or its designee upon the return of such Unit. Upon expiration of the Lease Term with respect to such Unit, compliance with the terms hereof and tender of such Unit at the location determined in accordance with this Section 6.1(a), this Lease and the obligation to pay Basic Rent and all other Rent for such Unit accruing subsequent to the expiration of the Lease Term with respect to such Unit shall terminate.

(b) In the event any Unit is not returned as hereinabove provided within 30 days (the "30-Day Period") after the expiration of the Lease Term with respect to such Unit, (i) Lessor may, at its option, upon notice to Lessee on the Business Day next following the end of the 30-Day Period with respect to all such Units (provided that such 30-Day Period shall be extended to 90 days if Lessee is prevented from returning such Unit because of (x) floods, blue northers, act of God, earthquake or other natural disaster, or (y) war, riot, strike, epidemic or disease, or (z) any United States governmental law, rule, order or regulation, or is otherwise prevented for reasons not attributable to any event or events within the control of Lessee or any sublessee on the last day of the Lease Term) deem such failure to return such Unit to be an Event of Loss, whereupon the provisions

of Sections 11.2, 11.3 and 11.4 shall apply to such Unit and (ii) so long as Lessor shall not have exercised its rights pursuant to clause (i) above, Lessee shall pay to Lessor, for each day during and after such 30-Day Period (without regard to the proviso in clause (i) above) an amount equal to the daily equivalent of the arithmetic average of the Basic Rent during the Basic Term for such Unit or, if the failure to return occurs after a Renewal Term, the arithmetic average of the Basic Rent paid during the Renewal Term for such Unit. The provision for payment pursuant to clause (ii) above shall not be in abrogation of Lessor's right under Section 6.1(a) to have such Unit returned to it hereunder.

6.2. Condition of Equipment. Each Unit when returned to Lessor pursuant to Section 6.1(a) shall (i) be in good operating order, and in the repair and condition as when originally delivered to Lessee, ordinary wear and tear from proper use thereof excepted, (ii) comply with all laws and rules of the United States Department of Transportation and the Association of American Railroads ("AAR"), and shall qualify for interchange service in accordance with the Interchange Rules of the AAR and the Federal Railroad Administration rules and regulations, (iii) be free and clear of all Liens, other than Permitted Liens, (iv) be suitable for loading of the commodities intended to be loaded in such Units, (v) be free from all accumulations or deposits from commodities transported in or on it while in the service of Lessee, (vi) be free of any and all AAR Rule 95, as amended, damage, (vii) in a condition suitable for the purpose and use for which it was originally intended (haulage of gravel and stone) and in a condition commercially acceptable to shippers, (viii) in a condition comparable to that of railcars of a similar type and age and suitable for interchange generally and (ix) in such operating condition and repair that such Unit can be immediately put into service by Lessor for the hauling of gravel and stone, or by another party, without having to undergo additional maintenance, refurbishment, or rebuilding. In addition, Lessee, at Lessee's sole cost and expense, including, but not limited to, any transportation costs involved in moving each Unit to and from a suitable work area to perform demarking, shall demark each Unit's roadmark and number. Such demarking shall (A) be performed at a facility mutually agreed to by Lessor and Lessee, and (B) include the following: (1) removal of existing mandatory markings and all company logos of Lessee; and (2) complete cleaning of the area where new marks are to be placed, as designated by Lessor. Lessor or its agent may at any time, upon delivery of reasonable prior written notice and during business hours, inspect any Unit redelivered hereunder to determine whether such Unit is in the condition required by this Section 6.2; provided, however, that such inspection shall not materially interfere with the normal conduct of Lessee's business and such person shall be insured to the reasonable satisfaction of Lessee with respect to any risks incurred in connection with any such inspections and Lessee (except in the case of Lessee's gross negligence or willful misconduct) shall not be liable for any injury to, or the death of, any person exercising, either on behalf of Lessor or any prospective purchaser or user, the rights of inspection granted pursuant hereto. Lessee shall not be required to store the Equipment after the Storage Period. If Lessee stores any Unit after the Storage Period, such storage shall be at the sole expense and risk of Lessor.

6.3. Storage. Upon the expiration of the Lease Term with respect to each Unit, upon written request of Lessor received at least 30 days prior to the end of the Lease Term, Lessee shall permit Lessor to store such Unit, free of charge, except as provided below, at such location on the tracks of Lessee used by Lessee for the storage of surplus rolling stock or rolling stock available for sale as shall be reasonably designated by Lessor (taking into account, among other things, Lessee's storage capacity, security and access) in its request for storage pursuant to this Section 6.3 for a period (the "Storage Period") beginning on the expiration of the Lease Term and ending not more than 60 days after the later of the expiration of the Lease Term with respect to such Units or the date on which 50% of all Units to be returned at the expiration of the Lease Term have been returned. Any storage facilities provided by Lessee pursuant to this Section 6.3 shall, in all cases, be at the cost to Lessor of insurance and Lessee's out-of-pocket costs in connection with providing any services not contemplated hereby to be provided during the Storage Period and at the risk of Lessor (except, with respect to any injury to, or death of, any person exercising, either on behalf of Lessor or any prospective purchaser or user, the inspection rights granted pursuant to this Section 6.3, due to Lessee's gross negligence or willful misconduct). With respect to the Units stored pursuant hereto, Lessee will use reasonable efforts to carry and maintain with respect to stored Units, during the Storage Period under Lessee's insurance policies, property damage insurance and public liability insurance with respect to third party personal and property damage; provided that (i) Lessor pays all incremental costs associated with such insurance coverage, (ii) such insurance coverage does not negatively impact upon Lessee's loss insurance rating and (iii) any coverage provided is above Lessee's deductibles or self-insurance retention amounts. On not more than one occasion with respect to each stored Unit and upon not less than 15 days' prior written notice from Lessor to Lessee, Lessee will, during the Storage Period, transport such Units at Lessee's cost and expense, to a destination or interchange point, f.o.b. such destination or interchange point, on the Lessee's line specified by Lessor whereupon Lessee shall have no further liability or obligation with respect to such Units. During the Storage Period, Lessee will permit Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or user of such Unit, to inspect the same; provided, however, that such inspection shall not materially interfere with the normal conduct of Lessee's business and such person shall be insured to the reasonable satisfaction of Lessee with respect to any risks incurred in connection with any such inspections and Lessee (except in the case of Lessee's gross negligence or willful misconduct) shall not be liable for any injury to, or the death of, any person exercising, either on behalf of Lessor or any prospective purchaser or user, the rights of inspection granted pursuant hereto. Lessee shall not be required to store the Equipment after the Storage Period. If Lessee stores any Unit after the Storage Period, such storage shall be at the sole expense and risk of Lessor.

Section 7. Liens.

7.1. Lessee will not directly or indirectly create, incur, assume or suffer to exist any Lien on or with respect to any Units or Lessee's leasehold interest therein under this Lease, except Permitted Liens, and Lessee shall promptly, at its own expense,

take such action as may be necessary to duly discharge (by bonding or otherwise) any such Lien not excepted above if the same shall arise at any time.

Section 8. Maintenance; Operation; Possession; Compliance with Laws.

8.1. Maintenance. Lessee, at its own cost and expense, shall maintain, repair and keep each Unit (i) in accordance with prudent Class II railroad industry maintenance practices in existence from time to time, (ii) in a manner consistent with maintenance practices used by Lessee in respect of equipment owned or leased by Lessee similar in type to such Unit, (iii) in accordance with maintenance requirements of insurance policies covering such Unit, and (iv) in compliance, in all material respects, with all applicable laws and regulations, including any applicable Interchange Rules; provided, however, that Lessee may, in good faith and by appropriate proceedings diligently conducted, contest the validity or application of any such law, regulation, requirement or rule in any reasonable manner which does not materially adversely affect the rights or interests of Lessor in the Equipment or hereunder or otherwise expose Lessor or Owner Participant to criminal sanctions or release Lessee from the obligation to return the Equipment in compliance with the provisions of Section 6.2.

8.2. Possession. Lessee shall be entitled to the possession of the Equipment and to the use of the Equipment by it or any Affiliate upon lines of railroad owned or operated by it or any such Affiliate, upon lines of railroad over which Lessee or any such Affiliate has trackage or other operating rights or over which railroad equipment of Lessee or any such Affiliate is regularly operated pursuant to contract and on railroad lines of other railroads in the United States, Canada and Mexico (except with respect to the usage of the Equipment in Mexico only, so long as, but only so long as, the Lease and the interest of the Lessor and the Owner Participant in and to the Equipment and the Lease are respected under the laws of Mexico) in the usual interchange of traffic or in through or run-through service and shall be entitled to permit the use of such Unit upon connecting and other carriers in the usual interchange of traffic or pursuant to through or run-through agreements; provided, however, that in no event shall more than 15% of the Units be used (as determined by mileage records) outside the continental United States (exclusive of Alaska) at the same time. Nothing in this Section 8.2 shall be deemed to constitute permission by Lessor to any Person that acquires possession of any Unit to take any action inconsistent with the terms and provisions of this Lease and any of the other Operative Agreements. The rights of any person that acquires possession of any Unit pursuant to this Section 8.2 shall be subject and subordinate to the rights of Lessor hereunder.

8.3. Sublease. The Lessee shall not sublease any Unit without the prior written consent of Lessor and the Owner Participant, which consent shall not be unreasonably withheld.

Section 9. Modifications.

9.1. Required Modifications. In the event the Association of American Railroads, the United States Department of Transportation, or any other United States

governmental agency having jurisdiction over the operation, safety or use of railroad equipment requires that any Unit be altered, replaced or modified (a "Required Modification"), Lessee agrees to make such Required Modification at its own expense; provided, however, that Lessee may, in good faith and by appropriate proceedings diligently conducted, contest the validity or application of any such law, regulation, requirement or rule in any reasonable manner which does not adversely materially affect the rights or interests of Lessor in the Equipment or hereunder or otherwise expose Lessor or Owner Participant to criminal sanctions or relieve Lessee of the obligation to return the Equipment in compliance with the provisions of Section 6.2. Title to any Required Modification shall immediately vest in Lessor without any further act. Notwithstanding anything herein to the contrary, if Lessee determines in good faith that any Required Modification to a Unit would be economically impractical, and Lessee makes the same determination with respect to any item of equipment owned or leased by Lessee which is similar in age to or older than such Unit and which is subject to any such Required Modification (and Lessee does not make any such Required Modification to any such item of equipment) it shall provide written notice of such determination to Lessor and the parties hereto shall treat such Unit as if an Event of Loss had occurred as of the date of such written notice with respect to such Unit and the provisions of Sections 11.2, 11.3 and 11.4 with respect to rent, termination and disposition shall apply with respect to such Unit. Lessee acknowledges that, following payment of the Stipulated Loss Value and the taking of the other actions contemplated by Sections 11.2, 11.3 and 11.4, Lessee has the right to retain beneficial ownership of such Unit pursuant to a separate agreement between Lessee and the Owner Participant.

9.2. Optional Modifications. Lessee at any time may modify, alter or improve any Unit (a "Modification"); provided that no Modification shall materially diminish the fair market value, residual value, utility, or remaining useful life of such Unit below the fair market value, residual value, utility, or remaining useful life thereof immediately prior to such Modification, assuming such Unit was then in the condition required to be maintained by the terms of this Lease. Title to any Non-Severable Modifications shall be immediately vested in Lessor. Title to any Severable Modifications shall remain with Lessee. If Lessee shall at its cost cause such Severable Modifications to be made to any Unit and such Severable Modifications are reasonably necessary for the economic operation of any such Unit, Lessor shall have the right, prior to the return of such Unit to Lessor hereunder, to purchase such Severable Modifications (other than Severable Modifications consisting of proprietary or communications equipment) at their then Fair Market Sales Value. If Lessor does not elect to purchase such Severable Modifications, Lessee may remove, and shall remove if requested by Lessor, such Severable Modifications at Lessee's cost and expense.

Section 10. Early Purchase Option.

On or after December 31, 2001, Lessee shall have the right to purchase all, but not less than all, of the Units. Such option shall be exercised by giving written irrevocable notice to Lessor no later than ninety (90) days prior to December 31, 2001. The purchase price therefor shall be the Fixed Purchase Price plus any other amounts due from Lessee hereunder and any excise, sales and/or use taxes attributable to such

purchase. If Lessee elects to make such purchase, the Fixed Purchase Price shall be due and payable on December 31, 2001 (the "Fixed Price Purchase Date") and the Term shall expire on such date.

Section 11. Loss, Destruction, Requisition, Etc.

11.1. Event of Loss. In the event that any Unit (i) shall suffer destruction, damage, contamination or wear which, in Lessee's good faith opinion, makes repair uneconomic or renders such Unit unfit for commercial use, (ii) shall suffer theft or disappearance, (iii) shall be permanently returned to the manufacturer pursuant to any patent indemnity provisions, (iv) shall have title thereto taken or appropriated by any governmental authority under the power of eminent domain or otherwise, (v) shall be taken or requisitioned for use by any governmental authority (other than the United States government or any agency or instrumentality thereof) under the power of eminent domain or otherwise, or (vi) shall be taken or requisitioned for use by the United States government or any agency or instrumentality thereof and such taking or requisition is continuing on the last day of the Basic Term or any Renewal Term then in effect (any such occurrence being hereinafter called an "Event of Loss"), Lessee, in accordance with the terms of Section 11.2, shall promptly and fully inform Lessor of such Event of Loss.

11.2. Replacement or Payment upon Event of Loss. Upon the occurrence of an Event of Loss or the deemed occurrence of an Event of Loss pursuant to Section 9.1 with respect to any Unit, Lessee shall within 30 days after a Responsible Officer of Lessee shall have actual knowledge of such occurrence or deemed occurrence give Lessor notice of such occurrence or deemed occurrence of such Event of Loss and of its election to perform one of the following options (it being agreed that if Lessee shall not have given notice of such election within such 30 days after notice of such occurrence or deemed occurrence, Lessee shall be deemed to have elected to perform the option set forth in the following paragraph (ii)):

(i) as promptly as practicable, and in any event on or before the Business Day next preceding the 121st day next following the date of such notice in replacement for the such Unit, Lessee shall comply with Section 11.4(b) and shall convey or cause to be conveyed to Lessor a Replacement Unit to be leased to Lessee hereunder, such Replacement Unit to be free and clear of all Liens (other than Permitted Liens) and to have a fair market value, residual value, utility and remaining useful life at least equal to the Unit so replaced (assuming such Unit was in the condition required to be maintained by the terms of this Lease); provided that, if Lessee shall not perform its obligation to effect such replacement under this paragraph (i) during the period of time provided herein, then Lessee shall pay to Lessor on the next succeeding Rent Payment Date after the end of such period, the amounts specified in paragraph (ii) below; or

(ii) on or before the next succeeding Rent Payment Date after the date of notice of such Event of Loss or deemed Event of Loss or on the date specified in the proviso to paragraph (i) above, Lessee shall pay or

cause to be paid on the applicable Rent Payment Date, as the case may be, to Lessor or, in the case of Supplemental Rent, to the Persons entitled thereto, in funds of the type specified in Section 3.4, (A) an amount equal to the Stipulated Loss Value of each such Unit determined as of such Rent Payment Date, as the case may be, (B) if the date of such payment is a Rent Payment Date, all Basic Rent payable on such date in respect of such Unit and (C) all other Rent then due and payable hereunder, it being understood that until such Stipulated Loss Value is paid, there shall be no abatement or reduction of Basic Rent.

11.3. Rent Termination. Upon the sale, retention or replacement of any Unit or Units in compliance with this Section 11 or upon the payment of all sums required to be paid pursuant to Section 11.2(ii) hereof in respect of any Unit or Units for which Lessee has elected to pay or deemed to have elected to pay pursuant to the proviso to Section 11.2(i) the amounts specified in paragraph 11.2(ii), the Lease Term with respect to such Unit or Units and the obligation to pay Rent for such Unit or Units accruing subsequent to the date of payment of Stipulated Loss Value pursuant to Section 11.2 shall terminate; provided that Lessee shall be obligated to pay all Rent in respect of such Unit or Units which has accrued up to and including the date of payment of Stipulated Loss Value pursuant to Section 11.2.

11.4. Disposition of Equipment; Replacement of Unit.

(a) Upon the payment of all sums required to be paid pursuant to Section 11.2 in respect of any Unit or Units, Lessor will convey to Lessee or its designee all right, title and interest of Lessor in and to such Unit or Units, "as is", "where is", without recourse or warranty, except for a warranty against Lessor's Liens, and shall execute and deliver to Lessee or its designee such bills of sale and other documents and instruments as Lessee or its designee may reasonably request to evidence such conveyance. As to each separate Unit so disposed of, Lessee or its designee shall be entitled to any amounts arising from such disposition, plus any awards, insurance or other proceeds and damages (including any Association of American Railroads interline settlement paid upon an Event of Loss) received by Lessee or Lessor by reason of such Event of Loss after having paid the Stipulated Loss Value attributable thereto; provided, however, that, with respect to any Event of Loss referred to in clauses (v) and (vi) of Section 11.1, any excess of such condemnation awards over the amount of the Stipulated Loss Value of such Unit shall be divided equally between Lessee and Lessor in proportion to their respective interests in such Unit.

(b) At the time of or prior to any replacement of any Unit, Lessee, at its own expense, will (A) furnish Lessor with a bill of sale and an assignment of warranties with respect to the Replacement Unit, (B) cause a Lease Supplement substantially in the form of Exhibit C hereto, subjecting such Replacement Unit to this Lease, and duly executed by Lessee, to be delivered to Lessor for execution and, upon such execution, to be filed for recordation in the same manner as provided for the original Lease Supplement in Section 16.1, (C) furnish Lessor

with an opinion of Lessee's counsel, to the effect that (x) the bill of sale referred to in clause (A) above constitutes an effective instrument for the conveyance of title to the Replacement Unit to Lessor, (y) good and marketable title to the Replacement Unit has been delivered to Lessor, free and clear of all Liens (other than Permitted Liens), and (z) all filings, recordings and other action necessary or appropriate to perfect and protect Lessor's interest in the Replacement Unit have been accomplished, and (D) furnish Lessor with a certificate of a qualified engineer (who may be the system chief mechanical officer of Lessee) certifying that the Replacement Unit has a fair market value, residual value, utility and remaining useful life at least equal to the Unit so replaced (assuming such Unit was in the condition required to be maintained by the terms of this Lease) and setting forth a reasonable basis for such conclusion in reasonable detail. For all purposes hereof, upon passage of title thereto to Lessor the Replacement Unit shall be deemed part of the property leased hereunder and the Replacement Unit shall be deemed a "Unit" of Equipment as defined herein. Upon such passage of title, Lessor will transfer to Lessee, without recourse or warranty (except as to Lessor's Liens), all Lessor's right, title and interest in and to the replaced Unit.

11.5. Eminent Domain. In the event that during the Lease Term the use of any Unit is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for a period which does not constitute an Event of Loss, Lessee's obligation to pay all installments of Basic Rent shall continue for the duration of such requisitioning or taking. Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession. Any amount referred to in this Section 11.5 which is payable to Lessee shall not be paid to Lessee, or if it has been previously paid directly to Lessee, shall not be retained by Lessee, if at the time of such payment an Event of Default shall have occurred and be continuing, but shall be paid to and held by Lessor as security for the obligations of Lessee under this Lease, and upon the earlier of (i) 200 days after Lessor shall have received such amount provided Lessor has not proceeded to exercise remedies under Section 15 and (ii) such time as there shall not be continuing any such Event of Default, such amount shall be paid to Lessee.

Section 12. Insurance.

12.1. Property Damage and Public Liability Insurance. Lessee will cause to be carried and maintained, at its sole expense, with respect to the Equipment at all times during the Basic Term and any Renewal Term and until the Equipment has been returned to Lessor (a) physical damage insurance (including theft and collision insurance in the case of all Units consisting of motor vehicles) insuring against all risks of physical loss or damage to the Equipment, in an amount not less than the greater of he Stipulated Loss Value of the Equipment or the replacement value of the Equipment, and (b) comprehensive general liability insurance for bodily injury, death and property damage resulting from the use and operation of the Equipment (including FELA claims) in an amount not less than $25,000,000.00 per occurrence in each case with exclusions reasonably acceptable to Lessor and the Owner Participant and a deductible no greater than $3,000,000.00. Such insurance policy or policies will name Lessor (in its individual

and trust capacities) and the Owner Participant as the sole loss payees, as their interests may appear, on all policies referred to in clause (a) of the preceding sentence, and will name Lessor and the Owner Participant as additional insureds on all policies referred to in clause (b) of the preceding sentence. Such policies will provide that (i) the same may not be invalidated against Lessor and the Owner Participant by reason of any violation of a condition or breach of warranty of the policies or the application therefor by Lessee, (ii) the policies may be canceled or materially altered or reduced in coverage (except as otherwise permitted under the terms of this Lease) by the insurer only after thirty (30) days' prior written notice to Lessor and the Owner Participant, (iii) the insurer will give written notice to Lessor and the Owner Participant in the event of a nonpayment of premium by Lessee when due, (iv) the insurer thereunder waives all rights of subrogation against Lessee, Lessor and the Owner Participant and any right of set-off or counterclaim and any other right to deduction whether by attachment or otherwise; and (v) such insurance shall be primary without right of contribution from any other insurance carried by or on behalf of Lessee, Lessor and/or the Owner Participant. The policies of insurance required under this Section shall be valid and enforceable policies issued by reputable insurers of recognized responsibility in providing insurance for the United States railroad industry. In the event that any portion of the policies referred to in clause (b) of the first sentence of this Section shall now or hereafter provide coverage on a "claims made" basis, Lessee shall continue to maintain such policies in effect for a period of not less than three (3) years after the expiration of the Basic Term or any Renewal Term of the last Unit leased to Lessee hereunder. On or prior to the Closing Date and thereafter not less than thirty (30) days prior to the expiration dates of any expiring policies theretofore furnished under this Section, certificates of insurance coverage required by this Section and, if requested by Lessor or the Owner Participant, copies of the policies evidencing such insurance coverage, shall be delivered by Lessee to Lessor, the Owner Participant and each other named loss payee and/or additional insured. Any certificate of insurance issued with respect to a blanket policy covering other equipment not subject to this Lease shall specifically describe the Equipment as being included therein and covered thereby to the full extent of the coverages and amounts required thereunder. If Lessee shall fail to cause the insurance required under this Section to be carried and maintained, Lessor and the Owner Participant may, but shall not be obligated to, provide such insurance and Lessee shall reimburse Lessor and the Owner Participant, as the case may be, upon demand for the cost thereof as a Supplemental Rent hereunder.

12.2. Proceeds of Insurance. The entire proceeds of any property or casualty insurance or third party payments for damages to any Unit (including any Association of American Railroads interline settlements) received by Lessor shall be held by such party until, with respect to such Unit, the repairs referred to in clause (a) below are made as specified therein or payment of the Stipulated Loss Value is made, and such entire proceeds will be paid either: (a) to Lessee promptly following receipt by Lessor of a written application signed by Lessee for payment to Lessee for repairing or restoring the Units which have been damaged so long as (i) Lessee shall have complied with the applicable provisions of this Lease, and (ii) Lessee shall have certified that any damage to such Units shall have been fully repaired or restored; or (b) if this Lease is terminated with respect to such Unit because of an Event of Loss and Lessee has paid the Stipulated

Loss Value due as a result thereof, such proceeds shall be promptly paid over to, or retained by, Lessee.

12.3. Additional Insurance. In the event that Lessee shall fail to maintain insurance as herein provided, Lessor may (but shall be under no obligation to) at its option, upon ten Business Days' prior written notice to Lessee, provide such insurance and, in such event, Lessee shall, upon demand from time to time, reimburse Lessor for the cost thereof together with interest from the date of payment thereof, on the amount of the cost to Lessor of such insurance which Lessee shall have failed to maintain, at the applicable Late Rate. In addition, at any time Lessor (either directly or in the name of the Owner Participant) may, but shall be under no obligation to, at its own expense carry insurance with respect to its interest in the Units. Any insurance payments received from policies maintained by Lessor pursuant to the previous sentence shall be retained by Lessor without reducing or otherwise affecting Lessee's obligations hereunder.

Section 13. Reports; Inspection.

13.1. Duty of Lessee to Furnish. On or before March 31, 1993, and on each March 31 thereafter, Lessee will furnish to Lessor an accurate statement, as of the preceding December 31, showing the amount, description and reporting marks of the Units then leased hereunder, the amount, description and reporting marks of all Units that may have suffered an Event of Loss during the 12 months ending on such December 31 (or since the Closing Date, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as Lessor may reasonably request.

13.2. Lessor's Inspection Rights. Lessor and the Owner Participant each shall have the right, but not the obligation, at their respective sole cost, expense and risk (including, without limitation, the risk of personal injury or death), by their respective authorized representatives, to the extent within Lessee's control, to inspect the Equipment and Lessee's records with respect thereto, during Lessee's normal business hours and upon reasonable prior notice to Lessee; provided, however, that Lessee shall not be liable for any injury to, or the death of, any Person exercising, either on behalf of Lessor or the Owner Participant or any prospective user, the rights of inspection granted under this Section 13.2 except for such injury or death resulting from Lessee's gross negligence or willful misconduct. No inspection pursuant to this Section 13.2 shall interfere with the use, operation or maintenance of the Equipment or the normal conduct of Lessee's business, and Lessee shall not be required to undertake or incur any additional liabilities in connection therewith.

Section 14. Events of Default.

14.1. The following events shall constitute Events of Default hereunder (whether any such event shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body)

and each such Event of Default shall be deemed to exist and continue so long as, but only as long as, it shall not have been remedied:

(a) Lessee shall fail to make any payment of Basic Rent within five (5) days after the same shall have become due; or

(b) Lessee shall fail to make any payment of Stipulated Loss Value after the same shall have become due and such failure shall continue unremedied for five (5) days after receipt by Lessee of written notice of such failure from Lessor; or

(c) Lessee shall fail to make any other payment of Supplemental Rent, including indemnity or tax indemnity payments, after the same shall have become due and such failure shall continue unremedied for a period of 30 days after receipt by Lessee of written notice of such failure from Lessor; or

(d) Lessee shall operate any Unit in service when public liability insurance required by Section 12.1 with respect to such Unit shall not be in effect; or

(e) Lessee shall make or permit any unauthorized assignment or transfer of this Lease in violation of Section 18.2; or

(f) any material representation or warranty made by Lessee in this Lease (excluding those made by Lessee in the Tax Indemnity Agreement) is untrue or incorrect in any material respect as of the date of issuance or making thereof and such untruth or incorrectness shall continue to be material and unremedied for a period of 30 days after receipt by Lessee of written notice thereof from Lessor; provided that, if such untruth or incorrectness is capable of being remedied, no such untruth or incorrectness shall constitute an Event of Default hereunder for a period of 180 days after receipt of such notice so long as Lessee is diligently proceeding to remedy such incorrectness; or

(g) Lessee shall fail to return all of the Units when required by the terms of Section 6.1, and such failure shall continue unremedied for 30 days after the expiration of the Lease Term; provided that no such failure to return any Unit shall constitute an Event of Default hereunder for a period of 90 days after the expiration of the Lease Term so long as Lessee is (i) diligently proceeding to return the Units and (ii) complying with the provisions of section 6.1(b)(ii); provided, further, that time is of the essence with respect to such 90-day period; or

(h) Lessee shall (i) commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect, or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or (ii) consent to any

such relief or to the appointment of or taking possession by any such official in any voluntary case or other proceeding commenced against it, or (iii) admit in writing its inability to pay its debts generally as they come due, or (iv) make a general assignment for the benefit of creditors, or (v) take any corporate action to authorize any of the foregoing; or

(i) an involuntary case or other proceeding shall be commenced against Lessee seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect, or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 90 days;

(j) Lessee shall fail to observe or perform any other of the covenants or agreements to be observed or performed by Lessee hereunder and such failure shall continue unremedied for 30 days after notice from Lessor to Lessee, specifying the failure and demanding the same to be remedied; provided that, if such failure is capable of being remedied, no such failure shall constitute an Event of Default hereunder for a period of 180 days after receipt of such notice so long as Lessee is diligently proceeding to remedy such failure;

(k) any default, event of default, or other event or act of omission or commission or other condition which, but for the passage of time or giving of notice, or both, constitutes a default, event of default or which, but for the passage of time or giving of notice, or both, would constitute a default or event of default under any Permanent Lender Agreement, and whether or not any default shall have been declared by any Permanent Lender;

provided that, notwithstanding anything to the contrary contained in this Lease, any failure of Lessee to perform or observe any covenant or agreement herein shall not constitute an Event of Default if such failure is caused solely by reason of an event referred to in the definition of "Event of Loss" so long as Lessee is continuing to comply with the applicable terms of Section 11. Lessor shall notify Lessee immediately upon Lessee's failure to make any payment of Basic Rent after the same shall have become due; provided that the giving of such notice by Lessor shall not be a condition to the start of the five (5) days period referred to in paragraph (a) of this Section 14.1. Lessee shall promptly notify Lessor and Owner Participant of the existence or occurrence of any default or event of default under any Permanent Lender Agreement.

Section 15. Remedies.

15.1. Remedies. Upon the occurrence of any Event of Default and at any time thereafter so long as the same shall be continuing, Lessor may, at its option, declare this Lease to be in default by a written notice to Lessee; and at any time thereafter, so long as Lessee shall not have remedied all outstanding Events of Default, Lessor may do one or more of the following as Lessor in its sole discretion shall elect, to the extent

permitted by, and subject to compliance with any mandatory requirements of, applicable law then in effect:

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

(b) by notice in writing to Lessee, cancel this Lease, whereupon all right of Lessee to the possession and use of the Equipment shall absolutely cease and terminate as though this Lease had never been made, but Lessee shall remain liable as hereinafter provided; and thereupon, Lessor may demand that Lessee, and Lessee shall, upon written demand of Lessor and at Lessee's expense forthwith return all of the Equipment to Lessor or its order in the manner and condition required by, and otherwise in accordance with all of the provisions of Section 6, except Section 6.1(b) and those provisions relating to periods of notice; or Lessor may by its agents enter upon the premises of Lessee or other premises where any of the Equipment may be located and take possession of and remove all or any of the Units and thenceforth hold, possess and enjoy the same free from any right of Lessee, or its successor or assigns, to use such Units for any purpose whatever;

(c) sell any Unit at public or private sale, as Lessor may determine, free and clear of any rights of Lessee and without any duty to account to Lessee with respect to such sale or for the proceeds thereof (except to the extent required by paragraph (f) below if Lessor elects to exercise its rights under said paragraph), in which event Lessee's obligation to pay Basic Rent and other Rent with respect to such Unit hereunder due for any periods subsequent to the date of such sale shall terminate (except to the extent that Basic Rent and other Rent are to be included in computations under paragraph (e) or (f) below if Lessor elects to exercise its rights under either of said paragraphs);

(d) hold, keep idle or lease to others any Unit as Lessor in its sole discretion may determine, free and clear of any rights of Lessee and without any duty to account to Lessee with respect to such action or inaction or for any proceeds with respect thereto, except that Lessee's obligation to pay Basic Rent and other Rent with respect to such Unit due for any periods subsequent to the date upon which Lessee shall have been deprived of possession and use of such Unit pursuant to this Section 15 shall be reduced by the net proceeds, if any, received by Lessor from leasing such Unit to any Person other than Lessee;

(e) whether or not Lessor shall have exercised, or shall thereafter at any time exercise, any of its rights under paragraph (a), (b) or (c) above with respect to any Unit, Lessor, by written notice to Lessee specifying a payment date (which date shall be a Determination Date for the purposes of computing Stipulated Loss Value) which shall be not earlier than 30 days after the date of such notice, may demand that Lessee pay to Lessor, and Lessee shall pay to Lessor, on the payment date specified in such notice, as liquidated damages for

loss of a bargain and not as a penalty (in lieu of the Basic Rent and other Rent for such Unit due after the payment date specified in such notice), whichever of the following amounts Lessor, in its sole discretion, shall specify in such notice: (i) an amount equal to the excess, if any, of the Stipulated Loss Value for such Unit, over the present value of the Fair Market Rental Value of such Unit or, if Lessor has leased such Unit to others pursuant to paragraph (d) above, for the period of such lease the periodic rent payable thereunder, in each case for the remainder of the Basic Term or any Renewal Term then in effect as the case may be, as of the payment date specified in such notice, such present values to be computed on the basis of a per annum rate of discount equal to four percent (4%) compounded semi-annually, from the respective dates upon which such rents would be paid; or (ii) an amount equal to the excess, if any, of the Stipulated Loss Value for such Unit computed as of the payment date specified in such notice over the Fair Market Sales Value of such Unit as of the payment date specified in such notice; and

(f) if Lessor shall have sold any Unit pursuant to paragraph (c) above, Lessor, in lieu of exercising its rights under paragraph (e) above with respect to such Unit may, if it shall so elect, demand that Lessee pay to Lessor, and Lessee shall pay to Lessor, as liquidated damages for loss of a bargain and not as a penalty (in lieu of the Basic Rent and any other Rent for such Unit due subsequent to the Rent Payment Date next preceding such sale), any unpaid Rent for such Unit arising in any period up to and including the Rent Payment Date next preceding the date of such sale and, if that date is a Rent Payment Date, the Basic Rent due on that date, plus the amount, if any, by which the Stipulated Loss Value of such Unit computed as of the Rent Payment Date next preceding the date of such sale or, if such sale occurs on a Rent Payment Date, then computed as of such Rent Payment Date, exceeds the net proceeds of such sale.

In addition, Lessee shall be liable, except as otherwise provided above, for any and all unpaid Rent due hereunder before or during the exercise of any of the foregoing remedies, and for legal fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of Lessor's remedies with respect thereto, including without limitation the repayment in full of any costs and expenses necessary to be expended in repairing any Unit in order to cause it to be in compliance with all maintenance and regulatory standards imposed by this Lease.

15.2. Cumulative Remedies. The remedies in this Lease provided in favor of Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing at law or in equity.

15.3. No Waiver. No delay or omission to exercise any right, power or remedy accruing to Lessor upon any breach or default by Lessee under this Lease shall impair any such right, power or remedy of Lessor, nor shall any such delay or omission be construed as a waiver of any breach or default, or of any similar breach or default hereafter occurring; nor shall any waiver of a single breach or default be deemed a waiver of any subsequent breach or default.

Section 16. Filings; Further Assurances.

16.1. Filings. On or prior to the Closing Date with respect to a Unit, Lessee will (i) cause this Lease and the Lease Supplement dated such Closing Date to be duly filed and recorded with the ICC in accordance with 49 U.S.C. § 11303, (ii) cause such filings and notices to be filed or made as necessary or appropriate to protect the interests of Lessor and the Owner Participant, (iii) cause precautionary Uniform Commercial Code financing statements naming Lessee as debtor, Lessor as secured party to be filed in such public offices as are deemed necessary or appropriate by Lessor and the Owner Participant to perfect the right, title and interest of Lessor and Owner Participant in the Equipment, and (iv) file, register or record this Lease and the Lease Supplement and all financing and continuation statements and similar instruments, in such other places within the United States, Canada and Mexico, as Lessor and the Owner Participant may reasonably request, and will furnish Lessor proof thereof. Lessee will take any steps necessary to comply with all AAR and other requirements in connection with any personal property tax filings.

16.2. Further Assurances. Lessee will duly execute and deliver to Lessor such further documents and assurances and take such further action as Lessor may from time to time reasonably request in order to effectively carry out the intent and purpose of this Lease and to establish and protect the rights and remedies created in favor of Lessor hereunder, including, without limitation, if requested by Lessor, the execution and delivery of supplements or amendments hereto, in recordable form, subjecting to this Lease any Replacement Unit and the recording or filing of counterparts hereof or thereof in accordance with the laws of such jurisdiction as Lessor may from time to time deem advisable, and the filing of financing statements with respect thereto; provided that this sentence is not intended to impose upon Lessee any additional liabilities not otherwise contemplated by this Lease.

16.3. Expenses. Lessee will pay all costs, charges and expenses (including reasonable attorneys' fees) incident to any such filing, refiling, recording and rerecording or depositing and re-depositing of any such instruments or incident to the taking of such action.

16.4. Permanent Lender Subordination. Lessee agrees that it shall use its best efforts to obtain and provide to Lessor and to Owner Participant a subordination agreement in form and substance satisfactory to Owner Participant from the Permanent Lenders which shall provide for the subordination of the interests of and any liens in favor of the Permanent Lenders in and to the interests of the Lessor and Owner Participant with respect to the Lease, the Equipment and any Excepted Property. The executed documentation shall be provided to Lessor and Owner Participant as soon after Closing as is practicable.

Section 17. Lessor's Right to Perform.

If Lessee fails to make any payment required to be made by it hereunder, or fails to perform or comply with any of its other agreements contained herein and such

failure can be cured with the payment of money, Lessor may itself make such payment or perform or comply with such agreement, after giving not less than five Business Days' prior notice thereof to Lessee in a reasonable manner, but shall not be obligated hereunder to do so, and the amount of such payment and of the reasonable expenses of Lessor incurred in connection with such payment or the performance of or compliance with such agreement, as the case may be, together with interest thereon at the Late Rate, to the extent permitted by applicable law, shall be deemed to be Supplemental Rent, payable by Lessee to Lessor on demand.

Section 18. Assignment.

18.1. Assignment by Lessor. Lessee and Lessor hereby agree that Lessor shall be entitled to assign and convey its right, title and interest in and to this Lease and any or all Units pursuant to Section 18.4 hereof.

18.2. Assignment by Lessee. Except as otherwise provided in Section 8.3 or in the case of any requisition for use by an agency or instrumentality of the United States government referred to in Section 11.1, Lessee will not, without the prior written consent of Lessor, which consent shall not be unreasonably withheld, assign any of its rights hereunder.

18.3. Sublessee's Performance and Rights. Any obligation imposed on Lessee in this Lease shall require only that Lessee perform or cause to be performed such obligation, even if stated herein as a direct obligation, and the performance of any such obligation by any permitted assignee, sublessee or transferee under an assignment, sublease or transfer agreement then in effect and permitted by the terms of this Lease shall constitute performance by Lessee and discharge such obligation by Lessee. Except as otherwise expressly provided herein, any right granted to Lessee in this Lease shall grant Lessee the right to exercise such right or permit such right to be exercised by any such assignee, sublessee or transferee, provided that Lessee's purchase option set forth in Section 10 and renewal option set forth in Section 22.1 may be exercised only by Lessee itself or by any assignee or transferee of, or successor to, Lessee in a transaction permitted by Section 19.5 hereof. The inclusion of specific references to obligations or rights of any such assignee, sublessee or transferee in certain provisions of this Lease shall not in any way prevent or diminish the application of the provisions of the two sentences immediately preceding with respect to obligations or rights in respect of which specific reference to any such assignee, sublessee or transferee has not been made in this Lease.

Section 19. Net Lease, Etc.

19.1. Net Lease. This Lease is a net lease and Lessee's obligation to pay all Rent payable hereunder shall be absolute and unconditional under any and all circumstances of any character including, without limitation, any abatement of Rent or setoff against Rent; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of Lessor or Lessee be otherwise affected, by reason of, any defect in, damage to or loss or destruction of, or requisitioning of, any

Unit by condemnation or otherwise, the prohibition of Lessee's use of any Unit, the interference with such use by any Person or the lack of right, power or authority of Lessor or any other Person to enter into this Lease or any Operative Agreement, or for any other cause, whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the Rent payable by Lessee hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated in accordance with the terms of this Lease. To the extent permitted by applicable law, Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Lease with respect to any Unit, except in accordance with the express terms hereof. If for any reason whatsoever this Lease shall be terminated in whole or in part by operation of law or otherwise, except as specifically provided herein, Lessee nonetheless agrees, to the maximum extent permitted by law, to pay to Lessor an amount equal to each installment of Basic Rent and all Supplemental Rent due and owing, at the time such payment would have become due and payable in accordance with the terms hereof had this Lease not been terminated in whole or in part. Nothing contained herein shall be construed to waive any claim which Lessee might have under any of the Operative Agreements or otherwise or to limit the right of Lessee to make any claim it might have against Lessor or any other Person or to pursue such claim in such manner as Lessee shall deem appropriate.

19.2. Merger Covenant. The Lessee shall not consolidate with or merge into any other Person or convey, transfer or lease substantially all of its assets as an entirety to any Person (i) unless the Person formed by such consolidation or into which the Lessee is merged or the Person which acquires by conveyance, transfer or lease substantially all of the assets of the Lessee as an entirety shall execute and deliver to Lessor and the Owner Participant an agreement containing the assumption by such successor corporation of the due and punctual performance and observance of each covenant and condition of this Lease and each of the other Lessee Agreements to be performed or observed by the Lessee and (ii) immediately after giving effect to such transaction, no Event of Default shall have occurred solely as a result of such consolidation or merger or such conveyance, transfer or lease. Upon such consolidation or merger, or any conveyance, transfer or lease of substantially all of the assets of the Lessee as an entirety in accordance with this Section, the successor corporation formed by such consolidation or into which the Lessee is merged or to which such conveyance, transfer or lease is made shall succeed to, and be substituted for, and may exercise every right and power of, the Lessee under this Lease and the other Operative Agreements with the same effect as if such successor corporation had been named as the Lessee herein. If the Lessee shall have consolidated with or merged into any other Person or conveyed, transferred or leased substantially all of its assets, such assets to include the Lessee's leasehold interest in this Lease, the Person owning such leasehold interest after such event shall deliver to the Owner Participant an opinion of counsel confirming that the assumption agreement pursuant to which such Person assumed the obligations of the Lessee shall have been duly authorized, executed and delivered by such Person and that such agreement is the legal, valid and binding obligation of such Person, enforceable against such Person in accordance with its terms.

Section 20. Notices.

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

If to Lessor:

Wilmington Trust Company
1100 N. Market Street
Rodney Square North
Wilmington, DE 19890-0001
Attention: Corporate Trust Administration
Fax No.: (302) 651-8882
Confirmation No.: (302) 651-1000

If to Lessee:

SouthRail Corporation
111 East Capital Street
Jackson, Mississippi 39201
Attention: Treasurer
Fax No.: (601) 355-9510
Confirmation No.: (601) 949-4389

If to the Owner Participant:

KeyCorp Leasing Ltd.
54 State Street
Albany, New York 12207
Attention: Executive Vice President
Fax No.: (518) 487-4683
Confirmation No.: (518) 487-4591

Section 21. Lessee's Indemnities

21.1. General Tax Indemnity. Tax Indemnitee Defined. For purposes of this Section, "Tax Indemnitee" means the Owner Participant, its Affiliates, Lessor

both in its individual capacity and as trustee, the Trust Estate and each of their respective successors or assigns permitted under the terms of the Operative Agreements.

(a) Taxes Indemnified. Subject to the exclusions stated in subsection (c) below, the Lessee agrees to indemnify and hold harmless each Tax Indemnitee, taking into account the income tax consequences to the Tax Indemnitee of the accrual or receipt of an indemnity payment, against all fees (including, without limitation, all license and registration fees), taxes (including, without limitation, income, gross receipts, franchise, sales, use, value added, ad valorem, property and stamp taxes), excise taxes resulting from a prohibited transaction under Section 4975 of the Code but only to the extent expressly set forth in Section 21.2(c)(4), levies, assessments, imposts, duties, charges or withholdings of any nature ("Taxes") imposed upon any Tax Indemnitee, the Lessee or all or any part of the Equipment by any federal, state or local government, political subdivision, or taxing authority in the United States, by any government or taxing authority of or in a foreign country or by any international authority, upon, with respect to or in connection with: (1) the Equipment or any part of any of the Equipment or interest therein; (2) the acquisition, financing, ownership, leasing, possession, use, storage, operation, return, transfer of title, maintenance, repair, improvement, replacement, substitution, ordering, acceptance, rejection, registration, delivery, redelivery, construction, manufacture, mortgaging, location, refinancing, disposition, subleasing, repossession, abandonment or sale of or with respect to the Equipment or any part of any of the Equipment or interest therein or other application or disposition of the Equipment (or any Unit); (3) the rental payments, receipts or earnings arising from, or payable pursuant to, this Lease, or (4) the Operative Agreements;

(b) Taxes Excluded. The indemnity provided for in paragraph (b) above shall not extend to:

(1) Any Income Tax; provided, however, that the provisions of this clause (1) shall not apply to Taxes imposed on such Tax Indemnitee by any taxing authority (other than a taxing authority for a jurisdiction in which Tax Indemnitee has its principal place of business, place of incorporation, a permanent establishment) to the extent such Taxes are imposed solely or increased in a determinable amount by reason of (x) the location, registration, or actual use by Lessee or any other user of the Equipment or any part thereof within the jurisdiction of such taxing authority, or (y) the activities of Lessee or any other user of the Equipment or any part thereof within such jurisdiction;

(2) Taxes imposed with respect to any period after the earliest of (x) the return of possession of the Equipment to the Owner Participant or the placement of the Equipment in storage at the request of the Owner Participant, in either case pursuant to Section 6 hereof, the discharge in full of the Lessee's obligation to pay the Stipulated Loss Value and all

other amounts due, if any, under Section 11.2 hereof, as the case may be, with respect to the Equipment; provided that the exclusion set forth in this clause (2) shall not apply to Taxes to the extent such Taxes relate to events occurring or matters arising prior to or simultaneously with such time;

(3) Taxes which arise out of or are caused by any breach by a Tax Indemnitee of any of its representations, warranties or covenants in any of the Operative Agreements, or the gross negligence or willful misconduct of such Tax Indemnitee;

(4) Taxes which become payable as a result of a sale, assignment, transfer or other disposition (whether voluntary or involuntary) by a Tax Indemnitee of all or any portion of its interest in the Equipment or any part thereof, the Trust Estate or any of the Operative Agreements or rights created thereunder other than a disposition attributable to the exercise of remedies as a result of an Event of Default;

(5) Taxes imposed against a transferee of a Tax Indemnitee to the extent of the excess of such Taxes over the amount of such Taxes which would have been imposed had there not been a transfer by such original Tax Indemnitee of the interest of such Tax Indemnitee in the Equipment or the Trust Estate; provided, however, that in the case of a transfer by the Owner Participant, this clause (v) shall not apply to a transfer to a U.S. Person (as defined below) (x) which is an Affiliate of the Owner Participant, or (y) in connection with the sale of all or substantially all of the Owner Participant's lease portfolio; for purposes of this clause (v), a U.S. Person shall mean a corporation, partnership or other entity created or organized in, or under the laws of, the United States;

(6) Taxes imposed on the Trust or with respect to any fees received by Lessor for services rendered in its capacity as trustee.; and

(7) Taxes for which the Lessee is obligated to indemnify the Owner Participant under Section 21.3 hereof.

(c) Reverse Indemnity. If any Tax Indemnitee shall realize a tax benefit as a result of any Taxes paid or indemnified against by the Lessee under this Section (whether by way of deduction, credit, allocation or apportionment or otherwise), such Tax Indemnitee shall pay to the Lessee an amount equal to the amount of such tax benefit, increased by the Tax Indemnitee's additional saved taxes attributable to the payment being made to the Lessee hereunder, when, as, if and to the extent realized. Upon receipt by a Tax Indemnitee of a refund or credit of all or part of any Taxes paid or indemnified against by the Lessee, such Tax Indemnitee shall pay to the Lessee an amount equal to the amount of such refund plus any interest received by or credited to such Tax Indemnitee with respect to such refund increased or decreased, as the case may be, by the Tax

Indemnitee's net additional or saved taxes attributable to the receipt of such amounts from the taxing authority and the payment being made to the Lessee hereunder. Notwithstanding the foregoing, no such payments shall be due to Lessee under this paragraph (d): (1) if, at any time such payment shall be due to the Lessee, an Event of Default or a Lease Default shall have occurred and be continuing, in which event such payment shall not be payable until such Event of Default or Lease Default shall have been cured, (2) to the extent the amount of such payment by the Tax Indemnitee to the Lessee would exceed the amount of all prior payments by the Lessee to the Tax Indemnitee pursuant to paragraph (b) less the amount of all prior payments by the Tax Indemnitee of tax benefits pursuant to this paragraph (d), in which event such excess shall not be paid but shall instead be carried forward and shall reduce the Lessee's obligations to make subsequent payments under paragraph (b) to the Tax Indemnitee, or (3) with respect to payments made to Lessee under this paragraph. The Tax Indemnitee shall in good faith use diligence in filing its Tax returns and in dealing with taxing authorities to seek and claim any such tax benefit and to minimize the Taxes indemnifiable by the Lessee under paragraph (b).

(d) Procedures. Any amount payable to a Tax Indemnitee pursuant to paragraph (b) shall be paid within 30 days after receipt of a written demand therefor from such Tax Indemnitee accompanied by a written statement describing in reasonable detail the basis for such indemnity and the computation of the amount so payable, provided that such amount need not be paid prior to the later of (1) the date on which such Taxes are paid or (2) in the case of amounts which are being contested pursuant to paragraph (f) hereof, the time such contest (including all appeals) is finally resolved. Any amount payable to the Lessee pursuant to paragraph (d) shall be paid promptly after the Tax Indemnitee realizes a tax benefit or refund giving rise to a payment under paragraph (d) and shall be accompanied by a written statement by the Tax Indemnitee setting forth in reasonable detail the basis for computing the amount of such payment. Within 15 days following the Lessee's receipt of any computation from the Tax Indemnitee, the Lessee may request that an accounting firm selected by the Lessee and reasonably acceptable to the Tax Indemnitee (but not including the accounting firm that regularly prepares the certified financial statements of the Lessee) determine whether such computations of the Tax Indemnitee are correct. Such accounting firm shall be requested to make the determination contemplated by this paragraph (g) within 30 days of its selection. In the event such accounting firm shall determine that such computations are incorrect, then such firm shall determine what it believes to be the correct computations. The Tax Indemnitee shall cooperate with such accounting firm and supply it with all information necessary to permit it to accomplish such determination. The computations of such accounting firm shall be final, binding and conclusive upon the parties and the Lessee shall have no right to inspect the books, records or tax returns of the Tax Indemnitee to verify such computation or for any other purpose. All fees and expenses of the accounting firm payable under this Section shall be borne by the Lessee, provided, however, that such fees and expenses shall be borne by the Tax Indemnitee if the amount determined by such firm is (1) in the case of any

amount payable by the Lessee, less than the amount determined by the Tax Indemnitee by the lesser of (a) $100,000 and (b) 5% of the amount determined by such firm or (2) in the case of any amount payable to the Lessee, greater than the amount determined by the Tax Indemnitee by the lesser of (a) $100,000 and (b) 5% of the amount determined by such firm.

(e) Contest. In the event a claim shall be made by any taxing authority against Lessor for Taxes as described in paragraph (b) above (a "Tax Loss"), Lessor shall provide Lessee with notice of such claim within thirty (30) days after its receipt and if, in the opinion of independent tax counsel selected by Lessee and reasonably acceptable to Lessor ("Tax Counsel") a reasonable defense to such claim exists, Lessor shall, provided that no Event of Default has occurred and is continuing, upon Lessee's written request and at the expense of Lessee, contest such matter in such forum as Lessor shall select, considering in good faith such request as Lessee may make concerning the most appropriate forum in which to proceed. Lessor shall not be obligated to take any such legal or other appropriate action unless (i) it has received an opinion from Tax Counsel (the "Tax Counsel Opinion")that a bona fide defense to such claim exists, (ii) Lessee shall have agreed in writing to pay Lessor on demand all costs and expenses which may be incurred by Lessor in contesting such claim, and (iii) no Event of Default shall have occurred and be continuing pursuant to Section 14 herein, unless Lessee shall have provided security acceptable to Lessor. The action to be taken may, in Lessor's sole discretion, be commenced prior to making payment of any tax and interest and/or penalty attributable to such claim (a "Tax Payment") or after making such Tax Payment and then suing for a refund. If Lessor takes such action prior to making such Tax Payment, the indemnity amounts payable under this Section 21.1 with respect to the Tax Loss need not be paid by Lessee while such action is pending; provided that Lessee shall pay the costs and expenses relating to such action when and as the same shall become due, except that Lessor shall reimburse Lessee for such costs and expenses in the event that the Lessor wrongfully terminates or otherwise discontinues such action prior to a Final Determination (hereinafter defined) other than at Lessee's request. In such case, if the Final Determination (hereinafter defined) shall be adverse to Lessor, the indemnity amounts payable under this Section 21.1 with respect to the Tax Loss shall be computed by Lessor as of the date of such Final Determination, Lessor shall notify Lessee in writing of such computation and Lessee shall make the indemnity payments required in accordance with this Section 21.1. If Lessor determines to make such Tax Payments prior to contesting the matter, and to then sue for a refund, Lessee will advance to Lessor, as an interest-free loan and without any additional net-after-tax cost to Lessor, an amount equal to the amount of such Tax Payment attributable to such claim. If Lessor sues for a refund after making such Tax Payment, and if the Final Determination shall be in favor of Lessor (i) no future payments shall be due hereunder in respect of such matter (or an appropriate reduction shall be made if the Final Determination is partly in favor of a partly adverse to Lessor) other than any outstanding costs or expenses incurred by Lessor with respect to such contest, and (ii) Lessor shall pay to Lessee an amount equal to the amounts theretofore paid by Lessee to Lessor in

respect of such Tax Payment (or a proportionate part thereof if the Final Determination is partly in favor of and party adverse to Lessor) on or before the next succeeding Rent Payment Date (or within thirty (30) days from such Final Determination, if there is no succeeding Rent Payment Date), together with the amount of any penalty or interest actually refunded to Lessor as a result of such Final Determination. If the Final Determination of such contest shall be adverse to Lessor, the indemnity amounts payable under of this Section 21.1 with respect tot he Tax Loss shall be computed by Lessor as of the date of such Final Determination, Lessor shall notify Lessee in writing of such computation and Lessee shall make the indemnity payments required in accordance with this Section 21.1. "Final Determination", for the purposes of this subsection (f), means a final decision of a court of competent jurisdiction after all allowable appeals have been exhausted by either party to the action, or a determination within the meaning of Section 1313(a) of the Code; provided, however, that Lessor shall not be obligated under this subsection to exhaust any allowable appeal unless (i) it has received an opinion from Tax Counsel that bona fide grounds for making such an appeal exist, (ii) Lessee shall have agreed in writing to pay Lessor on demand all costs and expenses which may be incurred by Lessor in exhausting such appeal, and (iii) no Event of Default shall have occurred and be continuing pursuant to Section 14 herein, unless Lessee shall have provided security acceptable to Lessor. Notwithstanding the foregoing provisions of this subsection (f), Lessor in its sole discretion (by written notice to Lessee) may unconditionally waive its rights to the indemnity amounts payable under this Section 21.1 and refrain from contesting any Tax Loss, in which event Lessee shall have no liability to Lessor under this Section 21.1 with respect to such Tax Loss, it being understood that any such waiver shall be without prejudice to Lessor's rights with respect to any other Tax Loss. If Lessor waives its rights with respect to any Tax Loss as aforesaid, Lessor shall promptly pay Lessee all amounts theretofore paid or advanced by Lessee in respect of such Tax Loss.

21.2. General Indemnification and Waiver of Certain Claims.

(a) Claims Defined. For the purposes of this Section, "Claims" shall mean any and all costs, expenses, liabilities, obligations, losses, damages, penalties, actions or suits or claims of whatsoever kind or nature (whether or not on the basis of negligence, strict or absolute liability or liability in tort), accruing during the Basic Term and any Renewal Term, which may be imposed on, incurred by, suffered by, or asserted against an Indemnified Person, as defined herein, or any Unit and, except as otherwise expressly provided in this Section, shall include, but not be limited to, all reasonable out-of-pocket costs, disbursements and expenses (including legal fees and expenses) paid or incurred by an Indemnified Person in connection therewith or related thereto.

(b) Indemnified Person Defined. For the purposes of this Section, "Indemnified Person" means the Owner Participant and Lessor (both in its individual capacity and as trustee), and each of their respective directors, officers,

employees, successors and permitted assigns, agents, servants and Affiliates (provided that there shall be no greater obligation to any Indemnified Person than that owed to Lessor or Owner Participant).

(c) Claims Indemnified. Whether or not any Unit is accepted under this Lease, or a closing occurs with respect thereto, and subject to the exclusions stated in subsection (d) below and Section 4.1, Lessee agrees to indemnify, protect, defend and hold harmless each Indemnified Person on an after-tax basis against Claims resulting from or arising out of (whether or not such Indemnified Person shall be indemnified as to such Claim by any other Person): (1) this Lease or any other Operative Agreement or any of the transactions contemplated hereby and thereby and the ownership, acquisition, lease, operation, possession, modification, preparation, use, non-use, maintenance, sublease, substitution, control, repair, storage, alteration, transfer or other application or disposition of any Unit, return, overhaul, testing, titling or registration of any Unit (including, without limitation, injury, death or property damage of passengers, shippers or others, and environmental matters, including, without limitation, environmental control, noise and pollution regulations, discharge, spillage, release or escape of hazardous substances or other damage to the environment (including cleanup costs, response costs and costs of corrective action)), whether or not in compliance with the terms of this Lease; (2) the construction, manufacture, design, financing, refinancing, purchase, acceptance, rejection, delivery, non-delivery or condition of any Unit (including, without limitation, latent and other defects, whether or not discoverable, and any claim for patent, trademark or copyright infringement); (3) any act or omission (whether negligent or otherwise) or any breach of or failure to perform or observe, or any other non-compliance with, any covenant, condition or agreement to be performed by, or other obligation of, Lessee under any of the Operative Agreements (excluding the Tax Indemnity Agreement), or the falsity of any representation or warranty of the Lessee in any of the Operative Agreements (excluding the Tax Indemnity Agreement) or in any document or certificate delivered in connection therewith; (4) the transactions contemplated hereby being deemed a "prohibited transaction" within the meaning of Sections 406(a) or (b) of ERISA or Sections 4975(a) or (b) of the Code by reason of Section 4975(c)(1) of the Code; (5) any violation of any law, rule, regulation or order by the Lessee or any sublessee or their respective directors, officers, employees, agents or servants; and (6) the imposition of any Lien on any Unit other than, with respect to an Indemnified Person, Lessor's Liens attributable to such Indemnified Person.

(d) Lessee's Claims Excluded. The following are excluded from the agreement to indemnify under this Section: (1) Claims with respect to any Unit to the extent attributable to acts or events occurring after (and not attributable to events or conditions existing prior to) the last to occur of (x) with respect to such Unit, the earlier to occur of the termination of this Lease or the expiration of the Lease Term, and (y) with respect to each Unit, the return of such Unit to Lessor in accordance with the terms of this Lease (it being understood that the date of the placement of such Unit in storage as provided in Section 6 of this Lease

constitutes the date of return of such Unit under this Lease); (2) Claims which are Taxes, whether or not the Lessee is required to indemnify therefor under Section 21.3 hereof; (3) with respect to any particular Indemnified Person, Claims to the extent attributable to the gross negligence or willful misconduct of (other than gross negligence or willful misconduct imputed as a matter of law to such Indemnified Person solely by reason of its interest in the Equipment), or the falsity or inaccuracy of any representation or warranty of, such Indemnified Person.

(e) Insured Claims. In the case of any Claim indemnified by the Lessee hereunder which is covered by a policy of insurance maintained by the Lessee pursuant to Section 12 hereof, each Indemnified Person agrees to provide reasonable cooperation to the insurers in the exercise of their rights to investigate, defend or compromise such claim as may be required to retain the benefits of such insurance with respect to such Claim.

(f) Claims Procedure. An Indemnified Person shall promptly notify the Lessee of any Claim as to which indemnification is sought; provided, however, that, the failure to give such notice shall not release the Lessee from any of its obligations under this Section 21.2, except to the extent that such failure to give notice shall have a material adverse affect on Lessee's ability to defend such claim. Subject to the rights of insurers under policies of insurance maintained by the Lessee, the Lessee shall have the right in each case at the Lessee's sole expense to investigate and the right in its sole discretion to defend or compromise, any claim for which indemnification is sought under this Section and the Indemnified Person shall cooperate with all reasonable requests of the Lessee in connection therewith; provided that no right to defend or compromise such Claim shall exist on the part of the Lessee with respect to any Indemnified Person if an Event of Default or Lease Default under Section 14(a), (b) or (c) shall have occurred and be continuing; provided, further, that no right to compromise or settle such Claim shall exist unless the Lessee agrees to pay the amount of such settlement or compromise. In any case in which any action, suit or proceeding is brought against any Indemnified Person in connection with any Claim, the Lessee may and, upon such Indemnified Person's request, will, at the Lessee's expense, resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Lessee and reasonably acceptable to such Indemnified Person and, in the event of any failure by the Lessee to do so, the Lessee shall pay all costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. Where the Lessee or the insurers under a policy of insurance maintained by the Lessee undertake the defense of an Indemnified Person with respect to a Claim, no additional legal fees or expenses of such Indemnified Person in connection with the defense of such Claim shall be indemnified hereunder unless such fees or expenses were incurred at the request of Lessee or such insurers; provided, however, that if in the written opinion of counsel to such Indemnified Person an actual or potential material conflict exists where it is advisable for such Indemnified Person to be represented

by separate counsel, the reasonable fees and expenses of any such separate counsel shall be paid by the Lessee. Subject to the requirements of any policy of insurance, an Indemnified Person may participate at its own expense in any judicial proceeding controlled by the Lessee pursuant to the preceding provisions; provided that such party's participation does not, in the opinion of the independent counsel appointed by the Lessee or its insurers to conduct such proceedings, interfere with such control; and such participation shall not constitute a waiver of the indemnification provided in this Section. Nothing contained in this Section shall be deemed to require an Indemnified Person to contest any Claim or to assume responsibility for or control of any judicial proceeding with respect thereto.

(g) Subrogation. If a Claim indemnified by the Lessee under this Section is paid by the Lessee and/or an insurer under a policy of insurance maintained by the Lessee, the Lessee and/or such insurer, as the case may be, shall be subrogated to the extent of such payment to the rights and remedies of the Indemnified Person (other than under insurance policies maintained by such Indemnified Person) on whose behalf such Claim was paid with respect to the transaction or event giving rise to such Claim. So long as no Event of Default shall have occurred and be continuing, should an Indemnified Person receive any refund, in whole or in part, with respect to any Claim paid by the Lessee hereunder, it shall promptly pay over the amount refunded (but not in excess of the amount the Lessee or any of its insurers has paid in respect of such Claim paid or payable by such Indemnified Person on account of such refund) to the Lessee.

(h) Waiver of Certain Claims. The Lessee hereby waives and releases any Claim now or hereafter existing against any Indemnified Person arising out of death or personal injury to personnel of the Lessee, loss or damage to property of the Lessee, or the loss of use of any property of the Lessee, which may result from or arise out of the condition, use or operation of the Equipment during the Lease Term, including without limitation any latent or patent defect whether or not discoverable.

(i) Conflicting Provisions. The general indemnification provisions of this Section are not intended to waive or supersede any specific provisions of, or any rights or remedies of the Lessee under, this Lease or any other Operative Agreement to the extent such provisions apply to any Claim.

Section 22. Options to Renew.

22.1. Renewal Option at Expiration of Basic Term. So long as no Event of Default or Lease Default under Section 14(a), (b) or (f) has occurred and is continuing on the date any notice referred to in the next succeeding sentence is given or on the date of commencement of any such Renewal Term, Lessee shall have the right to renew this Lease (with respect to all but not less than all of the Units) for a maximum of two additional periods of one year each, the first such period, if any, commencing at the end

of the Initial Term, for a Basic Rent equal to the Fair Market Rental Value of the Equipment for such period (any such renewal period, a "Fair Market Renewal Term").

22.2. Lessee's Notice. Lessee shall exercise its options set forth in Section 22.1 hereof by providing irrevocable written notice to Lessor at least 270 days prior to the end of the Basic Term or any Renewal Term then in effect. If Lessee does not provide such irrevocable written notice referred to above, Lessee shall be deemed to have elected to return such Units to Lessor pursuant to Section 6 hereof.

22.3. Determination of Fair Market Rental Value. Lessee may notify Lessor that Lessee desires a determination of the Fair Market Rental Value of such Units for a Renewal Term commencing upon the Renewal Term Commencement Date. Lessee's request for a determination of Fair Market Rental Value shall not obligate Lessee to exercise any of the options provided in Section 22.1.

22.4. Stipulated Loss Value During Renewal Term. During any Fair Market Renewal Term, the Stipulated Loss Value of any Unit shall be determined by amortizing the Fair Market Sales Value of such Unit as of the first day of such Renewal Term down to the Fair Market Sales Value of such Unit as of the last day of such Renewal Term at the implicit interest rate imputed when discounting on a monthly basis the renewal rents and the Fair Market Sales Value as of the last day of such Renewal Term back to the Fair Market Sales Value as of the first day of such Renewal Term.

Section 23. Limitation of Lessor's Liability.

It is expressly agreed and understood that all representations, warranties and undertakings of Lessor hereunder (except as expressly provided herein) shall be binding upon Lessor only in its capacity as Lessor under the Trust Agreement and in no case shall Wilmington Trust Company be personally liable for or on account of any statements, representations, warranties, covenants or obligations stated to be those of Lessor hereunder, except that Lessor (or any successor Lessor) shall be personally liable for its gross negligence or willful misconduct or for its breach of its covenants, representations and warranties contained herein to the extent covenanted or made in its individual capacity.

Section 24. Intentionally Deleted.

Section 25. Investment of Security Funds.

Any moneys received by Lessor pursuant to Section 12.2 which are required to be paid to Lessee after completion of repairs to be made pursuant to Section 12.2 shall, until paid to Lessee as provided in Section 12.2 or as otherwise applied as provided herein or in the Trust Agreement, be invested in Permitted Investments by Lessor from time to time as directed in writing by Lessee if such investments are reasonably available for purchase. There shall be promptly remitted to Lessee any gain (including interest received) realized as the result of any such investment (net of any fees,

commissions and other expenses, if any, incurred in connection with such investment) and Lessee will promptly pay to Lessor, on demand, the amount of any loss realized as the result of any such investment (together with any fees, commissions and other expenses, if any, incurred in connection with such investment), such amount to be disposed of in accordance with the terms of the Trust Agreement.

Section 26. Miscellaneous.

26.1. Governing Law; Severability. This Lease, and any extensions, amendments, modifications, renewals or supplements hereto shall be delivered in New York and shall be governed by and construed in accordance with the internal laws and decisions (as opposed to conflicts of law provisions) of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by any applicable Federal statute, rule or regulation. Whenever possible, each provision of this Lease shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Lease shall be prohibited by or invalid under the laws of any jurisdiction, such provision, as to such jurisdiction, shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Lease in any other jurisdiction.

26.2. Execution in Counterparts. This Lease may be executed in any number of counterparts, each executed counterpart constituting an original and in each case such counterparts shall constitute but one and the same instrument; provided, however, that to the extent that this Lease constitutes chattel paper (as such term is defined in the Uniform Commercial Code) no security interest in this Lease may be created through the transfer or possession of any counterpart hereof other than the counterpart bearing the receipt therefor executed by the Secured Party on the signature page hereof, which counterpart shall constitute the only "original" hereof for purposes of the Uniform Commercial Code.

26.3. Headings and Table of Contents; Section References. The headings of the sections of this Lease and the Table of Contents are inserted for purposes of convenience only and shall not be construed to affect the meaning or construction of any of the provisions hereof. All references herein to numbered sections, unless otherwise indicated, are to sections of this Lease.

26.4. Successors and Assigns. This Lease shall be binding upon and shall inure to the benefit of, and shall be enforceable by, the parties hereto and their respective permitted successors and assigns.

26.5. True Lease. It is the intent of the parties to this Lease that it will be a true lease and not a "conditional sale," and that Lessor shall at all times be considered to be the owner of each Unit which is the subject of this Lease for the purposes of all Federal, state, city and local income taxes or for franchise taxes measured by income, and that this Lease conveys to Lessee no right, title or interest in any unit except as lessee. Nothing contained in this Section 26.5 shall be construed to limit

Lessee's use or operation of any Unit or constitute a representation, warranty or covenant by Lessee as to tax consequences.

26.6. Amendments and Waivers. No term, covenant, agreement or condition of this Lease may be terminated, amended or compliance therewith waived (either generally or in a particular instance, retroactively or prospectively) except by an instrument or instruments in writing executed by each party hereto; provided, however, that any breach or default, once waived in writing, unless otherwise specified in such waiver, shall not be deemed continuing for any purpose of the Operative Agreements.

26.7. Survival. All warranties, representations, indemnities and covenants made by any party hereto, herein or in any certificate or other instrument delivered by any such party or on the behalf of any such party under this Lease, shall be considered to have been relied upon by each other party hereto and shall survive the consummation of the transactions contemplated hereby on any Closing Date regardless of any investigation made by any such party or on behalf of any such party.

26.8. Business Days. If any payment is to be made hereunder or any action is to be taken hereunder on any date that is not a Business Day, such payment or action otherwise required to be made or taken on such date shall be made or taken on the immediately succeeding Business Day with the same force and effect as if made or taken an such scheduled date and as to any payment (provided any such payment is made on such succeeding Business Day) no interest shall accrue on the amount of such payment from and after such scheduled date to the time of such payment on such next succeeding Business Day.

26.9. Directly or Indirectly. Where any provision in this Lease refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person.

IN WITNESS WHEREOF, Lessor and the Lessee have caused this Equipment Lease Agreement (Ballast Railcars) to be duly executed and delivered on the day and year first above written.

LESSOR:

Wilmington Trust Company,
not in its individual capacity except as otherwise expressly provided but solely as trustee

By: _____
Name:
Title:

LESSEE:

SouthRail Corporation

By: _____
Name:
Title:

EXHIBIT C
Equipment Lease Agreement
(Ballast Railcars)

FORM OF

LEASE SUPPLEMENT (Ballast Railcars)

Dated as of December 31, 1992

between

Wilmington Trust Company,
Lessor

and

Southrail Corporation,
Lessee

Filed with the Interstate Commerce Commission pursuant to
49 U.S.C. § 11303 on December 31, 1992, at __:__ __.M.
Recordation Number ____.

LEASE SUPPLEMENT (Ballast Railcars)

LEASE SUPPLEMENT (Ballast Railcars) dated December 31, 1992 (this Lease Supplement") between WILMINGTON TRUST COMPANY, not in its individual capacity but solely as Owner Trustee ("Lessor") under the Trust Agreement, and SOUTHRAIL CORPORATION, a Delaware corporation ("Lessee");

W I T N E S S E T H :

WHEREAS, Lessor and Lessee have heretofore entered into that certain Equipment Lease Agreement dated as of December 31, 1992 (the "Lease"). Unless otherwise defined herein, capitalized terms used herein shall have the meanings specified in Appendix A to the Lease;

WHEREAS, the Lease provides that on the Closing Date, Seller shall deliver to Lessor a Bill of Sale dated such date by which Seller bargains, conveys, assigns, sets over, sells and delivers to Lessor, and Lessor purchases and accepts from the Seller, the Units to be conveyed on such Closing Date, and said Bill of Sale has been delivered by Seller and accepted by Lessor on such Closing Date;

WHEREAS, the Lease provides for the execution and delivery of a Lease Supplement substantially in the form hereof for the purpose of confirming the acceptance and lease of the Units under the Lease as and when delivered by Lessor to Lessee in accordance with the terms thereof;

NOW, THEREFORE, in consideration of the premises and other good and sufficient consideration, Lessor and Lessee hereby agree as follows:

1. Lessee hereby acknowledges and confirms that it has inspected and approved the Units set forth on Schedule 1 hereto at the time and on the dates set forth in the applicable Certificate(s) of Acceptance and such Units comply in all material respects with the specifications for such Units and are in good working order.

2. Lessor hereby confirms delivery and lease to Lessee, and Lessee hereby confirms acceptance and lease from Lessor, under the Lease as hereby supplemented, of the Units listed on Schedule 1 hereto.

3. Lessee hereby represents and warrants that no Event of Loss has occurred with respect to the Units set forth on Schedule 1 hereto as of the date hereof.

4. The Closing Date of the sale of the Units described above is the date of this Lease Supplement set forth in the opening paragraph hereof.

5. The aggregate Equipment Cost of the Units leased hereunder is $1,620,150.00 and the amounts comprising such Equipment Cost are set forth on Schedule 1 hereto. The Stipulated Loss Values applicable in respect of the Units are calculable in accordance with the terms of the Lease.

6. Lessee hereby confirms its agreement, in accordance with the Lease as supplemented by this Lease Supplement, to pay Rent to Lessor for each Unit leased hereunder as provided for in the Lease.

7. The execution and delivery of this Lease Supplement will in no way relieve or decrease the responsibility of any manufacturer for the warranties it has made with respect to any Unit.

8. Any and all notices, requests, certificates and other instruments executed and delivered after the execution and delivery of this Lease Supplement may refer to the "Equipment Lease Agreement (Ballast Railcars) dated as of December 31, 1992, the "Lease Agreement (Ballast Railcars) dated as of December 31, 1992" or the "Lease (Ballast Railcars) dated as of December 31, 1992," or may identify the Lease in any other respect without making specific reference to this Lease Supplement, but nevertheless all such references shall be deemed to include this Lease Supplement, unless the context shall otherwise require.

9. This Lease Supplement shall be construed in connection with and as part of the Lease, and all terms, conditions and covenants contained in the Lease shall be and remain in full force and effect.

10. This Lease Supplement may be executed in any number of counterparts, each executed counterpart constituting an original and in each case such counterparts shall constitute but one in the same instrument; provided, however, that to the extent that this Lease Supplement constitutes chattel paper (as such term is defined in the Uniform Commercial Code as in effect from time to time in New York State) no security interest in this Lease Supplement may be created through the transfer or possession of any counterpart hereof other than the counterpart bearing the receipt therefor executed by the Secured Party on the signature page hereof, which counterpart shall constitute the only "original" hereof for purposes of such Uniform Commercial Code.

11. This Lease Supplement is being delivered in the State of New York and shall in all respects be governed by, and construed in accordance with, the laws of the State of New York, including all matters of construction, validity and performance.

IN WITNESS WHEREOF, Lessor and the Lessee have caused this Equipment Lease Agreement (Ballast Railcars) to be duly executed and delivered on the day and year first above written.

LESSOR:

Wilmington Trust Company,
not in its individual capacity except as otherwise expressly provided but solely as trustee

By: _____
Name: Emmett R. Harmon
Title: VICE PRESIDENT

LESSEE:

SouthRail Corporation

By: _____
Name:
Title:

KB.LRH.KLS.MidSouth.Doc29:Lease-A.D29

Corporate Form of Acknowledgement
Pursuant to 49 CFR §1177.3

State of Delaware)
) ss:
County of New Castle)

On this 29 day of December, 1992 before me personally appeared Emmett R. Harmon, to me personally known, who being by me duly sworn, say that (s)he is the VICE PRESIDENT of _____, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(Seal)

Sonja F. Allen
Signature of Notary Public

My Commission expires _____

SONJA F. ALLEN
NOTARY PUBLIC
My Commission expires May 30, 1994

IN WITNESS WHEREOF, Lessor and the Lessee have caused this Equipment Lease Agreement (Ballast Railcars) to be duly executed and delivered on the day and year first above written.

LESSOR:

Wilmington Trust Company,
not in its individual capacity except as otherwise expressly provided but solely as trustee

By: _____
Name:
Title:

LESSEE:

SouthRail Corporation

By: _____
Name: John A Scotti
Title: Vice President

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Corporate Form of Acknowledgement
Pursuant to 49 CFR §1177.3

State of Mississippi)
) ss:
County of Hinds)

On this 29th day of December, 1992 before me personally appeared John A. Scott, to me personally known, who being by me duly sworn, say that (s)he is the Vice President of South Rail Corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(Seal)

Joan W. Smathers
Signature of Notary Public

My Commission expires 1-14-95

SCHEDULE 1

LEASE SUPPLEMENT (BALLAST RAILCARS)

Equipment:	Ballast Railcars
Number of Cars:	70
Equipment Cost:	$1,620,150.00
Cost per Car:	$23,145.00
Number of Rent Payments:	132
Total Monthly Payment:	$17,781.40
Monthly Payment per Car:	$254.02
Early Buyout Price:	$10,050.00 per Unit
Early Buyout Price:	December 31, 2001

DEFINITIONS

General Provisions

The following terms shall have the following meanings for all purposes of the Operative Agreements referred to below, unless otherwise defined in an Operative Agreement or the context thereof shall otherwise require and such meanings shall be equally applicable to both the singular and the plural forms of the terms herein defined. In the case of any conflict between the provisions of this Appendix A and the provisions of the main body of any Operative Agreement, the provisions of the main body of such Operative Agreement shall control the construction of such Operative Agreement.

Unless the context otherwise requires, (i) references to agreements shall be deemed to mean and include such agreements as the same may be amended, supplemented and otherwise modified from time to time, and (ii) references to parties to agreements shall be deemed to include the permitted successors and assigns of such parties.

Defined Terms

"Affiliate" of any Person shall mean any other Person which directly or indirectly controls, or is controlled by, or is under a common control with, such Person. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" shall have meanings correlative to the foregoing.

"Appraisal" shall mean an opinion of Independent Equipment Company, reasonably satisfactory in form and substance to the Owner Participant, concluding that: (i) the fair market value of the Equipment being delivered on the Closing Date is equal to the Total Equipment Cost with respect to such Equipment; (ii) at the expiration of the Basic Term, (A) the remaining economic life of such Equipment will be at least equal to 20% of the economic life of such Equipment as estimated in the Appraisal and (B) without taking into account inflation or deflation from and after the Closing Date or the existence of any purchase option, it is reasonable to expect that the Equipment will have a fair market value of at least 20% of the Total Equipment Cost with respect to such Equipment; (iii) as of the Fixed Price Purchase Date provided for in Section 10 of the Lease, the estimated fair market value of the

Equipment being delivered on the Closing Date, taking into account inflation or deflation from and after the Closing Date, will be less than or equal to the Fixed Purchase Price; and (iv) the Equipment being delivered on the Closing Date is not "limited use property" within the meaning of Rev. Proc. 76-30, 1976-2 C.B. 647. The Appraisal shall further set forth the estimated fair market value of the Equipment at the end of the Basic Term taking into account inflation or deflation.

"Assignment of Warranties" shall mean the Assignment of Warranties dated as of December 31, 1992 issued by the Seller and in favor of the Lessor, Lessee and the Owner Participant, as amended, supplemented or otherwise modified from time to time.

"Bankruptcy Code" shall mean the United States Bankruptcy Reform Act of 1978, as amended from time to time, 11 U.S.C. § 101 et seq.

"Basic Rent" shall mean, with respect to any Unit of Equipment, all rent payable by the Lessee to Lessor pursuant to Section 3.2 of the Lease for the Basic Term for such Unit, and all rent payable pursuant to Section 22.1 of the Lease for any Renewal Term for such Unit.

"Basic Term" shall have the meaning specified in Section 3.1 of the Lease.

"Basic Term Commencement Date" shall mean December 31, 1992.

"Basic Term Expiration Date" shall mean December 31, 2003.

"Beneficial Interest" shall mean the interest of the Owner Participant under the Trust Agreement.

"Bill of Sale" shall mean the bill of sale dated the Closing Date from Seller to Lessor covering the Equipment, substantially in the form of Exhibit A to the Lease Agreement.

"Business Day" shall mean any day other than a Saturday, Sunday or a day on which commercial banking institutions are authorized or required by law, regulation or executive order to be closed in New York, New York, Wilmington Delaware, Jackson, Mississippi and Albany, New York.

"Certificate of Acceptance" shall have the meaning specified in Section 2.4 of the Lease Agreement.

"Change in Tax Law" shall mean a change, amendment, modification, addition or deletion in or to the Code, any regulation thereunder (whether proposed, temporary or final) or any Revenue Ruling, Revenue Procedure or other published administrative determination, in each case after the execution and delivery of the Lease Agreement.

"Closing" shall have the meaning specified in Section 2.4 of the Lease Agreement.

"Closing Date" shall mean December 31, 1992.

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

"CPI Increase" shall mean the percentage increase, if any, in the national Consumer Price Index - All Urban Consumers as published by the Bureau of Labor Statistics of the United State Department of Labor from that number for such index which was most recently published as of the prior anniversary date of this Lease to that number for such index which was most recently published as of the current anniversary date of this Lease. If at any time the publication of the Consumer Price Index-All Urban Consumers is discontinued or such index is materially changed, Lessee and the Owner Participant shall agree on a substitute index published by the Bureau of Labor Statistics to use in lieu thereof. If no mutually acceptable substitute index is published by the Bureau of Labor Statistics, Lessee and the Owner Participant shall agree on a substitute index published by another national organization publishing economic statistics.

"Equipment" shall mean collectively those items of railroad rolling stock described in the Lease Supplement, together with any and all accessions, additions, improvements and replacements from time to time incorporated or installed in any item thereof which are the property of Lessor pursuant to the terms of the Lease, and "Unit" shall mean individually the various items thereof.

"Equipment Cost" shall mean, for each Unit, the purchase price therefor paid by Lessor to the Seller as set forth in Schedule 1 to the Lease Agreement.

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

"Event of Loss" shall have the meaning specified in Section 11.1 of the Lease.

"Event of Default" shall mean an Event of Default under the Lease as specified in Section 14 thereof.

"Excepted Property" shall mean (i) any right, title or interest of Lessor in its individual capacity or the Owner Participant, or their respective successors, assigns, directors, officers, agents, representatives and servants to any payment which by the terms of Sections 17 or 21.1 of the Lease or the Trust Agreement shall be payable to Lessor in its individual capacity or to the Owner Participant or their respective successors, assigns, directors, officers, agents, representatives and servants, as the case may be, (ii) any insurance proceeds (or proceeds of governmental indemnities in lieu thereof) payable under insurance maintained by Lessor in its individual capacity or the Owner Participant pursuant to Section 12 of the Lease, (iii) any insurance proceeds (or proceeds of governmental indemnities in lieu thereof) payable to Lessor in its individual capacity or to the Owner Participant, under any public liability insurance maintained by Lessee pursuant to Section 12 of the Lease or by any other Person, (iv) any rights of the Owner Participant or Lessor in its individual capacity to demand, collect, sue for, or otherwise receive and enforce payment of the foregoing amounts and the right to declare an Event of Default under the Lease in respect of any of the foregoing amounts, but not including the right to exercise any remedies under the Lease for those specifically provided for in this clause (iv) and (v) the respective rights of Lessor in its individual capacity or the Owner Participant to the proceeds of the foregoing.

"Fair Market Renewal Term" shall have the meaning specified in Section 22 of the Lease.

"Fair Market Rental Value" or "Fair Market Sales Value" with respect to any Unit of Equipment shall mean the cash rent or cash price obtainable for such Unit in an arm's length lease or sale between an informed and willing lessee or purchaser under no compulsion to lease or purchase, as the case may be, and an informed and willing lessor or seller, under no compulsion to lease or sell, as the case may be, as the same shall be specified by agreement between Lessor and Lessee. Lessee, upon delivering to Lessor its revocable notice of exercise of its option to renew the Lease with respect to any Unit, shall in such notice set forth a rental value or purchase price for such Unit or Units, as the case may be. If the parties are unable to agree upon a Fair Market Rental Value and/or a Fair Market Sales Value within 30 days after delivery of the aforementioned notice by Lessee, the purchase price of such Unit or Units shall be determined by appraisal. Lessee will within 15 days after such 30-day period provide Lessor the name of an appraiser that would be satisfactory to Lessee, and Lessor and Lessee will consult with the intent of selecting a mutually acceptable appraiser. If a mutually acceptable appraiser is selected, the Fair Market Rental Value or the Fair Market Sales Value, as the case may be, shall be determined by such appraiser and Lessor and Lessee shall each bear one half of the cost thereof. If Lessee and Lessor are unable to agree upon a single appraiser within such 15-day period, Lessor will retain an appraiser within 15 days. The appraiser selected by

Lessee and the appraiser selected by Lessor shall select a consensus appraiser within 30 days. If the appraisers cannot agree on a consensus appraiser within 30 days, the Fair Market Rental Value, and/or Fair Market Sales Value shall be determined by arbitration pursuant to the commercial arbitration rules of the American Arbitration Association and the cost of such determination shall be borne equally by Lessee and Lessor, except that Lessee shall bear the cost of the appraiser selected by Lessee and Lessor shall bear the cost of the appraiser selected by Lessor. If the parties are able to agree upon a single appraiser or the two appraisers are able to agree upon a consensus appraiser, the single appraiser or the three appraisers, as the case may be, shall within 30 days make a determination of such Fair Market Rental Value and/or Fair Market Sales Value. If there shall be a panel of three appraisers, the appraisal which differs most from the other two appraisals with respect to Fair Market Rental Value and Fair Market Sales Value, each considered separately, shall be excluded and the remaining two appraisals shall be averaged and such average shall constitute the Fair Market Rental Value or Fair Market Sales Value, as appropriate. If there shall be a panel of three appraisers, Lessee shall bear the cost of the appraiser selected by Lessee, Lessor shall bear the cost of the appraiser selected by Lessor, and Lessee and Lessor shall equally share the cost of the consensus appraiser. If Lessee revokes its notice to renew the Lease, Lessee will pay the cost of the appraisal. If such appraisal is in connection with the exercise of remedies set forth in Section 15 of the Lease, Lessee shall pay the costs of such appraisal.

"Fixed Price Purchase Date" shall have the meaning specified in Section 10 of the Lease.

"Fixed Purchase Price" shall mean, with respect to any Unit, the amount equal to $10,050.00.

"ICC" shall mean the Interstate Commerce Commission.

"Income Tax" shall mean, in the case of any Indemnitee, any Tax based on or measured by or with respect to the net income (including, without limitation, capital gains taxes, minimum taxes, income taxes collected by withholding and taxes on tax preference items) or net receipts of such Indemnitee and Taxes which are capital, doing business, franchise, excess profits, net worth taxes, taxes in the nature of an Income Tax imposed on such Indemnitee or Taxes on gross income or gross receipts expressly imposed in lieu of an Income Tax on such Indemnitee (in each case other than sales, use, rental, license, ad valorem, property or value-added Taxes or Taxes in the nature of such taxes) and interest, additions to tax, penalties, or other charges in respect thereof.

"Indemnified Person" shall have the meaning specified in Section 21 of the Lease Agreement.

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

"Late Rate" shall mean the lesser of 2% per month and the maximum interest rate from time to time permitted by law.

"Lease" or "Lease Agreement" or "Equipment Lease" shall mean the Equipment Lease Agreement (Ballast Railcars) relating to the Equipment dated as of December 31, 1992, between Lessor, in the capacities described therein, as lessor, and the Lessee, as lessee, as amended, supplemented or otherwise modified from time to time. The term "Lease" shall include each Lease Supplement entered into pursuant to the terms of the Lease.

"Lease Default" shall mean an event which with the passage of time or giving of notice, or both, would become an Event of Default.

"Lease Supplement" shall mean a Lease Supplement (Ballast Railcars) dated as of the Closing Date, substantially in the form of Exhibit C to the Lease, between Lessor and the Lessee, covering the Units delivered on such Closing Date.

"Lease Term" shall mean, with respect to any Unit, the Basic Term applicable to such Unit and any Renewal Term applicable to such Unit then in effect.

"Lessee" shall mean SouthRail Corporation, a Delaware corporation, and any corporation which succeeds thereto by merger or consolidation or which acquires all or substantially all of the assets thereof.

"Lessee Agreements" shall mean the Operative Agreements to which Lessee is a party.

"Lessor" shall have the meaning specified in the recitals to the Lease.

"Lessor Agreements" shall mean the Operative Agreements to which Lessor, either in its individual or fiduciary capacity, is or will be a party.

"Lessor's Liens" means any Lien affecting, on or in respect of the Equipment, the Lease or the Trust Estate arising as a result of (i) claims against or affecting Lessor (in its individual capacity or as trustee) or the Owner Participant, not related to the transactions contemplated by the Lease, or (ii) acts or omissions of Lessor (in its individual capacity or as trustee) or the Owner Participant, not related to the transactions contemplated by the Lease, or not permitted under the Lease or in breach of any

covenant or agreement of such Person set forth in any of the Operative Agreements, or (iii) taxes imposed against Lessor (in its individual capacity or as trustee) or the Owner Participant or the Trust Estate which are not indemnified against by the Lessee pursuant to the Lease Agreement, or (iv) claims against Lessor or the Owner Participant arising out of the transfer (whether voluntary or involuntary) of Lessor (in its individual capacity or as trustee) or the Owner Participant (without the consent of the Lessee) of all or any portion of their respective interests in the Equipment, the Trust Estate or the Operative Agreements, other than a transfer pursuant to Sections 10, 11, 12 or 15 of the Lease.

"Lien" shall mean any mortgage, pledge, security interest, lien, encumbrance, lease, exercise of rights, claim, disposition of title or other charge of any kind on property.

"Losses" shall have the meaning specified in Section 21.3 of the Lease Agreement.

"Modification" shall have the meaning specified in Section 9.2 of the Lease.

"Non-Severable Modification" shall mean any Modification that is not readily removable without causing material damage to the Equipment or any Unit.

"Officer's Certificate" shall mean a certificate signed (i) in the case of a corporation by the President, any Vice President, the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary of such corporation, (ii) in the case of a partnership by the Chairman of the Board, the President or any Vice President, the Treasurer or an Assistant Treasurer of a corporate general partner, and (iii) in the case of a commercial bank or trust company, the Chairman or Vice Chairman of the Executive Committee or the Treasurer, any Trust Officer, any Vice President, any Executive or Senior or Second or Assistant Vice President, or any other officer or assistant officer customarily performing the functions similar to those performed by the persons who at the time shall be such officers, or to whom any corporate trust matter is referred because of his knowledge of and familiarity with the particular subject.

"Operative Agreements" shall mean the Bill of Sale, the Trust Agreement, the Assignment of Warranties, the Purchase Order Assignment, the Lease and the Lease Supplement.

"Owner Participant" shall mean KeyCorp Leasing Ltd., a Delaware Corporation, and its permitted successors and assigns.

"Owner Participant Certificate and Agreement" shall mean the Owner Participant Certificate and Agreement dated December 31, 1992.

"Owner Participant Commitment" with respect to the Owner Participant, shall mean the amount of the Equipment Cost.

"Permanent Lender Agreement" shall mean (i) the Amended and Restated Revolving Credit and Term Loan Agreement, dated as of April 8, 1991, as amended by the First Amendment, dated as of September 25, 1992 among MidSouth Corporation, MidSouth Rail Corporation, SouthRail Corporation, MidLouisiana Rail Corporation (collectively, the "Borrowers"), The First National Bank of Boston, Deposit Guaranty National Bank, First Union National Bank of North Carolina and Hibernia National Bank (collectively, the "Banks") and the security agreements and other documents relating thereto; (ii) the Note Agreement dated April 2, 1991, as amended by the First Amendment to Note Agreement dated December 20, 1991, the Consent, Waiver and Amendment to Note Agreement dated September 25, 1992, and the Third Amendment to Note Agreement dated October 1, 1992 among the Borrowers, Northwestern Mutual Life Insurance Company and Kemper Investors Life Insurance Company, and Federal Kemper Life Assurance Company (collectively the "Insurance Company Lenders"); and (iii) the Subordinated Note Purchase Agreements, each dated as of December 3, 1987 and amended and restated as of April 2, 1991, by and among the Borrowers and each of New England Mutual Life Insurance Company, Anchor National Life Insurance Company, IDS Life Insurance Company, IDS Life Insurance Company of New York, Crown Life Insurance Company, and The Penn Mutual Life Insurance Company (collectively the "Subordinated Loan Insurance Company Lenders"). For purposes hereof, the Banks, Insurance Company Lenders and Subordinated Loan Insurance Company Lenders and their permitted successors and assigns shall constitute the "Permanent Lender."

"Permanent Lender Liens" shall mean any Lien upon the Lessee's leasehold or contract rights under the Lease but excluding any Lien upon the Equipment or any interest of Lessor or Owner Participant in the Lease or the Equipment and which arises under the express terms of a Permanent Lender Agreement in favor of a Permanent Lender (as defined therein).

"Permitted Investments" shall mean (i) direct obligations of the United States of America and agencies thereof for which the full faith and credit of the United States is pledged, (ii) obligations fully guaranteed by the United States of America, (iii) certificates of deposit issued by, or bankers' acceptances of, or time deposits with, any bank, trust company or national banking association incorporated or doing business under the laws of the United States of America or one of the States thereof having combined capital and surplus and retained earnings of at least $500,000,000 (including Lessor if such conditions are met), (iv) commercial paper of companies, banks, trust companies or national banking associations incorporated or doing business under the laws of the United States of America or one of the States thereof and in each case having a rating

assigned to such commercial paper by Standard & Poor's Corporation or Moody's Investor's Service, Inc. (or, if neither such organization shall rate such commercial paper at any time, by any nationally recognized rating organization in the United States of America) equal to the highest rating assigned by such organization, and (v) purchase agreements with any financial institution having a combined capital and surplus of at least $750,000,000 fully collateralized by obligations of the type described in clauses (i) through (iv) above; provided that if all of the above investments are unavailable, the entire amount to be invested may be used to purchase Federal Funds from an entity described in (iii) above; and provided further that no investment shall be eligible as a "Permitted Investment" unless the final maturity or date of return of such investment is 180 days or less from the date of purchase thereof.

"Permitted Liens" with respect to the Equipment and each Unit thereof, shall mean: (i) the interests of the Lessee and Lessor under the Lease and the Lease Supplements; (ii) the interest of the Lessee and any sublessee as provided in any sublease permitted pursuant to Section 8.3 of the Lease; (iii) any Liens thereon for taxes, assessments, levies, fees and other governmental and similar charges not due and payable or the amount or validity of which is being contested in good faith by appropriate proceedings so long as there exists no material risk of sale, forfeiture, loss, or loss of use of any Unit or any interest therein; (iv) any Liens of mechanics, suppliers, materialmen, laborers, employees, repairmen and other like Liens arising in the ordinary course of Lessee's (or if a sublease is then in effect, any sublessee's) business securing obligations which are not due and payable or the amount or validity of which is being contested so long as there exists no material risk of sale, forfeiture, loss, or loss of use of any Unit; (v) the rights of the Owner Participant and Lessor under the Operative Agreements; (vi) Liens arising out of any judgment or award against the Lessee (or any sublessee permitted pursuant to Section 8.3 of the Lease) with respect to which an appeal or proceeding for review is being presented in good faith and with respect to which there shall have been secured a stay of execution pending such appeal or proceeding for review; (vii) salvage rights of insurers under insurance policies maintained pursuant to section 12; (vii) Permanent Lender Liens (as defined herein), and (viii) any other Lien with respect to which the Lessee (or any sublessee) shall have provided a bond adequate in the reasonable opinion of Lessor and the Owner Participant.

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

"Renewal Term" shall mean, with respect to any Unit, any term in respect of which the Lessee shall have exercised its option to renew the Lease for such Unit pursuant to Section 22.1 thereof.

"Renewal Term Commencement Date" shall mean the first day following the end of the Basic Term or the immediately preceding Renewal Term if a renewal has been effected.

"Rent" shall mean all Basic Rent and Supplemental Rent.

"Rent Payment Date" or "Payment Date" shall mean the first day of each month during the Lease Term, provided that if any such date shall not be a Business Day, then "Rent Payment Date" or "Payment Date" shall mean the next succeeding Business Day.

"Replacement Unit" shall mean a covered hopper or a gondola car, as the case may be, which shall have been leased under the Lease pursuant to Section 11.4 of the Lease.

"Required Modification" shall have the meaning specified in Section 9.1 of the Lease.

"Responsible Officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of any party contained in any Operative Agreement, the President, or any Vice President, Assistant Vice President, Treasurer, Assistant Treasurer or other officer, who in the normal performance of his operational responsibility would have knowledge of such matters and the requirements with respect thereto.

"Security" shall have the same meaning as in Section 2(1) of the Securities Act of 1933, as amended.

"Seller" shall mean Helm Financial Corporation, a California corporation, and its successors and assigns.

"Seller Certificate and Agreement" shall mean the Seller Certificate and Agreement dated as of December 31, 1992 issued by the Seller and in favor of the Lessor, Lessee and the Owner Participant, as amended, supplemented or otherwise modified from time to time.

"Severable Modification" shall mean any Modification that is readily removable without causing material damage to the Equipment or any Unit.

"Special ICC Counsel" shall mean Alvord & Alvord.

"Stipulated Loss Value" payable with respect to an Event of Loss or deemed Event of Loss for any Unit as of any date of determination shall mean the amount

determined by multiplying the Equipment Cost for any such Unit by the percentage set forth in Schedule 1 to the Lease opposite the Rent Payment Date on which such Stipulated Loss Value will be paid.

"Storage Period" shall have the meaning specified in Section 6.3 of the Lease.

"Subsidiary" of any Person shall mean any corporation, association, or other business entity of which more than 50% (by number of votes) of the voting stock at the time outstanding shall at the time be owned, directly or indirectly, by such Person or by any other corporation, association or trust which is itself a Subsidiary within the meaning of this definition, or collectively by such Person and any one or more such Subsidiaries.

"Supplemental Rent" shall mean all amounts, liabilities and obligations (other than Basic Rent) which the Lessee is obligated to pay under the Operative Agreements to or on behalf of any of the other parties thereto, including, but not limited to, Stipulated Loss Value payments.

"Taxes" shall have the meaning specified in Section 22 of the Lease Agreement.

"Tax Indemnitee" shall have the meaning specified in Section 21.1 of the Lease.

"Tax Indemnity Agreement" shall mean the Tax Indemnity Agreement relating to the transaction contemplated by the Lease dated as of December 31, 1992 between the Owner Participant and the Lessee, as amended, supplemented or otherwise modified from time to time.

"Total Equipment Cost" shall mean the sum of the Equipment Cost for each Unit.

"Trust" shall have the meaning specified in each Trust Agreement.

"Trust Agreement" shall mean that certain Trust Agreement dated as of December 31, 1992 between the Owner Participant and Lessor, in the capacities described therein, as amended, supplemented or otherwise modified from time to time.

"Trust Estate" shall mean all the estate, right, title and interest of Lessor in, to and under the Equipment and the Operative Agreements including, without limitation, all funds advanced to Lessor by each Owner Participant, all installments and other payments of Basic Rent, Supplemental Rent, insurance proceeds, Stipulated Loss Values, condemnation awards, purchase price, sale proceeds, and all other proceeds of any kind for or with respect to the Equipment and the Operative Agreements but excluding Excepted Property.

"Unit" shall mean each unit or item of Equipment.