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19997

19997-A,B,C,D.

March 29, 1996

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Equipment Lease (1996-1), dated as of March 15, 1996, a primary document as defined in the Board's Rules for the Recordation of Documents and two (2) copies of each of the following secondary documents related thereto: Trust Indenture and Security Agreement (1996-1), dated as of March 15, 1996, Equipment Lease Supplement (1996-1) No. 1, dated March 29, 1996, Trust Indenture and Security Agreement Supplement (1996-1) No. 1, dated March 29, 1996 and Bill of Sale, dated as of March 29, 1996.

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

Equipment Lease (1996-1)
and
<u>Equipment Lease Supplement No. 1</u>

Lessor: First Security Bank of Utah, N.A.
79 South Main Street
Salt Lake City, Utah 84111

Lessee: FMC Corporation
200 East Randolph Drive
Chicago, Illinois 60601

Trust Indenture and Security Agreement (1996-1)
and
Trust Indenture and Security Agreement Supplement No. 1

Owner Trustee	:	First Security Bank of Utah, N.A. 79 South Main Street Salt Lake City, Utah 84111
Indenture Trustee	:	Harris Trust and Savings Bank 311 West Monroe Street, 12th Floor Chicago, Illinois 60603

Bill of Sale

Seller	:	FMC Corporation 200 East Randolph Drive Chicago, Illinois 60601
Buyer	:	First Security Bank of Utah, N.A. 79 South Main Street Salt Lake City, Utah 84111

A description of the railroad equipment covered by the enclosed documents is attached hereto as Schedule I.

Also enclosed is a check in the amount of $105.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

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

Very truly yours,

Robert W. Alvord

RWA/bg
Enclosures

SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423-0001

3/29/96

Robert W.Alvord
Alvord And Alvord
918 Sixteenth Street, NW., Ste.200
Washington, DC., 20006-2973

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 3/29/96 at 9:20AM, and assigned recordation number(s). 19997,19997-A, B, C and D.,19478-C.

Sincerely yours,

Vernon A. Williams
Secretary

Enclosure(s)

$126.00 The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid and in no way indicates acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one typed on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had an opportunity to examine your document.

Signature Janice M. Fort

10997

EQUIPMENT LEASE

(1996-1)

Dated as of March 15, 1996

Between

FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION,
not in its individual capacity but solely as
Owner Trustee under FMC Rail Trust 1996-1

LESSOR

And

FMC CORPORATION

LESSEE

(FMC Rail Trust 1996-1) This Equipment Lease and certain of the sums due and to become due hereunder have been assigned to, and are subject to a security interest in favor of, Harris Trust and Savings Bank, pursuant to a Trust Indenture and Security Agreement (1996-1) dated as of March 15, 1996, with First Security Bank of Utah, National Association, not individually but solely as Owner Trustee under FMC Rail Trust 1996-1, as debtor. This Lease has been executed in several counterparts. Only that counterpart deemed to be the "original" counterpart of this Equipment Lease for chattel paper purposes bears the signature thereon of Harris Trust and Savings Bank.

Filed with the Surface Transportation Board pursuant to 49 U.S.C. § 11301 on March ___, 1996, at __:__, Recordation Number _____, and deposited in the office of the Registrar General of Canada pursuant to § 90 of the Railway Act of Canada on _____, 1996, at __:__.

SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423-0001

3/29/96

Robert W.Alvord
Alvord And Alvord
918 Sixteenth Street, NW., Ste.200
Washington, DC., 20006-2973

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Signature

10997

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(1996-1)

Dated as of March 15, 1996

Between

FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION,
not in its individual capacity but solely as
Owner Trustee under FMC Rail Trust 1996-1

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Filed with the Surface Transportation Board pursuant to 49 U.S.C. § 11301 on March ___, 1996, at __:__, Recordation Number _____, and deposited in the office of the Registrar General of Canada pursuant to § 90 of the Railway Act of Canada on _____, 1996, at __:__.

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Appendix I - Definitions

EQUIPMENT LEASE

THIS EQUIPMENT LEASE (1996-1) (as from time to time supplemented or amended in accordance with the terms hereof this "Lease") dated as of March 15, 1996 between FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, a national banking association, not in its individual capacity but solely as Owner Trustee (the "Lessor"), and FMC CORPORATION, a Delaware corporation (the "Lessee");

R E C I T A L S:

The Lessee and the Lessor have entered into a Participation Agreement (1996-1) dated as of September 15, 1995, (as from time to time supplemented or amended in accordance with the terms thereof the "Participation Agreement") with the Owner Participant named therein, Harris Trust and Savings Bank (the "Indenture Trustee") and the Note Purchasers listed on Schedule 2 thereto providing for the commitment of the Note Purchasers to purchase the Notes (as hereinafter defined) of the Lessor which, together with funds provided by the Owner Participant, will permit the Lessor to obtain, on each Closing Date, the funds necessary to purchase from the Seller the Equipment Lots and lease the same to the Lessee pursuant to this Lease, as described in each lease supplement, substantially in the form attached hereto as Schedule A (individually, a "Lease Supplement" and collectively, the "Lease Supplements"), between the Lessor and the Lessee delivered on each Closing Date. Any capitalized term not defined herein shall have the meaning specified in Appendix I and the rules of interpretation set forth therein shall apply thereto.

SECTION 1. LEASE AND DELIVERY OF EQUIPMENT.

1.1. Intent to Lease. The Lessor shall lease to the Lessee and the Lessee shall lease from the Lessor all Items of Equipment, which are delivered and accepted pursuant to Section 1.3 hereof on each Closing Date, for the rental and on and subject to the terms and conditions herein set forth.

1.2. Inspection and Acceptance. On each Closing Date, the Lessee shall accept each Item of Equipment described in the Bill of Sale delivered on such Closing Date by executing and delivering to the Lessor (a) a Certificate of Acceptance (the "Certificate of Acceptance") in the form attached hereto as Schedule B with respect to such Items and (b) a Lease Supplement with respect to such Items.

1.3. Certificate of Acceptance. The Lessee's execution and delivery of a Certificate of Acceptance with respect to an Item of Equipment pursuant to Section 1.2 hereof shall conclusively establish that, as between the Lessor and the Lessee, but without limiting or otherwise affecting the Lessee's or the Lessor's rights, if any, against the Manufacturer thereof, the Lessee has inspected such Item and that such Item is acceptable to and

accepted by the Lessee under this Lease, notwithstanding any latent or patent defect with respect to design, manufacture, condition or in any other respect, and that such Item of Equipment is in good order and condition and conforms to the specifications applicable thereto and to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications, if any, and conforms to all standards recommended by the Association of American Railroads applicable to railroad equipment of the character of the Equipment as of the date of this Lease. By execution and delivery of such Certificate of Acceptance and Lease Supplement, the Lessee represents that, as a result of such inspection, it has no knowledge of any such defect.

SECTION 2. RENTS AND PAYMENT DATES.

2.1. Rents for Equipment. The Lessee agrees to pay the following rent for each Item of Equipment:

(a) Basic Rent. On each Rent Payment Date, for each Item of Equipment then subject to this Lease, the Lessee shall pay to the Lessor consecutive semi-annual installments of basic rent ("Basic Rent") payable in advance or in arrears, as the case may be, as set forth in Schedule D hereto, as such Schedule D may be adjusted from time to time in accordance with Section 2.4, commencing on the Base Lease Term Commencement Date; provided however, that during any Renewal Term, the term "Basic Rent" shall mean Renewal Rent payable in accordance with Section 16.3.

(b) Supplemental Rent. As supplemental rent hereunder ("Supplemental Rent"), the Lessee shall pay to the Person entitled to receive the same, an amount or amounts equal to any and all amounts, liabilities and obligations (other than Basic Rent) which the Lessee assumes or agrees to pay to the Lessor or any other Person hereunder or under the Participation Agreement or any other Operative Agreement, including (i) all reasonable and customary fees and expenses of the Indenture Trustee and its successors (other than the initial fees and expenses payable by the Owner Participant pursuant to Section 2.6 of the Participation Agreement) incurred in connection with its services as Indenture Trustee under the Indenture, (ii) all amounts of Redemption Premium, if any, payable under the Indenture on the Notes, (iii) interest on any part of any installment of Rent or amounts expended by the Lessor on behalf of the Lessee not paid when due for any period for which the same shall be overdue pursuant to Section 18 hereof or any Stipulated Loss Value or Termination Value or any interest due thereon and (iv) all reasonable and customary fees and expenses of the Owner Trustee and its successors (other than the initial fees and expenses payable by the Owner Participant pursuant to Section

2.6 of the Participation Agreement) incurred in connection with its services as Lessor under this Lease.

(c) Sufficiency of Rent. Notwithstanding anything to the contrary set forth herein, Basic Rent, Stipulated Loss Values, Termination Values and EBO Amounts set forth in Schedules D, E, F and G hereto, respectively, together with the other amounts payable under Sections 9, 16 and 17 hereof and the amount payable by the Owner Participant pursuant to Section 7(c) of the Participation Agreement or the Advances, as applicable, will on each Closing Date and at all times thereafter be sufficient in the aggregate (less any and all Equity Rent and Equity SLV components thereof) to satisfy the scheduled payments of interest on, and principal of, the related Series of Notes and the other obligations of Owner Trustee under the Indenture, regardless of any limitation of liability set forth therein and the date on which any Basic Rent, Stipulated Loss Values, Termination Values, EBO Amounts or amounts determined by reference to Redemption Premium is payable, and shall in any event be consistent with the Owner Trustee's payment obligations under the Indenture and the Notes. In no event shall the foregoing covenant or any other provision of this Lease be construed as a guaranty by the Lessee of the Notes.

(d) The Schedules of Basic Rent, Stipulated Loss Values, Termination Values and the EBO Amount for the Items of Equipment to be delivered on each Closing Date shall be as set forth on Schedules D, E, F, and G, respectively, hereto.

(e) The aggregate installment of Basic Rent paid by the Lessee on each Rent Payment Date shall be allocated and applied ratably among the Lease Supplements delivered hereunder in the same proportion that the amount of Basic Rent then due and payable with respect to each such Lease Supplement bears to the aggregate amount of Basic Rent then due and payable hereunder.

2.2. Rent Payment Dates. With respect to each Equipment Lot, the interim term of this Lease shall commence on the date of delivery of the Items of Equipment hereunder pursuant to a Lease Supplement and terminate on the date specified in such Lease Supplement as the termination date for such interim term or such earlier date on which this Lease may terminate (the "Interim Term"). With respect to each Equipment Lot the basic term of this Lease shall begin immediately upon the expiration of the Interim Term as specified in the Lease Supplement for each Item of Equipment (the "Base Lease Term Commencement Date") and terminate 21 years after the Base Lease Term Commencement Date or such earlier date on which this Lease may terminate (the "Basic Lease Term"), subject to renewal under Section 16.3 hereof. The installments of Basic Rent for each Item of Equipment shall be due

and payable as set forth in Schedule D hereto on the dates set forth therein (each such date on which Basic Rent is due, a "Rent Payment Date"). Each payment of Supplemental Rent shall be due and payable on the date on which such amounts are stated to be due and payable or if no such due date is set forth, within 10 Business Days following written demand therefor. If any Rent Payment Date is not a Business Day, the Rent payment otherwise payable on such date shall be payable on the next succeeding Business Day without interest or penalty. The term "Business Day" means calendar days (excluding Saturdays, Sundays and holidays) on which banks in the States of Illinois, New York or Utah are not authorized or required to close.

2.3. Place and Manner of Rent Payment. The payments to be made by the Lessee under this Lease shall be made as follows:

(a) The installments of Basic Rent shall be paid, by 11:00 AM CST, to the Lessor by wire transfer to, subject to Section 14, the principal office of the Lessor at the address thereof provided for payments in Section 19.1 hereof (identifying the same as a payment of Basic Rent relating to FMC Rail Trust 1996-1);

(b) The entire amount of Stipulated Loss Value, Termination Value and EBO Amount payable hereunder shall be paid to, subject to Section 14, the Lessor by 11:00 AM CST, by wire transfer to the principal office of the Lessor at the address thereof provided for payments in Section 19.1 hereof (identifying the same as a payment of Stipulated Loss Value, Termination Value or EBO Amount, as the case may be, relating to FMC Rail Trust 1996-1);

(c) The amount of any payment owing to the Lessor pursuant to Sections 6.1 or 6.2 of the Participation Agreement or Section 9.1 (with respect to public liability insurance) or 19.2 hereof shall be made directly to the party to receive the same without regard to the assignment of this Lease pursuant to Section 14 hereof;

(d) The amount of any interest due in respect of the late payment of any Rent or other amounts pursuant to Section 18 hereof shall be paid to the party and in the manner herein provided to receive said Rent or other amount; and

(e) All payments of Supplemental Rent other than those above specified shall be made by the Lessee directly to the party to receive the same unless any such payment has previously been made by the Lessor or its assignee, in which case the Lessee shall reimburse the Lessor or its assignee, as the case may be, directly for such payment.

The Lessee agrees that it will make all reasonable efforts to cause those payments due hereunder by wire transfer where specified above to be so wired as soon as practicable after the opening of business in Chicago, Illinois on the due date of such payment of federal or otherwise immediately available funds to the party to whom such payment is to be made, and where not so specified, such payment shall be made by check of the Lessee drawn on a bank located in the continental United States and mailed to the party to receive the same at the address herein provided or at such other address as the Lessee shall have been previously advised in writing.

2.4. Adjustments to Basic Rent, the EBO Amount, Stipulated Loss Values and Termination Values, Etc.

(a) In the event (A) that the aggregate Transaction Expenses paid by the Owner Participant or Lessor for all Closing Dates are other than 1.4% of the Purchase Price for the Equipment and the Lessee shall not have elected to forgo a pricing adjustment hereunder by paying directly to the parties entitled thereto any Transaction Expenses not paid by the Owner Participant, or reimbursing the Owner Participant for the amount, if any, by which the actual Transaction Expenses paid by the Owner Participant exceeds such amount, (B) that there shall be an optional refinancing of the Notes in accordance with Section 9.10 of the Participation Agreement, (C) that a change in the Code or regulations issued thereunder that affects the Tax Benefits shall occur on or prior to any Closing Date; provided that no such change in the Code or regulations shall result in any adjustment hereunder for any Closing Date unless the party seeking such adjustment shall have provided written notice of such change prior to the closing on such Closing Date, (D) that a Closing Date occurs on a date other than March 29, 1996 in the case of the First Closing Date and June 28, 1996 in the case of the Second Closing Date, or (E) that the amortization schedule of any Series of Notes issued on any Closing Date is other than as set forth in Schedule 1 to the Indenture, then in each case the percentages used in calculating Basic Rent, the Stipulated Loss Values, the Termination Values and the EBO Amount shall be adjusted (upwards or (other than with respect to the EBO Amount which shall not be reduced below the estimated Fair Market Value of such Item on the EBO Date as set forth in the appraisal with respect to such Item under Section 4.1(p) of the Participation Agreement) downwards as the case may be) using the same methodology, constraints and assumptions (as modified on account of the prior occurrence of any of the events referred to in clauses (A)-(E) that previously gave rise to adjustments pursuant to this Section 2.4 for such percentages) used to calculate Basic Rent, the Stipulated Loss Values, the Termination Values and the EBO Amount as originally calculated and attached as Schedules D through G to this Lease, in each case in order to: (1) preserve the Owner Participant's Net Economic Return, (2) minimize to the extent possible, consistent with the foregoing clause (1), the after-tax

net present value of the payments of Basic Rent to be paid through the EBO Date and of the EBO Amount and their respective tax consequences (the "All-in Present Value") discounted monthly at a nominal rate per annum equal to the Applicable Rate multiplied by .6175, in accordance with the assumptions specified by the Lessee and used by the Owner Participant in making the original computations on which its evaluation of its investment in the Equipment was based, and (3) minimize the Termination Value, Stipulated Loss Value factors and the EBO Amount to the extent possible consistent with clause (1) above.

(b) Any recalculation of Basic Rent, Stipulated Loss Values, Termination Values and EBO Amount pursuant to this Section 2.4 shall be determined by the Owner Participant and shall be subject to the verification procedures set forth in Section 2.4(e) hereof.

(c) Anything contained in the Participation Agreement or this Lease to the contrary notwithstanding, each installment of Basic Rent payable hereunder, whether or not adjusted in accordance with this Section 2.4, together with the amount payable by the Owner Participant pursuant to Section 7(c) of the Participation Agreement or Advances, as applicable, and each payment of Termination Value, Stipulated Loss Value (less any and all Equity Rent and Equity SLV components thereof) and EBO Amount, whether or not adjusted in accordance with this Section 2.4 or Section 3(b)(ii) of the Tax Indemnity Agreement, in each case, on the date on which such payment is due, shall be in an amount at least sufficient to pay in full, any scheduled payments on account of the principal amount of and accrued and unpaid interest on the Notes then outstanding.

(d) All adjustments to Basic Rent under this Section 2.4 shall be consistent with the requirements of Rev. Proc. 75-21 and Rev. Proc. 75-28, to the extent such requirements were satisfied on the Closing Date for such Items of Equipment; provided that any adjustments to Basic Rent resulting from any events referred to in clause (B) of Section 2.4(a) hereof shall comply with Section 467 of the Code and any successor provision thereto and any regulation (whether proposed, temporary or final) thereunder.

(e) Any recalculation of Basic Rent, Stipulated Loss Values, Termination Values and the EBO Amount pursuant to this Section 2.4 and any calculation of any payment to the Owner Participant or Lessee under the Tax Indemnity Agreement shall be determined by the Owner Participant, computed on the basis of the same methodology, constraints and assumptions used by the Owner Participant in determining the Basic Rent, Stipulated Loss Values, Termination Values and the EBO Amount as of the Closing Date except as such assumptions have been modified pursuant to this Section 2.4. Upon completion of any recalculation described above in this

Section 2.4, a duly authorized officer of the Owner Participant shall provide a certificate (an "Adjustment Event Certificate") to the Lessee setting forth such adjustments to the payments of Basic Rent, Stipulated Loss Values, Termination Values or EBO Amount as have been calculated by the Owner Participant in accordance with Section 2.4(a) above. Such Adjustment Event Certificate shall describe in reasonable detail the basis for any such adjustments. The Lessee may (A) at its own cost and expense, request Bank of America National Trust and Savings Association, or any other financial advisor to the Lessee to verify such calculations but without any requirement that the Owner Participant disclose to such advisor such methodology, constraints and assumptions or any other confidential information (including tax returns) and (B) if the Lessee believes that such calculations by the Owner Participant are in error then within 30 days of its receipt of an Adjustment Event Certificate, request a nationally recognized firm of accountants selected by the Owner Participant and reasonably acceptable to the Lessee (which may be the Owner Participant's independent public accountants) to verify, within 30 days of its receipt of the request to do so, such calculations and the Owner Participant will make available to such firm (subject to the execution by such firm of a confidentiality agreement reasonably acceptable to the Owner Participant) such methodology and assumptions and any changes made therein pursuant to this Section 2.4 and any other information reasonably necessary for such verification requested by such firm. The Owner Participant and the Lessee hereby agree that the sole responsibility of such accountants shall be to verify the Owner Participant's computations under this Section 2.4 and that matters of interpretation of this Lease or any other Operative Agreement are not within the scope of the accountant's responsibilities. In the event of a verification under clause (B) of this Section 2.4(e) the determination and calculation by such firm of accountants shall be final. The Lessee will pay the reasonable costs and expenses of the verification hereunder; <u>provided</u>, <u>however</u>, if as a result of such verification process the Basic Rent is adjusted and such adjustment causes the All-in Present Value to decline by 10 or more basis points from the All-in Present Value of Basic Rent as calculated by the Owner Participant in the applicable Adjustment Event Certificate, the Owner Participant shall pay the reasonable costs and expenses of such verification process under such clause (B) above. Such recalculated Basic Rent, Stipulated Loss Values, Termination Values and EBO Amount shall be set forth in a Lease Supplement hereto.

2.5. <u>Net Lease</u>. This Lease is a net lease and the Lessee's obligation to pay all Basic Rent and Supplemental Rent and other amounts payable hereunder shall be absolute and unconditional under any and all circumstances and, without limiting the generality of the foregoing, the Lessee shall not be entitled to any abatement of Rent or reduction thereof or setoff against Rent, including, but not limited to, abatements, reductions or setoffs due to any present or future claims of the Lessee against the

Lessor under this Lease or otherwise or against any assignee of the Lessor pursuant to Section 14 hereof; nor, except as otherwise expressly provided in Sections 9, 12, 16 or 17 hereof, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in the title, condition, design, operation or fitness for use of, or damage to or loss or destruction of or requisitioning by, any Governmental Authority or other Person of all or any Item of Equipment by condemnation or otherwise, any failure of any Item to comply with Applicable Laws, any contamination of or Release from any Item, the prohibition of Lessee's use of the Equipment, the interference with such use by any Governmental Authority or other Person by the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease or any other Operative Agreement, or lack of right, power or authority of the Lessor or Lessee to enter into this Lease, the insolvency of the Lessee or any other Person, the commencement of any proceeding by or against the Lessee or any other Person for relief under any bankruptcy or similar law for the relief of debtors, any Liens or rights of any Person with respect to any Item (or any part thereof), or for any other cause whether similar or dissimilar to the foregoing, any present or future Applicable Law to the contrary notwithstanding, it being the intention of the parties hereto that the Rent and other amounts payable by the Lessee hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated pursuant to Section 9, 12, 16 or 17 hereof, or until, pursuant to Section 11 hereof, all of the Equipment has been returned to the possession of the Lessor and the Lessee shall have paid to the Lessor all amounts due and owing hereunder and under the other Operative Agreements (for all purposes of this Lease any Item of Equipment shall not be deemed to have been returned to the Lessor's possession until all of the Lessee's obligations with respect to the return, transportation and storage thereof have been performed). To the extent permitted by Applicable Law, the Lessee hereby waives any and all rights (including any rights under Article 2-A of the Illinois Uniform Commercial Code) 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 the lease of any of the Items of Equipment except in accordance with the express terms hereof. Except for manifest error, each Rent or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor or any assignee pursuant to Section 14 hereof for any reason whatsoever. Nothing herein shall be interpreted or construed as waiving the Lessee's right to bring suit and seek damages for breach of this Agreement or the other Operative Agreements to which the Lessee is a party. THE LESSEE AND THE LESSOR HEREBY AGREE THAT THIS AGREEMENT SHALL BE TREATED AS A "FINANCE LEASE" AS DESCRIBED IN ARTICLE 2-A OF THE ILLINOIS UNIFORM COMMERCIAL CODE.

2.6. Advances. Unless the Indenture Trustee on the Base Lease Term Commencement Date shall have received funds from the Owner Trustee or the Owner Participant sufficient for the payment in full of the amounts then due and owing on such Notes, the Lessee shall pay as Supplemental Rent, on the Base Lease Term Commencement Date, an amount, if any, equal to the amounts then due and payable to the Note Purchasers on such date under the Notes (such payment being referred to herein as an "Advance"). The aggregate amount of an Advance payable on the Base Lease Term Commencement Date shall be allocated and applied ratably among the Lease Supplements delivered hereunder in the same proportion that the amount of interest then due with respect to the Notes issued on the same date as the date of each such Lease Supplement bears to the aggregate amount of interest then due with respect to all of the Notes then outstanding with respect to the Equipment delivered under all such Lease Supplements. In the event the Lessee makes such Advance pursuant to this Section 2.6 and is not promptly reimbursed therefor by the Owner Participant after demand for such reimbursement, the Lessee shall be entitled to offset and deduct (without duplication) against each succeeding payment or portion thereof of Basic Rent, Supplemental Rent, Stipulated Loss Value, Termination Value or any other amount due from the Lessee to Persons other than the holders of the Notes, the Indenture Trustee and the Owner Trustee in its individual capacity an amount equal to such Advance plus interest on such amount at the Late Rate until the Lessee has been fully reimbursed for such Advance plus such interest and, in each such case, such offset shall be deemed to constitute a reduction in the amount of such Advance so payable. No such offset or aggregate combined effect of separate offsets shall reduce the amount of any installment of Basic Rent to an amount that is sufficient to pay in full the payments then required to be made on account of the principal and interest on the Notes then outstanding.

SECTION 3. TERM OF THE LEASE.

The term of this Lease (the "Lease Term") as to each Item of Equipment shall consist of the Interim Term, Basic Lease Term and, if and to the extent exercised, any and all Renewal Terms.

SECTION 4. OWNERSHIP AND MARKING OF EQUIPMENT.

4.1. Retention of Title. The Lessor, as between the Lessor and the Lessee, shall and hereby does retain full legal title to, and beneficial ownership of, the Equipment notwithstanding the delivery thereof to and possession and use thereof by the Lessee or any sublessee under any Permitted Sublease.

4.2. Duty to Number and Mark Equipment. The Lessee will cause each Item of Equipment to be kept numbered with its identifying number as set forth in the Lease Supplement describing such Item of Equipment and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each Item of Equipment in letters not less than one inch in height as follows:

"OWNERSHIP SUBJECT TO A SECURITY AGREEMENT
FILED WITH THE SURFACE TRANSPORTATION BOARD."

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Lessor to such Item of Equipment, its rights under this Lease and the rights of any assignee under Section 14 hereof. Promptly, and in any event within 150 days after each Closing Date, the Lessee shall mark each Item with the above-described legend and thereafter the Lessee will replace promptly any such names and word or words which may be removed, obliterated, defaced or destroyed, provided, however, that to the extent that, prior to the First Closing Date, any Item has been marked with the following "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION", the Lessee shall not be required to comply with marking and designation requirements of the preceding sentence until each such Item's first removal from service or operation by the Lessee for maintenance or repair in the ordinary course of the Lessee's operations or business. The Lessee will not change the identifying number of any Item of Equipment unless and until, at Lessee's sole cost and expense, (a) a statement of new identifying numbers to be substituted therefor shall have been delivered to the Lessor and the Indenture Trustee by the Lessee and filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited and (b) the Lessee shall have furnished the Indenture Trustee and the Lessor an opinion of the Surface Transportation Board counsel and Canadian counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect, preserve and maintain the Lessor's title to, or the Indenture Trustee's security interest in such Equipment and no filing, recording, deposit or giving of notice with or to any other Governmental Authority thereof is necessary to protect, preserve and maintain the interests of the Indenture Trustee and the Lessor in such Equipment. The Lessor agrees to execute at Lessee's cost and expense all amendments hereto necessary to accomplish such filings, recordings and deposits.

4.3. Prohibition Against Certain Designations. Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may to the extent not inconsistent with the foregoing cause the Equipment to be lettered

with the names or initials or other insignia customarily used by the Lessee or its Affiliates or any sublessees under Permitted Subleases on railroad equipment used by any of them of the same or a similar type for convenience of identification of the right of the Lessee to use the Equipment under this Lease or of any sublessee to use the Equipment under any Permitted Sublease.

SECTION 5. DISCLAIMER OF WARRANTIES; QUIET ENJOYMENT.

LESSEE ACKNOWLEDGES AND AGREES THAT THE LESSOR LEASES THE EQUIPMENT, AS-IS, WHERE-IS, WITH ALL FAULTS, IN WHATEVER CONDITION IT MAY BE, WITHOUT ANY AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, BY EITHER THE LESSOR OR THE OWNER PARTICIPANT, AND THE LESSOR, THE INDENTURE TRUSTEE AND THE OWNER PARTICIPANT EACH EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO (A) THE FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OF ANY ITEM OR ITEMS OF EQUIPMENT OR THE ABSENCE OF DEFECT (PATENT OR LATENT) , (B) THE LESSOR'S TITLE THERETO, (C) THE DESIGN, CONDITION OR SPECIFICATIONS OF, OR THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, ANY ITEM OR ITEMS OF EQUIPMENT, (D) THE COMPLIANCE OF ANY ITEM (OR PART THEREOF) WITH ANY APPLICABLE LAWS AND (E) ANY OTHER MATTER WHATSOEVER WITH RESPECT TO ANY ITEM OR ITEMS OF EQUIPMENT, IT BEING AGREED THAT ALL SUCH RISKS, AS AMONG THE LESSOR, THE OWNER PARTICIPANT, THE INDENTURE TRUSTEE AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE; PROVIDED, HOWEVER, THAT NOTHING IN THE FOREGOING SHALL LIMIT OR OTHERWISE RESTRICT THE REPRESENTATIONS AND WARRANTIES OF THE OWNER PARTICIPANT AND THE LESSOR UNDER SECTIONS 3.1(d) AND 3.2(e) OF THE PARTICIPATION AGREEMENT. The Lessor shall have no responsibility or liability to the Lessee or any other Person with respect to any of the following: (i) any liability, loss or damage (including that resulting from any contamination of or Release from any Item) caused or alleged to be caused directly or indirectly by any Item of Equipment or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Item of Equipment or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Item of Equipment. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that all Items of Equipment described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters. If and so long as no Event of Default has occurred and is continuing, the Lessor hereby authorizes the Lessee during the Lease Term to assert and enforce, from time to time, in the name and for the account of the Lessee, but in all cases at the sole cost and expense of the Lessee, whatever claims and rights the

Lessor may have as owner of the Equipment against the Manufacturers thereof, provided, however, that if at any time an Event of Default shall have occurred and be continuing, such power of attorney shall terminate, and the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights; provided, that any amounts received in exercising such rights shall be applied in the manner set forth in Section 7.2 hereof. Notwithstanding anything herein to the contrary, all amounts that any Manufacturer is obligated to pay to Lessee under a Purchase Agreement, including, without limitation, resulting from the enforcement of any warranty, covenant, representation, service life policy, performance guarantee or indemnity thereunder or the enforcement or exercise of any right or power under such Purchase Agreement, shall be paid to Lessee unless an Event of Default shall have occurred and be continuing, in which case the Lessee will, until such Events of Default have been cured or waived, cause such Manufacturer to make any and all such payments directly to Lessor to be held for so long as any such Event of Default shall be continuing as security for and applied to the obligations of Lessee hereunder and, at such time as no such Event of Default shall be continuing, and to the extent not theretofore applied, to be paid to, and retained by Lessee. THE PROVISIONS OF THIS SECTION 5 HAVE BEEN NEGOTIATED AND EXCEPT AS SET FORTH IN THE PROVISO IN THE SECOND PRECEDING SENTENCE, ARE INTENDED TO BE A COMPLETE EXCLUSION AND NEGATION OF ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, BY LESSOR WITH RESPECT TO THE ITEMS (OR ANY PORTION THEREOF), WHETHER ARISING PURSUANT TO THE UNIFORM COMMERCIAL CODE OF ANY APPLICABLE JURISDICTION OR ANY OTHER APPLICABLE LAW, NOW OR HEREAFTER IN EFFECT.

The foregoing notwithstanding, Lessor warrants that it has received such title to the Equipment as was conveyed to it by the Seller, and, that so long as no Event of Default shall have occurred and be continuing, neither Lessor nor any person claiming by or through Lessor shall interfere with Lessee's quiet use and enjoyment of the Equipment.

SECTION 6. RULES, LAWS AND REGULATIONS.

The Lessee agrees to comply with all Applicable Laws (including, without limitation, the Applicable Laws of the United States Department of Transportation, the Surface Transportation Board, the Federal Railroad Administration and the current Field Manual of the Interchange Rules or supplements thereto of the Mechanical Division, Association of American Railroads as the same may be in effect from time to time) (collectively, the "Interchange Rules") with respect to the use and maintenance of each Item of Equipment subject to this Lease.

SECTION 7. USE AND MAINTENANCE OF EQUIPMENT.

7.1. Use and Maintenance. The Lessee shall be entitled to possession of the Equipment in the general operation of the Lessee's Business in the Continental United States, Canada and Mexico; provided, however, that Lessee shall not (i) locate, or permit to be located, any Item of Equipment in areas excluded from coverage by any insurance policy required to be maintained pursuant to Section 9 or (ii) locate, or permit to be located at any one time more than 10% of the Items in Mexico (or any province or state thereof). The Lessee shall, at its own cost and expense, use, operate, service, repair, overhaul, test, maintain and keep each Item of Equipment (i) in good working order and repair; (ii) in as good physical condition satisfactory for commercial use as when originally delivered to Lessee, ordinary wear and tear excepted, suitable for use in interchange in accordance with federal regulations and the Interchange Rules; (iii) in accordance with all Applicable Laws, subject to the contest provisions set forth in Section 8 hereof; (iv) in accordance with maintenance provisions (if any) of insurance maintained hereunder and in a manner (including as to maintenance, recordkeeping and compliance with Applicable Laws with prospective or future compliance date or dates (whether or not such date or dates occur after the end of the Lease Term) in respect of such Item) consistent with that for equipment of a similar nature which the Lessee or its Affiliates owns or leases; (v) in accordance with prudent industry practice for each such Item; and (vi) only in the manner for which it was designed. Except as required by the provisions of Section 6 hereof, the Lessee shall not modify any Item of Equipment in any manner which will decrease the fair market value, utility or remaining useful life of such Item of Equipment assuming the same was otherwise in the condition required hereunder. The Lessee will maintain all records, logs and other materials required by any Governmental Authority having jurisdiction to be maintained by the Lessee or the Lessor in respect of any Item. All such records, logs and other materials shall be the property of the Lessor (provided that such records, logs and other materials in respect of any Item shall become the property of the Lessee upon the Lessee's purchase of such Item pursuant to this Lease or upon the occurrence of a Casualty Occurrence and the Lessee's compliance with Section 9.3 or 9.4 hereof). The Lessee, at its own expense, will procure and pay for all permits, franchises, inspections and licenses necessary or appropriate to be held or maintained by the Lessee or the Lessor in connection with any Item and any repair, restoration, replacement, renewal, addition or improvement thereof and thereto that may be required pursuant to Section 6 hereof or this Section 7.

SECTION 7.2. Replacement and Ownership of Parts; Alterations, Modifications and Additions.

(a) Replacement of Parts. Without derogating from Lessee's obligations under Section 7.1, unless an Item of Equipment

to which a Part relates has suffered a Casualty Occurrence, Lessee, at its own cost and expense, will during the Lease Term promptly replace, or cause to be replaced, all Parts that may from time to time become worn out, lost, stolen, destroyed, seized, confiscated, damaged beyond repair or permanently rendered unfit for use for any reason whatsoever. All replacement Parts shall be free and clear of all Liens (other than Permitted Liens) and shall be of the same type and capacity and in as good operating condition as, and shall have a utility, fair market value and expected remaining useful life at least equal to, the Parts replaced (assuming such replaced Parts were in the condition and repair required to be maintained by the terms hereof).

(b) Ownership of Parts. All Parts at any time removed from any Item of Equipment shall remain the property of Lessor and subject to this Lease, no matter where located, until such time as such Parts shall be replaced by parts that have been incorporated or installed in or attached to such Item of Equipment and that meet the requirements for replacement Parts specified in Section 7.2(a) hereof. Immediately upon any replacement Part becoming incorporated or installed in or attached to an Item of Equipment as provided in Section 7.1 or 7.2(a) hereof, without further act, (i) ownership of the replaced part shall thereupon vest in Lessee or its designee, free and clear of all rights of Lessor and shall no longer be deemed a Part hereunder; (ii) ownership of such replacement Part shall thereupon vest in Lessor (subject only to Permitted Liens); and (iii) such replacement Part shall become subject to this Lease and be deemed part of such Item of Equipment for all purposes hereof to the same extent as the Parts originally incorporated or installed in or attached to such Item of Equipment.

(c) Alterations, Modifications and Additions. Lessee, at its sole cost and expense, shall make or cause to be made such alterations and modifications in and additions to each Item as may be required from time to time under Applicable Law or the terms or conditions of the insurance maintained under Section 9 (each, a "Required Modification"). In addition, Lessee, at its sole cost and expense, may from time to time make such alterations and modifications in and additions to each Item of Equipment as Lessee reasonably may deem desirable; provided, that such alterations, modifications or additions do not (i) materially decrease or reduce the fair market value, utility or remaining useful life of such Item of Equipment, (ii) cause any Item of Equipment to constitute "limited use property" within the meaning of Revenue Procedures 75-21 and 79-48, as amended, or (iii) materially change the nature, use, type or capacity of such Item of Equipment. Title to any severable Part not constituting a Required Modification (or a part thereof) (each, an "Optional Part") shall remain in Lessee and may be removed at any time during the Term; provided that (i) such Part is in addition to, and not in replacement of or substitution for, any Part originally incorporated or installed in or attached or added to such Item of Equipment at the time of the delivery thereof

hereunder or any Part in replacement of, or substitution for, any such Part, (ii) such Part is not otherwise required to be incorporated or installed in or attached to such Item of Equipment pursuant to the terms hereof, (iii) such Part can be removed from such Item of Equipment without damage and without materially diminishing the fair market value, utility or remaining economic useful life of such Item of Equipment which such Item of Equipment would have had at such time, had such alteration, modification, removal or addition not occurred, assuming such Item of Equipment was maintained in the condition required by the terms of this Lease, (iv) no Event of Default shall have occurred and be continuing and (v) the cost of such Part was not paid by the Lessor. Title to all Parts (other than Optional Parts) shall, without further act, vest in Lessor. Upon termination of this Lease, if and to the extent that such Optional Parts are reasonably necessary for the economic operations of the Equipment, Lessor shall have the right to purchase any such Optional Part for its then Fair Market Value prior to the return to Lessor (including return pursuant to the exercise of remedies under Section 15 hereof) of the Equipment or such Item of Equipment including such Optional Part. If Lessor elects not to purchase any Optional Part, Lessee shall at its option remove such Part or return the Equipment or such Item of Equipment with such Part intact.

Notwithstanding anything herein to the contrary, Lessee shall not make any alteration, modification or addition to any Item of Equipment that would change the nature or use of such Item of Equipment from that for which it was originally designed (except to an immaterial extent). Lessee shall not permit any Item of Equipment to be in such condition that, upon return thereof to Lessor or sale thereof to a third party, it could not, without repair or modification, accommodate a standard U.S. track gauge than if such modification had not been made.

SECTION 8. LIENS ON THE EQUIPMENT.

The Lessee shall pay or satisfy and discharge any and all claims which, if unpaid, might constitute or become a Lien upon any Item of Equipment (other than Permitted Liens), and shall not create or suffer to exist, and as soon as possible, at its own expense, discharge any Liens which may be levied against or imposed upon any Item of Equipment or any Parts or any interest of the Owner Trustee, the Owner Participant, the Indenture Trustee or any Note Purchaser in any of the foregoing other than Permitted Liens, but so long as no Event of Default shall have occurred and be continuing, the Lessee shall not be required to pay or discharge any such Liens so long as it shall, in good faith and by appropriate legal proceedings contest the validity thereof in any commercially reasonable manner which will not involve (i) any material risk of any sale, loss or forfeiture of any title to, or interest in any Item or the security interest or other rights of

any assignee under Section 14 hereof in and to the Equipment, (ii) any risk of the imposition of criminal liability on Lessor or any Indemnitee or (iii) any risk of material civil liability on Lessor or any Indemnitee. Prior to commencement the Lessee shall give the Lessor and the Indenture Trustee prompt written notice of any such contest setting forth in reasonable detail the nature of the contest and the Lessee compliance with clauses (i) through (iii) above. The Lessee's obligations under this Section 8 shall survive the termination of this Lease.

SECTION 9. INSURANCE; PAYMENT FOR CASUALTY OCCURRENCE.

9.1. Insurance. (a) Policies. The Lessee will, upon delivery of the Equipment delivered to the Lessor on each Closing Date and at all times during the Lease Term, at its own expense, carry and maintain or cause to be carried and maintained (i) property insurance with respect to each Item of the Equipment, and (ii) public liability insurance (including pollution liability coverage) with respect to bodily injury and property damage in such amounts, against such risks and with such insurance companies of established good reputation as are customary under the Lessee's risk management programs, but in any event with no greater deductibles and at least comparable in amounts and against risks insured against by the Lessee with respect to equipment it, or its Affiliates, owns or leases that is similar in nature to the Equipment; provided that (A) with respect to property insurance the Lessee may in any event self-insure in a manner and to the extent such self-insurance is customary under the Lessee's risk management programs and consistent with the self-insurance practices of the Lessee with respect to equipment owned or leased by it or its Affiliates that is similar in nature to the Equipment and (B) except to the extent provided in Section 9.4(b) of the Participation Agreement the Lessee shall maintain policies of public liability insurance pursuant to this Section 9.1 with a combined single limit of not less than $100,000,000 subject to a deductible and/or retention amount not to exceed $10,000,000 per occurrence. Nothing contained in this Section 9.1 shall be deemed to relieve the Lessee from any of its other obligations under the Operative Agreements.

(b) Liability Policy Provisions. Except to the extent that the Lessee maintains self-insurance as provided in subsection (a) hereof, the policy or policies of public liability insurance carried in accordance with subsection (a) hereof shall to the extent such provisions are commercially available (i) require at least 30 days' prior written notice to the Owner Participant, the Lessor, the Note Purchasers and the Indenture Trustee of cancellation, lapse, expiration or adverse change to reduce the coverage thereof, (ii) (A) cover the Owner Participant, the Lessor, the Note Purchasers and the Indenture Trustee as additional insureds or (B) provide that in the event that any additional

insured is named in a certificate of insurance issued in connection with such policy, the policy will be deemed to have been endorsed accordingly, (iii) provide that such insurance is primary with respect to any other insurance carried by or available to the Owner Participant, the Lessor, the Note Purchasers and the Indenture Trustee, (iv) provide that the insurer shall waive any right of subrogation and any setoff, counterclaim, or other deduction, whether by attachment or otherwise, against the Owner Participant, the Lessor, the Note Purchasers and the Indenture Trustee, (v) provide that such insurance as to the interests of the Owner Participant, the Lessor, the Note Purchasers and the Indenture Trustee shall not be invalidated by any action or inaction of the Lessee or any other Person, regardless of any breach or violation of any warranty, declaration or condition contained in such policies maintained by the Lessee or any other Person, notwithstanding the use of the Equipment for purposes more hazardous than permitted by the terms of the policies, (vi) provide that no additional insured shall have any obligation or liability for premiums in connection with such insurance and (vii) contain a cross-liability clause providing for coverage of the Owner Participant, the Lessor, the Note Purchasers and the Indenture Trustee as if separate policies had been issued to each of them.

(c) Property Policy Provisions. Except to the extent that the Lessee maintains self-insurance as provided in subsection (a) hereof, the policy or policies of property insurance carried in accordance with subsection (a) hereof shall to the extent such provisions are commercially available (i) require at least 30 days' prior written notice to the Owner Participant, the Lessor, and the Indenture Trustee of cancellation, lapse, expiration or adverse change to reduce the coverage thereof, (ii) (A) cover the Owner Participant, the Lessor, and the Indenture Trustee as a loss payee as their interests may appear (but without imposing on any such party liability to pay premiums with respect to such insurance) provided that the Lessor (or, if the Lessee shall not have been notified in writing that the assignment of this Lease from the Lessor to the Indenture Trustee has been terminated, the Indenture Trustee) shall be named as sole loss payee with respect to policies for physical damage insurance on the Equipment and as an additional insured or (B) provide that in the event that any additional insured or loss payee is named in a certificate of insurance issued in connection with such policy, the policy will be deemed to have been endorsed accordingly, (iii) provide that, in respect of the interest of the Owner Participant, the Lessor and the Indenture Trustee in such policies, the insurance shall not be invalidated by any action or inaction by the Lessee or its Affiliates (other than a failure of the Lessee to pay premiums or other sums owing to the insurer), notwithstanding the use of the Equipment for purposes more hazardous than permitted by the terms of the policies, (iv) insure the Owner Participant, the Owner Trustee and the Indenture Trustee regardless of any breach or violation of any warranty, declaration or condition contained in such policies (or in the

application therefor or in any other document submitted to the insurer in connection therewith), (v) provide that such insurance is primary with respect to any other insurance carried by or available to the Owner Participant, the Owner Trustee and the Indenture Trustee, and (vi) provide that the insurer shall waive any right of subrogation and any setoff, counterclaim, or other deduction, whether by attachment or otherwise, against the Owner Participant, the Owner Trustee and the Indenture Trustee.

(d) Certificates. On or prior to each Closing Date, and thereafter on or prior to the 30th day preceding the expiration of any policy maintained pursuant to this Section 9.1, the Lessee shall deliver to the Owner Participant, the Owner Trustee and the Indenture Trustee certificates of insurance issued by the insurers under the policies required pursuant to this Section 9.1 or, if unavailable, other evidence of the insurance maintained pursuant to this Section 9.1 reasonably satisfactory to the Owner Participant, the Owner Trustee and the Indenture Trustee. After the Second Closing Date, on each successive anniversary thereof the Lessee shall deliver to the Owner Participant, the Owner Trustee and the Indenture Trustee a report of an insurance broker describing in reasonable detail the insurance maintained pursuant to this Section 9.1 and stating that in such broker's opinion such insurance (together with self-insurance maintained pursuant to this Section 9.1) complies with this Section 9.1. Certificates issued after the First Closing Date shall be in a form similar to those issued on or prior to the First Closing Date.

(e) Performance by Lessor. In the event that Lessee shall fail to maintain insurance as herein provided, subject to Section 5.3(a) of the Indenture, the Lessor and/or the Indenture Trustee may at its option, but without obligation, provide such insurance and, in such event, the Lessee shall, upon demand from time to time, reimburse the Lessor and/or the Indenture Trustee for the cost thereof, together with interest on such cost as provided in Section 18 hereof computed from the date of payment of such cost to the date of reimbursement. The Lessor and/or the Indenture Trustee shall give the Lessee prompt written notice of any such insurance.

(f) Proceeds. As between the Lessor and the Lessee, any payments on account of a Casualty Occurrence with respect to any Item of Equipment or any Part received at any time by the Lessor, the Lessee or any permitted sublessee or any other Person from any Governmental Authority or other Person will be applied as follows:

(i) if the Lessee has elected to perform the option under Section 9.3, (x) so much of such payments as shall not exceed the amounts required to be paid by Lessee pursuant to said Section 9.3 shall be paid to the Lessor and such payment to the Lessor shall be applied in reduction of the Lessee's

obligation to pay such amounts by an amount equal to such payment and (y) the balance, if any, in excess of such amounts shall be divided between the Lessor and the Lessee as their respective interests may appear relative to the values of the Lessee's leasehold interest in the Items of Equipment and the Lessor's ownership of the Items of Equipment subject to this Lease; and

(ii) if Lessee has elected to perform its option under Section 9.4, all such payments shall (A) be paid over to, or retained by the Lessee if the number of Items of Equipment subject to a Casualty Occurrence during the six month period prior to the delivery by the Lessee of a Casualty Notice is less than or equal to 10% of the Items of Equipment then subject to this Lease or (B) be retained by the Lessor and paid over to the Lessee upon receipt by the Lessor of a certificate of an authorized officer of the Lessee to the effect that such Item or Items have been replaced in compliance with Section 9.4 hereof if the number of Items of Equipment subject to a Casualty Occurrence during the six month period prior to the delivery by the Lease of a Casualty Notice is greater than 10% of the Items of Equipment then subject to this Lease.

Provided that no Default under Section 12.1(a), (b), (f), (g) or (h) or Event of Default shall have occurred and be continuing, all casualty insurance proceeds in respect of any occurrence involving the Equipment that does not constitute a Casualty Occurrence shall be paid to the Lessee. During the continuance of any Default under Section 12.1(a), (b), (f), (g) or (h) or an Event of Default, any such amounts shall be held by the Lessor as security for the performance by the Lessee of its obligations under this Lease and shall be promptly paid over to the Lessee at such time as the Section 12.1(a), (b), (f), (g) or (h) Default or Event of Default shall no longer be continuing.

(g) Additional Insurance by Lessor and Lessee. The Lessee (and any sublessee) may at its own expense carry insurance with respect to its interest in the Equipment in amounts in excess of that required to be maintained by this Section 9. The Owner Participant may carry for its own account at its sole cost and expense insurance with respect to its interest in the Equipment, provided that such insurance does not prevent Lessee (or any sublessee) from carrying the insurance required or permitted by this Section 9 or materially adversely affect such insurance or the cost thereof.

9.2. Duty of Lessee to Notify Lessor. (a) In the event that any Item of Equipment (i) suffers an actual or constructive total loss; (ii) remains lost or stolen for a period exceeding one hundred twenty (120) days or, if shorter, the period ending on the last day of the Lease Term after the Lessee becomes aware that such

Item of Equipment may have been lost or stolen; (iii) as a result of damage or destruction, in the Lessee's good faith opinion, is beyond economic repair or is permanently unfit for commercial use; (iv) is taken (with respect to the title to such Item of Equipment) by any Governmental Authority; or (v) is taken or requisitioned for use by any Governmental Authority for a period extending beyond 360 days (or 180 days in the case of any Mexican Governmental Authority) or if shorter, the period ending on the last day of the Lease Term (any such occurrence being hereinafter called a "Casualty Occurrence"), the Lessee shall, in accordance with Section 10.1 hereof, notify in writing (such notice, the "Casualty Notice") the Owner Participant, the Lessor and the Indenture Trustee in regard thereto. Such Casualty Notice shall contain the Lessee's election either to (i) pay the Stipulated Loss Value of such Item in accordance with the terms of Section 9.3 hereof, or (ii) substitute Replacement Items in accordance with the terms of Section 9.4 hereof.

(b) In the event the Lessee becomes aware of (i) any pending or threatened liability, obligation, damage, penalty, fine, claim, judicial or administrative action, suit, expense or cost (including any investigation, remedial or response cost) under any Environmental Law relating to any Item of Equipment,(ii) the unlawful presence or suspected unlawful presence of any Hazardous Material on or in the Equipment or (iii) any other condition or event in connection with any Item of Equipment that violates or gives rise to material liability under any Environmental Law, the Lessee shall (A) promptly notify in writing the Lessor of such condition or event, (B) deliver to the Lessor any documents or information relating to such condition or event as the Lessor may reasonably request, and (C) promptly and diligently take any and all actions necessary to bring the Equipment to a condition in compliance with this Lease.

9.3. Sum Payable for Casualty Loss. The Lessee, on the next succeeding Rent Payment Date following its Casualty Notice pursuant to which it has elected to comply with this Section 9.3, or within 30 days after such notice and election in respect of any Casualty Occurrence after the expiration of the term of this Lease while such Item of Equipment is in the possession of the Lessee pursuant to Section 11 or 13 hereof (such date the "SLV Payment Date"), shall pay to the Lessor (or, if the Lessee shall not have been notified in writing that the assignment of this Lease from the Lessor to the Indenture Trustee has been terminated, to the Indenture Trustee) (i) all accrued and unpaid Rent (other than Supplemental Rent consisting of Stipulated Loss Value and other than Basic Rent payable in advance on or after the SLV Payment Date) or other sums with respect to such Item due on or prior to the SLV Payment Date then remaining unpaid plus (ii) a sum equal to the Stipulated Loss Value of such Item of Equipment as of the SLV Payment Date or, in the case of any SLV Payment Date after the Lease Term, as of the last day of the Lease Term.

9.4. Substitution of Equipment. (a) The Lessee shall, within 90 days of its notice of a Casualty Notice where the Lessee has elected to replace such Item or Items or if earlier on the expiration of the Lease Term (the "Substitution Date"), convey or cause to be conveyed to Lessor, to be leased by Lessor to Lessee hereunder in replacement of the Item or Items which sustained such Casualty Occurrence, good and marketable title to a replacement Item or Items (each a "Replacement Item"), such Replacement Item or Items to be of a Type of Item then subject to this Lease, and having the same or greater fair market value, utility and remaining useful life as the Item or Items so replaced (assuming such replaced Item or Items were in the condition and repair required under the terms of this Lease immediately prior to the Casualty Occurrence) and such substitution shall not result in a Default or Event of Default hereunder.

(b) On or prior to the Substitution Date, the Lessee, at its own expense, shall have duly authorized and executed or obtained (where appropriate) the documents listed below and such documents shall have been in full force and effect on the date of such substitution:

(i) a full warranty Bill of Sale for such Replacement Item or Items from the Lessee to the Lessor substantially in the form of Exhibit A to the Participation Agreement;

(ii) a Lease Supplement covering such Replacement Item or Items in form for filing in all public offices wherein this Lease shall have been filed; and

(iii) an Indenture Supplement covering such Replacement Item or Items in form for filing in all public offices wherein the Indenture shall have been filed.

Upon full compliance by the Lessee with the terms of this Section 9.4(b), the Item or Items which suffered the Casualty Occurrence shall be disposed of in accordance with Section 9.6 hereof. If Lessee has not fully performed its obligations under this Section 9.4(b) by the Substitution Date, then the Lessee shall be deemed to have elected its option under Section 9.3 hereof and shall fully perform the same on the next Rent Payment Date.

(c) In connection with the semi-annual report provided by the Lessee pursuant to Section 10.1 hereof, the Lessee shall provide to the Lessor and the Indenture Trustee the documentation required by Section 9.4(b) hereof for each Item that was substituted during the preceding semi-annual period; provided, that if 10% or more of the Items of Equipment then subject to this Lease are the subject of a Casualty Occurrence during any such semi-annual period, in addition to the documentation required by Section 9.4(b) hereof, the Lessee shall deliver to the Lessor (i) an appraisal with respect to such Replacement Items in form and

substance reasonably satisfactory to the Lessor and (ii) an opinion of counsel to the Lessee, reasonably satisfactory in form and substance to the Lessor and the Indenture Trustee, to the effect that the Bill of Sale executed pursuant to Section 9.4(b)(i) is an effective instrument of conveyance of ownership of the Replacement Item and that the Lease Supplement referred to in Section 9.4(b)(ii) is a valid and binding obligation of the Lessee enforceable in accordance with its terms and that no other action except as shall have been taken is necessary to protect the rights of the Lessor and the Indenture Trustee in the Replacement Item to the same extent as existed in the replaced Item or Items of the Equipment.

9.5. Rent Termination. Upon (and not until) payment of all sums required to be paid pursuant to Section 9.3 hereof in respect of any Item or Items of Equipment, the obligation to pay Rent for such Item or Items of Equipment accruing subsequent to the Stipulated Loss Value payment date shall terminate, but the Lessee shall continue to pay Rent for all other Items of Equipment.

9.6. Disposition of Equipment. Upon Lessee's full performance of its obligations under Section 9.3 or 9.4, Lessor shall convey to Lessee, all right, title, interest in and to all such Item or Items of Equipment having suffered a Casualty Occurrence as soon as it is able to do so for the fair market value thereof. Any such disposition shall be on an "as-is", "where-is" basis without representation or warranty by Lessor, express or implied, except as to the absence of Lessor Liens.

9.7. Risk of Loss. Except as otherwise expressly provided herein, the Lessee shall bear the risk of loss and, except as hereinabove in this Section 9 provided, shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any Item of Equipment from and after the date hereof and continuing until payment of the Stipulated Loss Value and all Rent and other sums due on and prior to the date of payment of such Stipulated Loss Value in respect of such Item of Equipment (other than Basic Rent payable in advance on or after the SLV Payment Date) has been made, such Item or the salvage thereof has been disposed of by the Lessee and the title to such Item or the salvage thereof and all risk of loss and liabilities incident to ownership have been transferred to the purchaser of such Item or the salvage thereof.

9.8. Eminent Domain. In the event that during the term of this Lease the use of any Item of Equipment is requisitioned or taken by any Governmental Authority under the power of eminent domain or otherwise for a period not constituting a Casualty Occurrence, the Lessee's obligation to pay all installments of Basic Rent and other sums shall continue for the duration of such requisitioning or taking. So long as no Default under Section 12.1(a), (b), (f), (g) or (h) or Event of Default shall have

occurred and be continuing (in which case the following amounts shall be paid to Lessor), the Lessee shall be entitled to receive and retain for its own account from time to time during the Lease term all sums payable for any such period by such Governmental Authority as compensation for requisition or taking of possession.

SECTION 10. REPORTS.

10.1. Duty of Lessee to Furnish. On or before July 1, 1996 and on each Rent Payment Date thereafter during the term of this Lease, the Lessee will furnish to the Owner Participant, the Lessor and the Indenture Trustee an accurate statement showing the amount, description and numbers of the Items of Equipment then leased hereunder and the amount, description and numbers of all Items of Equipment that have suffered a Casualty Occurrence during the six (6) months ending on such date (or since the date of this Lease, in the case of the first such statement) together with (i) evidence of compliance with Section 4 and with the insurance provisions of Section 9.1 hereof with respect to such Replacement Item or Items, (ii) an acknowledgment by the Lessee that the Lessee will indemnify the Lessor in accordance with Section 6.2 of the Participation Agreement and the Tax Indemnity Agreement for any adverse tax consequences resulting from such replacement, (iii) a Bill of Sale covering such Replacement Item or Items and (iv) such evidence with respect to the Replacement Item or Items as the Lessor may reasonably request in order to establish the consummation of the transactions contemplated by Section 9.4.

SECTION 11. RETURN OF EQUIPMENT UPON EXPIRATION OF TERM.

(a) Upon the expiration or termination of the Lease Term with respect to any Item of Equipment, the Lessee will, at its own cost and expense, deliver possession of such Item of Equipment to the Lessor at up to 5 return locations each of which shall be the location of major industrial plants in the United States used in Lessee's Business or major rail interchange points in the United States on the lines of the carriers most customarily used by Lessee (the "Designated Locations"). Such Designated Locations shall be designated by Lessee not later than 120 days prior to expiration or termination of the Lease Term. Such notice shall specify the total number of Items of Equipment to be delivered to each such Designated Location; provided that the number of Items of Equipment specified for delivery to any one Designated Location shall be not less than 50, in the case of the ACF 5100 Hopper Cars, and 20, in the case of any other Type of Equipment unless less than 50 ACF 5100 Hopper Cars or 20 of any other Type remain subject to this Lease, in which case the entire number of any such Type shall be delivered to one such Designated Location. Lessee shall store such items of Equipment at the Designated Locations for a period not exceeding 60 days after the expiration or termination of this

Lease, including the optional renewal terms pursuant to Section 16 hereof. The Lessee will on or prior to the end of such 60-day period transport each Item of Equipment one time from such Designated Location to any interchange on lines of the carriers most customarily used by the Lessee then in existence, all as directed by the Lessor upon not less than 30 days prior written notice to the Lessee. Storage of each such Item at a Designated Location is to be at the risk and expense of the Lessee for 60 days and thereafter for up to an additional 120 days at the risk and expense (which expense shall be the actual out-of-pocket expense to the Lessee of such storage) of Lessor, and the Lessee agrees to maintain the insurance on such Item required by Section 9.1 hereof for such 60 days, after which time storage of each such Item is to be at the risk and expense of the Lessor. Any movement of an Item of Equipment from such Item's Designated Location to the interchange selected by the Lessor will be at the risk and expense of the Lessee. Notwithstanding the limitations set forth in Section 5 of the Participation Agreement, during any such storage period at a Designated Location the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Item, to inspect the same upon the terms and conditions set forth in Section 5 of the Participation Agreement and access to permit restencilling of the Items; <u>provided</u>, <u>however</u>, that the Lessee shall not be liable, except in the case of gross negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence.

(b) Provided no Event of Default has occurred and is continuing, all amounts earned in respect of the Equipment after the date of expiration of this Lease and prior to the return of the Equipment hereunder shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event that any Items of Equipment are not assembled, delivered and stored as hereinabove provided, the Lessee shall pay to the Lessor for each day from and after the expiration date of the Lease to but excluding the day each such Item of Equipment is returned in accordance with this Section 11 an amount equal to the amount by which the higher of (i) 125% of average <u>per diem</u> Basic Rent and (ii) <u>per diem</u> Fair Market Rental Value for each such Item of Equipment exceeds the amounts paid over to the Lessor pursuant to the first sentence of this subsection (b); <u>provided</u> that, (i) during such holdover period, Lessee shall use its best efforts to secure the return of the Equipment as required under this Section 11 and (ii) in no event shall such holdover period exceed 90 days from the date of expiration of this Lease; <u>provided</u>, <u>however</u>, that if any such Item is not returned within 60 days following the termination of the Basic Lease Term or Renewal Term, as the case may be, an Event of Default shall be deemed to have occurred hereunder and the Lessor shall have the right to exercise the

remedies available to it pursuant to Section 12 hereof. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and, upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance thereof.

(c) Each Item returned to the Lessor pursuant to this Section 11 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, (ii) meet the standards (including all safety and environmental standards) then in effect for railroad equipment of the same type and age as the Equipment, and shall be eligible for interchange, under the Interchange Rules and/or the Applicable Laws of any Governmental Authority with jurisdiction, (iii) have been maintained in accordance with provisions hereof, (iv) have attached or affixed thereto all Parts to which Lessor has title hereunder and have removed therefrom all Parts and property to which Lessee has title thereto (unless the Lessor has exercised its option to purchase the same pursuant to Section 7.2(c)) pursuant to the terms hereof, (v) be free and clear of all Liens (other than Lessor Liens), (vi) be fit for loading and interchange service and capable of performing the functions for which it was designed, (vii) be emptied, free from Hazardous Substances, and free from deposits and accumulations from commodities transported in or on such Item, (viii) be in compliance with all Applicable Laws and (ix) be free of any marks, special paint or insignia, other than those required for identification by the Surface Transportation Board and other than those required by Section 4.2 hereof. Concurrently with each delivery of an Item to the Lessor hereunder, the Lessee will deliver to the Lessor all records in its possession relating to the repair and maintenance history of such Item, including, without limitation, all logs, schedules and computer data relating to such history of the type maintained in the ordinary course of business of the Lessee with respect to similar equipment owned or leased by the Lessee and its Affiliates. The obligations and covenants of the Lessee shall continue in effect after the expiration or termination of the Lease Term with respect to each Item until the Lessee shall have fully complied with all such obligations and covenants with respect to each such Item.

SECTION 12. DEFAULT.

12.1. Events of Default. Each of the following events shall constitute an "Event of Default" hereunder:

(a) The Lessee shall fail to make payment of any part of Basic Rent, Stipulated Loss Value, Termination Value, EBO Amount or Fair Market Value for any Item (including pursuant to Section 3.5(e) of the Participation Agreement) when due and such failure shall continue for 5 Business Days;

(b) The Lessee shall fail to make payment of Supplemental Rent or any other amount due from the Lessee under the Operative Agreements (other than payments covered by subparagraph (a) above) when due and such failure shall continue for 30 days after written notice from the Lessor;

(c) The Lessee shall fail to maintain the insurance required by Section 9.1 hereof in compliance with the terms thereof;

(d) The Lessee shall fail to perform or observe any covenants (other than as specified in Section 12.1(i) below), conditions and agreements on the part of the Lessee contained herein or in any other Lessee Agreement (other than the Tax Indemnity Agreement) and such failure shall continue for 30 days after written notice from the Lessor to the Lessee, specifying such failure and demanding the same to be remedied, in the case of all other defaults; provided, however that if (i) such failure cannot, with diligence, be cured by the payment of money alone within such 30 day period; and (ii) Lessee is diligently proceeding to cure such failure, then the period for cure will be extended for the period necessary for the Lessee to effect such cure, but not beyond the shorter of 180 days and the expiration or termination of the Basic Lease Term;

(e) Any representation or warranty made by the Lessee herein or in any other Lessee Agreement (other than the Tax Indemnity Agreement) or in any statement or certificate furnished to the Lessor, the Owner Participant or the Indenture Trustee pursuant to or in connection with this Lease or any other Lessee Agreement (other than the Tax Indemnity Agreement) is untrue in any material respect as of the date of issuance or making thereof and such representation or warranty shall remain material and materially incorrect for 30 days after written notice from Lessor;

(f) Lessee shall file a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization in a proceeding under any bankruptcy, insolvency, moratorium or other similar laws (as now or hereafter in effect) or an answer admitting the material allegations of a petition filed against Lessee in any such proceeding, or Lessee shall, by voluntary petition, answer or consent, seek relief under the provisions of any other now existing or future bankruptcy, insolvency or other similar law providing for the reorganization or winding-up of corporations or for an agreement, composition, extension or adjustment with its creditors; or shall adopt a resolution authorizing any of the foregoing; or the Lessee becomes insolvent or fails generally to pay its debts as such debts become due, or causes an order for relief to be entered against it, or acquiesces in

the entering of such an order against it, under applicable federal or state bankruptcy law, or makes an assignment for the benefit of creditors or applies for or consents to the appointment of a custodian, trustee or receiver for the Lessee or for the major part of its property;

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

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

(i) The Lessee shall fail to perform or observe its covenant set forth in Section 9.4 of the Participation Agreement.

12.2. Remedies. If any Event of Default has occurred and is continuing, the Lessor or, in the event this Lease shall have been assigned to an assignee pursuant to Section 14 hereof, such assignee (including, without limitation, the Indenture Trustee), at its option and sole discretion, may:

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

(b) by notice in writing to the Lessee, terminate this Lease, whereupon all rights of the Lessee to the use of the Equipment shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon, at Lessee's sole cost and expense, Lessee shall return promptly all or such part of the Equipment as Lessor may demand to Lessor or upon its order in the manner and condition required by, and otherwise in

accordance with all of the provisions of, Sections 11 and 13 hereof as if the Equipment was being returned at the end of the Lease Term; or Lessor, at its option, may enter upon the premises where all or any part of the Equipment is located or reasonably believed to be located and take immediate possession of and remove the same without the necessity to first institute proceedings, or by summary proceedings or otherwise, and the Lessee shall promptly execute and deliver to Lessor such instruments of title or other documents as Lessor may deem necessary or advisable to enable the Lessor or its agent to obtain possession of all or any part of the Equipment, all without liability to the Lessor for or by reason of such entry or taking possession, whether for the restoration of damage to property caused by such entry and taking or otherwise; provided, however, that if the Lessee shall for any reason fail to execute and deliver such instruments and documents after such request, the Lessor shall be entitled, in a proceeding to which the Lessee shall be a necessary party, to a judgment for specific performance, conferring the right to immediate possession upon the Lessor and requiring the Lessee to execute and deliver such instruments and documents to the Lessor;

(c) with or without taking possession thereof, sell or otherwise dispose of all or any part of the Equipment, at public or private sale and with notice to the Lessee but with or without advertisement, and hold the Lessee liable for any installment of Basic Rent due on or before the date of such sale, as the Lessor may determine or hold, use, operate, lease to others or keep idle all or any part of the Equipment as the Lessor, in its sole discretion, may determine, in any such case free and clear of any rights of the Lessee, except as hereinafter set forth in this Section 12.2 and without any duty to account to the Lessee with respect to such action or inaction or for any proceeds with respect thereto except to the extent required by Section 12.2(e) below in the event Lessor elects to exercise its rights under said paragraph in lieu of its rights under Section 12.2(d) below;

(d) whether or not the Lessor shall have exercised, or shall thereafter at any time exercise, any of its rights under Section 12.2(a) or Section 12.2(b) above with respect to all or any part of the Equipment, by written notice to the Lessee specifying a payment date not earlier than 10 days from the date of such notice, cause the Lessee to pay to the Lessor, and the Lessee shall, on the payment date specified in such notice, pay to the Lessor, as liquidated damages for loss of a bargain and not as a penalty (x) (in lieu of the Basic Rent due after the date on which such sale occurs but in addition to any installment of Basic Rent due on or prior to the date on which such sale occurs), any installment of Rent (including Supplemental Rent) due on or prior to such payment date plus

(y) whichever of the following amounts the Lessor in its sole discretion, shall specify in such notice (A) an amount equal to the excess, if any, of the Stipulated Loss Value for such Equipment or part thereof, computed as of the Rent Payment Date occurring on or immediately preceding the payment date specified in such notice, over the Fair Market Rental Value of the Equipment or part thereof for the remainder of the Lease Term, after discounting such Fair Market Rental Value semi-annually to present worth as of such payment date specified in such notice at the Applicable Rate; or (B) an amount equal to the excess, if any, of the Stipulated Loss Value for such Equipment or part thereof computed as of the Rent Payment Date occurring on or immediately preceding the payment date specified in such notice, over the Fair Market Value of such Equipment or part thereof as of such payment date; together, in the case of each of the preceding clauses (A) and (B), with interest, to the extent permitted by Applicable Law, at the Late Rate on the amount of such excess, if any, from such payment date specified pursuant to this Section 12.2(d), to the date of actual payment of such amount, provided that if the Equipment cannot be repossessed Fair Market Rental Value and Fair Market Sales Value shall be deemed to be equal to zero;

(e) in the event that the Lessor shall have sold all or any part of the Equipment pursuant to Section 12.2(c), then in lieu of exercising its rights under Section 12.2(d) above with respect to the Equipment or any part thereof, if the Lessor shall so elect, cause the Lessee to pay the Lessor, and the Lessee shall pay to the Lessor, on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty (in lieu of the Basic Rent due after the date on which such sale occurs but in addition to any installment of Basic Rent due on or prior to the date on which such sale occurs), any unpaid Rent due on or before such date and the amount of any deficiency between the net proceeds of such sale and the Stipulated Loss Value of the Equipment or such part thereof, determined as of the Rent Payment Date occurring on or next preceding such sale together with interest, to the extent permitted by Applicable Law, at the Late Rate on the amount of such deficiency from the date of sale to the date of actual payment;

(f) so long as any or all of the Equipment has not been sold pursuant to Section 12.2(b) above, by written notice to the Lessee specifying a payment date which shall not be earlier than 30 days from the date of such notice, cause the Lessee to pay the Lessor and the Lessee shall pay to the 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 due after such payment date specified in such notice), an amount equal to the higher of

the Stipulated Loss Value (determined as of the preceding Rent Payment Date), the Fair Market Sales Value or the Fair Market Rental Value (at Lessor's election) for such Items of Equipment that have not been sold computed as of such date; and upon such payment of liquidated damages and the payment of all other Rent then due and payable by the Lessee hereunder, the Lessor shall transfer, without recourse or warranty (except as to the absence of Lessor Liens), all right, title and interest of the Lessor in and to such Items of Equipment to the Lessee or as it may direct, and Lessor shall execute and deliver such documents evidencing such transfer and take such further action as may be required to effect such transfer; and

(g) terminate this Lease as to any or all Items of Equipment, avoid any sublease or other transfer of possession, or exercise any other right or remedy which may be available under any Applicable Law or proceed by appropriate court action to enforce the terms hereof or to recover damages for the breach hereof.

If the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental Value or the Fair Market Value of such Items of Equipment within 20 days after receipt by Lessee of written notice setting forth the method to be used to calculate damages pursuant to Section 12.2, such value shall be determined by any independent, nationally recognized railcar appraiser chosen by the Lessor. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. The expenses and fees of the Appraiser shall be borne by the Lessee.

12.3. Cumulative Remedies. The remedies in this Lease provided in favor of the 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. The Lessee hereby waives any mandatory requirement of Applicable Law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extend that such waiver is permitted by Applicable Law. However, regardless of the remedies exercised by the Lessor, the Lessor shall only be entitled to be made whole for its damages. To the extent of any conflict between this Agreement and the Uniform Commercial Code as enacted in the State of Illinois (including, without limitation, Section 2-A thereof), the terms and conditions of this Lease shall govern. The Lessee hereby waives any and all existing or future claims of any right to assert any offset against the Rent payments due hereunder, and agrees to make the Rent payments regardless of any offset or

claim which may be asserted by the Lessee on its behalf in connection with the lease of the Equipment.

12.4. Lessor's Failure to Exercise Rights. The failure of the Lessor to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

12.5. Notice of Event of Default. The Lessee agrees to furnish to the Lessor, the Owner Participant and the Indenture Trustee, promptly upon any officer of the Lessee becoming aware of any condition which constituted or constitutes an Event of Default under this Lease or which, after notice or lapse of time, or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof.

SECTION 13. RETURN OF EQUIPMENT UPON DEFAULT.

13.1. Lessee's Duty to Return. If the Lessor or any assignee of the Lessor pursuant to Section 14 hereof shall terminate this Lease pursuant to Section 12 hereof, the Lessee shall forthwith deliver possession of the Equipment to the Lessor in the condition required under Sections 7 and 11 hereof. For the purpose of delivering possession of any Item of Equipment to the Lessor as above required, the Lessee shall at its own cost, expense and risk (except as hereinafter stated):

(a) Forthwith place such Equipment upon such storage tracks of the Lessee or any of its Affiliates or, at the expense of the Lessee, on any other storage tracks, as the Lessor may designate or, in the absence of such designation, as the Lessor may select;

(b) Permit the Lessor to store such Equipment on such tracks without charge for insurance, rent or storage until such Equipment has been sold, leased or otherwise disposed of by the Lessor and during such period of storage the Lessee shall continue to maintain all insurance required by Section 9.1 hereof; and

(c) Transport the Equipment to any place on any lines of railroad or to any connecting carrier for shipment, all as the Lessor may direct in writing.

Concurrently with the delivery to the Lessor of any Item hereunder, the Lessee will deliver to the Lessor all records relating to such Item required to be delivered by Section 11. Except as hereinafter provided, during any storage period, the Lessee will, at its own expense, maintain and keep the Equipment in the condition required by Section 7 hereof and will permit the

Lessor or any Person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of any such Item, to inspect the same. All amounts earned in respect of the Equipment after the date of termination of this Lease, but not exceeding the rent, per diem, or other similar charge for equipment received therefor, shall be paid to the Lessor or in the event this Lease has been assigned pursuant to Section 14 hereof, to such assignee, and, if received by the Lessee, shall be promptly turned over to the Lessor, or in the case of such assignment, to such assignee. In the event any Item of Equipment is not assembled, delivered and stored as hereinabove provided within 15 days after the termination of this Lease, the Lessee shall, in addition, pay to the Lessor or, in the case of such assignment, to such assignee, for each day thereafter an amount equal to the amount, if any, by which the higher of (i) 125% of the average Basic Rent during the Lease Term and (ii) Fair Market Rental Value (determined in the manner provided in Section 12.2 hereof) for such Item of Equipment for each such day exceeds the amount, if any, received by the Lessor or such assignee (either directly or from the Lessee) for such day for such Item pursuant to the preceding sentence.

13.2. Specific Performance. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Equipment.

13.3. Lessor Appointed Lessee's Agent. Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 13, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Items of Equipment to the Lessor pursuant to Section 13.1 hereof, to demand and take possession of such Item in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Item.

SECTION 14. ASSIGNMENTS BY LESSOR.

Except as expressly provided in the Operative Agreements, this Lease and all Rent and all other sums due or to become due hereunder may not be assigned in whole or in part by the Lessor without the consent of the Lessee. Rent and other sums payable by the Lessee which are the subject matter of any such assignment shall be paid to or upon the written order of the assignee. Without limiting the foregoing, the Lessee further acknowledges and agrees that (a) subject to the terms and conditions set forth in such assignment, the rights of any such assignee in and to the sums

payable by the Lessee under any provision of this Lease shall not be subject to any abatement whatsoever and shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever whether by reason of failure of or defect in the Lessor's title, or any interruption from whatsoever cause in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other Person, firm or corporation or to any Governmental Authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part of such assignee, the Lessee shall be unconditionally and absolutely obligated to pay such assignee all of the Rent and other sums which are the subject matter of the assignment, (b) subject to the terms and conditions set forth in such assignment, said assignee shall, if an Event of Default shall have occurred and be continuing, have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of said assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor including, without limitation, the right to proceed pursuant to Section 12.2 hereof (except those rights, privileges and remedies relating to amounts payable to the Lessor or the Owner Participant pursuant to Section 9.1 with respect to public liability insurance and Section 19.2 hereof which shall remain enforceable by the Lessor and/or the Owner Participant, as the case may be, pursuant to Section 12.2(a) only), but if no Event of Default shall have occurred and be continuing, said assignee, and subject to the terms and conditions set forth in such assignment, the Lessor and the Owner Participant may each exercise their respective rights, privileges and remedies stated in this Lease to be provided for their respective benefits, and notwithstanding the occurrence of such an Event of Default, the Lessor, the Owner Participant and such assignee shall each receive all notices and reports to be provided by the Lessee hereunder or under the other Operative Agreements and (c) subject to the terms and conditions set forth in such assignment to the contrary, all obligations of the Lessor to the Lessee under this Lease shall be and remain enforceable by the Lessee against, and only against, the Lessor. Pursuant to the Indenture, the Lessor has assigned to the Indenture Trustee its right, title and interest (excluding any Excepted Rights in Collateral) in and to (i) this Lease, including the right to receive certain payments of Rent and (ii) the Equipment. The Lessee hereby (x) agrees to pay directly to the Indenture Trustee at the Indenture Trustee's office (until the Lien of the Indenture shall have been released and discharged) all amounts of Rent (other than payments in respect of Excepted Rights in Collateral) due or to become due to the Lessor, and (y) agrees that, to the extent provided in the Indenture (until the Lien of the Indenture shall have been released and discharged), the Indenture Trustee shall have or shall share with the Lessor such

rights of the Lessor hereunder (other than Excepted Rights in Collateral) as are specified in the Indenture.

It is understood and agreed that the right, title and interest of any such assignee in, to and under this Lease and the Rent and other sums due and to become due hereunder shall by the express terms granting and conveying the same be subject to the interest of the Lessee in and to the Equipment so long as no Event of Default shall have occurred hereunder.

SECTION 15. ASSIGNMENTS BY LESSEE; USE AND POSSESSION; SUBSTITUTION.

15.1. Lessee's Rights to the Equipment. So long as no Event of Default shall have occurred and be continuing, the Lessee and its Affiliates shall be entitled to the possession and use of the Equipment in accordance with the terms of this Lease and the other Operative Agreements and the Lessee may assign or transfer its leasehold interest under this Lease in any of the Items of Equipment; provided, however, that (i) notwithstanding anything to the contrary set forth in any such instrument of assignment, no such assignment or transfer and any assumption shall operate to release the Lessee from any of its obligations hereunder or under the other Operative Agreements, which shall continue in full force and effect as those of principal, and not a surety, (ii) the conditions set forth in Section 15.3(a) shall have been satisfied with respect to such assignment or transfer, (iii) the assignee under any assignment or transfer during the period from the Closing Date through the eighth anniversary thereof shall be a solvent corporation organized under the laws of any state of the United States or the District of Columbia and thereafter shall be any solvent corporation (foreign or domestic) and (iv) the number of assignments or transfers hereunder together with the number of Permitted Subleases under Section 15.2 shall never be greater than six at any one time.

15.2. Permitted Subleases. So long as no Event of Default shall have occurred and be continuing, the Lessee may sublease any Item of Equipment to any sublessee (leases to such sublessee being herein referred to as "Permitted Subleases"). Such Permitted Sublease (i) shall in no way relieve Lessee from any obligations under this Lease, and the Lessee hereby waives any rights it may now have or hereafter acquire to avoid any such obligation by reason of such Sublease or any circumstances arising from such Permitted Sublease, (ii) shall not extend beyond the expiration of the Basic Lease Term or any extension thereof pursuant to a renewal option that has been exercised by the Lessee pursuant to the provisions of Section 16 hereof, (iii) shall, by its express terms, be subject and subordinate to this Lease and the Indenture and the rights and interests of the Lessor and the Indenture Trustee and their respective successors and assigns

hereunder and thereunder, (iv) shall not contain terms that are inconsistent with the terms of this Lease (including, without limitation, Lessor's repossession rights and other remedies upon an Event of Default and Lessor's inspection rights hereunder), (v) shall contain the covenant and agreement of the sublease thereunder, for the benefit of the Lessor, that it will not sub-sublease any Item of Equipment, (vi) shall be to a solvent corporation organized under the laws of any state of the United States or the District of Columbia if such sublease is made during the period from the Closing Date through the eighth anniversary thereof and thereafter shall be any solvent corporation (foreign or domestic). The Lessee shall deliver to the Lessor within 30 days after the execution thereof a copy of any sublease having a term of at least one year. The number of Permitted Subleases hereunder together with the number of assignments or transfers under Section 15.1 shall never be greater than six at any one time. Notwithstanding any Permitted Sublease, the Lessee will remain primarily liable for the performance of its obligations under this Lease and the other Operative Agreements to which it is a party to the same extent as if such Permitted Sublease were not in effect.

15.3. Merger, Consolidation or Acquisition of Lessee. Nothing in this Section 15 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Equipment or possession of the Equipment to any solvent corporation organized under the laws of any state of the United States or the District of Columbia into or with which the Lessee shall have become merged or consolidated or which shall have acquired or leased all or substantially all of the property of the Lessee, provided that (a) (i) immediately prior and after giving effect to any such merger, consolidation or acquisition, no Event of Default shall have occurred and be continuing, (ii) such assignee, successor or transferee shall have duly assumed the obligations of the Lessee hereunder and under the other Operative Agreements pursuant to an agreement reasonably satisfactory to the Lessor, the Owner Participant and the Indenture Trustee, (b) such merger, consolidation or acquisition shall not alter in any way the surviving corporation's obligations as Lessee hereunder which shall be and remain those of a principal and not a guarantor. Promptly following any such consolidation or merger in which the Lessee immediately prior thereto is not the surviving corporation and (i) in any event within 30 days thereafter, the Lessee shall provide the Lessor and the Indenture Trustee with (x) the documentation required to comply with the provisions of Section 5(b) of the Participation Agreement and (y) an opinion of counsel reasonably satisfactory in form and substance to the Lessor and the Indenture Trustee as to the validity and enforceability of the assumption referenced in clause (a)(ii) of the preceding sentence and (ii) in any event within 90 days thereafter, the Lessee shall provide the Lessor, the Owner Participant and the Indenture Trustee with an opinion of counsel reasonably satisfactory in form and substance to

the Lessor, the Owner Participant and the Indenture Trustee as to the compliance with Section 5(b) of the Participation Agreement.

15.4. Substitution. So long as no Event of Default shall have occurred and be continuing, the Lessee shall be entitled, if it has determined pursuant to Section 17.2 that one or more Items of Equipment are surplus to the Lessee's requirements or economically obsolete, to substitute any such Item of Equipment with a Replacement Item. In connection with the semi-annual report provided by the Lessee pursuant to Section 10.1 hereof, the Lessee shall provide to the Lessor and the Indenture Trustee an officer's certificate with respect to any such surplus or obsolete Items stating that such Items of Equipment are surplus or economically obsolete together with all documentation required by Section 9.4(b) as if any such substitution pursuant to this Section 15.4 were a substitution in the event of a Casualty Occurrence pursuant to Section 9.4.

SECTION 16. PURCHASE OPTIONS; RENEWAL OPTIONS.

16.1. Election to Retain or Return Equipment. Not less than 270 days (but not more than 360 days) prior to the end of the Basic Lease Term or any Renewal Term with respect to each Item, the Lessee will give the Lessor notice ("Initial Election Notice") of its intention to return or to exercise its options under Sections 16.2 and/or 16.3 (which notice need not specify an election under either Section 16.2 or 16.3) with respect to the Items of Equipment subject to this Lease at the end of such Basic Lease Term or then applicable Renewal Term. Promptly after the receipt by the Lessor of the notice referred to above, the Fair Market Value and the Fair Market Rental Value of each Item, together with the other matters to be determined pursuant to Section 16.3, shall be determined pursuant to Section 16.4 and 16.5 below. Lessee shall, not later than 120 days prior to the end of the Basic Lease Term or any Renewal Term with respect to such Item, provide notice ("Final Election Notice") to the Lessor of (a) its election to exercise its purchase or renewal option under Section 16.2 or 16.3, as the case may be, with respect to each Item, delivery of which Final Election Notice shall irrevocably commit and bind the Lessee to effect the purchase or lease renewal specified in such notice with respect to the Items of Equipment specified therein, or (b) its election not to exercise any such option, which Final Election Notice shall also be irrevocable and binding on the Lessee. Failure by the Lessee to provide the Initial Election Notice or Final Election Notice with respect to any Items of Equipment within the time periods specified herein shall be deemed to constitute an irrevocable election by the Lessee to return such Items in compliance with Section 13. If the Lessee elects to retain such Items of Equipment, the Lessee shall comply with Section 16.2 and/or 16.3 hereof, as it may elect in accordance with the provisions thereof.

16.2. Purchase Options. Subject to compliance with Section 16.1, the Lessee shall have the right, provided no Event of Default shall have occurred and be continuing at the time of exercise or upon the expiration of the Lease Term, to purchase on the last day of the Lease Term, all or a portion at least equal to the Minimum Number of any one or more Types of Equipment then subject to this Lease or, if less than the Minimum Number of any Type then remains subject to this Lease, all Items of such Type; provided that if less than a Minimum Number of any one Type of Item would remain subject to this Lease after giving effect to such purchase, then the Lessee shall purchase all of the Items of such Type then subject to this Lease at the expiration of the Basic Lease Term or any Renewal Term, at a price equal to the then current Fair Market Value of such Items of Equipment determined pursuant to Section 16.4. Upon payment of the Fair Market Value of all such Items to be purchased on the last day of the Lease Term, together with all other accrued and unpaid Rent, in compliance with Section 2.3 and Section 14, Lessor, at Lessee's sole cost and expense, shall deliver to Lessee a bill of sale substantially in conformity with Exhibit B to the Participation Agreement transferring and assigning on an "as-is, where-is" basis to the Lessee all right, title and interest of the Lessor in and to the Equipment and containing a warranty against any Lessor Liens. The Lessor shall not be required to make any other representation or warranty as to the condition of the Equipment or any other matters, and may specifically disclaim any such representations or warranties.

16.3. Renewal Option. Provided that no Event of Default shall have occurred and be continuing at the time of exercise or upon expiration of the then current Lease Term, the Lessee shall have up to three consecutive renewal options as to all or a portion at least equal to the Minimum Number any one or more Types of Equipment then subject to this Lease or, if less than the Minimum Number of any Type then remains subject to this Lease, all Items of such Type; provided that if less than the Minimum Number of any one Type would be returned to the Lessor after giving effect to such renewal, then the Lessee shall renew this Lease with respect to all of the Items of such Type then subject to the Lease (the "Renewal Option") determined as follows:

(a) each renewal term ("Renewal Term") shall be determined as hereinafter provided and each semi-annual installment of Basic Rent payable during such Renewal Term ("Renewal Rent") shall be an amount equal to the lesser of Fair Market Rental Value of such Items or 50% of the average Basic Rent installment payments payable under this Lease during the Basic Lease Term for such Items of Equipment and shall be payable on the date which is six months after the commencement of such Renewal Term and the last day of each six month period thereafter to and including the last day of such Renewal Term;

(b) the Renewal Term under each Renewal Option shall be for a period of one year (or any one year multiple) and which, when added to all previously exercised Renewal Terms, does not exceed four years, in the case of Thrall Hopper Cars, and five years, in the case of any other type;

(c) the Stipulated Loss Value payable during the Renewal Term in respect of any Item of Equipment suffering a Casualty Occurrence shall be equal to the Fair Market Value of such Item as of the beginning of such Renewal Term decreasing on a straight-line basis during the Renewal Term to the estimated Fair Market Value of such Item at the end of the Renewal Term; and

(d) each Renewal Term shall commence immediately upon the expiration of the Basic Lease Term or the preceding Renewal Term.

16.4. Determination of Fair Market Value. "Fair Market Value" for any Item of Equipment or any other property shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing buyer (other than a buyer currently in possession) and an informed and willing seller under no compulsion to sell. Any such determination with respect to any Item shall be made (i) on the assumption that the Equipment is in the condition and state of repair required by this Lease (including Section 11); provided, that any determination under Section 12 shall instead be on as "as-is", "where-is" basis, (ii) giving effect to the removal of any parts which the Lessee is entitled to remove under the provisions of Section 7 hereof, and (iii) on the assumption that the Equipment is not subject to this Lease or any other lease or sublease. If the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Value of such Items of Equipment, such value shall be determined in accordance with the foregoing definition pursuant to Section 16.3 hereof by any independent nationally recognized railcar appraiser mutually agreed upon by the Lessor and the Lessee or if no such mutual agreement is reached within 15 days, two independent qualified appraisers, one chosen by the Lessor and one chosen by the Lessee, or, if such appraisers cannot agree on the amount of such value within 15 days of appointment, an independent nationally recognized railcar appraiser to be chosen by the American Arbitration Association promptly thereafter. Such appraiser or appraisers shall be instructed to make such determination within a period of 30 days following appointment (but in no event later than 120 days prior to the end of the then current Lease Term), and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. The expenses and fees of all such appraisers shall be paid by the Lessee.

16.5. Determination of Fair Market Rental Value. For purposes of Section 16 hereof, "Fair Market Rental Value" for any Item of Equipment or any other property shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease. Any such determination shall be made (i) on the assumption that the Equipment is in the condition and state of repair required by this Lease (including Section 11) provided, that any determination under Section 12 shall be on an "as-is" and "where-is" basis, (ii) giving effect to the removal of any parts which the Lessee is entitled to remove under the provisions of Section 7 hereof, and (iii) on the assumption that the Equipment is not subject to this Lease or any other lease or sublease. If the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental Value and the other matters required under Section 16.3 with respect to such Items of Equipment, such value shall be determined in accordance with the foregoing definition pursuant to Section 16.3 hereof by any nationally recognized railcar independent appraiser mutually agreed upon by the Lessor and the Lessee or if no such mutual agreement is reached within 15 days, two independent nationally recognized railcar appraisers, one chosen by the Lessor and one chosen by the Lessee, or, if such appraisers cannot agree on the amount of such value within 15 days of appointment, an independent qualified appraiser to be chosen by the American Arbitration Association promptly thereafter. Such appraiser or appraisers shall be instructed to make such determination within a period of 30 days following appointment (but in no event later than 120 days prior to the end of the then current Lease Term), and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. The expenses and fees of all such appraisers shall be paid by the Lessee.

16.6. Delivery of Equipment. Unless the Lessee has elected to purchase, or renew this Lease with respect to, all of the Items of Equipment then leased hereunder as provided in this Section 16, all of such Items of Equipment not being purchased or leased for a Renewal Term shall be returned to the Lessor at the end of the Basic Lease Term or the Renewal Term in accordance with Section 13 hereof.

SECTION 17. EARLY BUY-OUT; EARLY TERMINATION.

17.1. Early Buy-Out. The Lessee may, upon 180 days' (but no more than 360 days') prior written notice to the Lessor, provided that no Event of Default shall have occurred and be continuing either at the time of exercise or on the EBO Date, purchase all or a portion at least equal to the Minimum Number of any one or more Types of Equipment then subject to this Lease or,

if less than the Minimum Number of any Type then remains subject to this Lease, all Items of such Type; provided, that if less than a Minimum Number of any one Type of Item would remain subject to this Lease after giving effect to such purchase and each other purchase option, if any, which the Lessee shall have irrevocably committed in writing to exercise, then the Lessee shall purchase all of the Items of such Type then subject to this Lease so specified in such written notice subject to this Lease on the EBO Date. Lessee shall, in compliance with Sections 2.3 and 14, pay for such Items as follows: with respect to each Item (A) Lessee shall pay on the EBO Date the installment of the EBO Amount payable on such first EBO Payment Date as set forth in Exhibit G hereto (each such date set forth in Exhibit G hereto is referred to as an "EBO Payment Date"), together with all accrued and unpaid Rent hereunder (including, but not limited to, the Redemption Premium, if any, due on the Notes, but excluding any amount of Basic Rent payable in advance on or after the EBO Payment Date) and (B) Lessee shall pay on each subsequent EBO Payment Date an amount equal to the installment of the EBO Amount payable on each subsequent EBO Payment Date as set forth in Exhibit G hereto (such installments of EBO Amount to be, respectively, due and payable by Lessee on such EBO Payment Dates). Upon payment by Lessee of all amounts due under clause (A) above, (1) the Lease Term of this Lease with respect to Items then being purchased shall terminate and all Rent payable hereunder with respect to the Items then being purchased shall cease to accrue; provided, however, that the Lessee's obligations under this Section 17.1 shall survive the termination of this Lease; (2) Lessor shall transfer all of its right, title and interest in and to the Items then being purchased to Lessee on an "as-is", "where-is" basis, without recourse and without representation or warranty, express or implied, except as to the absence of Lessor Liens; and (3) the Lessee shall execute and deliver to and for the benefit of the Lessor such instruments as the Owner Participant shall reasonably request (and shall be in form and substance reasonably satisfactory to the Owner Participant and the Lessor) and containing terms and conditions no more onerous to the Lessee than those contained in the Operative Agreements and pledging and mortgaging the Lessee's right, title and interest in and to the Items purchased to secure the payment of the subsequent installments of the EBO Amount.

17.2. Obsolescence Termination. (a) The Lessee shall have the right so long as no Event of Default shall have occurred and be continuing either at the time of exercise or at the Termination Date, to terminate this Lease with respect to all or a portion at least equal to a Minimum Number of any one or more Types of Equipment then subject to this Lease or, if less than the Minimum Number of any Type then remain subject to this Lease, all Items of such Type; provided that if less than a Minimum Number of any Type of Equipment would remain subject to this Lease after giving effect to such termination, then the Lessee shall terminate this Lease with respect to all of the Items of such Type then subject to this Lease and shall terminate this Lease with respect

to all of the Items of such Type then subject to this Lease on any Rent Payment Date occurring during the Basic Lease Term on or after the seventh anniversary of the Closing Date for such Items of Equipment if the Lessee shall have made a good faith determination that such Items of Equipment are surplus to the Lessee's requirements or economically obsolete. The Lessee shall give the Lessor and the Indenture Trustee at least one hundred and eighty (180) days' but not more than 360 days' revocable prior written notice of the Lessee's intention to so terminate this Lease with respect to such Items of Equipment (any such notice, a "Termination Notice") (i) specifying the Rent Payment Date on which the Lessee intends to so terminate this Lease with respect to such Items of Equipment (such specified date, a "Termination Date") and (ii) attaching a certificate of any Vice President or more senior officer of the Lessee which states that the Items of Equipment are surplus to the Lessee's requirements or economically obsolete. The Termination Notice shall become irrevocable sixty (60) days prior to the Termination Date. The Lessee shall exercise this option by arranging for the sale of the Items of Equipment pursuant to Section 17.2(b) below.

(b) In the event that the Lessee shall have proposed to terminate this Lease with respect to any Items of Equipment specified in the Termination Notice pursuant to this Section 17.2, then during the period commencing with the date of the Termination Notice until the proposed Termination Date the Lessee, as non-exclusive agent for the Lessor, shall use commercially reasonable efforts to obtain cash bids in U.S. Dollars for the purchase of such Items of Equipment and, in the event it receives any cash bid, the Lessee shall, within five business days after receipt thereof and at least ten business days prior to the proposed Termination Date, advise the Lessor in writing of the amount and terms of such bid, and the name and address of the party or parties submitting such bid. Subject to Lessor's rights under Section 17.2(c) and to the release of all mortgage and security interests with respect to such Items of Equipment under the Trust Indenture, on the Termination Date (1) the Lessee shall deliver the Items of Equipment, or cause the Items of Equipment to be delivered to the highest bidder as determined under clause (2) below, (2) upon receipt of the purchase price therefor and of the amounts set forth in clause (3) below, the Lessor shall, without recourse or warranty (except as to the absence of Lessor Liens), sell such Items of Equipment for cash in U.S. Dollars to the bidder, if any, which shall have submitted the highest cash lump sum bid (evaluated on a net after-tax basis) therefor, the total selling price realized at such sale to be retained by the Lessor; <u>provided</u>, <u>however</u>, that no bid by the Lessee or any Affiliate or Tax Affiliate of the Lessee shall be accepted, and (3) the Lessee shall simultaneously pay or cause to be paid to the Lessor, in addition to any amounts otherwise due with respect to the Items as to which the Lease is not being so terminated, (A) if the proceeds received by the Lessor of the sale of the Items of Equipment so sold, net of reasonable

costs and expenses incurred by the Lessor and the Owner Participant in connection therewith, including transfer taxes, are less than the Termination Value for the Items of Equipment computed as of the Termination Date, the difference in U.S. Dollars, (B) all accrued and unpaid Basic Rent due on or prior to such Termination Date (other than Basic Rent payable in advance on or after such Termination Date) and all accrued and unpaid Supplemental Rent with respect to the Items of Equipment as to which this Lease is being terminated due or accrued on or prior to such Termination Date (including Redemption Premium, if any, due on the applicable Series of Notes); provided, if the net proceeds from the sale of the Items of Equipment exceed Termination Value the Lessee shall be paid from such excess proceeds a reasonable remarketing fee for acting as agent for the Lessor as provided herein.

(c) Notwithstanding Section 17.2(b), the Lessor may, if the Lessee has not revoked the Termination Notice, elect to retain title to the subject Items of Equipment. If the Lessor so elects, the Lessor shall give to the Lessee written notice of such election within 90 days of the Termination Date, the Termination Notice accompanied by an irrevocable undertaking by the Owner Participant to make available to the Lessor for payment to the Indenture Trustee on the Termination Date the amount required to pay in full the unpaid principal amount of the applicable Series of Notes outstanding on the Termination Date equal to the Loan Value of such Items together with all other amounts due on such Termination Date thereunder, excluding Redemption Premium, if any, which shall be payable by the Lessee, as a result of the payment thereof if the same is not otherwise paid. Upon receipt of notice of such an election by the Lessor and the accompanying undertaking by the Owner Participant, the Lessee shall cease its efforts to obtain bids as provided above and shall reject all bids theretofore or thereafter received, and on the Termination Date, the Lessor shall pay an amount, when added to the Basic Rent (other than the Equity Rent component thereof) then due under this Section 17.2(c), equal to the unpaid principal amount of the applicable Series of Notes outstanding on the Termination Date equal to the Loan Value of such Items plus interest accrued or to accrue thereon to but excluding the Termination Date together with all other amounts due thereunder less any amounts to be paid by the Lessee as a result of the payment thereof and, provided that the applicable Notes are paid as aforesaid, the Lessee shall deliver the Items of Equipment to the Lessor in compliance with Section 11 and shall pay all accrued and unpaid Basic Rent due on or prior to the Termination Date (other than Basic Rent payable in respect of the subject Items of Equipment in advance on or after the Termination Date) and all accrued and unpaid Supplemental Rent due on or prior to such Termination Date (including Redemption Premium, if any, due on the applicable Series of Notes).

(d) If no sale shall have occurred on the Termination Date or the Lessor has not, after making its election referred to

in Section 17.2(c), made the payment contemplated by the preceding sentence and thereby caused this Lease to terminate with respect to the Items of Equipment, this Lease shall continue in full force and effect as to such Items of Equipment. The Lessee shall be entitled (to the extent permitted by law or pursuant to any contractual arrangement with the proposed purchaser(s) of the Items of Equipment (without in any way Equipment) to keep any deposits or other advances received from the proposed purchaser(s) of the Items of Equipment (without in any way limiting any other rights or remedies against such proposed purchaser(s) available to the Lessor or the Lessee). The Lessee agrees to pay the reasonable costs and expenses incurred by the Owner Participant, the Indenture Trustee and the Lessor (unless such failure to terminate the Lease is a consequence of the failure of the Lessor or the Owner Participant without due cause to make, or cause to be made, the payment on the applicable Series of Notes referred to above), if any, in connection with preparation for such sale and the Lessee may give one or more additional Termination Notices, provided that no more than three such notices may be given during the Lease Term (not counting any Termination Notice for a Termination Date on which Items as to which Lessee has elected to terminate this Lease but as to which this Lease does not terminate as a consequence of the failure of the Lessor or the Owner Participant without due cause to make or cause to be made the payment referred to in Section 17.2(c) but counting any other notices as to which this Lease does not terminate for any other reason). In the event of any such sale or such retention of the Items of Equipment by the Lessor and upon compliance by the Lessee with the provisions of this paragraph, the obligation of the Lessee to pay Basic Rent hereunder with respect to the Items to which this Lease has been terminated shall cease to accrue. Upon payment of all amounts then due hereunder, this Lease shall terminate with respect to such Items of Equipment. The Lessor may, but shall be under no duty to, solicit bids, inquire into the efforts of the Lessee to obtain bids or otherwise take any action in connection with any such sale other than to transfer (in accordance with the foregoing provisions) to the purchaser named in the highest bid certified by the Lessee to the Lessor all of the Lessor's right, title and interest in the subject Items of Equipment, against receipt of the payments provided herein.

(e) The Lessee hereby covenants that, if the Lease Term shall end with respect any Item pursuant to the provisions of this Section 17.2, neither the Lessee nor any Affiliate thereof shall, directly or indirectly, use or acquire (by lease, purchase or otherwise) such Item for any purpose; provided, however, that neither the Lessee nor any Affiliate thereof shall be deemed to be in violation of the foregoing if: (x) it merges or consolidates with any Person or acquires all or substantially all of the assets of any Person (or any division or business unit thereof) that has so used or acquired such Item after the end of the Lease Term with respect to such Item and (y) at the time that the Lease Term shall have ended pursuant to this Section 17.2 with respect to such Item

there was no expectation on the part of the Lessee to enter into such merger, consolidation or acquisition with such Person. This Section 17.2(e) shall survive the termination or expiration of the Lease pursuant to this Section 17.2.

SECTION 18. INTEREST ON OVERDUE RENTS AND AMOUNT PAID BY LESSOR.

Anything to the contrary herein contained notwithstanding, any nonpayment of Rent due hereunder, or amounts expended by the Lessor on behalf of the Lessee, shall result in the additional obligation on the part of the Lessee to pay also an amount equal to the Applicable Rate plus 2% per annum (or the maximum rate of interest permitted by Applicable Law, whichever is less) (the "Late Rate") on the overdue Rent and amounts expended for the period of time during which they are overdue or expended and not repaid.

SECTION 19. MISCELLANEOUS.

19.1. Notices. Any notice required or permitted to be given by either party hereto to the other shall be in writing, delivered or mailed in compliance with Section 9.2 of the Participation Agreement.

19.2. Right of Lessor to Perform. If the Lessee shall fail to comply with any of its covenants herein contained, subject to Section 5.3(a) of the Indenture, either the Lessor, the Owner Participant or, in the case of an assignment by the Lessor pursuant to Section 14 hereof, the assignee thereunder (including, without limitation, the Indenture Trustee) may, but shall not be obligated to, make advances to perform the same and to take all such action as may be necessary to obtain such performance. Any payment so made by any such party and all cost and expense (including, without limitation, reasonable attorneys' fees and expenses) incurred in connection therewith shall be payable by the Lessee to the party making the same upon demand as additional Rent hereunder, with interest at the rates provided in Section 18.

19.3. Execution in Counterparts. This Lease, and any Lease Supplement hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument.

19.4. Law Governing. THIS LEASE SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW.

19.5. Headings and Table of Contents. All Section headings and the Table of Contents are inserted for convenience

only and shall not affect any construction or interpretation of this Lease.

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

19.7. Limitations of Liability. It is expressly understood and agreed that this Lease and each other Operative Agreement is executed by the Trust Company, not in its individual capacity or personally but solely as Owner Trustee under the Trust Agreement in the exercise of the power and authority conferred and vested in it as such Owner Trustee, that (except as otherwise expressly provided herein or therein) each and all of the representations, undertakings and agreements herein and therein made on the part of the Lessor are each and every one of them made and intended not as personal representations, undertakings and agreements by the Trust Company or the Owner Participant, or for the purpose or with the intention of binding the Trust Company or the Owner Participant in its individual capacity or personally, but are made and intended for the purpose of binding only the Trust Estate as defined in the Trust Agreement, that this Lease is executed and delivered by the Owner Trustee solely in the exercise of the powers expressly conferred upon the Owner Trustee under the Trust Agreement, that actions to be taken by the Lessor pursuant to its obligations hereunder and thereunder may, in certain instances, be taken by the Lessor only upon specific authority of the Owner Participant, that nothing herein contained shall be construed as creating any liability on the Trust Company or the Owner Participant, in its individual capacity or personally, or any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, employee, officer or director of, the Trust Company or the Owner Participant, to perform any covenant either express or implied contained herein or therein, all such liability, if any, being expressly waived by the Lessee and by any Person claiming by, through or under the Lessee, provided, however, that nothing contained in this Section 19.7 shall be construed to limit the liability of the Lessor in its individual capacity for any breach of any representations or warranties of the Lessor in its individual capacity set forth herein or to limit the liability of the Lessor for gross negligence or willful misconduct or for the representations made in its individual capacity or with respect to the handling of funds, for liability with respect to the failure to exercise ordinary care. Any obligation of the Lessor hereunder may be performed by the Owner Participant, and any such performance shall not be construed as revocation of the trust created by the Trust Agreement. Nothing contained in this Lease shall restrict the operation of the provisions of the Trust Agreement with respect

to its revocation or the resignation or removal of the Owner Trustee thereunder.

19.8. Owner for all Purposes. It is hereby agreed between the Lessee and the Lessor that the Owner Trustee will treat itself as the owner of the Items of Equipment to be delivered under this Lease and the Lessee will treat itself as the lessee thereof for all purposes; provided, however, that the Owner Participant will treat itself as the owner of such Items of Equipment for federal income tax purposes.

19.9. Indenture Trustee. The provisions of this Lease that require or permit action by, the payment of any moneys to, the consent or approval of, the furnishing of any instrument or information to, or the performance of any other obligation to, the Indenture Trustee shall not be effective after the lien of the Indenture has been released in accordance with its terms and the Indenture Trustee has given the Lessee and the Lessor written notice thereof.

19.10. Non-Business Day. Notwithstanding anything herein to the contrary, (a) in the event that any right or option of the Lessee under this Lease shall be stated to be exercisable on a date which is not a Business Day, such right or option shall be exercisable on the next succeeding Business Day without interest or penalty and (b) if the Lease Term would end on a date which is not a Business Day, then the Lease Term shall end on the next succeeding Business Day.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their respective officers thereunder duly authorized and the corporate seals to be hereto affixed as of the day and year first above written.

FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, not in its individual capacity but solely as Owner Trustee

By: _____
Its: Trust Officer

ATTEST:

By: _____
Its: Asst. Vice President

FMC CORPORATION

By: _____
Its: _____

ATTEST:

By: _____
Its: _____

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their respective officers thereunder duly authorized and the corporate seals to be hereto affixed as of the day and year first above written.

FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, not in its individual capacity but solely as Owner Trustee

By: _____
Its: _____

ATTEST:

By: _____
Its: _____

FMC CORPORATION

By: _____
Its: Assistant Treasurer

ATTEST:

By: R. L. Day
Its: Secretary

STATE OF Utah)
) SS
COUNTY OF Salt Lake)

On this 18th day of March, 1996 before me personally appeared Brett R. King and C. Scott Nielsen, to me personally known, who being by me duly sworn, say that they are the Trust Officer and Assistant Vice President of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

NOTARY PUBLIC
DIANNE MORENO
79 South Main
S.L.C., UT 84111
COMMISSION EXPIRES
NOV. 30, 1998
STATE OF UTAH

D Moreno
Notary Public

[NOTARIAL SEAL]

My commission expires: _____

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of March, 1996 before me personally appeared _____ and _____, to me personally known, who being by me duly sworn, say that they are the _____ and _____ of FMC CORPORATION, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

_____
Notary Public

[NOTARIAL SEAL]

My commission expires: _____

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of March, 1996 before me personally appeared _____ and _____, to me personally known, who being by me duly sworn, say that they are the Vice President and _____ of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

_____
Notary Public

[NOTARIAL SEAL]

My commission expires: _____

STATE OF Illinois)
) SS
COUNTY OF Cook)

On this 18th day of March, 1996 before me personally appeared D.N. Schuchardt and R.L. Day, to me personally known, who being by me duly sworn, say that they are the Assistant Treasurerand Secretary of FMC CORPORATION, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Jean M Rohr
Notary Public

"OFFICIAL SEAL"
JEAN M. ROHR
Notary Public, State of Illinois
My Commission Expires 8-17-98

[NOTARIAL SEAL]

My commission expires: _____

FORM OF EQUIPMENT LEASE SUPPLEMENT

SCHEDULE A

EQUIPMENT LEASE SUPPLEMENT (1996-1) NO. ___

EQUIPMENT LEASE SUPPLEMENT (1996-1) NO. ___, dated _____ ___, 19__ (this "Supplement"), between FMC CORPORATION, a Delaware corporation (the "Lessee"), and FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, not in its individual capacity but solely as Owner Trustee ("Lessor"), under a Trust Agreement dated as of September 15, 1995, with the Owner Participant named therein.

W I T N E S S E T H:

WHEREAS, the Lessor and the Lessee heretofore have entered into that certain Equipment Lease (1996-1) dated as of March 15, 1996 (herein, together with any amendments and supplements heretofore made thereto, the "Lease"); and

WHEREAS, the Lease provides for the execution and delivery on each Closing Date (such term and other defined terms in the Lease being herein used with the same meanings and the rules of interpretation applicable to the Lease being applicable thereto) of a Supplement thereto substantially in the form hereof;

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

1.01 Acceptance and Lease. The Lessee hereby acknowledges and confirms that on the date hereof the Items of Equipment described in Schedule I hereto have been unconditionally accepted by the Lessee from the Lessor and are now leased under the Lease and have been marked in accordance with Section 4 of the Lease. The Items of Equipment being accepted hereby are located in various jurisdictions, but none of the Items of Equipment being accepted hereby are being accepted in Chicago, Illinois.

1.02 Basic Rent, Stipulated Loss Values, Termination Values and EBO Amount. Attached as Schedule D-___, E-___, F-___ and G-___ hereto [to the Lease] are the Basic Rent, Stipulated Loss Values, Termination Values and EBO Amount and EBO Dates, respectively, for the Items of Equipment covered by this Supplement.

1.03 Term. The Interim Term with respect to the Items of Equipment shall begin on the date of delivery and acceptance hereunder and, subject to the terms of Sections 9 and 12 of the Lease, shall terminate at 11:59:59 p.m. on _____. The Basic Lease Term with respect to the Items of Equipment, subject to

the provisions of Section 7 of the Lease, shall commence immediately upon the expiration of the Interim Term and shall terminate on _____.

1.04 Miscellaneous. Any and all notices, requests, certificates and other instruments executed and delivered after the execution and delivery of this Supplement may refer to the Lease without making specific reference hereto, but nevertheless all such references shall be deemed to include this Supplement unless the context thereof shall otherwise require.

1.05 Law Governing. THIS SUPPLEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW.

1.06 Limitations of Liability. It is expressly understood and agreed that this Supplement and each other Operative Agreement is executed by the Trust Company, not in its individual capacity or personally but solely as Owner Trustee under the Trust Agreement in the exercise of the power and authority conferred and vested in it as such Owner Trustee, that (except as otherwise expressly provided herein or therein) each and all of the representations, undertakings and agreements herein and therein made on the part of the Lessor are each and every one of them made and intended not as personal representations, undertakings and agreements by the Trust Company or the Owner Participant, or for the purpose or with the intention of binding the Trust Company or the Owner Participant in its individual capacity or personally, but are made and intended for the purpose of binding only the Trust Estate as defined in the Trust Agreement, that this Supplement is executed and delivered by the Owner Trustee solely in the exercise of the powers expressly conferred upon the Owner Trustee under the Trust Agreement, that actions to be taken by the Lessor pursuant to its obligations hereunder and thereunder may, in certain instances, be taken by the Lessor only upon specific authority of the Owner Participant, that nothing herein contained shall be construed as creating any liability on the Trust Company or the Owner Participant, in its individual capacity or personally, or any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, employee, officer or director of, the Trust Company or the Owner Participant, to perform any covenant either express or implied contained herein or therein, all such liability, if any, being expressly waived by the Lessee and by any Person claiming by, through or under the Lessee, provided, however, that nothing contained in this Section 1.06 shall be construed to limit the liability of the Lessor in its individual capacity for any breach of any representations or warranties of the Lessor in its individual capacity set forth herein or to limit the liability of the Lessor for gross negligence or willful misconduct or for the representations made in its individual capacity or with respect to the handling of funds, for liability with respect to the failure to exercise ordinary care. Any obligation of the Lessor hereunder may

be performed by the Owner Participant, and any such performance shall not be construed as revocation of the trust created by the Trust Agreement. Nothing contained in this Supplement shall restrict the operation of the provisions of the Trust Agreement with respect to its revocation or the resignation or removal of the Owner Trustee thereunder.

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

This Supplement may be executed in several counterparts, such counterparts together constituting but one and the same agreement. To the extent, if any, that this Lease Supplement constitutes chattel paper (as defined in the Uniform Commercial Code as in effect in any applicable jurisdiction), no security interest may be created through the transfer of any counterpart other than the "original" counterpart which is deemed to be the counterpart containing the receipt therefor executed by Harris Trust and Savings Bank on the signature page thereof.

* * * * * * * * * *

IN WITNESS WHEREOF, each of the parties hereto, pursuant to due corporate authority, has caused this instrument to be duly executed in its corporate name by its officers thereunto duly authorized, all as of the date first above written.

LESSEE: FMC CORPORATION

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

LESSOR: FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, not in its individual capacity, but solely as Owner Trustee

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

STATE OF _____)
) SS
COUNTY OF _____)

On this ____ of _____, 1996, before me personally appeared _____ and _____, to me personally known, who being by me duly sworn, say that they are _____ and _____, respectively of FMC CORPORATION, that said instrument was signed and sealed on behalf of said corporation on such day by authority of its Board of Directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

_____
Notary Public

[NOTARIAL SEAL]

My commission expires: _____

STATE OF _____)
) SS
COUNTY OF _____)

On this ___ day of _____, 1996, before me personally appeared _____, and _____, to me personally known, who being by me duly sworn, say that they are _____ and _____, respectively, of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, that said instrument was signed and sealed on behalf of said corporation on such day by authority of its Board of Directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

_____
Notary Public

[NOTARIAL SEAL]

My commission expires: _____

RECEIPT

Receipt of this original counterpart of the foregoing Supplement is hereby acknowledged.

HARRIS TRUST AND SAVINGS BANK,
as Indenture Trustee

By: _____
Name: _____
Title: _____

Schedule I
(to Equipment Lease Supplement)

Description of Items of Equipment

CERTIFICATE OF ACCEPTANCE
UNDER EQUIPMENT LEASE

TO: First Security Bank of Utah, National Association, as Owner Trustee under FMC Rail Trust 1996-1 (the "Lessor")

I, a duly appointed and authorized representative of FMC CORPORATION (the "Lessee") under the Equipment Lease (1996-1) dated as of March 15, 1996 between the Lessor and the Lessee, do hereby certify on behalf of the Lessee that I have received, approved and accepted delivery under the Lease of the following Items of Equipment listed on Schedule A attached hereto:

DATE ACCEPTED: _____

I do further certify that the foregoing Items of Equipment have been inspected by the Lessee and are in good order and condition, and conform to the specifications applicable thereto, that there is no defect in any of the foregoing Items of Equipment with respect to design, manufacture, condition or in any other respect, and that each Item has been (or will be pursuant to Section 4.2 of the Lease) labeled by means of a plate or a stencil printed in contrasting colors upon each side of the Item in letters not less than one inch in height as follows:

["OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION."

or][1/]

"OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE SURFACE TRANSPORTATION BOARD."

The execution of this Certificate will in no way relieve or decrease the responsibility of any manufacturer of the Equipment, for any warranties it has made with respect to the Equipment.

Dated: _____

FMC CORPORATION

By: _____

Its: _____

SCHEDULE B
(to Equipment Lease)

1/ First Closing Date only.

BASIC RENTS

[Intentionally Omitted]

SCHEDULE D
(to Equipment Lease)

STIPULATED LOSS VALUES

[Intentionally Omitted]

SCHEDULE E
(To Equipment Lease)

TERMINATION VALUES

[Intentionally Omitted]

SCHEDULE F
(To Equipment Lease)

EBO AMOUNTS AND EBO DATES

[Intentionally Omitted]

SCHEDULE G
(to Equipment Lease)

APPENDIX I

DEFINITIONS

In each Operative Agreement (as hereinafter defined):

(a) the terms set forth in this Appendix I or in any such Operative Agreement shall have the meanings herein provided for and any term used in a Operative Agreement and not defined therein or in this Appendix I but in another Operative Agreement shall have the meaning provided for in such other Operative Agreement;

(b) any term defined in this Appendix I by reference to another document, instrument or agreement shall continue to have the meaning ascribed thereto whether or not such other document, instrument or agreement remains in effect;

(c) words importing the singular include the plural and vice versa;

(d) words importing a gender include any gender;

(e) a reference to a part, clause, party, section, paragraph, article, annex, appendix, exhibit, schedule or other attachment to or in respect of a Operative Agreement is a reference to a part and clause of, or a party, section, paragraph, article, annex, appendix, exhibit, schedule or other attachment to, such Operative Agreement unless, in any such case, otherwise expressly provided in any such Operative Agreement;

(f) a reference to any statute, regulation, proclamation, ordinance or law includes all statutes, regulations, proclamations, ordinances or laws varying, consolidating or replacing the same from time to time, and a reference to a statute includes all regulations, proclamations and ordinances issued or otherwise applicable under that statute;

(g) a reference to any document, instrument or agreement includes an amendment or supplement to, or restatement, replacement, modification or novation of, any such document, instrument or agreement;

(h) a reference to a particular section, paragraph or other part of a particular statute shall be deemed to be a reference to any other section, paragraph or other part substituted therefor from time to time;

(i) if a capitalized term describes, or shall be defined by reference to, a document, instrument or agreement that has not as of any particular date been executed and delivered and such document, instrument or agreement is attached as an exhibit to the Participation Agreement (each as hereinafter defined), such reference shall be deemed to be to such form and, following such execution and delivery and subject to paragraph (g) above, to the document, instrument or agreement as so executed and delivered;

(j) a reference to any Person (as hereinafter defined) includes such Person's successors and permitted assigns;

(k) any reference to "days" shall mean calendar days unless "Business Days" are expressly specified;

(l) when used herein or in any document or certificate, accounting terms not defined in this Appendix I and accounting terms partly defined in this Appendix I, shall have the respective meanings given to them under GAAP;

(m) any reference to the satisfaction, release and/or discharge of any Operative Agreement (as hereinafter defined) or the Lien (as hereinafter defined) thereof (or words of similar import) shall, whether or not so expressly stated, be deemed to be a reference to the satisfaction, release and discharge in full and cancellation of the Lien of such Operative Agreement in accordance with the express provisions thereof or, if such discharge has not occurred when the same is required pursuant to the express provisions of such Operative Agreement, to the date when such discharge is or was required thereunder;

(n) when used in any document, words such as "hereunder", "hereto", "hereof" and "herein" and other words of similar import shall, unless the context requires otherwise, refer to the whole of the applicable document and not to any particular article, section, subsection, paragraph or clause thereof;

(o) references to "including" shall mean including without limitation and without limiting the generality of any description preceding such term; and

(p) references in any document (including this Appendix I and any Operative Agreement) to "NationsBank, National Association" shall be deemed to be references instead to "KBNY Leasing Inc. (as successor in interest to NationsBank, National Association)" and for purposes of each of the Operative Agreements (including Section 6.2 of the Participation Agreement), KBNY Leasing Inc. shall be deemed to

be the original Owner Participant under the Operative Agreements.

"ACF 5000 Hopper Cars" shall mean the Items constituting 5000 cubic foot capacity covered hopper cars manufactured by ACF Industries Corporation, as more fully described in each Lease Supplement relating thereto.

"ACF 5100 Hopper Cars" shall mean the Items constituting 5100 cubic foot capacity covered hopper cars manufactured by ACF Industries Corporation, as more fully described in each Lease Supplement relating thereto.

"Adjustment Event Certificate" shall have the meaning specified in Section 2.4(e) of the Lease.

"Advance" shall have the meaning specified in Section 2.6 of the Lease.

"Affiliate" shall mean any Person who or which, directly or indirectly, through one or more intermediaries controls, or is controlled by, or is under common control with, another Person. The term "control" shall mean 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.

"After-Tax Basis" shall mean, with respect to any payment to be received, the amount of such payment supplemented by a further amount so that, after deduction of the amount of all Taxes actually required to be paid by the recipient of the payment (taking into account any Tax savings actually realized by the recipient from deduction of the payment of the indemnified amount) with respect to the receipt by it of such amounts are equal to the payment required to be made on an After-Tax Basis. In the case of the Owner Participant or any Affiliate thereof, it shall be assumed that the recipient is fully taxable for United States federal income tax purposes at the highest marginal rate applicable to corporations at the time such amount is received or properly accrued.

"All-in Present Value" shall have the meaning specified in Section 2.4(a) of the Lease.

"Applicable Law" shall mean all applicable United States, foreign, federal, state and local laws, ordinances, statutes, rules, regulations, orders, injunctions, writs, treaties, decrees, licenses and permits of any Governmental Authority (including the Interchange Rules and all Environmental Laws).

"Applicable Rate" shall have the meaning set forth in Section 2.2(a) of the Participation Agreement.

"Appraiser" shall have the meaning set forth in Section 4.1(p) of the Participation Agreement.

"Basic Lease Term" shall have the meaning specified in Section 2.2 of the Lease.

"Base Lease Term Commencement Date" shall mean January 1, 1997.

"Basic Rent" shall have the meaning specified in Section 2.1(a) of the Lease.

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

"Bill or Bills of Sale" shall have the meaning specified in Recital A(1) of the Participation Agreement.

"Business Day" shall have the meaning set forth in Section 2.2 of the Lease.

"Casualty Occurrence" shall have the meaning specified in Section 9.2(a) of the Lease.

"Certificate of Acceptance" shall mean any Certificate of Acceptance delivered pursuant to Section 1.3 of the Lease.

"Change in Tax Law" shall mean the enactment, promulgation or issuance of 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, other formal announcement or other published administrative determination or guidance by the Internal Revenue Service or the Department of Treasury, or any other administrative or judicial interpretation.

"Closing Date" shall have the meaning specified in Section 2.3 of the Participation Agreement.

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

"Collateral" shall have the meaning specified in Section 1 of the Indenture.

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

"Designated Locations" shall have the meaning specified in Section 11 of the Lease.

"EBO Amount" with respect to any Item of Equipment shall have the meaning specified in Schedule G to the Lease.

"EBO Date" with respect to any Item of Equipment shall have the meaning specified in Schedule G to the Lease.

"EBO Payment Date" shall have the meaning specified in Section 17.1 of the Lease.

"Enforcement Date" shall have the meaning specified in Section 5.3(a) of the Indenture.

"Enforcement Notice" shall have the meaning specified in Section 5.3(a) of the Indenture.

"Environmental Laws" shall mean any federal, state or local laws, ordinances, rules, orders, statutes, decrees, judgments, injunctions, directives, permits, licenses, approvals, codes and regulations relating to the environment, human health, natural resources or Hazardous Materials, as may from time to time be amended, supplemented or supplanted.

"Equipment" shall mean, collectively, all of the Items of Equipment.

"Equipment Lot" shall mean, with respect to each Closing Date, that portion of the items of railroad rolling stock described on Schedule 4 to the Participation Agreement to be sold to the Owner Trustee, as set forth in the Notice of Closing delivered by the Lessee pursuant to Section 2.3 of the Participation Agreement, and on and after such Closing Date all of the Items of Equipment described on the Bill of Sale and the Lease Supplement or Supplements entered into and delivered by Lessee and Lessor on such Closing Date.

"Equity Commitment" shall have the meaning specified in Section 2.1 of the Participation Agreement.

"Equity Investment" shall have the meaning specified in Section 2.1 of the Participation Agreement.

"Equity Rent" shall mean, in respect of any payment of Basic Rent, (i) the amount of Basic Rent payable under the Operative Agreements minus (ii) the amount then scheduled to be due and payable to the holders of the outstanding Notes.

"Equity SLV" shall mean, in respect of any payment of Stipulated Loss Value or Termination Value, (i) the amount of Stipulated Loss Value or Termination Value payable under the Operative Agreements minus (ii) the aggregate principal amount of the outstanding Notes.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended.

"Event of Default" (unless the context otherwise shall require) shall have the meaning specified in Section 12 of the Lease.

"Excepted Rights in Collateral" shall have the meaning specified in Section 1.5 of the Indenture.

"Fair Market Rental Value" shall have the meaning specified in Section 16.5 of the Lease.

"Fair Market Value" shall have the meaning specified in Section 16.4 of the Lease.

"Final Election Notice" shall have the meaning specified in Section 16.1 of the Lease.

"First Closing Date" shall have the meaning specified in Section 2.3 of the Participation Agreement.

"GAAP" shall mean generally accepted accounting principles in the United States of America.

"Governmental Authority" shall mean any federal, state, county, municipal or other United States federal, state or local governmental authority, agency, board, body, instrumentality, tribunal, court or quasi-governmental authority or governmental authority, agency, board, body, instrumentality, tribunal, court or quasi-governmental authority of Canada or Mexico (or any subdivision thereof).

"Granting Clause Agreements" shall have the meaning specified in Section 1.3 of the Indenture.

"Guarantor" shall mean Key Bank of New York, a New York state chartered banking organization, as guarantor.

"Hazardous Material" shall mean any substance that is toxic, explosive, corrosive, flammable, infectious or radioactive, or defined as a "hazardous substance," "hazardous waste," "toxic substance" or the like under any Environmental Law, including petroleum, petroleum derivatives, crude oil or any fraction thereof.

"Indemnitee" shall have the meaning set forth in Section 6.1(a) of the Participation Agreement.

"Indenture" shall have the meaning specified in Recital A(3) of the Participation Agreement.

"Indenture Default" shall have the meaning specified in Section 4.4 of the Indenture.

"Indenture Supplement" shall have the meaning specified in Section 1.1 of the Indenture.

"Indenture Trustee" shall have the meaning specified in the introductory paragraph of the Participation Agreement.

"Indenture Trustee Agreements" shall have the meaning specified in Section 3.6(a) of the Participation Agreement.

"Initial Election Notice" shall have the meaning specified in Section 16.1 of the Lease.

"Interchange Rules" shall have the meaning specified in Section 6 of the Lease.

"Interests" shall mean the Beneficial Interest and the Notes, collectively, and "Interest" shall mean the Beneficial Interest or a Note, individually.

"Interim Term" shall have the meaning specified in Section 2.2 of the Lease.

"Item" or "Item of Equipment" shall mean individually each item of railroad rolling stock described in the Bill of Sale and the Lease Supplement delivered on each Closing Date, together with any and all accessions, additions, improvements, substitutions and replacements from time to time incorporated or installed on such item which are the property of the Owner Trustee pursuant to the terms of the Operative Agreements, and "Items of Equipment" shall mean collectively the various Items.

"Late Rate" shall have the meaning specified in Section 18 of the Lease.

"Lease" shall have the meaning specified in Recital A(2) of the Participation Agreement.

"Lease Supplement" shall have the meaning specified in the Recitals to the Lease.

"Lease Term" shall have the meaning specified in Section 3 of the Lease.

"Lessee" shall have the meaning specified in the introductory paragraph of the Participation Agreement.

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

"Lessee Controlled Contest" shall have the meaning specified in Section 6.2(e) of the Participation Agreement.

"Lessee's Business" shall have the meaning specified in Section 3.5(d)(v) of the Participation Agreement.

"Lessee's Counsel" shall have the meaning specified in Section 6.2(e)(ii) of the Participation Agreement.

"Lessor" shall have the meaning specified in the introductory paragraph of the Lease.

"Lessor Lien" shall mean any lien, charge or encumbrance on any part of the Trust Estate which results from any act of or claim against the Owner Participant, the Owner Trustee or the Trust Company not related to or connected with the ownership, leasing, use or operation of the Equipment, the administration of the Trust Estate or to any transaction contemplated by the Operative Agreements.

"Lien" shall mean any mortgage, pledge, lien, charge, encumbrance, lease, adverse possession, exercise of rights, security interest, easement, servitude or claim of any kind, including any arising under any conditional sale or other title retention agreement.

"Loan Value" shall have the meaning specified in Section 4.6 of the Indenture.

"Majority in Interest" shall have the meaning specified in Section 5.10 of the Indenture.

"Manufacturer" of an Item of Equipment shall mean any of ACF Industries, Thrall Manufacturing Company and Union Tank Car Company, as the case may be.

"Material Adverse Effect" shall have the meaning specified in Section 3.3(a) of the Participation Agreement.

"Minimum Number" shall mean, in the case of ACF 5100 Hopper Cars, 50 of such Items, and in the case of any other Type of Equipment, 20 of such Items.

"Net Economic Return" shall mean (i) with respect to each Equipment Lot, the Owner Participant's anticipated after-tax yield and aggregate after-tax cash flow as a percentage of the Purchase Price of each Equipment Lot utilizing the multiple investment sinking fund method of analysis, computed on the basis of the same methodology and assumptions as were utilized by the Owner Participant in determining Basic Rent, EBO Amount, Termination Values and Stipulated Loss Values as of the First Closing Date as such assumptions may be adjusted for events which have been the

basis for adjustments pursuant to Section 2.4 of the Lease, (ii) with respect to each Equipment Lot, at least 95% of Owner Participant's anticipated after-tax cash flow for each of the first five 12-month periods after the Closing Date for such Equipment Lot (which 12-month periods will run consecutively with the first such period commencing on the Closing Date) and (iii) with respect to each Equipment Lot, at least 90% of Owner Participant's anticipated after-tax cash flow for each of the 12-month periods commencing following the first 60 months after the Closing Date for such Equipment Lot.

"Non-U.S. Person" shall mean any person other than (i) a citizen or resident of the United States, as defined in section 7701(a)(30) of the Code (for purposes of this definition, the "United States"), (ii) a corporation, partnership or other entity created or organized in or under the laws of the United States or any political subdivision thereof or therein, or (iii) any estate or trust that is subject to United States federal income taxation regardless of the source of its income.

"Note Commitment" shall have the meaning specified in Section 2.2(b) of the Participation Agreement.

"Note Purchasers" shall have the meaning specified in the introductory paragraph of the Participation Agreement.

"Notes" shall have the meaning specified in Section 2.2(a) of the Participation Agreement.

"Operative Agreements" shall mean collectively this Participation Agreement, the Trust Agreement, the Lease, the Lease Supplements, Certificates of Acceptance, the Indenture, the Indenture Supplements, the Tax Indemnity Agreement, the Notes, the Bills of Sale, the Amendment and Termination Agreement dated as of March 26, 1996, among the parties to the Participation Agreement and the other parties named therein, the Assignment and Assumption Agreement, dated as of March 26, 1996 (the "Transfer Agreement") between NationsBank, National Association and KBNY Leasing Inc. and the Guaranty dated as of March 26, 1996 by the Guarantor.

"Owner Participant" shall have the meaning set forth in the introductory paragraph of the Participation Agreement.

"Owner Trustee" shall have the meaning specified in the introductory paragraph to the Participation Agreement.

"Participant" shall have the meaning specified in the introductory paragraph to the Participation Agreement.

"Participation Agreement" shall mean the Participation Agreement (1996-1) dated as of September 15, 1995 among the Lessee, the Owner Participant, the Note Purchasers, the Owner Trustee and

the Indenture Trustee, as from time to time amended or supplemented.

"Parts" shall mean any and all appliances, parts, instruments, appurtenances, accessories, furnishings, seats, and other equipment of whatever nature which may from time to time be incorporated or installed in or attached to any Item of Equipment.

"Payment Date" shall have the meaning specified in Section 5.3(b) of the Indenture.

"Permitted Liens" shall mean (i) the security interest created by the Indenture; (ii) Liens against one or more Items of Equipment for taxes either not yet due or being contested in good faith and by appropriate proceedings diligently conducted so long as such proceedings shall stay the enforcement thereof and the sale or forfeiture of any Item or any part thereof or interest therein and for which adequate reserves have been provided in accordance with GAAP; (iii) undetermined or inchoate materialmen's, mechanic's, workmen's, repairmen's or employees' Liens or other like Liens against one or more Items arising in the ordinary course of business and securing obligations which are not delinquent or which shall have been bonded or the enforcement of which shall have been suspended (but only for the duration of such suspension); (iv) the rights of any permitted sublessee or assignee under the Lease, (v) Lessor Liens; (vi) the right, title and interest of the Lessee in and to the Equipment under the Lease; and (vii) Liens which the Indenture Trustee is required to discharge pursuant to Section 6.3(a) of the Indenture.

"Permitted Subleases" shall have the meaning specified in Section 15.2 of the Lease.

"Person" shall mean an individual, partnership, association, joint venture, corporation, limited liability company, trust or unincorporated organization, and a government or agency or political subdivision thereof, domestic or foreign.

"Present Value" shall have the meaning specified in Section 8.14 of the Indenture.

"Purchase Agreements" shall mean the purchase agreements and purchase orders for the Items of Equipment.

"Purchase Notice" shall have the meaning specified in Section 5.3(b) of the Indenture.

"Purchase Price" shall mean, for each Item of Equipment, the price therefor as set forth in the invoice covering such Item delivered pursuant to Section 4.1(h) of the Participation Agreement; provided that in no event shall the Purchase Price of the Equipment exceed $33,522,500 in the aggregate.

"Reasonable Basis" for a position shall exist if tax counsel may properly advise reporting such position on a tax return in accordance with ABA formal Opinion 85-352 issued by the Standing Committee on Ethics and Professional Responsibility of the American Bar Association.

"Redemption Premium" shall have the meaning specified in Section 8.14 of the Indenture.

"Register" shall have the meaning specified in Section 8.3 of the Indenture.

"Release" shall mean the release, deposit, disposal, discharge, emission, spill, leak or the like of any Hazardous Material into the environment.

"Renewal Option" shall have the meaning specified in Section 16.3(a) of the Lease.

"Renewal Rent" shall have the meaning specified in Section 16.3(a) of the Lease.

"Renewal Term" shall have the meaning specified in Section 16.3 of the Lease.

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

"Rent Payment Date" shall have the meaning specified in Section 2.2 of the Lease.

"Replacement Item" shall have the meaning specified in Section 9.4(a) of the Lease.

"Required Modifications" shall have the meaning specified in 7.2(c) of the Lease.

"Responsible Officer" shall have the meaning specified in Section 5.3 of the Trust Agreement.

"Restricted Notes" shall mean all Notes (i) directly or indirectly held by or for the benefit of the Owner Participant, unless 100% of the Notes are so held by or for the benefit of the Owner Participant and (ii) directly or indirectly held by or for the benefit of the Lessee or any Affiliate of the Lessee.

"Second Closing Date" shall have the meaning specified in Section 2.3 of the Participation Agreement.

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

"Seller" shall mean FMC Corporation, a Delaware corporation.

"Series" shall mean any of the Series A Notes, Series B Notes and Series C Notes, as the context may require.

"Series A Notes" shall mean the Owner Trustee's 7.53% Series A Notes due January 1, 2017 in respect of ACF 5100 Hopper Cars.

"Series B Notes" shall mean the Owner Trustee's 7.53% Series B Notes due January 1, 2017 in respect of ACF 5000 Hopper Cars.

"Series C Notes" shall mean the Owner Trustee's 7.53% Series C Notes due January 1, 2017 in respect of Thrall Hopper Cars.

"Significant Remedy" shall have the meaning specified in Section 5.3(b) of the Indenture.

"SLV Payment Date" shall have the meaning specified in Section 9.3 of the Lease.

"Special Canadian Counsel" shall mean McCarthy Tétrault, Suite 4700, Toronto Dominion Bank Tower, Toronto Dominion Centre, Toronto, Ontario, Canada M5K 1E6.

"Special Surface Transportation Board Counsel" shall mean Alvord & Alvord, 200 World Center Building, 918 Sixteenth Street, N.W., Washington D.C.

"Stipulated Loss Value" payable for any Item as of any date of determination shall mean the amount determined by multiplying the Purchase Price for such Item by the percentage set forth in Schedule E to the Lease opposite the SLV Payment Date on which such Stipulated Loss Value will be paid (as such percentages may be adjusted from time to time pursuant to Section 2.4 of the Lease); provided that during any Renewal Term, "Stipulated Loss Value" shall be determined as provided in Section 16.3(c) of the Lease.

"Substitution Date" shall have the meaning specified in Section 9.4(a) of the Lease.

"Supplemental Rent" shall have the meaning specified in Section 2.1(b) of the Lease.

"Tax Benefits" shall have the meaning specified in Section 1 of the Tax Indemnity Agreement.

"Taxes" shall mean any and all present or future liabilities, losses, expenses and costs of any kind whatsoever that are fees (including, without limitation, license fees, documentation fees, filing fees and registration fees), taxes (including without limitation, income, gross or net income, gross or net receipts, sales, use, value added, rental franchise, business, transfer, capital, property (tangible and intangible), municipal assessments, excise and stamp taxes), levies, imposts, duties, charges, assessments or withholdings of any nature, in each case, whether existing or hereinafter enacted or adopted, together with any penalties, fines, additional to tax or interest thereon or addition thereto, imposed by any United States Federal taxing authority or by any state in the United States or any political subdivision thereof or any government or taxing authority of a foreign country or by any international authority or by any territory or possession of the United States (or any taxing authority thereof or therein) (any of the foregoing being referred to individually as a "Tax").

"Tax Indemnity Agreement" shall mean the Tax Indemnification Agreement (1996-1) dated as of March 15, 1996 between the Lessee and the Owner Participant, as from time to time amended or supplemented.

"Termination Date" shall have the meaning specified in Section 17.2(a) of the Lease.

"Termination Notice" shall have the meaning specified in Section 17.2(a) of the Lease.

"Termination Value" for any Item as of any date of determination shall mean the amount determined by multiplying the Purchase Price for such Item by the percentage set forth in Schedule F to the Lease opposite the Termination Date on which such Termination Value will be paid (as such percentages may be adjusted from time to time pursuant to Section 2.4 of the Lease); provided that during any Renewal Term, "Termination Value" shall be determined as provided in Section 16.3(c) of the Lease.

"Thrall Hopper Cars" shall mean the Items constituting 6200 cubic foot capacity covered hopper cars manufactured by Thrall Car Company, as more fully described in each Lease Supplement relating thereto.

"Transaction Expenses" shall have the meaning specified in Section 2.6(a) of the Participation Agreement.

"Transferee" shall have the meaning specified in Section 3.5(d) of the Participation Agreement.

"Treasury Yield" shall have the meaning specified in Section 8.14 of the Indenture.

"Trust" shall have the meaning specified in Recital (i) of the Trust Agreement.

"Trust Agreement" shall have the meaning specified in Recital A of the Participation Agreement.

"Trust Company" shall mean First Security Bank of Utah, National Association, in its individual capacity.

"Trust Estate" shall have the meaning specified in Section 2 of the Trust Agreement.

"Type" with respect to an Item of Equipment, shall mean a Thrall Hopper Car, an ACF 5000 Hopper Car or an ACF 5100 Hopper Car, it being understood and agreed that the only Type of Equipment subject, or to be subject, to the Lease, the Indenture and the other Operative Agreements is ACF 5100 Hopper Cars.