



RECORDATION 10092 FILED

JAN 11 1993 - 3 20 PM

INTERSTATE COMMERCE COMMISSION

3-011A040

December 31, 1992

Mildred Lee
Interstate Commerce Commission
12th & Constitution Avenue N. W.
Washington, DC 20423

RE: Memorandum of Commercial Lease Agreement And Security Agreement Dated
September 14, 1992.

Dear Ms. Lee:

Per our conversation, please find enclosed the information requested by your
office necessary to file a lien on the attached list of rail cars.

This Transaction is a Lease. The Lessor, is Bank of Louisville and Trust Company,
located at PO Box 1427 Louisville, Kentucky 40201. The Lessee, is Richard J.
Corman d/b/a R.J. Corman Railroad Company, Memphis Line.

Should you have any questions or need additional information, please call me
direct at 800-925-0810 ext. 5469.

I apologize for any delays or inconveniences that I may have caused for you.

Sincerely,

James C. Morris
Assistant Vice President
Commercial Leasing Division

JAN 11 1993 3 20 PM
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INDEXED

Interstate Commerce Commission

Washington, D.C. 20423

1/11/93

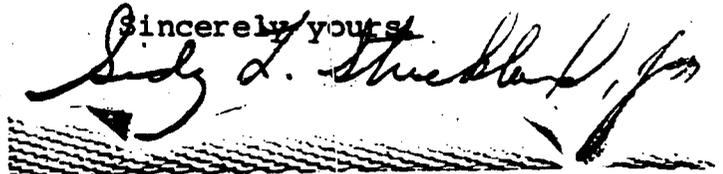
OFFICE OF THE SECRETARY

James C. Morris
Assistant Vice President
Bank of Louisville
P. O. Box 1427
Louisville, Kentucky 40201-1427

Dear Sirs:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 1/11/93 at 3:20PM, and assigned re-
recording number(s). 18092.

Sincerely yours,



Secretary

SIDNEY L. STRICKLAND, JR.

Enclosure(s)

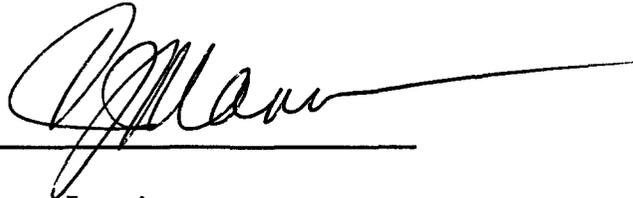
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CERTIFIED COPY

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INTERSTATE COMMERCE COMMISSION

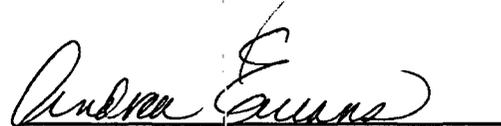
I certify that the appended copy is a true and an accurate copy of the original document.



C.J. Mann
Vice President, Leasing

C.J. Mann, appeared before me and, being duly sworn, stated the appended document to be a true and an accurate copy of the original documents.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this 1st day of October, 1992.


Andrea Evans

Notary Public, State at Large, KY

*My Commission Expires
February 11, 1996*

**MEMORANDUM OF
COMMERCIAL LEASE AGREEMENT**

18092
RECORDATION NO. _____ FILED 1425

JAN 11 1993 5 22 PM

INTERSTATE COMMERCE COMMISSION

THIS MEMORANDUM OF COMMERCIAL LEASE AGREEMENT is intended to evidence the Commercial Lease Agreement dated as of September 8, 1992 (the "Lease Agreement") between Richard J. Corman dba R.J. Corman Railroad Company, Memphis Line (the "Lessee"), and Bank of Louisville and Trust Company (the "Lessor"), for the purpose of satisfying the requirements of recordation with the Interstate Commerce Commission under Section 49 of U.S.C. 11303. The Lessee is the owner of the boxcars more fully described in Exhibit "A" hereto (the "Unit(s)"). The Lessee has granted a security interest in the Units to the Lessor upon the terms and conditions provided in the Lease Agreement, attached hereto as Exhibit "B".

IN WITNESS WHEREOF, the Lessee and the Lessor, each pursuant to due authority, have executed this Memorandum of Commercial Lease Agreement, as of this 8th day of September, 1992.

*Lessee:
Richard J. Corman dba
R.J. Corman Railroad Company,
Memphis Line*

RJ Corman
By _____

President
Title _____

*Lessor:
Bank of Louisville and Trust Company*

[Signature]
By _____

AUP
Title _____

AGREEMENT NO.

001-0001322-704

COMMERCIAL LEASE AGREEMENT

LESSEE

Richard J. Corman d/b/a
R.J. Corman Railroad Company
Memphis Line
P.O. Box 788

VENDOR

Chrysler Capital c/o Connecticut Nat'l
R.J. Corman
18092
RECORDATION NO. FILED MS

Nicholasville, KY 40356

JAN 11 1993 - 3 20 PM

EQUIPMENT LOCATION: (If different from billing address above)
One Jay Station, Nicholasville, KY 40356

INTERSTATE COMMERCE COMMISSION

QUANTITY

DESCRIPTION: Model No., Catalog No. or other identification

See Exhibit "A" attached hereto and made part of.

SCHEDULE OF PAYMENTS DURING ORIGINAL TERM OF LEASE

ADVANCE RENTALS PAYABLE AT THE SIGNING OF LEASE

Number of Months 18 Monthly Payments \$ 7,029.93
Plus Sales/Use Tax

\$ 7,029.93

Representing the first month and last 0 month's rent

GUARANTY

To induce Lessor to enter into this Lease the undersigned unconditionally guarantees to Lessor the prompt payment when due of all Lessee's obligations to Lessor under the Lease. Lessor shall not be required to proceed against Lessee or the Equipment or enforce any other remedy before proceeding against the undersigned. The undersigned agrees to pay all attorney's fees and other expenses incurred by Lessor by reason of default by the Lessee or the undersigned. The undersigned waives notice of acceptance hereof, and of all other notices or demands of any kind to which the undersigned may be entitled. The undersigned consents to any extensions or modification granted to Lessee and the release and/or compromise of any obligations hereunder. This is a continuing Guaranty and shall not be discharged or affected by death of the undersigned, shall bind the heirs, administrators, representatives, successors and assigns, and may be enforced by or for the benefit of any assignee or successor of Lessor. The undersigned consents to the jurisdiction of the Federal or State courts located in the state and county in which is located the chief executive office of the holder of the Lessor's interest in this lease.

TOTAL AGGREGATE LIABILITY

\$ 126,538.74

PERSONAL GUARANTY TERMINATION DATE

March, 1994

SIGNATURE

X R.J. Corman (NO TITLE)
PERSONAL GUARANTOR Richard J. Corman

SIGNATURE

X Robyn Corman
PERSONAL GUARANTOR Robyn Corman

RES. ADDRESS

RES. ADDRESS

RES. PHONE

RES. PHONE

DATE

09/08/92

DATE

09/08/92

CERTIFICATE OF ACKNOWLEDGEMENT AND ACCEPTANCE OF LEASED EQUIPMENT

SIGNATURES

Lessee hereby acknowledges receipt of the Equipment described in its Lease with Lessor (the "Equipment") and accepts the Equipment after full inspection thereof as satisfactory for all purposes of the Lease. Furthermore, Lessee acknowledges that the purchase order and or equipment invoice from the vendor has been reviewed for accuracy and completeness.

LESSOR

BANK OF LOUISVILLE

SIGNATURE

X R.J. Corman
Proprietor

SIGNATURE BY
LESSOR
TITLE

Richard J. Corman d/b/a

DATE

9/8/92

TITLE

LESSEE

R.J. Corman Railroad Co. Memphis Line
(Full Legal Name)

DELIVERY DATE

09/08/92

SIGNATURE
LESSEE
TITLE

X R.J. Corman
Proprietor

DATE

09/08/92

SEE CONTINUING PAGES FOR THE TERMS AND CONDITIONS WHICH ARE PART OF THIS LEASE.

IMPORTANT: Vendor and its representatives are not the agents of the Lessor.

THIS LEASE IS FOR BUSINESS PURPOSES ONLY - FOR COMMERCIAL ENTITIES.

1. **LEASE.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, all machinery, equipment and other property (collectively the "Equipment" and individually an "Item", or "Item of Equipment") described in (a) the schedule executed by the parties concurrently herewith and made a part hereof, and (b) any schedule or schedules hereinafter executed by the parties hereto and made a part hereof (collectively the "Schedules" and individually, a "Schedule").

2. **TERM.** The term of this Lease with respect to each Item of Equipment (the "Term") shall commence on the date which is set out on the Schedule for that Item of Equipment (the "Term Commencement Date") and shall terminate on the last day of the period stated in such Schedule, unless earlier terminated in accordance with the provisions of this Lease.

3. **RENT.** The rent for each Item of Equipment during the term (the "Rent") shall be that amount designated in the Schedule as Rent and shall be payable, in the amounts and at the times and place set forth in the Schedule, or to such other person, or at such other place as Lessor may from time to time designate in writing.

4. **ADDITIONAL PAYMENT.** Lessee shall pay, in addition to Rent, the amounts set forth in Schedule B hereto, if any, on the dates set forth in Schedule B.

5. **NET LEASE: OBLIGATION TO PAY RENT UNCONDITIONAL.** This is a net lease. All rent and other sums payable by Lessee including the payments due under Schedule B hereto, if any, shall be paid promptly when due without notice or demand of any character. Lessee's obligation for the payment of rent is and shall be absolute and unconditional and shall not be subject to any reduction, offset, counter-claim, abatement, suspension, deferment or diminution for any reason whatsoever, including without limitation any destruction or damage to the Equipment or any Item thereof, any limitation of or interference with the use or possession of the Equipment, or any Item or any component thereof (including any such limitation or interference arising out of any defect in Lessor's title to the Equipment), condemnation or requisition of the Equipment or any component thereof, any termination of this lease prior to the expiration of the term, or any other occurrence or circumstance (whether similar or dissimilar to those enumerated) which prevents Lessee from using, possessing or enjoying the Equipment. Lessee waives (a) any and all existing and future claims and offsets against Rent or other payments due to Lessor under this Lease (b) all rights now or hereafter conferred by statute or otherwise to terminate or surrender this Lease or the Equipment or any component of the Equipment, and (c) any abatement, suspension, deferment, diminution or reduction of any Rent or other sums payable hereunder on account of any such occurrence.

6. **LESSEE'S INSPECTION: CONCLUSIVE PRESUMPTIONS.** Lessee shall inspect each Item of Equipment within forty-eight (48) hours after receipt thereof. Unless within such period of time Lessee gives written notice to Lessor specifying any defect in or any other proper objection to the Equipment, Lessee agrees that it shall be conclusively presumed, as between Lessor and Lessee, that Lessee has fully inspected and acknowledged that the Equipment is in good condition and repair, and that Lessee is satisfied with and has accepted the Equipment in such good condition and repair and as satisfactory in all respects for the purposes of this Lease.

7. **USES AND LOCATION.** (a) Lessee shall use the Equipment in a careful and proper manner, only in the normal and ordinary course of Lessee's business, and Lessee shall comply with, and shall use the Equipment in accordance with, (1) all state, federal, and local laws, rules, regulations, statutes and ordinances applicable to Lessor relating to the use, possession, operation, licensing, registration, maintenance or inspection of the Equipment, (2) any insurance policies in effect with respect to the Equipment, (3) any warranties of any manufacturer with respect to the Equipment or any component thereof, and (4) the operating instructions furnished by manufacturers or other suppliers of the Equipment.

(b) Lessor shall have the right to inspect the Equipment and observe its use during normal business hours and any other reasonable time and to enter into and upon the premises where the Equipment may be located for such purpose. Lessee shall maintain possession of each Item of Equipment at, and shall not remove any Item of Equipment from, its location as shown on the Schedule without Lessor's prior written consent. Lessee shall give Lessor immediate notice of any attachment or other judicial process affecting any Item of Equipment and whenever requested by Lessor, shall advise Lessor of the exact location of each Item of Equipment.

8. **TITLE AND RETURN.** (a) The Equipment is, and at all times shall remain, the sole and exclusive property of Lessor, and the delivery of the Equipment to Lessee and Lessee's possession thereof shall constitute a bailment. Lessee shall have no right, title or interest or to the Equipment except as expressly set forth in this Lease.

(b) Upon expiration or earlier termination of this Lease with respect to each Item of Equipment, unless there has been a Casualty Occurrence (as defined in paragraph 14 below) to such Item, Lessee shall return such Item of Equipment to Lessor in good repair, condition and working order, ordinary wear and tear resulting from proper use thereof alone excepted, by packing, crating and loading such Item of Equipment at Lessee's cost and expense on board such carrier as Lessor and Lessee shall agree and shipping the Equipment, freight prepaid and, insured to any destination specified by Lessor which is located in the continental United States.

9. **MARKING.** If at any time Lessor supplies Lessee with labels, plates or other markings, stating that the Equipment is owned by Lessor, Lessee shall affix such markings to and keep them on a permanent and prominent place on the Equipment. Lessee shall not allow the name of any person, association or corporation to be placed on any Item of Equipment as designation that might be interpreted as a claim of ownership, provided that Lessee may cause any item of Equipment to be lettered with its corporate name and/or corporate symbol as an appropriate and convenient way to identify Lessee's interests under this Lease.

10. **MAINTENANCE AND REPAIRS.** Lessee, at its own cost and expense, shall (a) maintain and keep the Equipment and all components thereof in good repair, condition and working order and in good condition as to appearance and mechanical performance, ordinary wear and tear from authorized use excepted, (b) make all reasonable and necessary repairs, (c) purchase replacements for and replace worn or defective components of the Equipment, so as to keep the Equipment in good mechanical and working order, and (d) cause the Equipment all components thereof to meet the applicable standards of any applicable governmental agency with jurisdiction over Lessor, Lessee or the Equipment whether or not such requirements, by their terms, are normally imposed upon Lessee. Lessee shall pay for any and all replacement parts and components required by this section, and all such replacement parts and components shall be free and clear of all liens and encumbrances. Title to all such replacement parts and components shall immediately pass to Lessor upon installation thereof.

11. **ALTERATIONS.** Without the prior written consent of Lessor, Lessee shall not make any alterations, additions or improvements to the Equipment except that Lessee shall make any alteration or addition to the Equipment which is required by any governmental authority having relevant jurisdiction, if such alteration or addition is required to comply with health, safety or environmental standards. All additions and improvements of whatsoever kind or nature made to the Equipment shall belong to and become the property of Lessor upon the expiration, or earlier termination of this Lease.

12. **NO WARRANTIES BY LESSOR.** LESSEE HAS SELECTED BOTH (A) THE EQUIPMENT AND (B) THE MANUFACTURER OR OTHER SUPPLIER FROM WHOM LESSOR IS TO PURCHASE IT. LESSOR MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION THE DESIGN OR THE CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, AND, AS TO LESSOR, LESSEE LEASES THE EQUIPMENT "AS IS". LESSOR HAS ONLY THE TITLE TO THE EQUIPMENT THAT WAS CONVEYED TO LESSOR BY LESSOR'S PREDECESSOR IN TITLE, AND THAT TITLE IS FREE FROM LIENS AND ENCUMBRANCES CREATED BY LESSOR. LESSOR MAKES NO OTHER WARRANTY WITH RESPECT TO TITLE TO THE EQUIPMENT. If any Item of Equipment or all of the Equipment is not properly installed, does not operate as represented or warranted by its manufacturer, or is unsatisfactory for any reason, Lessee shall make any claim on account thereof directly against such manufacturer and shall, nevertheless, pay Lessor all rents payable under this Lease. Lessor hereby agrees to assign to Lessee, solely for the purpose of making an action or prosecution any such claim, all of the rights which Lessor has against such manufacturer for breach of warranty or other representation representing the Equipment. LESSOR SHALL NOT BE LIABLE FOR ANY DIRECT OR CONSEQUENTIAL DAMAGES INCURRED BY LESSEE AS A RESULT OF ANY BREACH OF WARRANTY OR REPRESENTATION WITH RESPECT TO THE EQUIPMENT AND LESSOR SHALL NOT BE LIABLE TO LESSEE FOR LOSS OF USE OF THE EQUIPMENT, OR FOR ANY INTERRUPTION IN LESSEE'S BUSINESS OCCASIONED BY LESSEE'S INABILITY TO USE THE EQUIPMENT, FOR ANY REASON WHATSOEVER. The provisions of this paragraph are intended to be a complete exclusion and negation of any express or implied warranties by Lessor with respect to the Equipment, whether arising under the Uniform Commercial Code or under any other law now or hereafter in effect, or otherwise.

13. **INSURANCE.** Lessee shall provide, maintain and pay for (a) insurance against the loss or theft of or damage to the Equipment, for the amount of the applicable Casualty Payment from time to time, naming Lessor as a loss-payee or mortgagee, and (b) public liability and property damage insurance, naming Lessor as an additional insured. All such insurance shall be in form and amount and with companies satisfactory to Lessor. Lessee shall deliver the policies of insurance or duplicates thereof or certificate of insurance to Lessor. All insurance which Lessee is required by this Lease to maintain shall provide that any loss thereunder shall be payable notwithstanding any action, inaction, breach or warranty or condition, breach of declarations, misrepresentation or negligence of Lessee, its employees or agents. Each such policy shall contain an agreement by the insurer that, notwithstanding lapse of any policy for any reason, or right of cancellation by the insurer or any cancellation by Lessee, such policy shall continue in full force for the benefit of Lessor, for at least thirty (30) days after written notice thereof to Lessor, and no alteration in any such policy shall be made except upon thirty (30) days written notice of such proposed alteration to Lessor and written approval by Lessor. If Lessee fails to acquire any policy of insurance required to be maintained pursuant to this paragraph, or fails to renew or replace any such policy at least twenty (20) days prior to the expiration thereof, or fails to keep any such policy in full force and effect, Lessor shall have the option (but not the obligation) to pay the premiums on any such policy of insurance or to procure new insurance in an amount, type, coverage and terms satisfactory to Lessor. Any amounts paid therefore by Lessor shall be immediately due and payable to Lessor by Lessee upon demand by Lessor. No exercise by Lessor of such option shall in any way affect the provisions of this Lease, including the provisions that failure by Lessee to maintain the prescribed insurance shall constitute an Event of Default. Lessee hereby assigns to Lessor all sums which become payable under any insurance covering the Equipment, directs any insurer to pay any and all such proceeds to Lessor, and authorizes the Lessor to act as Lessee's attorney-in-fact to make claim for, receive payment of, and execute and endorse all documents, checks or drafts for loss or damage under any such Insurance Policy. The proceeds of such insurance, at the option of the Lessor, shall be applied (1) toward the replacement, restoration or repair of the Equipment or (2) toward payment of the obligations of Lessee hereunder.

14. **CASUALTY.** For purposes of this Lease, "Casualty Occurrence" shall mean any of the following events:

(a) The Equipment or any Item of Equipment no longer operates in the manner and for the purposes originally contemplated, for any reason, and it is not made so to operate by repairs or installation of replacement parts in accordance with paragraph 10 of this Lease within sixty (60) days from the time its ceased sold to operate.

(b) Any Item of Equipment is requisitioned, condemned or taken over by any governmental authority under the power of eminent domain or otherwise for a definite period which exceeds the then remaining term of this Lease, or for an indefinite period of time.

(c) Any Item of Equipment suffers any damage which, in the good faith judgment of the Lessor would require the expenditure of an amount equal to or greater than fifty percent of equipment cost for that Item of Equipment (as shown on the Schedule) to repair or restore it to its condition and operating capacity immediately prior to suffering such damage.

(d) Any Item of Equipment is lost, stolen or commandeered.

15. **CASUALTY PAYMENT.** If any Item of Equipment shall suffer a Casualty Occurrence, Lessee shall promptly and fully inform Lessor with respect thereto. Lessee shall pay to Lessor, on the first date that any installment of rent becomes due after the giving of such notice, an amount (a "Casualty Payment") equal to the sum of (a) The stipulated loss value stated on the schedule for that Item of Equipment, computed as of the date the Casualty Payment is due, and (b) all installments of rent then due, and (c) all of the other payments due to Lessor under the Lease as of such date, including but not limited to, amounts due pursuant paragraphs 4 and 18 hereof. Upon tender of the Casualty Payment this Lease shall terminate with respect to the Item of Equipment for which the Casualty Payment was made, and Lessee there upon shall become entitled to such Item of Equipment, AS-IS-WHERE-IS, WITHOUT WARRANTY, EXPRESS OR IMPLIED.

16. **TAXES AND GENERAL COVENANTS.**

(a) Lessee agrees to pay when due, all sales, use property, excise, license and registration, duties, ad valorem and assessments charges or fees of any nature whatsoever (Except for any taxes based upon Lessors net income) however designated, now or hereafter imposed by any governmental entity, whether based upon the rent or the Equipment or the purchase delivery, ownership, leasing, use, possession or return thereof. Any fees, taxes or other charges paid by Lessor upon failure of Lessee to make such payments shall at Lessor's demand become immediately due from Lessee to Lessor. Lessor shall not be obligated to transfer title to the Equipment until proof has been provided by Lessee that such fees, taxes or other charges have been paid.

Lessor reserves the right, upon notice to Lessee, to pay property taxes imposed on Equipment which is leased pursuant to a fair market value "true lease". If so paid, Lessor will bill Lessee for the tax which shall become an obligation of Lessee under this lease.

(b) Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances. Upon Lessor's request, Lessee shall execute, acknowledge and deliver in recordable form any documents or other instruments with respect to the Equipment or this Lease as the Lessor may consider necessary or desirable to comply with the filing or recording requirements of any jurisdiction.

(c) Within fifteen (15) days of availability, and in any event within one hundred twenty (120) days after the end of each fiscal year, Lessee shall furnish to Lessor a balance sheet of Lessee and the related statement of operations, changes in financial position and profit and loss, showing sources and uses of income for such fiscal year, all in reasonable detail and stating in comparative form the figures as of the end of the fiscal year and for the previous corresponding period. If requested by Lessor, such financial statements shall be audited, or certified by an independent certified public accountant satisfactory to Lessor, accompanied by an opinion (in form and substance satisfactory to Lessor) of such certified public accountant, and must be signed by an officer of Lessee.

17. **REPRESENTATION AND WARRANTIES OF THE LESSEE.** The Lessee represents and warrants as follows:

(a) If Lessee is a corporation, it is duly incorporated, validly existing, and in good standing under the laws of the state of its incorporation. If Lessee is a partnership, it is a general or limited

partnership duly organized and validly existing under the laws of the state of its organization. Lessee is duly qualified to do business in, and, if necessary, is in good standing under the laws of the state where the Equipment will be located, as indicated in the Schedule.

(b) Lessee has full right, power and authority to carry on its business as now conducted and to hold property under lease and to enter into and perform its obligations under this Lease.

(c) The Lease has been duly authorized, executed, and delivered by the Lessee, and is a legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms.

(d) Lessee's execution and delivery of this Lease and its performance of its obligations hereunder (1) will not be inconsistent with the Lessee's partnership certificate or articles of Incorporation or bylaws (as the case may be), (2) do not and will not contravene any law, governmental rule or regulation, judgment or order applicable to the Lessee, and (3) do not and will not contravene any provision of, or constitute a default under, any indenture, mortgage, contract or other instrument to which Lessee is a party or which it is bound.

(e) Neither the consent or approval of, nor the giving of notice to, registration with or taking of any action in respect of or by any federal, state or local governmental agency or instrumentality is required with respect to the Lessee's execution, delivery and performance of this Lease.

(f) No material adverse change in the condition, financial or otherwise, of Lessee has occurred from that existing on the date of the financial statements delivered by Lessee to Lessor.

(g) Lessee has disclosed to Lessor all actions, suits, litigations, investigation or proceedings of or before any court, arbitrator or governmental authority that is pending or, to the knowledge of Lessee, asserted which would have a material affect on the business operations, financial conditions, properties or assets of Lessee.

18. INDEMNITY.

(a) Lessee shall indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, damages (including reasonable attorney's fees), obligations, liabilities and liens (including any of the foregoing arising or imposed without Lessor's fault or negligence, or in connection with latent or other defects or under the doctrine of "strict liability"), imposed or incurred by or asserted against Lessor or its successors or assigns, arising out of the manufacture, purchase, lease, possession, operation, condition return or use of the Equipment, or by operation of law. Lessee shall give Lessor prompt written notice of any matter hereby indemnified against and agrees that upon written notice by Lessor of the assertion of such a claim, action, damage, obligation, liability or lien, Lessee shall assume full responsibility for the defense thereof. This paragraph 18 shall survive the expiration or other termination of this Lease.

(b) (1) This Lease has been entered into on the basis that Lessor shall be entitled, with respect to each Item of Equipment, to such deductions, credits and other benefits as are provided by the United States Internal Revenue Code (of 1986) as it may have been amended to the date hereof (the "Code"), to an owner of property (herein such benefits are called "Tax Benefits"), including without limitation (A) depreciation deductions for cost recovery allowed pursuant to Section 168 of the Code of Equipment Cost of each Item of Equipment fully recovering the Equipment Cost of such Item of Equipment ratably over the recovery period set forth in the Tax Assumptions on the Schedule with respect to the Item of Equipment, (B) deductions with respect to interest payable with respect to any indebtedness incurred by Lessor in connections with the acquisition of the Item of Equipment, and (C) amortization of expenses or costs incurred by Lessor in acquiring the Equipment or this Lease.

(2) Notwithstanding anything to the contrary contained in this Lease, Lessee represents and warrants that (A) at the time Lessor becomes the owner of the Equipment and at the time the Equipment becomes subject to this Lease, the Equipment will be property which is eligible for the depreciation deductions allowed by Section 168 of the Code, (B) Lessor's adjusted basis in the Equipment will equal or exceed the Equipment Cost (as specified in the Schedule), (C) Lessee shall maintain sufficient records to verify the facts represented in this subparagraph, and upon request of Lessor, Lessee shall provide to Lessor written records establishing such facts, (D) each Item of Equipment is either 3, 5, 7 or 10 year property, as defined by the Code, and as designated in the Schedule with respect to each Item of Equipment.

(3) The Lease has also been entered into on the following assumptions (the "Assumptions"): (A) Lessee will not, at any time during the term of the Lease, use or fail to use any of the Equipment in such a way or in such locations as to disqualify it as property eligible for the depreciation deductions allowed by Section 168 of the Code; (B) for federal income tax purposes all amounts includable in, and all deductions allowable from, Lessor's gross income with respect to the equipment will be treated as derived from, or allocable to sources within the United States; (C) there will not be included in Lessor's gross income for federal income tax purposes any amount on account of any addition, modification or improvement of the Equipment or any Item of Equipment by Lessee; (D) none of the Equipment is or will be "limited use property" as that phrase is defined in Revenue Procedure 76-30, 1976-2 C.B. 647; and (E) Lessor anticipates receiving a profit from the transaction apart from the value of or benefits obtained from the tax deductions, allowances, credits, and other tax attributes arising from the Lease and Lessor's ownership of the equipment.

(4) If for any reason or in any circumstances whatsoever, except as specifically set forth below, any of the assumptions shall fail to occur, any of Lessee's representations in this Lease are not true, any of the tax benefits shall be denied, disallowed or otherwise prohibited or recaptured in whole or in part to Lessor and/or Lessor's enjoyment thereof delayed so that Lessor's After Tax Yields (as defined below) shall be reduced as a result of such occurrence so that they are less than the Expected Yields (as defined below), (herein, a "Loss of Tax Benefits") then:

(A) Lessee shall pay to Lessor, on each succeeding date on which an Installment of Rent is due, after written notice to Lessee by Lessor of such Loss of Tax Benefits, such amounts as after deduction of all taxes required to be paid by Lessor, thereon, shall cause Lessor's after tax economic and accounting yields and cash flows (computed on the same assumptions, including without limitation the tax rates utilized by Lessor in originally evaluating this transaction) (the "After Tax Yields") to equal the after tax yields that would have been realized by Lessor if Lessor had been entitled to utilize all of the Tax Benefits as and when originally contemplated (the "Expected Yields"), and the Expected Yields had not been reduced.

(B) In addition to the payments required by subparagraph (A) of this subparagraph (4), Lessee shall pay to Lessor upon demand (i) an amount which, after deduction of all taxes required to be paid by Lessor thereon, shall be equal to the amount of interest and penalties (including, without limitation, any additions to tax because of underpayment of estimated tax) attributable to such Loss of Tax Benefits, which may be assessed against Lessor by the United States of America, and (ii) all expenses (including, without limitation, reasonable attorneys' fees and court costs) incurred by the Lessor in contesting, whether through administrative proceedings within the Internal Revenue Service or in any court of competent jurisdiction, the Loss of Tax Benefits.

(C) Lessee and Lessor shall amend the Lease to increase the Stipulated Loss Values so as to preserve Lessor's Expected Yields.

(5) A Loss of Tax Benefits shall be deemed to have occurred upon the earliest of (A) issuance of a written opinion by Lessor's counsel that there has been (or upon the occurrence of a specified event, will be) a Loss of Tax Benefits, or (B) agreement with the United States Internal Revenue Service by Lessor with respect to a Loss of Tax Benefits, or (C) payment of taxes, interest or penalties with respect to a Loss of Tax Benefits, or (D) filing by Lessor of a return which reflects a greater amount of tax owing, or a lesser amount of refund, as a result of Loss of Tax Benefits, or (E) any court decision (including a decision of the tax court of the United States) which is not appealed with respect to a Loss of Tax Benefits, or (F) the happening of any event which causes a Loss of Tax Benefits, or (G) Lessor's receipt from a taxing authority of preliminary notice of deficiency or a statutory notice of deficiency with respect to a Loss of Tax Benefits.

(6) LESSEE SHALL NOT BE OBLIGATED TO PAY ANY REIMBURSEMENT FOR LOSS OF TAX BENEFITS REQUIRED IN THIS LEASE TO THE EXTENT THAT THE CAUSE OF THE LOSS OF TAX BENEFITS RESULTS SOLELY FROM ONE OR MORE OF THE FOLLOWING EVENTS: (A) A DISQUALIFYING DISPOSITION DUE TO THE SALE OF THE EQUIPMENT OR THE LEASE THEREOF BY LESSOR PRIOR TO AND NOT IN CONNECTION WITH OR AS A RESULT OF ANY EVENT OF DEFAULT; (B) A FAILURE BY LESSOR TO CLAIM ON A TIMELY BASIS THE TAX BENEFITS IN LESSOR'S TAX RETURN; (C) A FAILURE OF LESSOR TO HAVE SUFFICIENT LIABILITY FOR TAX TO UTILIZE FULLY THE TAX BENEFITS; (D) A FORECLOSURE OF ANY PERSON HOLDING THROUGH LESSOR A LIEN ON THE EQUIPMENT WHICH FORECLOSURE RESULTS SOLELY FROM AN ACT OF LESSOR; (E) ANY ACT, ERROR OR OMISSION BY LESSOR IN THE PREPARATION AND FILING OF ANY TAX RETURNS; OR (F) THE HAPPENING OF A CASUALTY OCCURRENCE AND PAYMENT OF A CASUALTY PAYMENT PURSUANT TO PARAGRAPH 15 OF THIS LEASE.

(7) Lessee agrees that neither it nor any affiliate of Lessee or any permitted successor, or sublessee or assignee or Lessee (the "Lessee Group"), directly or indirectly, will at any time take any action, or file any returns or other documents inconsistent with the foregoing, and Lessee and the members of the Lessee Group shall file such returns, take such actions and execute such documents as may be reasonable and necessary to provide Lessor with the Tax Benefits.

(8) All of Lessor's rights and privileges arising out of this paragraph 18 shall survive the expiration or other termination of this Lease. Any amounts required to be paid under this paragraph which cannot be paid on the dates on which Rent would become due because of the expiration or other termination of this Lease shall be due upon demand by the party claiming that such payment is due.

19. **EVENT OF DEFAULT.** The occurrence of any of the following events (each of them an "Event of Default") shall constitute a default under this Lease:

(a) Failure of Lessee to pay any installment of Rent or any other sum required by this Lease to be paid by Lessee within ten (10) consecutive calendar days after such payment first became due.

(b) Failure of Lessee to observe, perform or comply with any term, obligation, covenant or condition contained in this Lease or any Schedule (other than the obligation referred to in subparagraph (a) above within fifteen (15) calendar days after the failure.

(c) Any attempted sale or encumbrance by Lessee of the Equipment or any Item of Equipment.

(d) Failure of Lessee to contest a lien or encumbrance known to Lessee and asserted against the Equipment or any Item of Equipment.

(e) Failure to maintain any insurance required under paragraph 13 of this Lease.

(f) Lessee ceases to do business as a going concern.

(g) Lessee shall (1) be generally not paying its debts as they become due, (2) admit its inability to pay its debts generally as they become due, (3) be insolvent, either in that its liabilities exceed its assets, or in that it is unable to pay its debts as they come due, (4) make a general assignment for the benefit of creditors, (5) file a petition in bankruptcy, or admit (by answer, default or otherwise) the material allegations of any petition in bankruptcy filed against it under the Federal Bankruptcy Laws (as in effect of the date of this Lease or as they may be amended from time to time), or under any other law for the relief of debtors or for the discharge, arrangement or compromise of debtors' debts, or (6) consent to the appointment of a receiver, liquidator, assignee, custodian, trustee, sequester or other official with similar powers of Lessee or a substantial part of its assets.

(h) A petition shall be filed against Lessee in proceedings under the Federal Bankruptcy Law (as in effect at the date of this Lease, or as they be amended from time to time), or under any other laws for the relief of debtors or for the discharge, arrangement or compromise of debtors' debts, or any order shall be rendered by any court of competent jurisdiction appointing a receiver, trustee, or liquidator of Lessee or of all or part of Lessee's assets, and such petition or order is not dismissed or stayed within sixty (60) consecutive calendar days after entry thereof.

20. **REMEDIES.** Upon the occurrence of any Event of Default, and at any time thereafter, Lessor may at its option exercise any one or more of the following remedies:

(a) Declare the entire amount of all unpaid Rent under this Lease (including Installments of Rent which would otherwise have become due after the Event of Default) and the amounts set forth in Schedule B, if any to be due and payable immediately.

(b) Terminate this Lease as to any or all Items of Equipment, whereupon all rights of Lessee to the use of that Equipment shall absolutely cease and terminate but Lessee shall remain liable upon all of Lessee's obligations under this Lease. Any such termination shall occur only by written notice by Lessor to Lessee. Any such termination shall not impair Lessor's right to exercise the other remedies set out herein.

(c) Take possession of the Equipment after terminating this Lease as provided in subparagraph (b) of this paragraph, and for this purpose may enter upon any premises of Lessee without any liability for such entry.

(d) Sell the Equipment or any other Item of Equipment, with or without taking possession of it, at public auction or private sale at such time and upon such terms as Lessor may determine, free and clear of any rights of Lessee. In such case Lessor may recover from Lessee the difference between (1) the sum of (A) the present value of the rent required under this Lease after the Event of Default, (B) the present value of the fair market value which the Equipment would have had at the normal expiration of the Lease had there been no event of default (as determined by an independent appraiser acceptable to Lessor), and (C) all of the other payments due to Lessor under this Lease as of the date of sale, including, but not limited to amounts due pursuant to paragraph 18 of this Lease, and (2) the proceeds of any sale of such Equipment (which proceeds have been reduced by the reasonable expenses incurred by the Lessor in the retaking of possession, preparation for sale, and sale of such Equipment). To the extent that it does not duplicate amounts credited to Lessee and deducted from amounts Lessor may recover under the preceding sentence, Lessee shall be entitled, in mitigation of damages, to the net proceeds of any such sale after deduction from such proceeds of all costs, charges, and expenses incurred by Lessor in the exercise of its remedies under this paragraph 20, up to the amount paid by Lessee under the preceding sentence.

(e) Lease the Equipment, or any Item of Equipment, with or without taking possession of it, for such period and rental, and to such persons as Lessor may elect. In such case, Lessor may recover from the Lessee the greater of:

(1) the aggregate of (A) the present value of the aggregate of the Rent required under this Lease for the term of this Lease remaining after the Event of Default, and (B) all of the other payments due to Lessor under this Lease as of the date of the new lease, including, but not limited to amounts due pursuant to paragraphs 4 and 18 of this Lease, less the present value of the contracted

for rent for the Equipment to become due under the terms of the new lease for the period beginning on the date the event of default occurred and ending on the date the Term would have expired had there been no Event of Default, or

(2) the aggregate of (A) the present value of the aggregate of the rent required under this Lease for the term remaining after the Event of Default, and (B) all of the other payments due to Lessor under this Lease as of the date of the new lease, including, but not limited to amounts due pursuant to paragraphs 4 and 18 hereof, less the present value of the fair rental value (as determined by an independent appraiser acceptable to Lessor) of such Equipment for the period beginning on the date the Term would have expired if there had been an Event of Default.

To the extent that it does not duplicate amounts credited to Lessee and deducted from amounts Lessor may recover under subparagraphs (1) and (2) of this subparagraph (e), Lessee shall be entitled, in mitigation of damages, to the net present value of the contracted for rent under any new lease for the period beginning on the date the Event of Default occurred and ending on the date this Lease would have terminated had there been no Event of Default (discounted at the interest rate at which a new Lessee could borrow funds on a secured basis for a term equivalent to the term of the new lease), after deduction from such present value of all costs, charges and expenses, including attorneys' fees, incurred by Lessor in the exercise of Lessor's remedies under this paragraph 20, up to the amount paid by Lessee under this subparagraph (e).

(f) Pursue any other remedy at law or in equity.

21. PRESENT VALUES; REMEDIES NOT EXCLUSIVE. For purposes of subparagraphs (d) and (e) of paragraph 20 of this Lease, all present values shall be calculated on the basis of a discount at an annual rate of six (6) percent compounded on the dates Rent would otherwise have been payable under this Lease.

No right or remedy conferred if this Lease is exclusive of any other right or remedy conferred herein or by law; but all such remedies are cumulative of every other right or remedy conferred hereunder or at law or in equity, by statute or otherwise, and may be exercised concurrently or separately from time to time.

22. SECURITY. Lessee has deposited with Lessor the Deposit set forth in the Schedule as security for its payment of Rent and of the other amounts due hereunder, and performance of its other obligations under this Lease (if an amount is filled in the Schedule under "Deposit"). Lessor may, but shall not be obligated to, apply such deposit (or any part thereof) to cure any Event of Default hereunder, in which event Lessee shall promptly restore the deposit to the full amount originally deposited. The remaining balance of the deposit shall be returned to Lessee upon the termination hereof or the period set forth in Schedule B, if any, if no Event of Default has occurred.

23. LESSOR'S EXPENSES. Lessee shall pay Lessor all costs and expenses, including attorneys' fees and court costs, incurred by Lessor in exercising any of its rights or remedies hereunder or enforcing any of the terms, conditions, or provision hereof.

24. ASSIGNMENT. (a) Without Lessor's prior written consent, Lessee shall not (1) assign, transfer, pledge or hypothecate this Lease, the Equipment or any Items thereof, or any interest therein, or (2) sublet or lend the Equipment or any items thereof, or permit the Equipment or any items thereof to be used by anyone other than Lessee or Lessee's employees. Consent to any one of the foregoing acts applies only in the given instance and is not a consent to any subsequent like acts by Lessee or any other person.

(b) Lessee's interest herein may not be assigned or transferred by operation of Law.

(c) Lessor may assign this Lease or mortgage the Equipment or both in whole or in part, without notice to Lessee. If Lessee is given notice of such assignment, Lessee shall (if Lessor requests) acknowledge receipt thereof in writing. Each such assignee or mortgagee shall have all of the rights. BUT NONE OF THE OBLIGATIONS, of Lessor under this Lease. Lessee agrees that it shall not assert against an assignee and/or mortgagee any defense, counterclaim or offset that Lessee may have against Lessor. Lessee agrees and understands that the waiver of defenses provision contained in the next preceding sentence imposes upon Lessee all the risks that might be associated with any failure by Lessor to perform all obligation that it might have under this Lease, and obligates Lessee to pay to the assignee all Rent and other sums due under this Lease absolutely, unconditionally and in all events, despite any occurrence which might cause this Lease to be terminated (either as a matter of law or otherwise) or prevent Lessee from enjoying the use of any item of Equipment or all of the Equipment, or reduce its value or utility to Lessee. Notwithstanding any such assignment, Lessor agrees that Lessee may quietly enjoy use of the Equipment subject to, and so long as Lessee complies with, all of the terms and conditions of this Lease. Subject to the foregoing, this lease inures to the benefit of and is binding upon the heirs, legatees, personal representatives, successors and assigns of the parties hereto.

25. PERSONAL PROPERTY. The Equipment is, and at all times shall be and remain, personal property notwithstanding that the Equipment or any item thereof may now be, or hereafter become, in any manner affixed or attached to, or imbedded in, or permanently resting upon, real property or any improvement thereon, or attached in any manner to what is permanent as by means of cement, plaster, nails, bolts, screws or otherwise and notwithstanding the provisions of any lease, mortgage or other instrument affecting any such real property. At its own cost and expense, Lessee shall take all actions that may be necessary or desirable to cause the Equipment and each component thereof to retain its character as personal property.

26. LATE CHARGE. If Lessee fails to pay any installment or rent or any other sum to be paid by Lessee to Lessor within ten (10) days after the due date thereof, Lessee shall pay Lessor a late charge equal to (a) 5% of such installment as a service charge, and (b) interest on such unpaid installment or other amount at the rate of 1.7% per annum or, if there is a maximum contract rate fixed by law, then at such rate, computed from the date the installment first came due until it is paid in full.

27. NON-WAIVER. No covenant or condition of this Lease can be waived except by the written consent of Lessor. Forbearance or indulgence by Lessor in any regard whatsoever, shall not constitute a waiver of the covenant or condition to be performed by Lessee to which such forbearances or indulgences may apply, and until complete performance by Lessee of such covenant or condition, Lessor shall be entitled to invoke any remedy available to Lessor under this Lease or by law or in equity despite said forbearance or indulgence.

28. ENTIRE AGREEMENT. This instrument and the Schedules (including Schedule B, if any) constitute the entire agreement between Lessor and Lessee and shall not be amended, altered or changed except by written agreement signed by the parties.

29. NOTICES. Service of all notices under this Lease shall be sufficient if given personally or mailed to the party involved at its respective address set forth at the foot hereof, or at such address as such party may provide in writing from time to time. Any such notice mailed to such address shall be effective when deposited in the United States mail, duly addressed and with first-class postage prepaid.

30. GENDER; NUMBER. Whenever the context of this Lease requires, the masculine gender includes the feminine of neuter, and the singular number includes the plural; and whenever the word "Lessor" is used herein, it shall include all assignees of Lessor. If there is more than one Lessee named in this Lease, the liability of each shall be joint and several.

31. TITLES. The titles to the paragraphs of this Lease are solely for the convenience of the parties, and are not an aid in the interpretation of the instrument.

32. TIME. Time is of the essence of this Lease and each and all of its provisions.

33. GOVERNING LAW. The validity, construction and performance of this Lease shall be governed by the laws (including the conflict of laws rules) of the Commonwealth of Kentucky.

34. INCORPORATION BY REFERENCE. All Schedules, annexes or other attachments to this Lease are incorporated into this Lease as if set out in full at the first place in this Lease that references is made thereto.

35. FURTHER ASSURANCES. At Lessor's request, from time to time, Lessee shall sign financing assignments or other documents or instruments necessary to make public filings reflecting Lessor's ownership of and interest in the Equipment, and Lessee authorized Lessor to make any such filings that Lessor may deem appropriate. Such filings and this provision are precautionary only and do not evidence any intention that this Lease create a security interest. In addition to the foregoing, Lessee shall provide to Lessor any confirmation and/or reaffirmation of the representations and warranties contained in paragraphs 17 and 18 of this Lease from any legal counsel or certified public accountant acceptable to Lessor as Lessor may require.

36. DOCUMENTATION FEE. Lessee agrees to pay Lessor \$50.00 to offset Lessor's lease documentation processing costs at the time of the execution of this Lease.

37. PURCHASE OPTION. Provided the terms and conditions of this Lease have been duly met and fulfilled by the Lessee and no default or other breach exists, Lessor hereby grants the following option to the Lessee at the timely expiration of this Lease.

(1) Lessor hereby grants to the Lessee the option to purchase the leased equipment as described herein, for the sum of \$1.00 at the expiration of the original lease term.

X 

Acknowledgement of Lessee

(2) Lessor hereby grants to the Lessee the option to purchase the Leased Equipment as described herein, for the percentage of N/A % of the original Equipment cost, or for the amount

of \$ N/A at the expiration of the original Lease term.

N/A

Acknowledgement by Lessee

(3) Lessor hereby grants to the Lessee the option to purchase the Leased Equipment as described herein, at the termination of the original term of this Lease for the Equipments ther, fair market value.

N/A

Acknowledgemtn by Lessee

EXHIBIT "A"

- | <u>Quantity</u> | <u>Description</u> |
|-----------------|---|
| (1) | 1971 Thrall All Door Boxcar, Car Mark Number: TCAX30003 |
| (3) | 1973 Thrall All Door Boxcars, Car Mark Numbers:

TCAX 20430
HTCX 311
HTCX 309 |
| (10) | 1974 Thrall All Door Boxcars, Car Mark Numbers:

TCAX 20084
TCAX 20089
TCAX 20093
TCAX 20091
HTCX 353
HTCX 346
HTCX 393
HTCX 334
HTCX 336
HTCX 352 |
| (1) | 1976 Thrall All Door Boxcar, Car Mark Number: TCAX 30015 |
| (15) | Material Purchases for Thrall Door Cars |

Richard J. Corman d/b/a
R.J. Corman Railroad Company Memphis Line
Lessee

Bank of Louisville
Lessor

By:

X Richard J. Corman

By:

[Signature]

Title:

President

Title:

EXHIBIT "B"

**COMMERCIAL
LEASE
AGREEMENT**



Louisville, Kentucky

*Bank of Louisville
and Trust Company
P.O. Box 1427
Louisville, KY 40201*