20137

JUN 13 1996

DONELAN, CLEARY, WOOD & MASER, P.C.

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1100 NEW YORK AVENUE, N.W.
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JUN 13 1996

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RECEIVED
SURFACE TRANSPORTATION BOARD

New Recordation No. and -A Thereof

Dear Mr. Williams:

On behalf of Comerica Leasing Corporation, I submit for filing and recording under 49 U.S.C. § 11301 and the regulations applicable thereunder, counterparts of two documents, first a primary document, not previously recorded, entitled Master Equipment Lease Agreement ("Lease"), dated as of JUNE 13, 1996, to be recorded under a new Recordation No., and a related secondary document, not previously recorded, entitled Lease Supplement and Acceptance Certificate ("Supplement"), dated JUNE 13, 1996, to be recorded under -A of the new Recordation No.

1. The parties to both the Lease and the Supplement are:

Comerica Leasing Corporation — LESSOR
Second Floor
29201 Telegraph Road
Southfield, MI 48034

Dakota, Minnesota & Eastern
Railroad Corporation — LESSEE
337 22nd Avenue South
Brookings, SD 57006

The said Lease and Supplement cover the leasing by the Lessor to the Lessee of six locomotives.

The equipment covered by the Lease and in the Supplement is identified in Annex A to the Supplement.

A short summary of the Lease and the Supplement to appear in the Surface Transportation Board Index is as follows:

"Lease of six locomotives."

Enclosed is a check in the amount of forty two dollars ($42.00) in payment of the filing fees.

Once the filings have been made, please return to bearer the stamped counterpart(s) of the documents not required for filing purposes, together with the letter/fee receipt from the Surface Transportation Board, acknowledging the filings, and the two extra copies of this letter of transmittal.

Very truly yours,

Allen H. Harrison, Jr.
Attorney for Comerica Leasing Corporation for the purpose of this filing.

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

Enclosures

BY-HAND

8360-020

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

6/13/96

Allen H. Harrison, Jr.
Donelan, Cleary, Wood & Maser, P.C.
1100 New York Ave., Ste. 750
Washington,DC., 20005-3934

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 6/13/96 **at** 12:00PM **, and assigned recordation number(s).** 20137 and 20137-A.

Sincerely yours,

Vernon A. Williams

Vernon A. Williams
Secretary

Enclosure(s)

$ 42.00 **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

New No.

20137

RECORDATION NO. FILED 1425

JUN 13 1996 -12 02 PM

INTERSTATE COMMERCE COMMISSION

MASTER EQUIPMENT LEASE AGREEMENT

THIS MASTER EQUIPMENT LEASE AGREEMENT, dated as of June 13, 1996 (as supplemented from time to time the "Agreement") between Comerica Leasing Corporation, a Michigan corporation (the "Lessor"), having its principal place of business at 29201 Telegraph Road, Second Floor, Southfield, Michigan 48034; and Dakota, Minnesota & Eastern Railroad Corporation, a Delaware corporation (the "Lessee"), having its principal place of business at 337-22nd Avenue South, Brookings, South Dakota 57006.

In consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. Definitions. Unless the context otherwise requires, the following terms shall have the following meanings for all purposes of this Agreement and shall be equally applicable to both the singular and the plural forms of the terms herein defined:

"Acceptance Date" means the date on which Lessor entered into the Overall Transaction with respect to the particular items of the Equipment and Lessee unconditionally accepted the Equipment for lease hereunder, as evidenced by the execution and delivery of the Lease Supplement related to the Equipment and dated such date.

"Acquisition Cost" means (as of any date of determination) an amount, set forth in each Lease Supplement for the particular Equipment described therein, equal to the sum of (a) the total cost paid by Lessor for or in connection with the Equipment, plus (b) all excise, sales and use taxes paid by Lessor on or with respect to the acquisition of the Equipment, plus (c) Transaction Costs, less (d) the total cost paid by Lessor for or in connection with those particular items of the Equipment which have been the subject of an Event of Loss and for which an amount equal to the Casualty Loss Value for such items of Equipment has been paid in full to Lessor.

"Acquisition Expiration Date" means September 30, 1996.

"Affiliate" means any corporation or other entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at the time directly or indirectly owned by Lessee.

"Applicable Standards" shall have the meaning given to such term in Section 10 hereof.

"Appraisal Procedure" means the following procedure for determining the Fair Market Sales Value or Fair Market Rental

Value as the case may be of any property: If either party to this Agreement shall have given written notice to the other party requesting determination of such value by the Appraisal Procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 15 days after such notice is given, each party shall appoint a qualified independent appraiser within 15 days thereafter and notify the other in writing of such appraiser's appointment. If one party, but not the other, appoints an appraiser pursuant to the preceding sentence, then the appropriately appointed appraiser shall conduct the appraisal. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Sales Value or Fair Market Rental Value as the case may be of such property within 30 days after his or their appointment. If the parties shall have appointed a single appraiser, his determination of values shall be final. If two appraisers shall be appointed, the values determined shall be averaged. Lessee shall be responsible for and pay all costs and expenses of the appraiser or the appraisers, as the case may be.

"Assignee" means any Person to whom Lessor or any Assignee has made any assignment, sale or transfer referred to in Section 14(b) hereof.

"Base Lease Commencement Date" shall have the meaning given to such term in the Lease Supplement.

"Basic Payment" means the amounts payable for the Equipment during the Term pursuant to Section 7(a) hereof.

"Basic Payment Date" means, with respect to any Equipment, each date on which a monthly Basic Payment is due and payable as provided in Section 7(a) hereof and as such dates are set forth in the Lease Supplement executed on the Acceptance Date for such Equipment.

"Basic Payment Factor" means, with respect to any Equipment, the Basic Payment Factor set forth on each Lease Supplement executed on the Acceptance Date for such Equipment.

"Basic Payment Period" means, with respect to any Equipment, each monthly period from the date immediately succeeding a Basic Payment Date to and including the next occurring Basic Payment Date, except that the initial Basic Payment Period under each Lease Supplement shall also include the date of execution of such Lease Supplement.

"Basic Term" means, with respect to any Equipment, the period designated as the basic term in the Lease Supplement with respect to such Equipment.

"Business Day" means any day other than Saturday or Sunday or a day on which banking institutions in the States of Michigan and South Dakota are authorized or required by law to close.

"Casualty Loss Value" means as of any Casualty Loss Value Date during the Term an amount determined by multiplying (a) the Acquisition Cost for all Equipment as to which an Event of Loss has occurred for which a casualty loss payment has not been previously made under the Agreement by (b) the percentage set forth opposite such Casualty Loss Value Date on Annex B to the Lease Supplement executed on the Acceptance Date for such Equipment.

"Casualty Loss Value Date" means the last day of each Basic Payment Period for which Basic Payments are payable during the Term.

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

"Consolidated Affiliate" means at any date any Affiliate or other entity the accounts of which would be consolidated with those of Lessee in its consolidated financial statements if such statements were prepared as of such date.

"Consolidated Tangible Net Worth" means at any date the consolidated stockholders' equity of Lessee and its Consolidated Affiliates, less their consolidated Intangible Assets, all determined as of such date. For purposes of this definition "Intangible Assets" means the amount (to the extent reflected in determining such consolidated stockholders' equity) of (a) all write-ups (other than write-ups resulting from foreign currency translations and write-ups of assets of a going concern business made within 12 months after the acquisition of such business) in the book value of any assets owned by Lessee or a Consolidated Affiliate and (b) all goodwill, patents, trademarks, service marks, trade names, copyrights, organization or developmental expenses and other intangible assets.

"Covered Income Tax" shall have the meaning given to such term in Section 18 hereof.

"Default" means any event which with the giving of notice or the passage of time or both would result in an Event of Default.

"Equipment" means the equipment described in Annex A to each of the respective Lease Supplements, together with any Parts (including replacement Parts) which may from time to time be incorporated in such equipment or other property the title to

which shall have vested in Lessor pursuant to Sections 12 or 16 hereof.

"ERISA" shall have the meaning given to such term in Section 21(j) hereof.

"Event of Default" shall have the meaning given to such term in Section 22 hereof.

"Event of Loss" with respect to any item of Equipment means any of the following events: (a) loss of any item of Equipment or of the use thereof due to theft or disappearance during the Term, or the non-existence of any item of Equipment at the expiration or termination of the Term or the, (b) destruction, damage beyond repair, or rendition of any item of Equipment permanently unfit for normal use for any reason whatsoever, (c) any damage to any item of Equipment which results in an insurance settlement with respect to such item of Equipment on the basis of an actual or constructive total loss, or (d) the condemnation, confiscation, seizure, or requisition of use or title to any item of Equipment by any governmental authority under the power of eminent domain or any other power or authority it may have or claim to have, for a continuous period of six (6) months or a period extending through the expiration or termination of the Term, or (e) as a result of any rule, regulation, order or other Applicable Standard or any other action by the United States government or any agency or instrumentality thereof, the use of such item of Equipment in the normal course of transportation shall have been or may reasonably be expected to be prohibited for a continuous period of six (6) months or a period extending beyond the Term.

"Expiration Date" means the last day of the Term, unless this Agreement is sooner terminated pursuant to the provisions hereof.

"Fair Market Sales Value" means with respect to any item of Equipment the value which would be obtained in an arm's length transaction between an informed and willing buyer under no compulsion to buy and an informed and willing seller under no compulsion to sell, and assuming that the Equipment is in the condition required pursuant to Section 6 hereof.

"Improvement" shall have the meaning given to such term in Section 12 hereof.

"Lease Supplement" means a Lease Supplement and Acceptance Certificate substantially in the form of Exhibit A hereto, to be executed by Lessor and Lessee for the Equipment, in accordance with the provisions of Section 4 hereof.

"Lessor Lien" shall mean any Lien on or with respect to any item of Equipment resulting from an act or omission of, or claim

against, Lessor or Assignee which is unrelated to the transactions contemplated by this Agreement; but excluding any Lien that is either (i) attributable to or, pursuant to any provision of this Agreement, the responsibility of Lessee or its assignee or sublessee or (ii) of the type described in clauses (c) or (d) of Section 15 in the definition of Permitted Liens.

"Liens" means any liens, mortgages, encumbrances, pledges or security interests of any kind.

"Make-Whole Amount" means the excess, if any, of (1) the aggregate present value as of the date of determination of (a) the Basic Payments that would have been payable over the Term if all available Renewal Terms then remaining had been exercised, plus (b) the Termination Value as of the Expiration Date, discounted at the Reinvestment Rate to the date of determination from the respective dates on which such amounts would have been payable, over (2) the aggregate present value as of the date of determination of (a) the Basic Payments that would have been payable over the Term if all available Renewal Terms then remaining had been exercised, plus (b) the Termination Value as of the Expiration Date, discounted at the Transaction Rate to the date of determination from the respective dates on which such amounts would have been payable; provided, however, that if the Reinvestment Rate is equal to or higher than the Transaction Rate, the Make-Whole Amount shall be zero. For purposes hereof, "Reinvestment Rate" shall mean the sum of (1) the Applicable Treasury Yield, plus (2) fifty (50) basis points; and the term "Applicable Treasury Yield" shall mean the yield to maturity of United States Treasury Notes with a maturity equal to the then average remaining life assuming all available Renewal Terms then remaining would be exercised, as published in the Wall Street Journal three (3) Business Days prior to the date of determination. If no maturity exactly corresponds to such remaining Term, the Applicable Treasury Yield shall be interpolated on a straight-line basis, utilizing the yields for the two maturities which most closely correspond to the requisite maturity.

"Maximum Cost" means the sum of $7,000,000.

"Maximum Lessee Risk Amount" for the Equipment means an amount equal to the product of (a) the respective percentages set forth under the heading Maximum Lessee Risk Amount opposite the various potential Expiration Dates in Annex C to the Lease Supplement executed on the Acceptance Date for such Equipment multiplied by (b) the Acquisition Cost for such Equipment.

"Maximum Lessor Risk Amount" for the Equipment means an amount equal to the product of (a) the respective percentages set forth under the heading Maximum Lessor Risk Amount opposite the

various potential Expiration Dates in Annex C to the Lease Supplement executed on the Acceptance Date for such Equipment multiplied by (b) the Acquisition Cost for such Equipment.

"Net Proceeds of Sale" means the net amount (net of all Sales Expenses) received by Lessor in good and indefeasible funds from a Third Party Purchaser of the Equipment pursuant to a sale of the Equipment hereunder.

"Operative Documents" means this Agreement, the Lease Supplement, the Purchase and Sale Agreement Assignment and any and all other documents, agreements and instruments entered into and/or delivered in connection with the Overall Transaction.

"Option Election Notice Date" means the date occurring twelve (12) months prior to the final day of the Term including all Renewal Terms.

"Overall Transaction" means all of those transactions referred to in, provided for in, or contemplated by, this Agreement, including, without limitation, the financing, operation and management of the Equipment.

"Overdue Rate" means the lesser of the maximum rate permitted by applicable law and a per annum interest rate equal to the Transaction Rate for the Equipment plus 200 basis points.

"Parts" means all appliances, parts, instruments, appurtenances, accessories and miscellaneous property of whatever nature that may from time to time be incorporated or installed in or attached to or otherwise part of the Equipment.

"Payments" means the Basic Payments and Supplemental Payments.

"Permitted Contests" means any contest by Lessee with respect to any Lien, tax or other imposition referred to in Sections 15 or 18 hereof, and any contest by Lessor with respect to any Lien, tax or other imposition referred to in Section 8(b) hereof, so long as Lessee or Lessor (as the case may be) shall contest, in good faith and at its expense, the existence, the amount or the validity thereof, the amount of the damages caused thereby, or the extent of its liability therefore, by appropriate proceedings which do not result in (a) the collection of, or other realization upon, the tax, assessment, levy, fee, rent, charge, lien or encumbrance so contested, (b) any adverse effect on Lessor's interest in the Equipment, the immediate and material risk of the sale, forfeiture or loss of any item of Equipment or any Part, or the Payments or any portion thereof, (c) any interference with the quiet enjoyment and use of any item of Equipment or any Part thereof, or (d) any interference with the payment of the Payments or any portion

thereof and provided that (i) no Event of Default or Default under the Lease shall have occurred and be continuing and/or (ii) such Lien shall not arise as a result of Lessee's act or omission. Prior to any such action, the party initiating any such contest shall acknowledge in writing to the other party, such parties obligation to pay, and save harmless the other party against, any and all losses, judgments, decrees and costs (including, without limitation, all reasonable attorneys' fees and expenses) in connection with any such contest and shall promptly after the final settlement, compromise or determination (including any appeals) of such contest, fully pay and discharge the amounts which shall be levied, assessed, charged or imposed or be determined to be payable therein in connection therewith, together with all penalties, fines, interests, costs and expenses thereof or in connection therewith, and perform all acts, the performance of which shall be ordered or decreed as a result thereof.

"Permitted Lien" means a Lien permitted by the provisions of Section 15 hereof.

"Permitted Sublease" means a sublease (a) which is expressly subject and subordinate to the rights and remedies of Lessor under this agreement and which complies with the requirements of Section 14 hereof, (b) the term of which shall in no event exceed the then remaining portion of the Term, (c) immediately prior to the commencement of the term of which, and after giving effect to which, there shall exist no Default or Event of Default, (d) which is expressly subject and subordinate to this Agreement, and (e) which is a "Lease," as that term is defined under the Uniform Commercial Code and (f) which has provisions which are no less protective of Lessor as Sections 6, 9, 10, 11, 12, 14 (except any such sublease shall prohibit the sublessee thereunder from assigning, subleasing or otherwise further disposing of any of its rights, title or interests in the Equipment for the sublease), 15, 17 and 20 of this Agreement.

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, trustee(s) of a trust, unincorporated organization, or government or governmental authority, agency or political subdivision thereof.

"Purchase and Sale Agreement" means, individually and collectively, those certain Agreements of Purchase and Sale dated March 27, 1996, regarding six (6) SD40-3 locomotives, and March 28, 1996, regarding six (6) GP38-3 locomotives, both between Lessee and the Seller.

"Purchase and Sale Agreement Assignment" means the Purchase and Sale Agreement Assignment dated as of the date hereof between Lessee and Lessor and consented to by the Seller.

"Renewal Term" means, with respect to any Equipment, the period designated as a renewal term, if any, in the Lease Supplement with respect to such Equipment.

"Replacement" shall have the meaning given to such term in Section 12 hereof.

"Replacement Item" means any item of equipment conveyed to Lessor pursuant to Section 16(b) hereof in replacement of any item of Equipment.

"Required Alteration" shall have the meaning given to such term in Section 12 hereof.

"Sales Expenses" means (a) all property, excise, sales and use taxes and other taxes (as such may be applicable to the sale or transfer of the Equipment), (b) all fees, costs and expenses of such sale or transfer of the Equipment (including, without limitation, fees, costs and expenses of attorney's or those associated with transportation, storage, security or insurance) incurred by Lessor and (c) any and all other amounts incurred in connection with such sale or transfer of the Equipment for which, if not paid, Lessor would be liable or which, if not paid, would constitute a Lien on the Equipment, or any Part.

"Seller" means Helm Financial Corporation, a California corporation.

"Subsidiary" of any Person means any corporation of which more than fifty percent (50%) of the voting rights of the outstanding capital stock at the time of determination is owned directly or indirectly by such Person or one of the Subsidiaries of such Person.

"Supplemental Payments" means all amounts, liabilities and obligations which Lessee assumes or agrees to pay hereunder, or under any other Operative Documents, to Lessor or others, including, without limitation, payments of Casualty Loss Value, Termination Value, Make-Whole Amount and indemnities, but excluding Basic Payments.

"Surface Transportation Board" means the successor government agency to the Interstate Commerce Commission.

"Term" means the Basic Term and each Renewal Term, if any.

"Termination Value" means, with respect to any Equipment, an amount determined by multiplying the Acquisition Cost of such Equipment by the Termination Value percentage for such Equipment

set forth in Annex D to the Lease Supplement executed on the Acceptance Date for such Equipment as of the Expiration Date; provided, however, to the extent the Expiration Date is not a Basic Payment Date, the Termination Value percentage shall be determined as of the immediately preceding Basic Payment Date.

"Third Party Purchaser" means a third party purchaser of the Equipment in accordance with Section 29 hereof which is not an Affiliate or Subsidiary of Lessee.

"Transaction Costs" means all fees, costs and expenses incurred by Lessor or Lessee relating to the acquisition, sale or transfer of the Equipment from the Seller (including, without limitation, any filing or search fees, the fees, costs and expenses of the attorney's for Lessor and Lessee, special Surface Transportation Board counsel, and those Persons associated with the transportation, storage, security or insurance of the Equipment).

"Transaction Rate" means, with respect to any Equipment, the transaction rate described in the Lease Supplement executed on the Acceptance Date for such Equipment.

"Warranty Bill of Sale" shall have the meaning given to such term in this Agreement.

The words "this Agreement", "herein", "hereunder", "hereof ", or other like words mean and include this Agreement and the Lease Supplement and any amendment and supplement hereto or thereto.

2. Agreement for Lease of Equipment; Covenant of Quiet Enjoyment. Subject to, and upon all of the terms and conditions of this Agreement, Lessor hereby agrees to lease to Lessee and Lessee hereby agrees to lease from Lessor, the Equipment for the Term. Provided that no Event of Default has occurred and is continuing, Lessor agrees that it shall not interfere with Lessee's quiet enjoyment and use of the Equipment during the Term. Lessor or any Assignee shall not grant or allow any Lessor Liens to be placed on the Equipment other than as permitted in accordance with the provisions of Section 8(b) hereof.

3. Conditions Precedent. The obligations of Lessor to purchase the Equipment and to lease the same to Lessee and enter into the Overall Transaction are subject to:

(a)(1) the delivery to Lessor on the closing date of this Agreement of the following documents each in form and substance satisfactory to Lessor:

(i) Lessee's articles of incorporation, certificate of good standing, by-laws and resolutions, all of

which shall be certified as of a recent date, with such resolutions authorizing the Overall Transaction and Lessee's execution, delivery and performance of this Agreement and an incumbency certificate of Lessee containing the name(s), title(s) and specimen signature(s) of the person(s) authorized on behalf of Lessee to execute this Agreement, the Lease Supplements and the related documents;

(ii) a written opinion of counsel for Lessee;

(iii) a certificate of insurance evidencing the coverages required under Section 17 hereof, together with an independent insurance broker's letter to that effect;

(iv) the Lease Supplement, duly executed by Lessee and Lessor, and dated the Acceptance Date describing all items of Equipment as to which the closing is then to occur;

(v) Uniform Commercial Code filings as deemed appropriate by Lessor's counsel duly executed by Lessee;

(vi) the Purchase and Sale Agreement Assignment duly executed by Lessee and consented to by the Seller;

(vii) a legal opinion of Alan Harrison special Surface Transportation Board counsel to Lessor; and

(viii) a full warranty bill of sale (the "Warranty Bill of Sale") specifically referring to each item of the Equipment as to which the closing is then to occur, duly executed by the Seller in favor of Lessee and dated the Acceptance Date; and

(2) the Lease and the Lease Supplement shall have been recorded with the Surface Transportation Board; and

(b) The fulfillment to the satisfaction of Lessor as of each Acceptance Date of the conditions specified in the following provisions:

(i) the absence on the Acceptance Date of any Liens on the Equipment, other than any Permitted Lien of the type specified in Sections 15(a) or (b) hereof;

(ii) the Acquisition Cost will not exceed the Maximum Cost;

(iii) the Acceptance Date shall be a date between and inclusive of the date hereof and the Acquisition Expiration Date;

(iv) Lessee shall have paid all fees and expenses due and owing including, but not limited to, all Transaction Costs with respect to the Overall Transaction on or prior to the Acceptance Date;

(v) Lessor shall have received such other documents, appraisals, certificates, financing statements and other items, in form and substance satisfactory to Lessor, as Lessor may reasonably require;

(vi) no Default, Event of Default or Event of Loss shall then have occurred hereunder; and

(vii) no material adverse change shall have occurred in the financial condition of Lessee from the condition represented in the financial information provided by Lessee to Lessor in connection with its commitment to enter into the Overall Transaction.

(viii) The representations and warranties of Lessee contained in Section 21 shall be accurate in all material respects as of each Acceptance Date.

4. Delivery and Acceptance of Equipment. Lessor shall not be liable to Lessee for any failure or delay in obtaining the Equipment or making delivery thereof. Lessor hereby appoints Lessee as Lessor's agent for the sole and limited purpose of accepting delivery of each item of the Equipment. On the Acceptance Date Lessee shall promptly inspect each item of Equipment, and unless Lessee gives Lessor prompt written notice of any defect in or other proper objection to any item of such Equipment, Lessee shall promptly upon completion of such inspection execute and deliver to Lessor the Lease Supplement, dated the Acceptance Date describing all items of Equipment as to which the closing is then to occur. There shall be no more than two Acceptance Dates and two Lease Supplements. Lessor shall also pay to the Seller the Acquisition Cost of the Equipment as to which the closing is then to occur if all of the conditions precedent specified in Section 3 hereof have been fulfilled to Lessor's reasonable satisfaction. The execution of a Lease Supplement by Lessee and Lessor shall evidence that each item of Equipment has been accepted under this Agreement, upon and subject to all of the terms, conditions and provisions hereof and shall constitute Lessee's unconditional and irrevocable acceptance of the Equipment for all purposes under this Agreement. Lessee's execution of the Lease Supplement shall constitute Lessee's

acknowledgement, agreement, warranty and covenant that, as between Lessor and Lessee, each item of Equipment has been inspected to Lessee's satisfaction, is in good operating order, repair and condition, is of a size, design, capacity and manufacture selected by Lessee, that each item of Equipment is duly certified or licensed by any governmental entity which is charged with issuing such certificates or licenses, that Lessee is satisfied that each item of Equipment is suitable for its purpose and has been fully refurbished in accordance with the specifications and requirements contained in the Purchase and Sale Agreement applicable to such Equipment , and that, consistent with Section 20 hereof, Lessor has made no warranty, expressed or implied, with respect to any item of Equipment and that Lessee has unconditionally accepted each item of Equipment under this Agreement, and that each item of Equipment has been marked in accordance with Section 13(a) hereof.

5. Term.

(a) Basic Term. The Basic Term for each item of the Equipment is as specified in the Lease Supplement applicable to such Equipment.

(b) Renewal Term. The renewal option and Renewal Term, if any, for each item of the Equipment is as specified in the Lease Supplement applicable to such Equipment.

(c) Early Termination and Early Buy-Out Options. The early termination and early buy-out options for each item of the Equipment, if any, are as specified in the Lease Supplement applicable to such Equipment.

(d) End of Term Options. Section 29 hereof sets forth the options available to Lessee at the end of the final Renewal Term permitted under Section 5(b) hereof respecting any item of the Equipment.

6. Expiration (Delivery of Equipment).

(a) Delivery to Lessor. If this Agreement shall be in full force and effect and Lessee shall not have elected to renew this Agreement in accordance with Section 5(b) hereof or to purchase the Equipment in accordance with Section 29 hereof, then on the Expiration Date Lessee shall deliver, at Lessee's expense, the Equipment to Lessor (or to a Third Party Purchaser to which the Equipment shall be sold pursuant to said Section 29). Lessee shall deliver the Equipment to a location within the continental United States as specified in writing by Lessor or such Third Party Purchaser. The terms of this Section 6 shall apply to Lessee's delivery of the Equipment. At the time of such return to Lessor or delivery to the Third Party Purchaser, each item of Equipment (and each Part or component thereof) shall (i) be in

good operating order in accordance with the rules of the American Association of Railroads ("AAR") and the Federal Railroad Administration ("FRA") and/or the Applicable Rules of any other governmental agency or other organization having jurisdiction, and in the repair and condition as when originally delivered to Lessee, and as required by Sections 10 and 11 hereof, ordinary wear and tear from proper use thereof excepted, and refurbished where necessary, (ii) be capable of being immediately operated by a Third Party Purchaser or third party lessee without further inspection, repair, replacement, alteration or improvement, (iii) be in accordance and compliance with any and all statutes, laws, ordinances, rules and regulations of any Federal, state or local governmental body, agency or authority applicable to the use and operation of such item of Equipment, and (iv) be free and clear of all Liens, other than Lessor Liens, and (v) be free of any markings, and (vii) shall have attached or affixed thereto any Parts, alterations or additions and replacements considered an accession thereto as provided in Section 12 hereof. If Lessor shall so request, Lessee will provide free storage to Lessor at which location such item of Equipment is delivered hereunder for a period of time not exceeding 90 days from the date such item of Equipment is returned to Lessor in the condition required under this Agreement.

In addition to the other remedies provided in this Section, in the event any item of Equipment shall not be reassembled and redelivered, in the manner provided by this Section 6, Lessee shall pay to Lessor, for each day that such undertaking shall not be effected after the termination or expiration of the Term, as liquidated damages and not as a penalty, for the failure of Lessee so to redeliver the items of Equipment in accordance herewith, and in lieu of other monetary compensation to Lessor for such temporary unavailability, an amount equal to the daily equivalent of the greater of (i) the arithmetic average of the Basic Payments payable with respect to such item of the Equipment during the preceding lease term (whether the Basic Term or a Renewal Term, as the case may be), or (ii) the Fair Market Rental Value (as hereinafter defined) of such item of Equipment at the expiration of the Term, as determined mutually by Lessor and Lessee in good faith; "Fair Market Rental Value" means with respect to any item of Equipment the value which would be obtained in an arm's length transaction between an informed and willing Lessee under no compulsion to lease and an informed and willing Lessor under no compulsion to lease, and assuming that the Equipment is in the condition required pursuant to Section 6 hereof. In the event that Lessor and Lessee are unable to agree upon a determination of Fair Market Rental Value within ten (10) days of Lessee's failure to re-assemble and re-deliver any Item of Equipment as provided herein, the Fair Market Rental Value of any Item of Equipment shall be determined by the Appraisal Procedure, the expenses and fees of such Fair Market Rental Value appraisal under the

Appraisal Procedure shall be borne equally by Lessor and Lessee. Provided, however, the provision for such payment shall not be an abrogation of Lessor's right under this Section 6 to have each item of the Equipment returned to it immediately upon the termination or expiration of the Term with respect to such item of Equipment, such assembling, delivery, insurance and transportation of the Equipment as hereinbefore provided are of the essence of this Lease Agreement and any failure to do so by Lessee shall permit Lessor to seek specific performance of such covenants of Lessee. The provisions of this Agreement that provide that all or part of Lessee's obligations are terminated upon the return of the items of Equipment to Lessor shall, whether or not expressly so stated, mean upon such return under this Section 6.

7. Payments.

(a) Basic Payments. Lessee hereby agrees to pay Lessor Basic Payments for the Equipment throughout the Term, in consecutive monthly installments, in accordance with wire transfer instructions delivered by Lessor to Lessee. Each monthly installment shall be in an amount equal to the Basic Payment Factor for such Equipment multiplied by the Acquisition Cost for such Equipment. Each Basic Payment shall be payable in arrears, on the last day of the Basic Payment Period to which such Basic Payment corresponds.

(b) Supplemental Payments. Lessee agrees to pay Lessor, or to whomsoever shall be entitled thereto as expressly provided herein, all Supplemental Payments promptly as the same shall become due and owing, or, when no due date is specified, within ten (10) days after the demand by the person entitled thereto and in the event of any failure on the part of Lessee to pay any such Supplemental Payment hereunder Lessor shall have all rights, powers and remedies provided for herein or by law or equity or otherwise in the case of nonpayment of Basic Payments.

(c) Method of Payment. If the date that any Payment is due is other than a Business Day the Payment otherwise payable on such date shall be payable on the next succeeding Business Day. All Basic Payments and Supplemental Payments required to be made by Lessee to Lessor hereunder shall be made by wire transfer of immediately available funds prior to 11:00 a.m. in the city where payment is to be made, in good funds and in United States dollars. In the event of any assignment to an Assignee pursuant to Section 14(b) hereof, all payments which are assigned to such Assignee, whether Basic Payments, Supplemental Payments or otherwise, shall be paid in the same manner specified herein for payments to Lessor at such address or to such account as shall be designated by such Assignee. Time is of the essence in connection with the payment of each and every Payment.

8. Net Lease; Lessor Liens.

(a) Net Lease. This Agreement is a net lease and Lessee acknowledges and agrees that Lessee's obligations hereunder, including, without limitation, its obligations to pay all Payments payable hereunder, shall be absolute and unconditional under any and all circumstances and shall be paid without notice or demand and without any abatement, reduction, diminution, set-off, defense, counterclaim or recoupment whatsoever, including, without limitation, any abatement, reduction, diminution, set-off, defense, counterclaim or recoupment due or alleged to be due to, or by reason of, any past, present or future claims which Lessee may have against Lessor, any Assignee, or the manufacturer of any item of the Equipment, any Part or unit or component of the Equipment, or any other Person for any reason whatsoever; nor, except as otherwise expressly provided herein, shall this Agreement terminate, or the obligations of Lessee be otherwise affected, by reason of any defect in any item of the Equipment, any Part or unit or component of the Equipment, the condition, design, operation or fitness for use thereof, any damage to, or any loss or destruction of, any item of the Equipment, any Part or unit or component of the Equipment, or any Liens or rights of others with respect to any item of the Equipment, any Part or unit or component of the Equipment, any prohibition or interruption of or other restriction against Lessee's use, operation or possession of any item of the Equipment, any Part or unit or component of the Equipment, for any reason whatsoever, or any interference with such use, operation or possession by any Person or entity, or by reason of any misconduct, default, misrepresentation, negligence, gross negligence or failure by Lessor to perform any of its obligations herein contained, or by reason of any other indebtedness or liability, howsoever and whenever arising, of Lessor or of any Assignee or of Lessee to any other Person, or by reason of any insolvency, bankruptcy or similar proceedings by or against Lessor, any Assignee, any guarantor of Lessee's obligations or Lessee, or any invalidity or unenforcability or disaffirmance of this Agreement or any provisions hereof or of any other document executed in connection herewith or for any other reason whatsoever, whether similar or dissimilar to any of the foregoing, any present or future law to the contrary notwithstanding; it being the intention of the parties hereto that the Basic Payments, Supplemental Payments, and all other payments of whatsoever kind or nature payable by Lessee hereunder shall continue to be payable in all events and in the manner and at the times herein provided, without notice or demand, unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Agreement. To the extent permitted by applicable law, Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of

any of the items of Equipment except in accordance with the express terms hereof. Each Payment made by Lessee hereunder shall be final, and Lessee shall not seek to recover all or any part of such Payment from Lessor for any reason whatsoever. Nothing in this Section shall be construed as a waiver of or shall limit Lessee's right in a separate and distinct forum to pursue an action against Lessor or any Assignee for actual damages which arise as a direct result of any breach by Lessor or any Assignee of any provision of this Agreement or the Lease Supplement.

(b) Lessor Liens. Notwithstanding Section 8(a), Lessor or Assignee shall not directly or indirectly create, or incur, assume or suffer to exist any Lessor Lien on or with respect to any item of Equipment (other than any such Lien subject to a Lien Contest). Lessor or Assignee shall, at its own expense, promptly pay, satisfy and otherwise take such action as may be necessary to keep each such item of Equipment free and clear of, and duly discharge, any Lessor Lien.

9. Title: Grant of Security Interest: Equipment to be and Remain Personal Property; Usury Savings.

(a) Title. Title to each item of the Equipment shall at all times remain in Lessee and at no time during the Term shall title become vested in Lessor.

(b) Grant of Security Interest: Equipment to be and Remain Personal Property. This Agreement is a lease intended for security. Lessee hereby assigns, pledges and grants to Lessor a continuing first priority security interest in the Equipment, together with all Parts, additions, attachments, accessions, accessories and accessions thereto, and any and all substitutions, replacements or exchanges therefor (including, without limitation, any Required Alterations, Replacements and Improvements), and any and all insurance and/or other proceeds (but without power of sale) thereof, whether now owned or hereafter acquired, the Agreement and all interests and matters of whatsoever nature arising therefrom as collateral security for the payment and performance by Lessee of Lessee's obligations of whatsoever kind or nature as Lessee hereunder or under any of the other Operative Documents including, but not limited to, Lessee's payment obligations. In furtherance thereof, Lessee shall execute and deliver to Lessor such Uniform Commercial Code financing statements, and any STB or other filings (together with an opinion of STB or other appropriate counsel as to the due recordation thereof), as may be required by Lessor, and all of the same shall be prepared, delivered and (other than with respect to the opinion) recorded and kept current and valid in all respects at Lessee's expense. It is the intention and understanding of both Lessor and Lessee, that Lessee shall take all such actions as may be required to assure, that the Equipment shall be and at all

times remain personal property, notwithstanding the manner in which the Equipment may be attached or affixed to realty. Lessee shall obtain and record such instruments and take such steps as may be necessary to prevent any Person from acquiring any rights in the Equipment by reason of the Equipment being claimed or deemed to be real property. Upon request by Lessor, Lessee shall obtain and deliver to Lessor valid and effective waivers, in recordable form, by the owners, landlords and mortgagees of the real property upon which the Equipment or any item of Equipment is located or certificates of Lessee that it is the owner of such real property or that such real property is not leased and/or mortgaged.

(c) Usury Savings. It is the intention of the parties hereto to comply with any applicable usury laws to the extent that this Agreement is determined to be subject to such laws; accordingly, it is agreed that, notwithstanding any provision to the contrary in this Agreement, in no event shall this Agreement require the payment or permit the collection of interest in excess of the maximum amount permitted by applicable law. If any such excess interest is contracted for, charged or received under this Agreement, or in the event that all of the principal balance shall be prepaid, so that under any of such circumstances the amount of interest contracted for, charged or received under this Agreement shall exceed the maximum amount of interest permitted by applicable law, then in such event (1) the provisions of this paragraph shall govern and control, (2) neither Lessee nor any other person or entity now or hereafter liable for the payment hereof shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest permitted by applicable law, (3) any such excess which may have been collected shall be either applied as a credit against the then unpaid principal balance or refunded to Lessee, at the option of Lessor, and (4) the effective rate of interest shall be automatically reduced to the maximum lawful contract rate allowed under applicable law as now or hereafter construed by the courts having jurisdiction thereof. It is further agreed that without limitation of the foregoing, all calculations of the rate of interest contracted for, charged or received under this Agreement which are made for the purpose of determining whether such rate exceeds the maximum lawful contract rate, shall be made, to the extent permitted by applicable law, by amortizing, prorating, allocating and spreading in equal parts during the period of the full stated term of the indebtedness evidenced hereby, all interest at any time contracted for, charged or received from Lessee or otherwise by Lessor in connection with such indebtedness; provided, however, that if any applicable state law is amended or the law of the United States of America preempts any applicable state law, so that it becomes lawful for Lessor to receive a greater interest per annum rate than is presently allowed, Lessee agrees that, on the effective date of such

amendment or preemption, as the case may be, the lawful maximum hereunder shall be increased to the maximum interest rate per annum allowed by the amended state law or the law of the United States of America.

10. Use of Equipment; Compliance with Laws. Lessee agrees that each item of Equipment will be used and operated in a lawful manner and only (a) for purposes or operations in the ordinary course of its business and (b) in the manner set forth in, and in accordance with, the terms, conditions and provisions of the insurance policy or policies providing the coverages specified in Section 17 hereof. In no event shall Lessee use or operate any item of Equipment, or knowingly permit any item of Equipment to be used or operated, for any purpose for which such item of Equipment is not designed or reasonably suitable, or in any fashion that may reasonably subject such item of Equipment to any Liens, other than Permitted Liens, or in any area excluded from coverage by any such insurance policy or policies. Lessee further agrees that each item of Equipment will be used, operated, interchanged, acquired, leased, subleased, stored and cleaned consistent with the conduct of Lessee's normal business operations and in compliance with all statutes, law, ordinances, rules and regulations of any Federal, state, local or foreign government or governmental authority having jurisdiction with respect to the use, operation, maintenance, condition and occupancy of any item of Equipment, Lessee or the conduct of its business including, without limitation, all zoning, environmental protection, transportation, utility, pollution, sanitary and safety laws, and with the rules of the AAR (all of the foregoing, the "Applicable Standards"). Lessee will not use, operate, or store any item of Equipment, or knowingly permit the using, operating or storing of any item of Equipment, in a negligent manner or otherwise in violation of this Agreement or so as to void any of the insurance coverages specified in Section 17 hereof respecting any item of Equipment. Lessee shall procure and maintain in effect all licenses, certificates, permits, approvals and consents required by any Applicable Standards or by any governmental body, agency or authority, in connection with the delivery, use, or other operation, maintenance, condition and occupancy of each item of Equipment, any of the substances carried therein, or in the conduct of its business. The Equipment will at all times be and remain in the control of Lessee except as Lessee's relinquishment of control of an item of Equipment is specifically permitted by this Agreement and except while an item of Equipment is undergoing maintenance. To the extent that any Applicable Standard requires the licensing or certification of an operator of any item of the Equipment, each such operator shall be duly licensed and currently certificated and qualified to operate such item of Equipment and authorized by the terms of (in accordance with the provisions and requirements of) the insurance policy or policies providing the coverages specified in Section 17 hereof.

11. Operation and Maintenance of Equipment. Each item of the Equipment will be used by Lessee as locomotives in transporting railcars. The items of Equipment will be operated on railroad lines in the United States over which Lessee has trackage rights and on railroad lines of railroads in the usual interchange of traffic or in through or run-through service. The Equipment may not be used, except for incidental use, outside the continental United States. Lessee agrees, at its own cost and expense, to keep, repair, maintain and preserve the Equipment in good order and operating condition, in accordance with the rules of the AAR and the rules of the FRA, and in compliance with such maintenance and repair standards and procedures as are set forth in the manufacturer's manuals pertaining to the Equipment, and as otherwise may be required to enforce warranty claims against each vendor and manufacturer of each item of Equipment, and in compliance with all requirements of law applicable to the maintenance and condition of the Equipment. Lessee shall, at its own cost and expense, supply the necessary items required in the operation of the Equipment, so as to be in compliance with Sections 10 and 11 hereof. In addition, Lessee shall maintain the Equipment in compliance in all respects with prevailing industry standards and shall maintain all records, logs and other materials required by the AAR, the FRA, the Surface Transportation Board or the United States Department of Transportation, or any other governmental authority having jurisdiction over the Equipment or Lessee or Lessor (with respect to the Equipment). In no event shall any item of the Equipment be maintained with less care or scheduled for maintenance on a basis less frequent than either the maintenance or maintenance scheduling basis employed by Lessee for similar equipment owned by or operated for or by Lessee. Without limiting the generality of any other provision of this Agreement, Lessee agrees to be solely liable for, and to pay when due, all tariffs, switching fees and demurrage charges, when and if any or all of the same shall become due and payable in connection with the Equipment at any time prior to the delivery of the Equipment in accordance with the provisions of this Agreement. Lessee hereby waives any right now or hereafter conferred by law to make repairs on the Equipment at the expense of Lessor.

At the time Lessee makes any such Required Alteration, Replacement or Improvement (defined herein), Lessee agrees that (i) the same shall be made and attached to or incorporated into the Equipment in accordance with all Applicable Standards; and upon completion of the same, the Equipment and all records relating thereto shall comply with all Applicable Standards and all of the provisions of this Agreement; and (ii) it shall prepare, execute, deliver and, if requested, cause to be filed and recorded, any documents, instruments or agreements, and to undertake such other actions, with respect thereto, for the purpose of conveying good title to the same to Lessor, free and

clear of all Liens (other than any Liens permitted by Section 15 hereof), and causing the same to be subject to this Agreement and the Lease Supplement.

12. Replacement of Parts; Alterations; Modifications and Additions. In case any Part, component or unit of the Equipment is required to be altered or modified, or any equipment or appliance is required to be altered, added, replaced or modified on any item of Equipment or in either case in order to comply with the Applicable Standards , regulations, requirements or rules ("Required Alteration") pursuant to Sections 10 or 11 hereof, Lessee agrees to make such Required Alteration at its own expense. Such Required Alteration shall immediately be and become the property of Lessor and subject to the terms of this Agreement. Lessee agrees that, within 30 days after the close of any calendar quarter in which Lessee has made any material Required Alteration, Lessee will give written notice thereof to Lessor describing, in reasonable detail, the Required Alteration and specifying the cost thereof and the date or dates when made. All Parts, equipment and appliances incorporated or installed in or attached to any item of Equipment in connection with servicing, repairing, maintaining and overhauling any item of Equipment pursuant to the requirements of Sections 10 or 11 hereof ("Replacement") shall be considered accessions to such item of Equipment and shall immediately, without further act, be and become the property of Lessor and part of the Equipment. Lessee may, without the prior written consent of Lessor, affix or install any accessory, equipment or device on the Equipment or make any improvement or addition thereto other than a Required Alteration or Replacement ("Improvement"); provided that, (a) a nonremovable Improvement may only be made to an item of Equipment if such Improvement does not reduce the value, utility, remaining useful life or condition below the value, utility, remaining useful life or condition such item of Equipment would have had if such Improvement had not been so affixed or installed, on such item of Equipment and (b) any other Improvement may only be made to the Equipment if such Improvement is readily removable without causing damage to the Equipment or impairing the value, utility, remaining useful life or condition the Equipment would have had if such Improvement had not been so affixed or installed. Improvements shall be considered accessions to the Equipment and shall immediately without further act, be and become the property of Lessor and Part of the Equipment. At the time title to any Replacement has become vested in Lessor pursuant to the provisions of this Section 12, title to the part, equipment or appliance replaced thereby shall thereupon vest in Lessee; provided, however, that in no event shall any Part, equipment or appliance which cannot be removed without causing damage to any item of Equipment vest in Lessee.

13. Identification; Inspection; Reports.

(a) Lessee shall, on or before the Acceptance Date, mark each item of the Equipment, and cause each item of the Equipment to be kept marked, with the identification number set forth in the Lease Supplement executed pursuant hereto, and will mark each item of the Equipment, and cause it to be kept marked, plainly, distinctly, permanently and conspicuously, as follows: "Ownership subject to a Master Equipment Lease Agreement filed with the Surface Transportation Board", or other markings requested by Lessor. Lessee will not change the identification number of any item of Equipment unless and until (in each case, at Lessee's expense) (i) a statement of new number or numbers to be substituted therefore shall have been delivered to Lessor and filed, recorded and deposited by Lessor in all public offices where this Agreement shall have been filed, recorded or deposited, (ii) Lessor shall have received an opinion of special Surface Transportation Board counsel to the effect that such statement has been so filed, recorded and deposited, and that such filing, recordation and deposit will protect Lessor's interests in the items of Equipment and that no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interest of Lessor in such items of Equipment.

(b) Lessor shall have the right on any Business Day during normal business hours and upon reasonable prior written notice to Lessee to inspect (i) the Equipment (at Lessee's facilities or the facilities of any entity then in possession of such Equipment) and (ii) Lessee's records with respect thereto; provided, however, Lessor will conduct no such inspection which shall unreasonably interfere with Lessee's business operations. Lessor shall only conduct such inspections, or cause such inspections to be conducted, as Lessor deems necessary or appropriate to confirm the existence and proper maintenance of the Equipment. Upon receipt of Lessor's notice requesting to inspect certain Equipment, Lessee shall promptly notify Lessor of the location of the Equipment and shall make all necessary arrangements with the entity then in possession of the Equipment to facilitate the inspection. Except for Lessor's covenant not to unreasonably interfere with Lessee's business operations, the foregoing restrictions on Lessor's inspection rights shall not be applicable upon the occurrence and continuation of an Event of Default.

(c) On or before June 30 in each year of the term, commencing with the calendar year 1997 the Lessee shall furnish Lessor with an accurate statement showing the then current location of each item of the Equipment, and the total number, description and identification numbers of all items of Equipment that have suffered a Casualty Loss during the period after the

previous such report, and identifying all items of Equipment then undergoing repairs (other than running repairs) or then withdrawn from use pending repair (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Equipment as Lessor reasonably may request, and stating that, in the case of all items of Equipment repainted or repaired during the period covered by such statement, the numbers and markings required by Section 13(a) hereof have been preserved or replaced.

14. Assignment, Sublease or Transfer; Assignment; Consolidation and Merger.

(a) Assignment, Sublease or Other Transfer by Lessee. LESSEE WILL NOT, WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR (WHICH SHALL NOT BE UNREASONABLY WITHHELD), ASSIGN, SUBLEASE OR OTHERWISE TRANSFER ITS RIGHTS OR OBLIGATIONS HEREUNDER FOR A PERIOD EXCEEDING THE LESSER OF SIX MONTHS OR THE REMAINDER OF THE THEN EXISTING TERM (DETERMINED WITHOUT REGARD TO FUTURE RENEWAL TERMS), AND ANY ATTEMPTED ASSIGNMENT, SUBLEASE OR OTHER TRANSFER BY LESSEE FOR A PERIOD EXCEEDING THE LESSER OF SIX MONTHS OR THE REMAINDER OF THE THEN EXISTING TERM (DETERMINED WITHOUT REGARD TO FUTURE RENEWAL TERMS) WITHOUT SUCH LESSOR CONSENT SHALL BE NULL AND VOID.

Notwithstanding the foregoing, so long as no Default or Event of Default has occurred and is continuing hereunder, Lessee shall have the right to permit the use of the Equipment by one of its Affiliates or a railroad company incorporated in the United States of America in the normal course of its business, provided that Lessee's obligations hereunder shall remain in full force and effect. No assignment, sublease or other transfer by Lessee shall reduce any of the obligations of Lessee hereunder or the rights of Lessor hereunder, and all of the obligations of Lessee hereunder shall be and remain primary and shall continue in full force and effect as the obligations of a principal and not of a guarantor or surety. Any such sublease shall be in writing, pursuant to a Permitted Sublease, and Lessee shall furnish to Lessor not later than the effective date of such sublease (i) new insurance certificates from Lessee's insurance broker, in form and substance satisfactory to Lessor, indicating compliance with the insurance provisions of this Agreement and (ii) an officer's certificate from Lessee naming the sublessee and specifying the address for the sublessee's principal place of business. Lessee shall, and shall cause such sublessee to, execute and deliver such instruments to the appropriate Person for filing and to deliver copies of the same to Lessor (including sublease agreements and Uniform Commercial Code financing statements) as may be requested by Lessor in connection with any such sublease. Any sublease in excess of twelve months must be recorded and/or filed at Lessee's expense: and Lessor shall obtain (at Lessee's expense) an opinion

from special Surface Transportation Board counsel to the effect that such sublease has been so filed, recorded and deposited, and that such filing, recordation and deposit will protect Lessor's interests in the items of Equipment and that no filing, recording, deposit or giving of notice with or to any other Federal, state or local Government agency thereof is necessary to protect the interest of Lessor in such items of Equipment.

(b) Assignment By Lessor. Subject to the requirements of Section 8(b) hereof, Lessor may at any time (i) assign, sell or transfer, in whole or in part, Lessor's right and interest in, to and under this Agreement and the Lease Supplement, including, without limitation, the right to receive any or all Payments payable under this Agreement and under the Lease Supplement with respect to the Equipment, and (ii) sell or transfer in whole or in part Lessor's right and interest in and to the Equipment (provided, however, such assignment, sale or transfer shall not be permitted if such assignee, purchaser or transferee has, over the past five years, an average yearly net worth of less than $50,000,000). Each such assignee of Lessor's rights (an "Assignee") shall have all of Lessor's right, title and interest hereunder to the extent that the same relate to the interest of the Assignee covered by the assignment, including, without limitation, the right to receive such Assignee's portion of the Basic Payments payable for the Equipment for all Basic Payment Periods commencing on or after the date of such assignment, the right to receive such Assignee's portion of the Supplemental Payments which are payable as a result of acts or events which occur on or after the date of such assignment and the right to enforce, either in such Assignee's name or in Lessor's name, but without cost or expense to Lessor, all of Lessor's rights hereunder assigned to such Assignee. Such Assignee may re-assign all or a portion of such right, title and interest. Any such assignment shall be subject to Lessee's rights hereunder so long as no Event of Default has occurred and is continuing hereunder. Lessee shall be under no obligation to any Assignee except upon written notice of such assignment from Lessor. Upon written notice from Lessor to Lessee of such assignment, Lessee agrees to pay the Basic Payments and Supplemental Payments to the Assignee in accordance with the terms of this Agreement supplemented by the instructions specified in such notice, to give all notices which are required or permitted to be given by Lessee to Lessor hereunder to the Person(s) specified to receive the same in such notice of assignment and to otherwise comply with all reasonable notices, directions and demands which may be given by such Assignee in accordance with the provisions of this Agreement. Upon such assignment and except as may otherwise be provided herein, all references in this Agreement to "Lessor" shall include such Assignee. Lessee agrees to deliver to any Assignee an acknowledgement of the assignment together with an opinion of Lessee's counsel regarding the validity and enforceability of this

Agreement and the other Operative Documents to which it is a party against Lessee, an incumbency certificate of Lessee and such authorizing resolutions as such Assignee may reasonably request; provided, however, all out of pocket fees and expenses incurred by Lessee in connection with the production or delivery of the foregoing documents referenced previously in this sentence shall be for the account of Lessor or such Assignee, as agreed to by such parties.

(c) Consolidation, Merger, Conveyance, Transfer and Lease by Lessee. Lessee shall not consolidate with or merge into any other corporation or convey, transfer or lease substantially all of its assets as an entirety to any Person without the prior written consent of Lessor unless:

(i) Lessee is the surviving entity of any such consolidation or merger; or

(ii) the corporation formed by such consolidation or into which Lessee is merged, or the Person which acquires by conveyance, transfer or lease of substantially all of the assets of Lessee as an entirety, shall be a solvent corporation organized and existing under the laws of the United States or any state thereof or the District of Columbia and shall execute and deliver to Lessor an agreement containing an effective assumption by such successor, transferee or lessee corporation of the due and punctual performance and observance of each covenant and condition of this Agreement, which agreement shall be filed and recorded by the Lessor at the STB (as evidenced by an opinion from STB counsel); provided any conveyance, transfer or lease of substantially all of its assets shall not release Lessee from its obligations under this Agreement, which obligations shall at all times remain primary and direct; and

(iii) immediately prior to and after giving effect to such transaction however structured, no Default or Event of Default shall have occurred and be continuing; and

(iv) immediately after giving effect to such transaction, the consolidated tangible net worth (computed on the same basis as the Consolidated Tangible Net Worth) of the corporation formed by such consolidation or into which Lessee is merged or the Person

which acquired by conveyance, transfer or lease substantially all the assets of Lessee as an entirety, as the case may be, shall not be less than 100% of the Consolidated Tangible Net Worth of Lessee as reflected in Lessee's then most recent audited financial statements furnished by Lessee pursuant hereto prior to such consolidation, merger, conveyance, transfer or lease; and

(v) Lessee shall have delivered to Lessor a certificate signed by two officers, one of whom shall be the President or a Vice President, and one of whom shall be the Treasurer or the Secretary or an Assistant Secretary of Lessee, and an opinion of Lessee's counsel (or of such successor's counsel, as applicable) satisfactory in form and substance to Lessor stating that such consolidation, merger, conveyance, transfer or lease and the assumption agreement mentioned in clause 14(c) (ii) above comply with the requirements of this Section 14(c) and that all conditions precedent herein provided for relating to such transaction have been complied with.

(vi) Lessee and its successor shall each bear their own expenses incurred in connection with any of the foregoing, and shall reimburse Lessor for any and all of its related expenses, promptly upon demand.

Upon any consolidation or merger in which Lessee is not the surviving corporation, or any conveyance, transfer or lease of substantially all the assets of Lessee as an entirety in accordance with this Section 14(c), the successor corporation formed by such consolidation or into which Lessee is merged or to which such conveyance, transfer or lease is made shall succeed to, and be substituted for (but without release of Lessee from any of its obligations hereunder with respect to any conveyance, transfer or lease of substantially all the assets of Lessee as an entirety), and may exercise every right and power of, Lessee under this Agreement with the same effect as if such successor corporation had been named as a Lessee herein.

15. Liens. Lessee will not directly or indirectly create, incur, assume or suffer to exist any Lien on or with respect to any item of Equipment, Lessor's title thereof, any interest therein or this Agreement except the following (collectively, the

"Permitted Liens"): (a) any Lien granted to Lessor hereunder or granted or placed thereon by Lessor as a result of an assignment pursuant to Section 14(b) hereof, (b) any Lessor Lien (c) any Lien for taxes either not yet delinquent or which are the subject of a Permitted Contest, and (d) any materialmen's, mechanics', workmen's, repairmen's or employees' lien or any other like lien arising in the ordinary course of business, which is not delinquent or which is the subject of a Permitted Contest. Lessee, at its own expense, will promptly pay, satisfy and otherwise take such actions as may be necessary to keep each item of Equipment free and clear of, and to duly discharge or eliminate or bond in a manner satisfactory to Lessor, any such Lien not excepted above if the same shall arise at any time. Lessee will notify Lessor and any Assignee in writing promptly upon becoming aware of any tax or other Lien that shall attach to any item of Equipment and of the full particulars thereof.

16. Loss, Damage or Destruction.

(a) Risk of Loss, Damage or Destruction. Lessee hereby assumes all risk of loss, damage, theft, taking, destruction, confiscation, requisition or commandeering, partial or complete, of or to the Equipment, however caused or occasioned, such risk to be borne by Lessee with respect to the Equipment from the Acceptance Date, and continuing until the Equipment has been delivered in accordance with the provisions of Section 6 hereof (and during any storage period contemplated therein) or has been purchased by Lessee in accordance with the provisions of Section 29 hereof. Lessee agrees that no occurrence specified in the preceding sentence shall impair, in whole or in part, any obligation of Lessee under this Agreement, including, without limitation, the obligation to make Payments.

(b) Event of Loss with Respect to Equipment.

(i) Upon the occurrence of an Event of Loss with respect to any item of Equipment during the Term, Lessee shall forthwith (and in any event within 10 days after such occurrence) give Lessor written notice of such Event of Loss and of its election to perform one of the following options (it being agreed that if Lessee shall not have given Lessor notice of such election within such 10 days after such occurrence, Lessee shall be deemed to have elected to perform the option set forth in the following clause (B)), provided that Lessee shall not have the right to select the option set forth in the following clause (A) if a Default or Event of Default shall have occurred and be continuing and in such

circumstance shall be deemed to have selected the option set forth in the following clause (B):

(A) As promptly as practicable, and in any event within 60 days of the occurrence of such Event of Loss, Lessee shall: (1) convey or cause to be conveyed to Lessor pursuant to Section 16(b) (ii), and to be leased by Lessee hereunder in replacement for such item of Equipment, a replacement item (the "Replacement Item"), such Replacement Item to be substantially equivalent in design and function, free and clear of all Liens (other than Permitted Liens) and to have a value, utility and remaining useful life at least equal to, and be in as good operating condition as, the item of Equipment with respect to which such Event of Loss occurred, assuming such item of Equipment was of the value, utility and remaining useful life and in the condition and repair required by the terms hereof immediately prior to the occurrence of such Event of Loss; or (II) deposit an amount equal to the amount calculated as due Lessor by Lessee under Section 16(b)(i)(B) hereof into a mutually agreed upon escrow account while such Replacement Item is being manufactured if such manufacture is expected to exceed a period of 60 days, but is not expected to exceed a period of 120 days, from the occurrence of such Event of Loss ; provided that, if Lessee shall not perform its obligation to effect such replacement under this clause (A) during the period of time provided herein, then Lessee shall promptly give notice to Lessor, and shall be deemed (whether or not Lessee shall have so given such notice) to have elected to perform the option set forth in clause (B) below by the date and pursuant to the terms specified in said clause. (Notwithstanding such Event of Loss, Lessee's obligation to pay Basic Payments shall continue.)

(B) On the Casualty Loss Value Date next following the earlier of 60 days after the occurrence of such Event of Loss and the date of receipt of insurance proceeds in respect of such occurrence, Lessee shall pay Lessor the sum of (i) the Casualty Loss Value and Make-Whole Amount (both amounts computed as of the Casualty Loss Value Date on which such payment is to be made), plus (ii) all accrued and unpaid Basic Payments (and/or any pro rata portion thereof) owing for all Basic Payment Periods (and/or any pro rata portion thereof) prior to such Casualty Loss Value Date, plus (iii) all Supplemental Payments then due and owing. Upon payment

in full of amounts specified in clauses (i) through (iii) of the preceding sentence, (A) the obligation of Lessee to pay Basic Payments hereunder, with respect to such item of Equipment for all Basic Payment Periods commencing after the occurrence of such Event of Loss shall terminate, (B) the Term shall end with respect to such item of Equipment, and (c) Lessor shall transfer to Lessee, or Lessee's designee, at Lessee's cost and expense, all of the Lessor's right, title and interest, as-is, where-is, without recourse or warranty, express or implied, in such item of Equipment.

(ii) Conveyance of Replacement Equipment. Prior to or at the time of any conveyance of a Replacement Item, Lessee, at its own expense, will furnish, or cause to be furnished, to the Lessor the following documents which shall have been duly authorized, executed and delivered by the respective parties thereto and shall be in full force and effect on the date of such conveyance:

(A) with respect to any such Replacement Item, a full warranty bill of sale and UCC- I financing statements, in form and substance satisfactory to Lessor;

(B) a Lease Supplement to this Agreement, and if a Permitted Sublease is in force and effect a Supplement to such Permitted Sublease, in each case in form and substance satisfactory to such parties covering such Replacement Item, if any, duly executed by Lessee and the sublessee under the Permitted Sublease, if any, which Lease Supplement and (to the extent applicable) supplement to the Permitted Sublease shall be filed and recorded with the Surface Transportation Board and Lessor shall have received an opinion of special Surface Transportation Board counsel (at Lessee's expense) to the effect that such Lease Supplement or supplement has been so filed and recorded, and that such filing and recordation will protect Lessor's interest in the Replacement Item and that no filing, recording, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interest of Lessor in such Replacement Item;

(C) such evidence of compliance with the insurance provisions of this Agreement with respect to such Replacement Item, as Lessor may reasonably request, including an independent insurance broker's report (stating the opinion of such insurance broker that such insurance complies with the terms of this Agreement) with certificates of insurance;

(D) an opinion of Lessee's counsel (and such other opinions or evidence of title as Lessor or its counsel, may reasonably request) to the effect that, upon such conveyance,

Lessor will acquire good and marketable title to such Replacement Item, free and clear of all Liens other than Permitted Liens, and that such Replacement Item will be leased hereunder and subleased under the Permitted Sublease, if any; and

(E) such other documents and evidence with respect to Lessee as Lessor or its counsel, may reasonably request in order to establish the consummation of the transactions contemplated by this Section 16(b), the taking of all corporate proceedings in connection with and compliance with the conditions set forth in this Section 16(b), in each case in form and substance satisfactory to Lessor.

Upon full compliance by Lessee with the terms of this Section 16(b), Lessor shall convey to Lessee, at Lessee's cost and expense, all of Lessor's right, and interest, as-is, where-is, without recourse or warranty, express or implied, in and to such replaced item of Equipment, with respect to which Event of Loss occurred. Except as provided in Section 16(b)(i) (B), no Event of Loss with respect to an item of Equipment under the circumstances contemplated by the terms of this Section 16(b) shall result in any reduction in Basic Payments or Lessee's obligation to pay Basic Payments hereunder.

Lessee further agrees to take such further action as Lessor may reasonably request with respect to such Replacement Item to perfect the interest of Lessor in such Replacement Item.

(c) Application of Other Payments Upon Event of Loss. Any payments (including, without limitation, insurance proceeds) received at any time by Lessor or by Lessee from any insurer, governmental authority or other party as a result of the occurrence of an Event of Loss will be applied as follows: (i) any such payments received at any time by Lessee shall be promptly paid to Lessor for application pursuant to the following provisions of this Section 16(c); (ii) so much of such payments as shall not exceed all amounts of whatsoever kind or nature required to be paid by Lessee pursuant to Section 16(b) hereof shall be applied in reduction of Lessee's obligation to pay such amounts, if not already paid by Lessee, or, if already paid by Lessee, shall be applied to reimburse Lessee for its payment of such amounts, unless a Default or an Event of Default shall have occurred and be continuing; and (iii) the balance, if any, of such payments remaining thereafter shall be paid to or retained by Lessee, unless a Default or an Event of Default shall have occurred and be continuing.

(d) Application of Payments Not Relating to an Event of Loss. Any payments (including, without limitation, insurance proceeds) received at any time by Lessor or Lessee from any insurer, governmental authority or other party with respect to any

condemnation, confiscation, theft or seizure of, or requisition of title to or use of, or loss or damage to, any item of the Equipment not constituting an Event of Loss, will be applied directly in payment of repairs or for replacement of property in accordance with the provisions of Sections 11 and 12 hereof, if not already paid by Lessee, or if already paid by Lessee and if no Default or Event of Default shall have occurred and be continuing, shall be applied to reimburse Lessee for such payment, and any balance remaining after compliance with said Sections 11 and 12 with respect to such loss or damage shall be paid to or retained by Lessee.

(e) Application of Payment During a Default or Event of Default.

Any amount referred in this Section 16 that is payable to Lessee shall not be paid to Lessee, or if it has been previously paid directly to Lessee, shall not be retained by Lessee, if at that time an Event of Default or Default shall have occurred and be continuing, but shall be paid to and held by Lessor as security for the obligations of Lessee under this Agreement and the other Operative Documents, and at such time as there shall not be continuing any such Event of Default or Default, such amount shall be paid to Lessee.

17. Insurance.

(a) Coverage. Lessee shall at all times during the term, at its own expense, carry and/or cause to be carried and maintained:

(i) "all risk" property damage insurance with respect to the Equipment insuring against loss or damage from fire and normal extended coverage perils customarily included in policies available with respect to property comparable to the Equipment;

(ii) comprehensive general public liability, including blanket contractual, personal injury, property damage (including Federal Employer's Liability Act claims) and loss of use of property of others, insurance applicable to the Equipment in such amounts usually carried by Persons in the same industry as Lessee in the same general region but in any event with a combined single limit of not less than $25,000,000.00 with a deductible not exceeding $1,000,000; and

(iii) such other insurance with respect to the Equipment in such amounts and against such insurable hazards as is usually carried by Persons in the same industry as Lessee in the same general region, but any loss of the type customarily

covered by the policies described in Sections 17(a)(i and ii), whether actually covered in whole or in part by such policies, shall be the responsibility of Lessee and the absence of such coverage shall not relieve Lessee from any of its obligations under any of the documents or agreements related to the Overall Transaction; provided, however, that the amount of insurance coverage specified in paragraph (i) above with respect to the Equipment shall not in any event be less than the Casualty Loss Value of the Equipment as it may change from time to time; provided further, however, that such insurance coverage may have a deductible not exceeding $350,000, and, provided, that Lessee shall deliver to Lessor a letter of self insurance, Lessee may self-insure above $4,000,000.

All insurance policies carried in accordance with this Section 17(a) shall be maintained with insurers of recognized responsibility and standing in the industry.

Without limiting any other provision of this Section 17, Lessee shall at all times maintain insurance with respect to the Equipment in accordance with its standard corporate minimum practice with respect to other similar equipment, if and to the extent such insurance is at least as favorable to Lessor as the coverage required by the other provisions of this Section 17.

(b) Policy. Any insurance policy maintained by Lessee pursuant to Section 17(a) hereof shall:

(i) specify Lessor as the loss payee with respect to property damage insurance and as an additional insured with respect to liability insurance;

(ii) not provide for claims by the insurer of any claims for insurance premiums or commissions or (if such policies provide for the payment thereof) additional premiums or assessments against Lessor;

(iii) provide that in respect of the interests of Lessor such property damage policies shall not be invalidated by any action or inaction of Lessee or any other Person and shall insure the rights and interests of Lessor regardless of, and any claims for losses shall be payable notwithstanding any act of negligence, including any breach of any condition or warranty in any policy of insurance, by Lessee or any other Person;

(iv) provide that any cancellation thereof or material adverse change therein shall not be effective as to Lessor until at least 30 days after receipt by Lessor of written notice thereof;

(v) waive any right of subrogation of the insurers against Lessor and waive any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of Lessor;

(vi) not prohibit that the whole or any part of the right, title and interest of Lessor or Lessee therein may be assigned; and

(vii) provide that such insurance is primary with respect to any other insurance carried by or available to Lessor or Lessee with respect to their respective interests.

(viii) subject to Section 17(a) hereof, be reasonably satisfactory to Lessor in all other material respects.

(c) Evidence of Insurance. Lessee shall deliver to Lessor by the Acceptance Date certificates of insurance evidencing the provisions described in Sections 17(a) and 17(b) (i-v) hereof executed by the insurer or its duly authorized agent. Lessee has the right to self-insure any of the coverages required herein or to select deductibles of Lessee's choosing.

(d) Annual Insurance Report. Within five days after the renewal date of each insurance policy referenced in Section 17(a), and within 30 days after any material adverse change (including any material increase in deductible amounts) in the information set forth in the certificates provided pursuant to Section 17(c) hereof, Lessee shall deliver to Lessor a certificate of insurance with respect to the same items as described in Section 17(c).

18. General Tax Indemnity. All payments by the Lessee to the Lessor shall be free of withholdings of any nature whatsoever and shall be free of expenses for collection or other charges. Lessee agrees to pay, and indemnify and hold Lessor and its successors and assigns harmless on an after-tax basis from, any and all Federal, state, local and foreign taxes, fees, withholdings, levies, imposts, duties, assessments and charges of any kind and nature whatsoever, together with any penalties, fines or interest therein (herein called "taxes or other impositions") howsoever imposed, whether levied or imposed upon or asserted against Lessor, Lessee, or any item of Equipment, by any Federal, state or local government or taxing authority in the United States, or by any taxing authority or governmental subdivision of a foreign country, upon or with respect to (a) any item of Equipment part or portion thereof or any interest therein (b) the manufacture, construction, ordering, purchase, ownership, delivery, leasing, releasing, possession, use, maintenance,

registration, titling, licensing, documentation, return, sale (including, without limitation, sale to Lessee by Lessor pursuant to the terms hereof) or other application or disposition thereof, (c) the payments, receipts or earnings arising from the Equipment, or any Part, or (d) this Agreement or the Lease Supplement, Basic Payments and/or Supplemental Payments payable by Lessee hereunder; (e) otherwise with respect to or in connection with the transactions contemplated by the Operative Documents; provided, however, that the foregoing indemnity shall not apply to any taxes to the extent based upon or measured by Lessor's net income (unless such tax is a Covered Income Tax as hereinafter defined), and which are imposed or levied by any Federal, state or local taxing authority in the United States. For purposes hereof, a "Covered Income Tax" shall mean an income tax (including, without limitation, a tax imposed upon gross income or receipts) imposed on Lessor by any taxing authority (excluding the United States Federal government) in whose jurisdiction, Lessor (including for this purpose all entities with which it is combined, integrated or consolidated in such taxing authority's jurisdiction) would not engage in business, would not maintain an office or other place of business, and would not otherwise be located therein, but for Lessor's role in the Overall Transaction, the operation of the Equipment in such jurisdiction, the presence of Lessee or any use of the Equipment or the transactions contemplated by this Agreement.

Lessor shall promptly furnish Lessee with copies of any requests for information received by Lessor from any taxing authority relating to any taxes or other impositions with respect to which Lessee is required to indemnify hereunder, and if a claim is made against Lessor for any such taxes or other impositions, with respect to which Lessee is liable for a payment or indemnity hereunder, Lessor shall give Lessee prompt notice in writing at least 45 days prior to the expiration of the time period for responding to such claim. The indemnity provided by this Section 18 shall not apply to the extent (i) Lessee is precluded from raising a challenge to such taxes or other impositions as a direct result of Lessor's failure to comply with its obligations set forth in the preceding sentence and (ii) such taxes or other impositions, if challenged within an appropriate period of time, would not have required payment. Lessee may, at its sole cost and expense, either in its own name or in the name of Lessor, contest the validity, applicability or amount of any such tax or other imposition by means of a Permitted Contest. If Lessor shall obtain a refund of any amount paid by Lessee pursuant to this Section 18, Lessor shall pay to Lessee the amount of such refund, together with the amount of any interest actually received by Lessor on account of such refund provided however such amount shall not be payable so long as an Event of Default shall have occurred and is continuing. Lessee will promptly notify Lessor of all reports or returns required to be made with respect to any tax

or other imposition with respect to which Lessee is required to indemnify hereunder, and will promptly provide Lessor with all information necessary for the making and timely filing of such reports or returns by Lessor. If Lessor requests that any such reports or returns be prepared and filed by Lessee, Lessee will prepare and file the same if permitted by applicable law to file the same, and if not so permitted, Lessee shall prepare such reports or returns for signature by Lessor, and shall forward the same, together with immediately available funds for payment of any tax or other imposition due, to Lessor, at least 10 days in advance of the date such payment is to be made. Upon written request, Lessee shall furnish Lessor with copies of all paid receipts or other appropriate evidence of payment for all taxes or other impositions paid by Lessee pursuant to this Section 18. All of the indemnities contained in this Section 18 shall continue in full force and effect notwithstanding the expiration or other termination of the Term and are expressly made for the benefit of, and shall be enforceable by, Lessor and each Assignee.

19. Indemnification. Lessee hereby assumes liability for, and does hereby agree, whether or not any of the transactions contemplated hereby are consummated, to indemnify, protect, save, defend, and hold harmless Lessor, each Assignee, and their respective officers, directors, successors, assigns, agents and servants (each such party being herein, for purpose of this Section 19, called an "indemnified party") from and against any and all obligations, fees, liabilities, losses, damages, penalties, claims, demands, actions, suits, judgments, costs and expenses, including, without limitation, reasonable legal fees and expenses, of every kind and nature whatsoever imposed on, incurred by, or asserted against any indemnified party, in any way relating to or arising out of (a) the manufacture, construction, ordering, purchase, acceptance or rejection, ownership, titling or retitling, registration or re-registration, acceptance, leasing, subleasing, possession, use, operation, maintenance, storage, removal, sale, delivery or other disposition of the Equipment, or any portion thereof, including, without limitation, any of such as may arise from (i) loss or damage to any property or death or injury to any person, (ii) patent or latent defects in any item of Equipment (whether or not discoverable by Lessee or any indemnified party), (iii) any claims based on strict liability in tort or otherwise, (iv) any claims based on patent, trademark or copyright infringement, and (v) any environmental claim or other claims based on liability arising under applicable environmental or noise or pollution control law or regulation, (b) any act or omission of Lessee or any of its agents or persons that it is responsible for relating to the foregoing and any failure on the part of Lessee to perform or comply with any of the terms of this Agreement, or any Operative Document (but excluding any claim based upon any failure on the part of Lessor to comply with any of Lessor's obligations under this Agreement or any Operative

Document resulting from acts which would constitute the willful misconduct or gross negligence of such indemnified party) or (c) any claims, encumbrances, security interests, liens or legal processes regarding Lessor's title and/or security interest in and to the Equipment. Lessee shall give each indemnified party prompt notice of any occurrence, event or condition known to Lessee as a consequence of which any indemnified party is or is reasonably likely to be entitled to indemnification hereunder. Lessee shall forthwith upon demand of any such indemnified party reimburse such indemnified party for amounts expended by it in connection with any of the foregoing or pay such amounts directly. Lessee shall be subrogated to an indemnified party's rights in any matter with respect to which Lessee has actually reimbursed such indemnified party for amounts expended by it or has actually paid such amounts directly pursuant to this Section 19. In case any action, suit or proceeding is brought against any indemnified party in connection with any claim indemnified against hereunder, such indemnified party will, after receipt of notice of the commencement of such action, suit or proceeding, notify Lessee thereof, enclosing a copy of all papers served upon such indemnified party. Lessee may, and upon such indemnified party's request will, at Lessee's expense, resist and defend such action, suit or proceeding, or at Lessee's option cause the same to be resisted or defended by counsel selected by Lessee and consented to by such indemnified party (such consent not to be unreasonably withheld); and in the event of any failure by Lessee to do so, Lessee shall pay all costs and expenses (including, without limitation, reasonable attorney's fees and expenses) incurred by such indemnified party in connection with such action, suit or proceeding. In no event shall the indemnified party enter into any settlement of any proceeding unless Lessee shall have consented to the same in writing. If no Default or Event of Default has then occurred and is continuing hereunder, Lessee shall have control of any defense, and the indemnified party shall take no action without Lessee's approval. The provisions of this Section 19, and the obligations of Lessee under this Section 19, shall apply from the date of the execution of this Agreement and shall survive the expiration or earlier termination of this Agreement and of the Term.

20. NO WARRANTIES. LESSOR LEASES THE EQUIPMENT TO LESSEE ON AN AS-IS, WHERE-IS BASIS AND LESSOR EXPRESSLY DISCLAIMS AND MAKES NO REPRESENTATION OR WARRANTY, EITHER EXPRESSED OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE EQUIPMENT, THE DESIGN OR CONDITION OF EQUIPMENT, ITS MERCHANTABILITY, DURABILITY, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE EQUIPMENT, OR THE CONFORMITY OF THE EQUIPMENT TO THE PROVISIONS AND SPECIFICATIONS OF ANY PURCHASE ORDER OR ORDERS RELATING THERETO, OR ANY OTHER MATTER CONCERNING, ANY ITEM OF THE EQUIPMENT OR THE FINANCING THEREOF (WHICH DISCLAIMER LESSEE HEREBY ACKNOWLEDGES). LESSEE HEREBY WAIVES AGAINST LESSOR ANY CLAIM

(INCLUDING, WITHOUT LIMITATION, INCIDENTAL OR CONSEQUENTIAL DAMAGE) OR EXPENSE CAUSED BY ANY ITEM OF THE EQUIPMENT OR BY LESSEE'S LOSS OF USE THEREOF FOR ANY REASON WHATSOEVER. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, LESSOR SHALL NOT BE LIABLE OR RESPONSIBLE FOR ANY DEFECTS, EITHER PATENT OR LATENT (WHETHER OR NOT DISCOVERABLE BY LESSEE), IN ANY ITEM OF THE EQUIPMENT, OR FOR ANY DIRECT OR INDIRECT DAMAGE TO PERSONS OR PROPERTY RESULTING THEREFROM, OR FOR LESSEE'S LOSS OF USE OF ANY ITEM OF THE EQUIPMENT OR FOR ANY INTERRUPTION IN LESSEE'S BUSINESS CAUSED BY LESSEE'S INABILITY TO USE ANY ITEM OF THE EQUIPMENT FOR ANY REASON WHATSOEVER. So long and only so long as an Event of Default shall not have occurred and be continuing, and so long and only so long as all of the Equipment shall be subject to this Agreement and Lessee shall be entitled to possession of the Equipment hereunder, Lessor authorizes Lessee, at Lessee's sole expense, to assert for Lessor's account, all rights and powers of Lessor under the Purchase and Sale Agreement and any other manufacturer's, vendor's or dealer's warranty on any item of Equipment; provided, however, that Lessee shall indemnify, protect, save, defend and hold harmless Lessor from and against any and all claims, and all costs, expenses, damages, losses and liabilities incurred or suffered by Lessor in connection therewith, as a result of, or incident to, any action by Lessee pursuant to the foregoing authorization.

21. Lessee's Representations and Warranties. Lessee hereby represents and warrants to Lessor as of each Acceptance Date that:

(a) Due Organization and Existence. Lessee is a corporation duly organized, validly existing and in good standing under the laws of the state of its incorporation, and is qualified to do business in each jurisdiction in which such qualification is necessary in order for Lessee to carry on its business and to perform its obligations hereunder, and is in good standing under the laws of each jurisdiction in which the failure to be in good standing would have a material adverse effect on the condition (financial or otherwise) of Lessee;

(b) Power and Authority. Lessee has the corporate power and authority to own and operate its properties and to conduct its business as presently conducted and execute and perform this Agreement and to lease the Equipment hereunder, and has duly authorized the execution, delivery and performance of this Agreement, the Lease Supplement and the other related instruments and documents;

(c) Due Authorization. The leasing of the Equipment from Lessor by Lessee, the execution and delivery of this Agreement, the Lease Supplement, each other related instrument, document and agreement, and the compliance by Lessee with the terms hereof and thereof, and the payment and performance by

Lessee of all of its obligations hereunder and thereunder (i) has been duly and legally authorized by appropriate corporate action taken by Lessee, (ii) is not in contravention of, and will not result in a violation or breach of, any of the terms of Lessee's articles of incorporation, by-laws or of any provisions of any agreements relating to shares of the capital stock of Lessee, and (iii) will not violate or constitute a breach of any provisions of applicable law, any applicable order of any court or other agency of government, or any indenture, agreement or other instrument to which Lessee is a party, or by or under which Lessee or any of Lessee's property is bound, or be in conflict with, result in a breach of, or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or any instrument, or result in the creation or imposition of any Lien upon any of Lessee's property or assets;

(d) Enforceability. This Agreement, the Lease Supplement and each other related instrument, document and agreement delivered by Lessee have been executed by the duly authorized officer or officers of Lessee and delivered to Lessor and constitute, the legal, valid and binding obligations of Lessee, enforceable in accordance with their terms;

(e) No Consents. The execution and delivery of this Agreement, the Lease Supplement and each other related instrument, document and agreement delivered by Lessee or the payment and performance by Lessee of all of its obligations hereunder and thereunder, or the sale of the Equipment by any Seller to Lessor for the purpose of leasing the same to Lessee under this Agreement requires no consent, license or approval of, the giving of notice to, the registration, filing or recording with or the taking of any other action in respect of, any Federal, state, local or foreign government or governmental authority or agency;

(f) No Liens. No mortgage, deed of trust, or other Lien (other than the Lien granted to Lessor hereunder) which now covers or affects, or which may hereafter cover or affect, any property or interest therein of Lessee, now attaches or hereafter will attach to any item of Equipment, this Agreement or any interest therein or in any manner affects or will affect adversely Lessor's rights and interests therein;

(g) Financial Statements. All balance sheets, statements of profit and loss and other financial data that have been delivered to Lessor with respect to Lessee (i) are complete and correct in all material respects, (ii) accurately present the financial condition of Lessee on the dates for which, and the results of its operations for the periods for which, the same have been furnished and (iii) have been prepared in accordance with generally accepted accounting principles consistently followed

throughout the periods covered thereby; all balance sheets disclose all known material liabilities, direct and contingent, as of their respective dates, and there has been no change in the condition of Lessee, financial or otherwise, since the date of the most recent financial statements delivered to Lessor 12/31/95 with respect to Lessee other than changes in the ordinary course of business, none of which changes, either separately or in the aggregate, has been materially adverse;

(h) No Litigation. There is no litigation or any other proceedings now pending or, to the knowledge of Lessee threatened, against or affecting Lessee, in any court or before any regulatory commission, board or other administrative governmental agency which would directly or indirectly set aside, restrict, enjoin or prevent the consummation of this Agreement, adversely affect or impair the title of Lessor to the Equipment, or which, in the reasonable opinion of Lessee's management, is likely to affect materially and adversely, the business, operations or condition of Lessee (financial or otherwise), other than as disclosed in Lessee's financial statements;

(i) Income Tax Return. Lessee has filed all United States income tax returns which are required to be filed, and has paid, or made provisions for the payment of, all taxes which have or may become due pursuant to said returns or pursuant to any assessment received by Lessee, except such taxes, if any, as are being contested by means of a Permitted Contest;

(j) ERISA. Lessee has not entered into the Overall Transaction, directly or indirectly, in connection with any arrangement in any way involving any employee benefit plan or related trust to which it is a party in interest, all within the meaning of the Employment Retirement Income Security Act of 1974, as amended ("ERISA"), and the Internal Revenue Code of 1986, as amended;

(k) Investment Company. Lessee is not an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended;

(l) Taxes. All sales, use, documentation or similar taxes, fees or other charges due and payable prior to or as of the date hereof have been paid to the extent such are in connection with the sale to and purchase by Lessor of the Equipment and/or the leasing of the Equipment by Lessor to Lessee;

(m) No Offer to Sell or Assign. Lessee has not offered any interest in this Agreement, the Payments, or the Equipment or any similar security for sale to, or solicited offers to buy any thereof from, or otherwise approached or negotiated with respect

thereto with, any prospective purchaser, other than Lessor and as to Lessor, after reasonable inquiry, Lessee does believe that Lessor has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of such an investment; and

(n) Invoices. Lessee shall promptly deliver or cause to be delivered to Lessor true, correct and complete copies of all acceptance certificates for the Equipment and all invoices for the Equipment. Such invoices shall be delivered within 30 days of the closing for each delivery of Equipment.

(o) Appraisal. All information provided by the Lessee (or any Affiliate or agent of the Lessee) to any independent appraiser with respect to any item of Equipment was accurate and complete in all material respects at the time given and as of any Acceptance Date.

22. Events of Default. Any of the following events shall constitute an "Event of Default" (whether any such event shall be voluntary or involuntary, or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) Payment. Lessee shall fail to make (i) any Basic Payments within 5 days after the same is due and payable or (ii) any Supplemental Payment within 10 days after receipt of written notice to Lessee that the same is due and payable; or

(b) Certain Covenants. Lessee shall fail to observe or perform any of the covenants or agreements of Lessee set forth in Section 17 hereof; or

(c) Other Covenants. Lessee shall fail to perform or observe any other covenant, express condition, or agreement to be performed or observed by it under this Agreement, or in any agreement or certificate furnished to Lessor in connection herewith, and such failure shall continue unremedied for 30 days after written notice to Lessee specifying such failure and demanding the same to be remedied; provided, however, that if Lessee shall have undertaken to cure any such failure and, notwithstanding the reasonable diligence of Lessee in attempting to cure such failure, such failure is not cured within said 30 day period but is curable with future due diligence, and such failure does not impair Lessor's interest in the Equipment or create a material and immediate risk of forfeiture or a lien on the Equipment, there shall exist no Event of Default under this Section 22 for such further time, not to exceed 30 days, as may reasonably be required to effect such cure, so long as Lessee is

proceeding with due diligence in good faith to cure such failure; or

(d) Default under Other Documents. Lessee shall be in default under any lease, loan agreement or other agreement, instrument or document, now or hereafter entered into between Lessee and Lessor; or

(e) Bankruptcy; Insolvency. Lessee shall become insolvent or bankrupt or make an assignment for the benefit of creditors or consent to the appointment of a trustee or receiver; or a trustee or a receiver shall be appointed for Lessee or for a substantial part of its property without its consent and shall not be dismissed for a period of 60 days; or any petition for the relief, reorganization or arrangement of Lessee or any other petition in bankruptcy or for the liquidation, insolvency or dissolution of Lessee shall be filed by or against Lessee and, if filed against Lessee shall be consented to or be pending and not dismissed for a period of 60 days; or an order for relief under any bankruptcy or insolvency law shall be entered by any court or governmental authority of competent jurisdiction with respect to Lessee; or any execution or writ of process shall be issued under any action or proceeding against Lessee whereby any item of Equipment may be taken or restrained; or Lessee's corporate existence shall cease; or Lessee shall, without Lessor's prior written consent, sell, transfer or dispose of, or pledge or otherwise encumber, all or substantially all of its assets or property, or consolidate or merge with any other entity, or engage in any form of corporate reorganization; or

(f) Misrepresentation. Any representation, warranty, statement or certification made by Lessee under this Agreement or in the Lease Supplement or in any document or certificate furnished to Lessor in connection herewith or pursuant hereto) shall prove to be untrue or incorrect when made in any material respect, or shall be breached in any material respect.

23. Remedies Upon Default. Upon the occurrence of any Event of Default, and at any time thereafter so long as the same shall be continuing, Lessor may exercise one or more of the following remedies, which remedies shall not be exclusive to Lessor, with respect to the Equipment or any part thereof as Lessor in its sole discretion shall elect:

(a) Return of Equipment. Lessor may cause Lessee, upon the demand of Lessor and at Lessee's expense, to, and Lessee shall, promptly return the Equipment (or any item thereof) as Lessor may demand to Lessor at such location in the continental United States as selected by Lessor in the manner and condition required by, and otherwise in accordance with all the provisions of, Section 6 hereof as if the Equipment were being returned at

the end of the Term; or Lessor, at its option, may enter upon the premises where the Equipment is located or believed to be located and take immediate possession of and remove the Equipment (or any items thereof) without the necessity for first instituting proceedings, or by summary proceedings or otherwise, and Lessee shall comply therewith, all without liability to Lessor for or by reason for such entry or taking possession, excluding damage to property caused by such taking or otherwise;

(b) Sell, Use, Lease or Otherwise Employ Equipment. Lessor may (i) sell or otherwise dispose of the Equipment, at public or private sale and with or without notice to Lessee or advertisement, as Lessor may determine or (ii) hold, use, operate, lease to others or keep idle all or any part of the Equipment as Lessor, in its sole discretion, may determine, in the case of (i) or (ii) of this Section 23(b) free and clear of any rights of Lessee except as hereinafter set forth in this Section 23 and without any duty to account to Lessee with respect to such action or inaction or for any proceeds with respect thereto except to the extent required by Section 23(d) hereof in the event Lessor elects to exercise its rights under said Section 23(d) in lieu of its rights under Section 23(b) hereof,

(c) Excess of Casualty Loss Value over Fair Market Sales Value. Whether or not Lessor shall have exercised, or shall thereafter at any time exercise, any of its rights under Sections 23(a) or (b) hereof with respect to the Equipment, Lessor, by notice to Lessee specifying a payment date not earlier than the next Basic Payment Date, may cause Lessee to pay to Lessor, and Lessee shall pay to Lessor, on the payment date specified in such notice, as liquidated damages for loss of a bargain and not as a penalty, (in lieu of the Basic Payments for the Equipment due after the date specified in such notice) any Basic Payments with respect to the Equipment due on or before such payment date plus an amount equal to the excess, if any, of (i) the Casualty Loss Value plus Make-Whole Amount for the Equipment, determined as of such payment date over (ii) the Fair Market Sales Value for such Equipment, computed as of the payment date specified pursuant to this Section 23(c), together with interest, to the extent permitted by applicable law, at the Overdue Rate on any Basic Payments not paid as and when due from such due date to the date of actual payment of such amount, together with interest, to the extent permitted by applicable law, at the Overdue Rate on the amount of such excess, if any, from such payment date specified pursuant to this Section 23(c), to the date of actual payment of such amount. If the parties are unable to agree on the Fair Market Sales Value within 30 days of Lessor's giving of notice as specified in this Section 23(c) hereof, such Fair Market Sales Value shall be determined by the Appraisal Procedure.

(d) Excess of Casualty Loss Value over Sales Proceeds. In the event Lessor, pursuant to Section 23(b) hereof, shall have sold the Equipment, Lessor in lieu of exercising its rights under Section 23(c) hereof with respect to the Equipment, may, if it shall so elect, cause Lessee to pay Lessor, and Lessee shall pay to 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 Payments for the Equipment due after the date on which such sale occurs) but in addition to the any Basic Payments for the Equipment due on or up to the date on which such sale occurs, prorated to the date on which such sale occurs if such sale does not occur on a Basic Rent Payment Date, the amount of any deficiency of the net proceeds of such sale below an amount equal to the Casualty Loss Value of the Equipment plus the Make-Whole Amount, determined as of the date of such sale (if the date on which such sale occurs is a Casualty Loss Value Date, or determined as of the immediately preceding Casualty Loss Value Date if the date of such sale is not a Casualty Loss Value Date, together with interest, to the extent permitted by applicable law, at the Overdue Rate on any Basic Payments not paid as and when due from such due date to the date of actual payment of such amount, together with interest, to the extent permitted by applicable law, at the Overdue Rate on any Basic Payments not paid as and when due from such due date to the date of actual payment of such amount, together with interest, to the extent permitted by applicable law, at the Overdue Rate on the amount of such deficiency from the date as of which such Casualty Loss Value is determined to the date of actual payment; or

(e) Rescission; Termination. Rescind or terminate this Agreement as to the Equipment or exercise any other right or remedy which may be available under applicable law or proceed by appropriate court action to enforce the terms hereof or to recover damages for the breach hereof.

In addition, Lessee shall be liable for any and all Supplemental Payments due hereunder before or after any termination hereof, including all costs and expenses (including, without limitation, reasonable attorney's fees and disbursements) incurred by reason of the occurrence of any Event of Default or the exercise of Lessor's remedies with respect thereto including all costs and expenses incurred in connection with the return of the Equipment in accordance with the terms of Section 6 hereof or any appraisal of the Equipment. The parties agree that ten (10) days' prior written notice shall constitute adequate notice of any proposed disposition of the Equipment. At any sale of the Equipment, Lessor may bid for and purchase such property. Except as otherwise expressly provided above, no remedy referred to in this Section 23 is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity; and the

exercise or beginning of exercise by Lessor of any one or more of such remedies shall not preclude the simultaneous or later exercise by Lessor of any or all such other remedies. No express or implied waiver by Lessor of any Event of Default hereunder shall in any way be or be construed to be, a waiver of any future or subsequent Event of Default.

24. Lessor's Right to Perform for Lessee. If Lessee fails to make any Payments required to be made by it hereunder or fails to perform or comply with any of its agreements contained herein, Lessor may itself, make such payment or perform or comply with such agreement, but shall not be obligated hereunder to do so, and the amount of such payment and the amount of the expenses of Lessor incurred in connection with such payment or the performance of or compliance with such agreement, as the case may be, together with interest thereon at the rate specified in Section 25 hereof, shall be paid by Lessee upon demand, and, if not paid by Lessee to Lessor on demand, be deemed a Supplemental Payment hereunder; provided, however, that no such payment, performance or compliance by Lessor shall be deemed to cure any Event of Default hereunder.

25. Late Charges. Lessee shall pay to Lessor, upon demand, to the extent permitted by applicable law, interest on any Payment or other amount payable under this Agreement or any other Operative Document which is not paid when due, for any period for which any of the same is overdue (without regard to any grace period) at a per annum rate equal to the lesser of the Overdue Rate or the highest per annum interest rate permitted by law.

26. Further Assurances. Lessor and Lessee agree to cooperate in good faith and to execute and deliver such documents and further assurances consistent with and in clarification of the characterization and intent of the parties with respect to the Overall Transactions.

27. Lessee's Payment of Lessor's Expenses. Lessee further agrees, whether or not the transaction contemplated hereby is consummated, to pay the reasonable fees and expenses of Sotiroff Abramczyk & Rauss, P.C. Lessor's special counsel, and the reasonable fees and expenses of Lessor's STB counsel, incurred in connection with the preparation and negotiation of this Agreement and the documents related hereto.

28. Notices. All notices provided for or required under the terms and provisions hereof shall be in writing, and any such notice shall be deemed given when personally delivered, or when sent by facsimile transmission (with confirmation of receipt) or when deposited with a nationally recognized overnight delivery service, with the cost therefor prepaid, or in the United States mails, with proper postage prepaid, for first class certified mail, return receipt requested, addressed (a) if to Lessor or

Lessee, at their respective addresses as set forth herein or at such other address as either of them shall, from time to time, designate in writing to the other, and (b) if to any Assignee, to the address of such Assignee as such Assignee shall designate, from time to time, in writing to Lessor and Lessee.

If to Lessor: Comerica Leasing Corporation
29201 Telegraph Road
2nd Floor
Southfield, MI 48034
Attention: Larry D. Strahm, Vice President
Facsimile: (810) 948-2995

If to Lessee: Dakota, Minnesota & Eastern Railroad Corporation
337-22nd Avenue South
Brookings, SD 57006
Attention: Mr. Kurt Feaster, CFO
Facsimile: (605) 697-2499

29. Lessee's End of Final Term Purchase Option.

(a) Lessee Purchase or Third Party Purchase. If this Agreement shall not have been earlier terminated, Lessee, upon written notice to Lessor delivered not later than the Option Election Notice Date, shall elect one of the options described in Sections 29(b or c) hereof; provided, that Lessee shall be deemed to have elected the option described in Section 29(b) hereof if Lessor does not receive such notice by the Option Election Notice Date or if a Default or Event of Default is continuing at the Expiration Date; provided, further that such election by Lessee once made, or deemed made, shall be irrevocable.

(b) Lessee's Purchase. On the Expiration Date, Lessee shall purchase all (but not less than all) of the Equipment for an amount equal to the Termination Value as of such date. Lessee shall also pay to (i) Lessor all other Basic Payments and (ii) the appropriate parties all other Supplemental Payments then due and owing and all Sales Expenses. Lessor's sale of all of its rights, title and interest in the Equipment shall be on an as-is, where-is basis, without recourse to or warranty by Lessor. If Lessee has exercised its purchase option, but has not prior to or on the Expiration Date paid all amounts for which it is obligated under this Section 29(b), then Lessor in its sole discretion may elect to refuse to sell the Equipment to Lessee or to delay the sale until Lessee has paid all such amounts; provided, however, Lessee shall not be relieved from its obligation to pay to Lessor on the

Expiration Date all of the amounts required to be paid pursuant to the first two sentences of this Section 29(b).

(c) Third Party Purchase. Lessee shall solicit bona fide bids for all (but not less than all) of the Equipment from prospective purchasers who are financially capable of purchasing the Equipment. If Lessee so elects and Lessor agrees, Lessor, acting as Lessee's agent, shall solicit such prospective purchasers for the Equipment. All bids received by Lessee or Lessor prior to the end of the Final Renewal Term shall be immediately certified to the other in writing, setting forth the amount of such bid and the name and address of the person or entity submitting such bid. If any bid is received from a bona fide prospective purchaser for an amount in excess of the Maximum Lessor Risk Amount, or if Lessor agrees in its reasonable discretion to accept a bid for less than the Maximum Lessor Risk Amount, then on the Expiration Date (i) Lessor shall sell the Equipment on an as-is, where-is basis, without recourse or warranty, to the highest cash bidder, (ii) such bidder shall pay Lessor the bid amount solely for the account of Lessor, (iii) Lessee shall pay, or cause to be paid, all Basic Payments and Supplemental Payments then due and owing and all Sales Expenses and (iv) Lessor shall promptly transfer title to the Equipment to such bidder on an "as is", "where is" without recourse or warranty, express or implied basis. If Lessor (X) does not receive any bid in excess of the Maximum Lessor Risk Amount from a bona fide prospective purchaser and does not accept any bids received for less than the Maximum Lessor Risk Amount, or (Y) does not receive the bid amount from the Third Party Purchaser on or prior to the Expiration Date, then on the Expiration Date, Lessee shall pay Lessor the Maximum Lessee Risk Amount (and all amounts referenced in Section 29(c) (iii)) and Lessor shall be vested with title to the Equipment.

(d) End of Final Term Adjustment. If the Net Proceeds of Sale are more than the Termination Value on the Expiration Date, Lessor shall, on such date, pay Lessee an amount equal to such excess as an adjustment to the Payments payable under this Agreement, provided that Lessor shall have the right to offset against such adjustment payable by Lessor, any amounts then due and payable from Lessee to Lessor. If the Net Proceeds of Sale are less than the Termination Value on any given Expiration Date, Lessee shall, on such date, pay to Lessor, an amount equal to such deficiency as an adjustment to the Payments payable under this Agreement, but in no event shall the amount Lessee is required to pay Lessor with respect to such deficiency exceed the Maximum Lessee Risk Amount.

30. Federal Tax Consequences. It is expressly agreed that for Federal income tax purposes the parties entered into the transaction contemplated by this Agreement intending such

transaction to be characterized as a financing and for Lessee to be considered the owner of the Equipment for such tax purposes; provided, however, Lessor makes no representation or warranty as to the availability of such tax treatment. Consistent with this, Lessee intends to claim the cost recovery deductions associated with the Equipment, and Lessor agrees not to take an inconsistent position on its Federal income tax returns.

31. Financial information. Lessee agrees to furnish Lessor (a) as soon as available, and in any event within 120 days after the last day of each fiscal year of Lessee, a copy of the consolidated balance sheet of Lessee and its consolidated Subsidiaries as of the end of such fiscal year, and related consolidated statements of income and retained earnings of Lessee and its consolidated Subsidiaries for such fiscal year, certified by an independent certified public accounting firm of recognized standing, each on a comparative basis with corresponding statements for the prior fiscal year, or a copy of Lessee's Form 10-K filed with the Securities and Exchange Commission for such fiscal year (if Lessee is subject to the reporting requirements under the rules and regulations promulgated by the Securities and Exchange Commission), and (b) within 60 days after the last day of each fiscal quarter of Lessee (except the last such fiscal quarter), a copy of the balance sheet as of the end of such quarter, and statement of income covering the fiscal year to date of Lessee and its consolidated Subsidiaries, each on a comparative basis with the corresponding period of the prior year, all in reasonable detail and certified by the treasurer or principal financial officer of Lessee, or a copy of Lessee's Form 10-Q filed with the Securities and Exchange Commission, all such other financial statements and reports as Lessee shall send to the Securities and Exchange Commission.

32. Miscellaneous. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating or diminishing Lessor's rights under the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. No term or provision of this Agreement may be amended, altered, waived, discharged or terminated orally, but only by an instrument in writing signed by a duly authorized officer or the party against which the enforcement of the amendment, alteration, waiver, discharge or termination is sought. A waiver on any one occasion shall not be construed as a waiver on a future occasion. All of the covenants, conditions and obligations contained in this Agreement shall be binding upon and shall inure to the benefit of the respective successors and assigns of Lessor and (subject to the restrictions of Section 14(a) hereof) Lessee. This Agreement, the Lease Supplement and

each related instrument, document, agreement and certificate collectively constitute the entire agreement of Lessor and Lessee with respect to the financing of the Equipment, and cancels and supersedes any and all prior oral or written understandings with respect thereto. This Agreement shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan, including all matters of construction, validity and performance. Lessee agrees to submit to the jurisdiction of the State of Michigan and/or federal courts in the State of Michigan. The venue for any proceeding arising out of or relating to this Agreement or the Operative Documents shall be deemed proper if such proceeding is brought in a federal or state court in Michigan selected solely by Lessor. This Agreement may be executed in as many counterparts as shall be determined by the parties hereto when so executed, each such counterpart shall be binding on both parties hereto, notwithstanding that both parties are not signatories to the same counterpart; provided, however, only the counterpart hereof designated as Counterpart No. 1 shall constitute the chattel paper copy of this Agreement under the Uniform Commercial Code.

33. Interest Rate Calculations. All rate calculations made pursuant to this Agreement (including, without limitation, any calculation of the Overdue Rate) shall be computed on the basis of the actual number of days elapsed over a year of 360 days.

34. Acceptance of Equipment Referenced in Purchase and Sale Agreement. Lessee hereby agrees on or prior to the Acquisition Expiration Date to accept delivery of all items of the Equipment referenced in the Purchase and Sale Agreement and to have all such Equipment subjected to the terms of this Agreement.

35. Personal Property Taxes. Lessor and Lessee hereby agree that to the extent permitted by law (a) Lessee will file all returns and other appropriate documentation in regard to personal property taxes on the Equipment, (b) pay all such personal property taxes and (c) reimburse Lessor for any and all such personal property taxes previously paid by Lessor.

IN WITNESS WHEREOF, the parties hereto have caused this Equipment Lease Agreement to be executed by their duly authorized representatives as of the date first above written.

COMERICA LEASING CORPORATION

By: _____

Name: Larry D. Strahm
Title: Vice President

DAKOTA, MINNESOTA & EASTERN
RAILROAD CORPORATION

By: _____
Kurt V. Feaster

Its: Chief Financial Officer

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

STATE OF S.D.)
)ss
COUNTY OF Brookings)

I, Joyce E. Hock, a Notary Public of the County and State aforesaid, certify that Kurt V. Feaster personally came before me this day and acknowledged that he is the Chief Financial Officer of Dakota, Minnesota & Eastern Railroad Corporation, a Delaware corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Chief Financial Officer.

WITNESS my hand and official stamp or seal, this 7th day of June, 1996.

Joyce E. Hock
Joyce E. Hock, Notary Public
Brookings County, SD
My Commission Expires: 5-5-2002

STATE OF)
) ss
CITY OF)

I, _____, a Notary Public of the County and State aforesaid, certify that, Larry D. Strahm personally came before me this day and acknowledged that he is the VicePresident

DAKOTA, MINNESOTA & EASTERN
RAILROAD CORPORATION

By: _____
Kurt V. Feaster

Its: Chief Financial Officer

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

STATE OF)
)ss
COUNTY OF)

I, _____,a Notary Public of the County and State aforesaid, certify that Kurt V. Feaster personally came before me this day and acknowledged that he is the Chief Financial Officer of Dakota, Minnesota & Eastern Railroad Corporation, a Delaware corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Chief Financial Officer.

WITNESS my hand and official stamp or seal, this ____ day of June, 1996.

_____
, Notary Public
_____ County, _____
My Commission Expires: _____

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

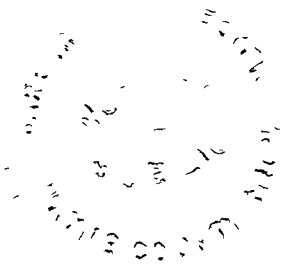
I, Barbara Ann Jester, a Notary Public of the County and State aforesaid, certify that, Larry D. Strahm personally came before me this day and acknowledged that he is the Vice President

of Comerica Leasing Corporation, a Michigan corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President.

WITNESS my hand and official stamp or seal, this 7t day of June, 1996.

Barbara Ann Jester

Barbara Ann Jester, Notary Public
Oakland County, Michigan
My Commission Expires: 11/16/96



BARBARA ANN JESTER
Notary Public, Wayne County, Michigan
Acting in Oakland County
My Commission Expires November 16, 1996

LEASE SUPPLEMENT AND ACCEPTANCE CERTIFICATE

THIS LEASE SUPPLEMENT AND ACCEPTANCE CERTIFICATE (the "Lease Supplement") is dated June __, 1996 (the "Acceptance Date"), and is executed by Comerica Leasing Corporation, a Michigan corporation ("Lessor") and Dakota, Minnesota & Eastern Railroad Corporation, a Delaware corporation ("Lessee") pursuant to Section 4 of the Master Equipment Lease Agreement, dated as of June __, 1996, between Lessee and Lessor (the "Agreement"). All capitalized terms used herein but not defined herein shall have the meanings given to such terms in the Agreement.

Lessee hereby acknowledges and agrees that the equipment specified on Annex A to this Lease Supplement (the "Equipment") has been delivered to Lessee on or before the date hereof at the delivery place described below, and that, as between Lessor and Lessee, the Equipment: (a) has been inspected to the complete satisfaction of Lessee; (b) is in good operating order, repair and condition, without defect or inherent vice in title; (c) is of a size, design, capacity and manufacture selected by Lessee and has been fully refurbished in accordance with the specifications and requirements contained in that certain agreement of purchase and sale dated March __, 1996 between Lessee and Helm Financial Corporation; (d) is suitable for Lessee's purposes; (e) has been unconditionally accepted by Lessee on the date hereof, for all purposes of the Agreement; and (f) is subject to all of the terms, conditions and provisions of the Agreement, the terms and provisions of which are hereby incorporated as if fully set forth herein. Lessee further acknowledges, agrees and certifies that Lessor has made no warranty, express or implied, with respect to the Equipment and that the insurance policies, certificates or other documents evidencing the coverages required under the Agreement have been delivered to Lessor.

Lessee hereby leases from Lessor the Equipment upon and subject to all of the terms, conditions and provisions of the Agreement, and Lessor and Lessee further agree and state as follows:

1. Delivery Place for the Equipment: _____.

2. The Acquisition Cost is $_____.

3. The basic term (the "Basic Term") for the Equipment commences on _____ __, 1996 (the "Base Lease Commencement Date"), and ends on _____ __, 19__, both dates inclusive, unless sooner terminated in accordance with the provisions of the Agreement.

4. At least one hundred eighty (180) days prior to the end of the Basic Term or any Renewal Term (excepting the end of the sixth (6th) Renewal Term which is subject to the provisions of Section 29 of the Agreement) Lessee shall elect either to (a) renew the Agreement for all but not less than all the Equipment described in all Lease Supplements pursuant to the provisions of Section 5 of this Lease Supplement for a twelve month period ("Renewal Term") (with the same option for an additional five Renewal Terms) at monthly installments equal to the Base Payment Factor for such Equipment multiplied by the Acquistion Cost for such Equipment, (b) purchase all such Equipment pursuant to the provisions of Section 6 of this Lease Supplement or c) terminate the Agreement with respect to all such Equipment pursuant to the provisions of Section 7 of this Lease Supplement.

5. So long as such renewal shall not be prohibited by any applicable law or governmental regulation, Lessee may at its option, at the expiration of the Basic Term, or any Renewal Term, renew the lease of all but not less than all the Equipment described in all Lease Supplements for not more than six (6) renewal terms in the aggregate, each of one (1) year(s) duration (each such term, a "Renewal Term"). Such option to renew shall be exercised by Lessee giving notice of renewal to Lessor, which notice shall be irrevocable, at least one hundred eighty (180) days) prior to the expiration of the Basic Term and each of the first five (5) Renewal Terms, if any. If Lessee fails to give such a notice within the permitted time period, provided that Lessee has not then exercised its options pursuant to Sections 6 or 7 of this Lease Supplement, Lessee shall be deemed to have requested a Renewal Term extension under Section 4(a) hereof. All of the provisions of the Agreement shall be applicable during each Renewal Term. Anything in the Agreement, this Lease Supplement or any related document or agreement to the contrary notwithstanding, unless Lessor otherwise consents in writing, the Agreement may not be renewed for any Renewal Term if a Default or an Event of Default shall have occurred and be continuing on the day preceding the first day of such Renewal Term.

6. To the extent no Default or Event of Default shall have occurred and be continuing, Lessee may purchase all but not less than all the Equipment described in all Lease Supplements on any annual anniversary date of the Base Lease Commencement Date during the Term upon at least one hundred eighty (180) days prior written notice to Lessor. Once given, such notice shall be irrevocable. Lessee may exercise such early purchase option to the extent the following conditions are met: (a) on the Basic Payment Date designated for such sale and purchase by Lessee, Lessee pays Lessor the Termination Value and Make-Whole Amount for such date in good, immediately available funds; (b) on the Basic Payment Date designated for such sale and purchase by Lessee, Lessee pays Lessor all Basic Payments and Supplemental Payments then due and

owing or accrued to such date; (c) Lessee shall pay all Sales Expenses associated with the sale of Equipment; together with the Make-Whole Amount (if any) then applicable; and (d) Lessee shall retain such Equipment. Upon receipt of all funds then due and owing to Lessor hereunder, Lessor shall sell such Equipment to Lessee on an "as-is, where-is" without recourse or warranty, express or implied, basis and deliver a bill of sale and all the documentation reasonably necessary to transfer to Lessee all of Lessor's right, title and interest in and to such Equipment, without recourse to or warranty by Lessor.

7. To the extent no Default or Event of Default shall have occurred and be continuing, and upon a reasonable good faith determination by the board of directors or its designee of Lessee that all but not less than all the Equipment described in this Lease Supplement is obsolete or surplus for the purposes of Lessee, Lessee may terminate the Agreement on any annual anniversary date of the Base Lease Commencement Date during the Term upon at least one hundred eighty (180) days prior written notice to Lessor. Once given, such notice shall be irrevocable. Lessee may exercise such early termination option to the extent the following conditions are met: (a) Lessee arranges for the sale of all but not less than all the Equipment described in all Lease Supplements to a Third Party Purchaser which is financially capable of purchasing such Equipment; (b) on the Basic Payment Date designated for such sale, such Third Party Purchaser pays Lessor the previously agreed purchase amount in good, immediately available funds; (c) in the event that such purchase amount is less than the sum of the Termination Value and the make-whole amount for such date, Lessee shall pay Lessor the difference between such purchase amount and the Termination Value and Make-Whole amount and the Termination Value and Make-Whole amount for such date; (d) on the Basic Payment Date designated for such sale, Lessee shall pay all Basic Payments and Supplemental Payments then due and owing or accrued; (e) on the Basic Payment Date designated for such sale, Lessee shall pay, or cause to be paid, all Sales Expenses associated with such sale of such Equipment, together with the Make-Whole Amount (if any) then applicable and (f) Lessee shall deliver such Equipment to such Third Party Purchaser in accordance with the provisions of Section 6 of the Agreement as if such Third Party Purchaser were the Lessor. Upon receipt of all amounts in good funds then due and owing to Lessor hereunder, Lessor shall sell such Equipment to such Third Party Purchaser on an "as-is, where-is" basis and deliver a bill of sale and all other documentation reasonably necessary to transfer to such Third Party Purchaser all of Lessor's right, title and interest in and to such Equipment, without recourse to or warranty by Lessor, express or implied.

8. The Basic Payment Factor is _____%.

9. The transaction rate (the "Transaction Rate") is _____%.

10. The Casualty Loss Value percentages for the Equipment during the Term are set forth on Annex B hereto.

11. The Maximum Lessee Risk Amount percentages and the Maximum Lessor Risk Amount percentages for the Equipment during the Term are set forth on Annex C hereto.

12. The Termination Value percentages for the Equipment during the Term are set forth on Annex D hereto.

13. This Lease Supplement and Acceptance Certificate may be executed in as many counterparts as shall be determined by the parties hereto when so executed, and each such counterpart shall be binding on both parties hereto, notwithstanding that both parties are not signatories to the same counterpart.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Supplement and Acceptance Certificate to be executed by their duly authorized representatives as of the date first above written.

COMERICA LEASING CORPORATION

By: _____
Larry D. Strahm

Its: Vice President

DAKOTA, MINNESOTA & EASTERN
RAILROAD CORPORATION

By: _____
Kurt V. Feaster

Its: Chief Financial Officer

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

STATE OF)
) ss
COUNTY OF)

I, _____, a Notary Public of the County and State aforesaid, certify that Kurt V. Feaster personally came before me this day and acknowledged that he is Chief Financial Officer of Dakota, Minnesota & Eastern Railroad Corporation, a Delaware corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Chief Financial Officer.

WITNESS my hand and official stamp or seal, this ____ day of June, 1996.

_____
Notary Public
County, _____
My Commission Expires: _____

STATE OF)
) ss
COUNTY OF)

I, _____, a Notary Public of the County and State aforesaid, certify that Larry D. Strahm personally came before me this day and acknowledged that he is Vice President of Comerica Leasing Corporation, a Michigan corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President.

WITNESS my hand and official stamp or seal, this _____ day of June, 1996.

_____
Notary Public
County, _____
My Commission Expires: _____

Comerica/DM&E/Agr/MasterLeaseSupp

New No - A

RECORDATION NO. 20137 - A FILED 1425

JUN 13 1996 12 00 PM

INTERSTATE COMMERCE COMMISSION

LEASE SUPPLEMENT AND ACCEPTANCE CERTIFICATE

THIS LEASE SUPPLEMENT AND ACCEPTANCE CERTIFICATE (the "Lease Supplement") is dated June 13, 1996 (the "Acceptance Date"), and is executed by Comerica Leasing Corporation, a Michigan corporation ("Lessor") and Dakota, Minnesota & Eastern Railroad Corporation, a Delaware corporation ("Lessee") pursuant to Section 4 of the Master Equipment Lease Agreement, dated as of June 13, 1996, between Lessee and Lessor (the "Agreement"). All capitalized terms used herein but not defined herein shall have the meanings given to such terms in the Agreement.

Lessee hereby acknowledges and agrees that the equipment specified on Annex A to this Lease Supplement (the "Equipment") has been delivered to Lessee on or before the date hereof at the delivery place described below, and that, as between Lessor and Lessee, the Equipment: (a) has been inspected to the complete satisfaction of Lessee; (b) is in good operating order, repair and condition, without defect or inherent vice in title; (c) is of a size, design, capacity and manufacture selected by Lessee and has been fully refurbished in accordance with the specifications and requirements contained in that certain agreement of purchase and sale dated March 27, 1996 between Lessee and Helm Financial Corporation; (d) is suitable for Lessee's purposes; (e) has been unconditionally accepted by Lessee on the date hereof, for all purposes of the Agreement; and (f) is subject to all of the terms, conditions and provisions of the Agreement, the terms and provisions of which are hereby incorporated as if fully set forth herein. Lessee further acknowledges, agrees and certifies that Lessor has made no warranty, express or implied, with respect to the Equipment and that the insurance policies, certificates or other documents evidencing the coverages required under the Agreement have been delivered to Lessor.

Lessee hereby leases from Lessor the Equipment upon and subject to all of the terms, conditions and provisions of the Agreement, and Lessor and Lessee further agree and state as follows:

1. Delivery Place for the Equipment: Tracey, Minnesota.

2. The Acquisition Cost is $3,882,277.50.

3. The basic term (the "Basic Term") for the Equipment commences on June 13, 1996 (the "Base Lease Commencement Date"), and ends on June 13, 2003, both dates inclusive, unless sooner terminated in accordance with the provisions of the Agreement.

4. At least one hundred eighty (180) days prior to the end of the Basic Term or any Renewal Term (excepting the end of the sixth (6th) Renewal Term which is subject to the provisions of Section 29 of the Agreement) Lessee shall elect either to (a) renew the Agreement for all but not less than all the Equipment described in all Lease Supplements pursuant to the provisions of Section 5 of this Lease Supplement for a twelve month period ("Renewal Term") (with the same option for an additional five Renewal Terms) at monthly installments equal to the Base Payment Factor for such Equipment multiplied by the Acquistion Cost for such Equipment, (b) purchase all such Equipment pursuant to the provisions of Section 6 of this Lease Supplement or c) terminate the Agreement with respect to all such Equipment pursuant to the provisions of Section 7 of this Lease Supplement.

5. So long as such renewal shall not be prohibited by any applicable law or governmental regulation, Lessee may at its option, at the expiration of the Basic Term, or any Renewal Term, renew the lease of all but not less than all the Equipment described in all Lease Supplements for not more than six (6) renewal terms in the aggregate, each of one (1) year(s) duration (each such term, a "Renewal Term"). Such option to renew shall be exercised by Lessee giving notice of renewal to Lessor, which notice shall be irrevocable, at least one hundred eighty (180) days) prior to the expiration of the Basic Term and each of the first five (5) Renewal Terms, if any. If Lessee fails to give such a notice within the permitted time period, provided that Lessee has not then exercised its options pursuant to Sections 6 or 7 of this Lease Supplement, Lessee shall be deemed to have requested a Renewal Term extension under Section 4(a) hereof. All of the provisions of the Agreement shall be applicable during each Renewal Term. Anything in the Agreement, this Lease Supplement or any related document or agreement to the contrary notwithstanding, unless Lessor otherwise consents in writing, the Agreement may not be renewed for any Renewal Term if a Default or an Event of Default shall have occurred and be continuing on the day preceding the first day of such Renewal Term.

6. To the extent no Default or Event of Default shall have occurred and be continuing, Lessee may purchase all but not less than all the Equipment described in all Lease Supplements on any annual anniversary date of the Base Lease Commencement Date during the Term upon at least one hundred eighty (180) days prior written notice to Lessor. Once given, such notice shall be irrevocable. Lessee may exercise such early purchase option to the extent the following conditions are met: (a) on the Basic Payment Date designated for such sale and purchase by Lessee, Lessee pays Lessor the Termination Value and Make-Whole Amount for such date in good, immediately available funds; (b) on the Basic Payment Date designated for such sale and purchase by Lessee, Lessee pays Lessor all Basic Payments and Supplemental Payments then due and

owing or accrued to such date; (c) Lessee shall pay all Sales Expenses associated with the sale of Equipment; together with the Make-Whole Amount (if any) then applicable; and (d) Lessee shall retain such Equipment. Upon receipt of all funds then due and owing to Lessor hereunder, Lessor shall sell such Equipment to Lessee on an "as-is, where-is" without recourse or warranty, express or implied, basis and deliver a bill of sale and all the documentation reasonably necessary to transfer to Lessee all of Lessor's right, title and interest in and to such Equipment, without recourse to or warranty by Lessor.

7. To the extent no Default or Event of Default shall have occurred and be continuing, and upon a reasonable good faith determination by the board of directors or its designee of Lessee that all but not less than all the Equipment described in this Lease Supplement is obsolete or surplus for the purposes of Lessee, Lessee may terminate the Agreement on any annual anniversary date of the Base Lease Commencement Date during the Term upon at least one hundred eighty (180) days prior written notice to Lessor. Once given, such notice shall be irrevocable. Lessee may exercise such early termination option to the extent the following conditions are met: (a) Lessee arranges for the sale of all but not less than all the Equipment described in all Lease Supplements to a Third Party Purchaser which is financially capable of purchasing such Equipment; (b) on the Basic Payment Date designated for such sale, such Third Party Purchaser pays Lessor the previously agreed purchase amount in good, immediately available funds; (c) in the event that such purchase amount is less than the sum of the Termination Value and the make-whole amount for such date, Lessee shall pay Lessor the difference between such purchase amount and the Termination Value and Make-Whole amount and the Termination Value and Make-Whole amount for such date; (d) on the Basic Payment Date designated for such sale, Lessee shall pay all Basic Payments and Supplemental Payments then due and owing or accrued; (e) on the Basic Payment Date designated for such sale, Lessee shall pay, or cause to be paid, all Sales Expenses associated with such sale of such Equipment, together with the Make-Whole Amount (if any) then applicable and (f) Lessee shall deliver such Equipment to such Third Party Purchaser in accordance with the provisions of Section 6 of the Agreement as if such Third Party Purchaser were the Lessor. Upon receipt of all amounts in good funds then due and owing to Lessor hereunder, Lessor shall sell such Equipment to such Third Party Purchaser on an "as-is, where-is" basis and deliver a bill of sale and all other documentation reasonably necessary to transfer to such Third Party Purchaser all of Lessor's right, title and interest in and to such Equipment, without recourse to or warranty by Lessor, express or implied.

8. The Basic Payment Factor is 1.270118%.

9. The transaction rate (the "Transaction Rate") is 8.33 %.

10. The Casualty Loss Value percentages for the Equipment during the Term are set forth on Annex B hereto.

11. The Maximum Lessee Risk Amount percentages and the Maximum Lessor Risk Amount percentages for the Equipment during the Term are set forth on Annex C hereto.

12. The Termination Value percentages for the Equipment during the Term are set forth on Annex D hereto.

13. This Lease Supplement and Acceptance Certificate may be executed in as many counterparts as shall be determined by the parties hereto when so executed, and each such counterpart shall be binding on both parties hereto, notwithstanding that both parties are not signatories to the same counterpart.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Supplement and Acceptance Certificate to be executed by their duly authorized representatives as of the date first above written.

COMERICA LEASING CORPORATION

By: _____
Larry D. Strahm

Its: Vice President

DAKOTA, MINNESOTA & EASTERN
RAILROAD CORPORATION

By: _____
Kurt V. Feaster

Its: Chief Financial Officer

9. The transaction rate (the "Transaction Rate") is _____%.

10. The Casualty Loss Value percentages for the Equipment during the Term are set forth on Annex B hereto.

11. The Maximum Lessee Risk Amount percentages and the Maximum Lessor Risk Amount percentages for the Equipment during the Term are set forth on Annex C hereto.

12. The Termination Value percentages for the Equipment during the Term are set forth on Annex D hereto.

13. This Lease Supplement and Acceptance Certificate may be executed in as many counterparts as shall be determined by the parties hereto when so executed, and each such counterpart shall be binding on both parties hereto, notwithstanding that both parties are not signatories to the same counterpart.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Supplement and Acceptance Certificate to be executed by their duly authorized representatives as of the date first above written.

COMERICA LEASING CORPORATION

By: _____
Larry D. Strahm

Its: Vice President

DAKOTA, MINNESOTA & EASTERN
RAILROAD CORPORATION

By: _____
Kurt V. Feaster

Its: Chief Financial Officer

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

STATE OF SOUTH DAKOTA)
) ss
COUNTY OF BROOKINGS)

I, JOYCE E. HOCK, a Notary Public of the County and State aforesaid, certify that Kurt V. Feaster personally came before me this day and acknowledged that he is Chief Financial Officer of Dakota, Minnesota & Eastern Railroad Corporation, a Delaware corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Chief Financial Officer.

WITNESS my hand and official stamp or seal, this 7th day of June, 1996.

Joyce E. Hock
Notary Public
Brookings County, S.D.
My Commission Expires: 5-5-2002

STATE OF)
) ss
COUNTY OF)

I, _____, a Notary Public of the County and State aforesaid, certify that Larry D. Strahm personally came before me this day and acknowledged that he is Vice President of Comerica Leasing Corporation, a Michigan corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President.

WITNESS my hand and official stamp or seal, this _____ day of June, 1996.

_____
Notary Public
County, _____
My Commission Expires: _____

Comerica/DM&E/Agr/MasterLeaseSupp

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

STATE OF)
) ss
COUNTY OF)

I, _____, a Notary Public of the County and State aforesaid, certify that Kurt V. Feaster personally came before me this day and acknowledged that he is Chief Financial Officer of Dakota, Minnesota & Eastern Railroad Corporation, a Delaware corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Chief Financial Officer.

WITNESS my hand and official stamp or seal, this ____ day of June, 1996.

_____
Notary Public
County, _____
My Commission Expires: _____

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

I, Barbara Ann Jester, a Notary Public of the County and State aforesaid, certify that Larry D. Strahm personally came before me this day and acknowledged that he is Vice President of Comerica Leasing Corporation, a Michigan corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President.

WITNESS my hand and official stamp or seal, this 7th day of June, 1996.

Barbara Ann Jester, Notary Public
Oakland County, Michigan
My Commission Expires: 11/16/96

BARBARA ANN JESTER
Notary Public, Wayne County, Michigan
Acting in Oakland County
My Commission Expires November 16, 1996

Annex A

EQUIPMENT DESCRIPTION

The Equipment shall include the various items referenced below:

Six (6) SD40-3, 3000 horsepower, dynamic brake equipped diesel-electric locomotives overhauled by VMW Enterprises, Inc.

Existing Unit Marks		Prior Unit Marks	Marks to be Used by Dakota Minnesota & Eastern Railroad Corporation	
HLCX	6050	UP 3017	DME	6050
HLCX	6051	UP 3055	DME	6051
HLCX	6052	UP 3092	DME	6052
HLCX	6053	UP 3069	DME	6053
HLCX	6054	UP 3100	DME	6054
HLCX	6055	CBRY 301	DME	6055

Annex B

CASUALTY LOSS VALUE SCHEDULE

Casualty Loss Value Date	Casualty Loss* Value
06/13/96	103.008238
07/13/96	102.453169
08/13/96	101.894247
09/13/96	101.331446
10/13/96	100.764737
11/13/96	100.194094
12/13/96	99.619491
01/13/97	99.040898
02/13/97	98.458289
03/13/97	97.871636
04/13/97	97.280911
05/13/97	96.686085
06/13/97	96.087129
07/13/97	95.484016
08/13/97	94.876717
09/13/97	94.265202
10/13/97	93.649441
11/13/97	93.029407
12/13/97	92.405068
01/13/98	91.776396
02/13/98	91.143359
03/13/98	90.505928
04/13/98	89.864072
05/13/98	89.217761
06/13/98	88.566963

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* Expressed as a percentage of Acquisition Cost; Casualty Loss Values are exclusive of all Basic Payments, Supplemental Payments and Make-Whole Amounts then due or owing or accrued to such Casualty Loss Value Date.

Annex B

CASUALTY LOSS VALUE SCHEDULE

Casualty Loss Value Date	Casualty Loss* Value
07/13/98	87.911648
08/13/98	87.251783
09/13/98	86.587338
10/13/98	85.918281
11/13/98	85.244579
12/13/98	84.566201
01/13/99	83.883114
02/13/99	83.195285
03/13/99	82.502681
04/13/99	81.805269
05/13/99	81.103016
06/13/99	80.395889
07/13/99	79.683852
08/13/99	78.966873
09/13/99	78.244917
10/13/99	77.517950
11/13/99	76.785936
12/13/99	76.048840
01/13/00	75.306628
02/13/00	74.559264
03/13/00	73.806712
04/13/00	73.048936
05/13/00	72.285899
06/13/00	71.517566
07/13/00	70.743899
08/13/00	69.964862
09/13/00	69.180417

* Expressed as a percentage of Acquisition Cost; Casualty Loss Values are exclusive of all Basic Payments, Supplemental Payments and Make-Whole Amounts then due or owing or accrued to such Casualty Loss Value Date.

Annex B

CASUALTY LOSS VALUE SCHEDULE

Casualty Loss Value Date	Casualty Loss* Value
10/13/00	68.390527
11/13/00	67.595153
12/13/00	66.794259
01/13/01	65.987804
02/13/01	65.175752
03/13/01	64.358062
04/13/01	63.534697
05/13/01	62.705616
06/13/01	61.870780
07/13/01	61.030148
08/13/01	60.183681
09/13/01	59.331339
10/13/01	58.473079
11/13/01	57.608862
12/13/01	56.738646
01/13/02	55.862389
02/13/02	54.980049
03/13/02	54.091585
04/13/02	53.196953
05/13/02	52.296110

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* Expressed as a percentage of Acquisition Cost; Casualty Loss Values are exclusive of all Basic Payments, Supplemental Payments and Make-Whole Amounts then due or owing or accrued to such Casualty Loss Value Date.

Annex B

CASUALTY LOSS VALUE SCHEDULE

Casualty Loss Value Date	Casualty Loss* Value
06/13/02	51.389015
07/13/02	50.475622
08/13/02	49.555890
09/13/02	48.629772
10/13/02	47.697226
11/13/02	46.758207
12/13/02	45.812669
01/13/03	44.860567
02/13/03	43.901857
03/13/03	42.936491
04/13/03	41.964424
05/13/03	40.985609
06/13/03	40.000000

* Expressed as a percentage of Acquisition Cost; Casualty Loss Values are exclusive of all Basic Payments, Supplemental Payments and Make-Whole Amounts then due or owing or accrued to such Casualty Loss Value Date.

Annex C

MAXIMUM RISK AMOUNTS

Expiration Date	Lessee Amount*	Lessor Amount*
06/13/97	82.51	13.57
06/13/98	78.66	9.90
06/13/99	71.26	9.13
06/13/00	63.22	8.29
06/13/01	54.49	7.38
06/13/02	44.99	6.40
06/13/03	34.68	5.32

* Expressed as a percentage of Acquisition Cost.

Annex D

TERMINATION VALUE SCHEDULE

Termination Value Date	Termination* Value
06/13/96	103.008238
07/13/96	102.453169
08/13/96	101.894247
09/13/96	101.331446
10/13/96	100.764737
11/13/96	100.194094
12/13/96	99.619491
01/13/97	99.040898
02/13/97	98.458289
03/13/97	97.871636
04/13/97	97.280911
05/13/97	96.686085
06/13/97	96.087129
07/13/97	95.484016
08/13/97	94.876717
09/13/97	94.265202
10/13/97	93.649441
11/13/97	93.029407
12/13/97	92.405068
01/13/98	91.776396
02/13/98	91.143359
03/13/98	90.505928
04/13/98	89.864072
05/13/98	89.217761
06/13/98	88.566963
07/13/98	87.911648

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* Expressed as a percentage of Acquisition Cost; Termination Values are exclusive of all Basic Payments, Supplemental Payments and Make-Whole Amounts then due or owing or accrued to such Termination Value Date.

Annex D

TERMINATION VALUE SCHEDULE

Termination Value Date	Termination* Value
08/13/98	87.251783
09/13/98	86.587338
10/13/98	85.918281
11/13/98	85.244579
12/13/98	84.566201
01/13/99	83.883114
02/13/99	83.195285
03/13/99	82.502681
04/13/99	81.805269
05/13/99	81.103016
06/13/99	80.395889
07/13/99	79.683852
08/13/99	78.966873
09/13/99	78.244917
10/13/99	77.517950
11/13/99	76.785936
12/13/99	76.048840
01/13/00	75.306628
02/13/00	74.559264
03/13/00	73.806712
04/13/00	73.048936
05/13/00	72.285899
06/13/00	71.517566
07/13/00	70.743899
08/13/00	69.964862
09/13/00	69.180417
10/13/00	68.390527

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* Expressed as a percentage of Acquisition Cost; Termination Values are exclusive of all Basic Payments, Supplemental Payments and Make-Whole Amounts then due or owing or accrued to such Termination Value Date.

Annex D

TERMINATION VALUE SCHEDULE

Termination Value Date	Termination* Value
11/13/00	67.595153
12/13/00	66.794259
01/13/01	65.987804
02/13/01	65.175752
03/13/01	64.358062
04/13/01	63.534697
05/13/01	62.705616
06/13/01	61.870780
07/13/01	61.030148
08/13/01	60.183681
09/13/01	59.331339
10/13/01	58.473079
11/13/01	57.608862
12/13/01	56.738646
01/13/02	55.862389
02/13/02	54.980049
03/13/02	54.091585
04/13/02	53.196953
05/13/02	52.296110

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* Expressed as a percentage of Acquisition Cost; Termination Values are exclusive of all Basic Payments, Supplemental Payments and Make-Whole Amounts then due or owing or accrued to such Termination Value Date.

Annex D

TERMINATION VALUE SCHEDULE

Termination Value Date	Termination* Value
06/13/02	51.389015
07/13/02	50.475622
08/13/02	49.555890
09/13/02	48.629772
10/13/02	47.697226
11/13/02	46.758207
12/13/02	45.812669
01/13/03	44.860567
02/13/03	43.901857
03/13/03	42.936491
04/13/03	41.964424
05/13/03	40.985609
06/13/03	40.000000

* Expressed as a percentage of Acquisition Cost; Termination Values are exclusive of all Basic Payments, Supplemental Payments and Make-Whole Amounts then due or owing or accrued to such Termination Value Date.