

#60

New Number

- A
- B

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RECORDATION NO 16820
FILED 1425

MAR 30 1990 -12 45 PM
RECORDATION NO

16820-089A020
FILED 1425

INTERSTATE COMMERCE COMMISSION
MAR 30 1990 -12 45 PM
RECORDATION NO

16820
FILED 1425

MAR 30 1990 -12 45 PM
INTERSTATE COMMERCE COMMISSION

Ms. Noreta R. McGee
Secretary
INTERSTATE COMMERCE COMMISSION
Washington, D.C. 20423

Dear Ms. McGee:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11303(a) are eleven original counterparts of an Equipment Lease dated as of March 15, 1990, ~~together with four original counterparts of Amendment No. 1 to Equipment Lease dated as of March 15, 1990 ("Lease")~~, a primary document; eleven original counterparts each of a Lease Assignment dated as of March 15, 1990 ("First Assignment") and a Lease Assignment dated as of March 15, 1990 ("Second Assignment"), such Assignments being secondary documents related to the Lease. CTK

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

Lease

Lessor: Wilmington Trust Company, as Owner-Trustee
Rodney Square North
Wilmington, Delaware 19890

Lessee: GATX Capital Corporation
Four Embarcadero Center
San Francisco, California 94111

Counselor J.F. Kappler C.T. Kappler

Ms. Noreta R. McGee
Interstate Commerce Commission
March 30, 1990
Page 2

First Assignment

Assignor: GATX Capital Corporation
Four Embarcadero Center
San Francisco, California 94111

Assignee: Wilmington Trust Company, as Owner-Trustee
Rodney Square North
Wilmington, Delaware 19890

Second Assignment

Assignor: Wilmington Trust Company, as Owner-Trustee
Rodney Square North
Wilmington, Delaware 19890

Assignee: The Connecticut National Bank
777 Main Street
Hartford, Connecticut 06115

A description of the railroad equipment covered by the enclosed documents is:

Four hundred (400) two compartment covered hopper cars bearing WC reporting marks and road numbers 84000 through 84399, both inclusive.

Also enclosed is check in the amount of \$60 payable to the order of the Interstate Commerce Commission covering the required recordation fees.

Kindly return stamped copies of the enclosed documents to Charles T. Kappler, Esq., Alvord and Alvord, 918 Sixteenth Street, N.W., Washington, D.C. 20006.

Ms. Noreta R. McGee
Interstate Commerce Commission
March 30, 1990
Page 3

A short summary of the enclosed documents to appear in the Commission's Index is:

"Equipment Lease dated as of March 15, 1990 between Wilmington Trust Company, as Owner Trustee, Lessor and GATX Capital Corporation, Lessee; ~~Amendment No. 1 to Equipment Lease dated as of March 15, 1990,~~ Lease Assignment dated as of March 15, 1990 from GATX Capital Corporation, Assignor, to Wilmington Trust Company, as Owner-Trustee, Assignee; and Lease Assignment dated as of March 15, 1990 from Wilmington Trust Company, as Owner-Trustee, Assignor, to The Connecticut National Bank, as Security Trustee, Assignee, covering 400 covered hopper cars, WC 84000- WC 84399, both inclusive.

Very truly yours,


Charles T. Kappler

Enclosures
CTK/bg

Interstate Commerce Commission
Washington, D.C. 20423

3/30/90

OFFICE OF THE SECRETARY

Charles T. Kappler
Alvord & Alvord
918 16th St. N.W.
Washington, D.C. 20006

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 3/30/90 at 12:45pm and assigned recordation number(s). 16820,16820-A,16820-B

Sincerely yours,



Noreta R. McGee
Secretary

Enclosure(s)

16820

RECORDATION NO. _____ FILED 1428

MAR 30 1990 -12 45 PM

INTERSTATE COMMERCE COMMISSION

EQUIPMENT LEASE

Dated as of March 15, 1990

Between

WILMINGTON TRUST COMPANY
As Owner-Trustee under GATX Trust No. 90-1

LESSOR

and

GATX CAPITAL CORPORATION

LESSEE

(GATX Trust No. 90-1)

400 3000 cf Covered Hopper Cars

This Equipment Lease and the rentals and other sums due and to become due hereunder have been assigned by the Lessor to and made subject to a security interest in favor of The Connecticut National Bank, as Security Trustee. Any party intending to give consideration for any assignment by the Lessor of this Equipment Lease or any of the Lessor's rights hereunder should first inquire of such Security Trustee regarding its prior rights therein, and should further determine whether any such prior assignments or security agreements providing for such assignments have been filed and recorded with the office of the Secretary of the Interstate Commerce Commission.

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ATTACHMENTS TO EQUIPMENT LEASE:

- Schedule A - Description of Items of Equipment
- Schedule B - Pricing Assumptions
- Exhibit A Lease Supplement
- Annex 1 Definitions

EQUIPMENT LEASE

THIS EQUIPMENT LEASE dated as of March 15, 1990 is between WILMINGTON TRUST COMPANY, a Delaware banking corporation, not individually but solely in its capacity as Owner-Trustee (the "Lessor") under GATX Trust No. 90-1, and GATX CAPITAL CORPORATION, a Delaware corporation (the "Lessee").

R E C I T A L S

A. The Lessee has previously purchased the Items of Equipment from the Manufacturer, and has leased the same to the Current Sublessee, as lessee, pursuant to the Current Sublease. The Lessee has determined that it prefers to lease rather than own the Equipment, and the Current Sublease provides that the Lessee may sell and relet as lessee the Equipment, in which event the Current Sublessee has agreed that it shall become a sublessee from the Lessee.

B. The Lessor and the Lessee have entered into the Participation Agreement with the other parties thereto in order to effect, subject to the terms and conditions thereof, the sale of the Equipment to the Lessor by the Lessee, and this Equipment Lease shall immediately upon such sale and without further act become effective to provide for the lease of the Equipment by the Lessee from the Lessor upon the terms provided for herein.

C. The capitalized terms used in this Lease shall have the respective meanings indicated in Annex I hereto unless elsewhere defined herein. Where any provision in this Lease refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person.

D. Where the character or amount of any asset or liability or item of income or expense is required to be determined or any consolidation or other accounting computation is required to be made for the purposes of this Lease, this shall be done in accordance with generally accepted accounting principles at the time in effect, to the extent applicable, except where such principles are inconsistent with the requirements of this Lease.

SECTION 1. LEASE AND DELIVERY OF EQUIPMENT.

Prior to the execution and delivery of this Lease, each Item of Equipment has been purchased from the Manufacturer by the Lessee and has been delivered by the Manufacturer to, and has been accepted by, the Current Sublessee, as lessee, under the Current Sublease. Each Item of Equipment is now subject to the terms and

provisions of the Current Sublease, and immediately upon the sale of the Equipment by the Lessee to the Lessor pursuant to the Participation Agreement, each Item of Equipment shall without further act be subject to the terms and provisions of this Lease and be leased by the Lessee, as lessee, from the Lessor. No inspection of the Equipment shall be conducted by either the Lessee or the Lessor as a condition to effecting the lease of the Equipment hereunder, and such sale shall conclusively establish that, as between the Lessor and the Lessee, but without limiting or otherwise affecting the Lessee's or the Lessor's rights, if any, against the Manufacturer, such Item of Equipment is acceptable to and accepted by the Lessee under this Lease, notwithstanding any defect with respect to design, manufacture, condition or in any other respect. By such sale, the Lessee represents that, (i) to its best knowledge, based upon the Current Sublessee's acceptance of such Item of Equipment under the Current Sublease and after reasonable inquiry, such Item of Equipment is in good order and condition and (ii) such Item of Equipment generally conforms to the specifications applicable thereto and to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications, if any, and to all standards recommended by the Association of American Railroads applicable to new railroad equipment of the character of the Equipment as of the date of this Lease.

SECTION 2. RENTALS AND PAYMENT DATES.

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

(a) Fixed Rent. Rent (the "Fixed Rent") shall be payable for the Base Term in 22 consecutive semi-annual installments, payable in arrears commencing on September 30, 1990 and on each Rent Payment Date thereafter to and including March 31, 2001, followed by 22 consecutive semi-annual installments, payable in advance, commencing on March 31, 2001 and on each Rent Payment Date thereafter in the amounts set forth in the Lease Supplement.

(b) Additional Rent. In addition to the foregoing rental, the Lessee agrees to pay to the Lessor, or to whomsoever shall be entitled thereto, any and all Additional Rent, promptly as the same shall become due and owing, and in the event of any failure on the part of the Lessee to pay any Additional Rent, the Lessor shall have all rights, powers and remedies provided for herein or by law or equity or otherwise in the case of nonpayment of Fixed Rent.

2.2. Business Days. If any Rent Payment Date is not a Business Day, the rent payment otherwise payable on such date shall be payable on the immediately preceding Business Day.

2.3. Adjustment of Rentals. The Lessee and the Lessor agree that the Fixed Rent payable hereunder and the Casualty Value percentages as set forth in the Lease Supplement have been calculated on the assumptions (the "Pricing Assumptions") set forth in Schedule B hereto. If any of the Pricing Assumptions shall prove to be incorrect on the Closing Date, then the Lessee and the Lessor agree that the percentages for Fixed Rent, Casualty Values and purchase price under Section 18.2 will be adjusted (upward or downward) prior to September 30, 1990. Any such adjustment shall be made in such manner as will result first in maintaining for the Trustor the aggregate pre-tax cash flow and constant pre-tax yield under the multiple investment sinking fund method of analysis that would have been realized by the Trustor over the entire term of this Lease had such Pricing Assumptions for the Trustor proved correct (the "Net Economic Return") and second any such adjustment shall minimize the present value (utilizing a discount rate of 10% per annum) of the Fixed Rent using the Pricing Assumptions; provided however that in no event shall the installments of Fixed Rent and Casualty Value shall be adjusted below the amount necessary to discharge the installments of principal of and/or interest on the Notes due and payable on each Rent Payment Date or Casualty Value payment date.

The Lessor shall furnish the Lessee with a revised Lease Supplement setting forth any adjustments required by the first paragraph of this Section 2.3 not later than August 1, 1990. Not later than April 15, 1990, the Trustor will deposit with Chapman and Cutler the Pricing Assumptions used in the calculation of Fixed Rent and Casualty Values without adjustment under this Section 2.3. If Lessee requests, at Lessee's expense, the methodologies and assumptions utilized in calculating such revised Lease Supplement shall be verified by a nationally recognized independent accounting firm mutually agreeable to the Lessee and the Lessor, and the Lessor shall provide such materials to such accounting firm as it shall reasonably request to enable it to verify such revised Lease Supplement. All such materials shall be and remain confidential as to the Lessee and all other third parties.

2.4. Place and Manner of Rent Payment. The payments to be made by the Lessee under this Lease exclusive of any payments by any Permitted Sublessee shall be made as follows:

(a) The installments of Fixed Rent, the entire amount of any payments of Casualty Value, any payment of the purchase price of the Equipment pursuant to Section 18, and any payment pursuant to Section 14, shall be paid to the Lessor by wire transfer to such account of the

Lessor as it shall direct in writing; provided that until the Lessee shall have received notice from the Security Trustee that all Secured Indebtedness has been paid and satisfied, the Lessee shall make such payment by wire transfer to the office of the Security Trustee designated in Section 21.1 hereof or as otherwise designated from time to time in writing by the Security Trustee;

(b) The amount of any payment owing to the Owner-Trustee or the Trustor pursuant to Section 6, shall be made directly to the party to receive the same by wire transfer as specified in the Operative Agreements or as instructed in writing by such party without regard to the assignment of this Lease pursuant to Section 16 hereof;

(c) The amount of any interest due in respect of the late payment of any rentals or other amounts pursuant to Section 20 hereof and any amounts advanced pursuant to Section 21.2 and any interest thereon shall be paid to the party and in the manner herein provided to receive said rental or other amount by wire transfer as specified to such party as aforesaid or as instructed in writing by such party; and

(d) All payments other than those above specified shall be made by the Lessee directly to the party to receive the same.

The Lessee agrees that it will make payments referred to in Section 2.4(a), (b) and (c) by wire transfer, as soon as practicable following the opening of business of the office of the transferring bank on the due date of such payment in federal or otherwise immediately available funds to the party to whom such payment is to be made.

2.5. Net Lease. This Lease is a net lease and the Lessee's obligation to pay all Additional Rent and Fixed Rent and other amounts payable hereunder shall be absolute and unconditional under any and all circumstances and, without limiting the generality of the foregoing, the Lessee shall not be entitled to any abatement of Rent or reduction thereof or setoff against Rent, including, but not limited to, abatements, reductions or setoffs due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise or against any assignee of the Lessor pursuant to Section 16; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss or destruction of or requisitioning of the Equipment by condemnation or otherwise, the prohibition of Lessee's use of the Equipment other than by the Lessor's material breach of the Lessee's right of quiet enjoyment, the interference with such use

by any private Person, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease, or lack of right, power or authority of the Lessor to enter into this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the Rent and other amounts payable by the Lessee hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated pursuant to Section 11 hereof, or until, pursuant to Section 13 hereof, the Equipment has been returned to the possession of the Lessor (for all purposes of this Lease any Item of Equipment shall not be deemed to have been returned to the Lessor's possession until all of the Lessee's obligations with respect to the return, transportation and storage thereof have been performed). To the extent permitted by applicable law, the Lessee hereby waives any and all rights 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 rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor or any assignee pursuant to Section 16 for any reason whatsoever.

SECTION 3. TERM OF THE LEASE.

The base term of this Lease (the "Base Term") as to each Item of Equipment shall begin on the Closing Date and shall terminate on March 31, 2012, subject to earlier termination pursuant to Sections 11 and 14. Subject and pursuant to the terms of Section 18 hereof, the Lessee may elect one Renewal Term.

SECTION 4. OWNERSHIP AND MARKING OF EQUIPMENT.

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

4.2. Duty to Number and Mark Equipment. The Lessee will cause each Item of Equipment to be kept numbered with one of the road numbers as set forth in Schedule A hereto, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting colors upon each side of each Item of Equipment in letters not less than one inch in height each of the following:

"LEASED FROM A CORPORATION AS FILED WITH THE
INTERSTATE COMMERCE COMMISSION"

and

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

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Lessor to such Item of Equipment, its rights under this Lease and the rights of any assignee under Section 16. The Lessee will cause the second of the aforesaid legends to be so placed on each Item on or before December 1, 1990. Except as provided hereinabove, the Lessee will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced, obliterated or destroyed. The Lessee will not change the road number of any Item of Equipment except in accordance with a statement of new road numbers to be substituted therefor, which statement previously shall have been delivered to the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited.

4.3. Prohibition against Certain Designations. Except as above provided, the Lessee will not allow the name of any Person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Lessee or a Permitted Sublessee on railroad equipment used thereby of the same or a similar type for convenience of identification of the right of the Lessee or a Permitted Sublessee to use the Equipment under this Lease or a Permitted Sublease.

SECTION 5. DISCLAIMER OF WARRANTIES; WARRANTY ASSIGNMENTS.

(a) THE LESSEE ACKNOWLEDGES AND AGREES THAT (i) THE EQUIPMENT AND EACH ITEM THEREOF IS OF A SIZE, DESIGN, CAPACITY AND MANUFACTURE SELECTED BY THE CURRENT SUBLESSEE AND ACCEPTABLE TO THE LESSEE, (ii) THE LESSEE IS SATISFIED THAT THE EQUIPMENT AND EACH ITEM THEREOF IS SUITABLE FOR ITS PURPOSES, (iii) THE LESSOR IS NOT A MANUFACTURER NOR A DEALER IN PROPERTY OF SUCH KIND, (iv) THE EQUIPMENT AND EACH ITEM THEREOF IS LEASED HEREUNDER SUBJECT TO ALL APPLICABLE LAWS AND GOVERNMENTAL REGULATIONS NOW IN EFFECT OR HEREAFTER ADOPTED AND IN THE STATE AND CONDITION OF EVERY PART THEREOF WHEN THE SAME FIRST BECAME SUBJECT TO THIS LEASE, WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND BY THE LESSOR, AND (v) AS

BETWEEN THE LESSOR AND THE LESSEE, THE LESSOR LEASES THE EQUIPMENT AND EACH ITEM THEREOF, AS-IS WITHOUT WARRANTY OR REPRESENTATION EITHER EXPRESS OR IMPLIED, AS TO (A) THE TITLE, CONDITION, FITNESS, DESIGN, DESCRIPTION, OPERATION OR MERCHANTABILITY THEREOF, (B) THE LESSOR'S TITLE THERETO, (C) THE LESSEE'S QUIET ENJOYMENT THEREOF (EXCEPT THAT THE LESSOR AGREES NOT TO WRONGFULLY INTERFERE WITH THE LESSEE'S QUIET ENJOYMENT THEREOF), or (D) ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE. It is agreed that, as between the Indemnified Parties and the Lessee, all risks incident to the matters discussed in the preceding sentence are to be borne by the Lessee. The provisions of this Section 5 have been negotiated by the Lessor and the Lessee and are intended to be a complete exclusion and negation of any representations or warranties of the Indemnified Parties, express or implied, with respect to the Equipment or any Item thereof that may arise pursuant to any law now or hereafter in effect, or otherwise.

(b) Subject to the next following sentence and any rights of the Current Sublessee therein under the Current Sublease, the Lessee hereby assigns to the Lessor all its rights with respect to the Equipment against the Manufacturer, including, without limitation, all claims under any indemnities or warranties, whether for condition of goods, patent or otherwise, and any other rights arising under any purchase orders or agreements pertaining to the Equipment. The Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease prior to any Event of Default to assert and enforce, from time to time, in the name and for the account of the Lessor and the Lessee, as their interests may appear, but in all cases at the sole cost and expense of the Lessee, whatever claims and rights the Lessor may have as owner of the Equipment against the Manufacturer; provided, however, that if at any time a Default or Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights, and provided, further, that the Lessor has, at any other time, the right, but not the obligation, to proceed on its own behalf and at its own expense, against the Manufacturer. Lessor shall, at the Lessee's request and at Lessee's expense, cooperate in the enforcement of any indemnities or warranties or the prosecution of any claims by the Lessee against the Manufacturer under this paragraph (b).

(c) The Lessor shall have no responsibility or liability to the Lessee, any Permitted Sublessee or any other Person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Item of Equipment or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of

any Item of Equipment or any risks relating thereto; (iii) any interruption of service, use, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Item of Equipment. The limitations contained in this Section 5(c) shall not apply with respect to clauses (ii), (iii) and (iv) in the event of damages to the Lessee arising out of or caused by the wrongful interference by the Lessor with the Lessee's right of quiet enjoyment. The sale of the Equipment by the Lessee to the Lessor pursuant to the Participation Agreement shall be conclusive evidence as between the Lessee and the Lessor that all Items of Equipment described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

SECTION 6. LESSEE INDEMNITIES.

6.1. General Indemnity. (a) The Lessee hereby agrees to assume liability for, and does hereby agree to indemnify, protect, save and keep harmless each Indemnified Party from and against any and all loss or damage to the Equipment, usual wear and tear excepted (taking into account the provisions of Section 7, 8 and 11), and any and all liabilities, obligations, losses, damages, penalties, claims (including claims by any employee of the Lessee or any of its contractors), actions, suits and related costs, expenses and disbursements, including reasonable legal fees and expenses, of whatsoever kind and nature (for purposes of this Section 6 collectively called "Expenses"), imposed on, asserted against or incurred by any Indemnified Party, in any way relating to or arising out of (i) this Lease, any Permitted Sublease and the other Operative Agreements, (ii) the construction, installation, ownership, delivery, lease, possession, use, operation or condition of the Equipment or any Item or part thereof, (including, without limitation, latent and other defects, whether or not discoverable by the Indemnified Party or the Lessee, and any claim for patent, trademark or copyright infringement and any claim arising under the strict liability doctrine in tort), or (iii) the sale or other disposition of the Equipment or any Item thereof pursuant to Section 11, 14 or 18, except only that the Lessee shall not be required to indemnify any Indemnified Party pursuant to this Section 6.1 for: (A) any Taxes, it being agreed that the indemnity for Taxes is intended to be provided by Section 6.2, (B) Expenses resulting from the willful misconduct, gross negligence or material default in the performance by such Indemnified Party under any Operative Agreement, and (C) Transaction Expenses. Except to the extent fairly attributable to the failure of the Lessee fully to discharge its obligations under this Lease, the indemnities contained in this Section 6.1 with respect to the matters described in clauses (i) and (ii) above shall apply only to acts

(or failures to act) or events or conditions or Expenses which exist or existed on or prior to, or are fairly attributable to the period prior to, the termination of this Lease, or which arise in connection with the Lessee's assembling, delivering, storing or transporting of the Equipment as provided in Section 13 or 15, as the case may be. If any Indemnified Party shall have knowledge of any claim or liability hereby indemnified against, it shall give prompt written notice thereof to the Lessee; provided, however, that the failure of such Indemnified Party to give such notice shall not relieve the Lessee of any of its obligations hereunder. The Lessee may, at its expense, in good faith and by appropriate legal proceedings, contest or defend an asserted claim or liability for which it is indemnifying under this Section 6.1 so long as, in the reasonable opinion of the Indemnified Party, such defense is being diligently conducted by Persons reasonably satisfactory to the affected Indemnified Parties. Settlement of any dispute or claim or action in the name of the Lessor shall not be settled or otherwise finalized without the Lessor's prior written consent, which consent shall not be unreasonably withheld.

(b) All amounts payable by the Lessee pursuant to this Section shall be payable directly to the parties entitled to indemnification. All the indemnities contained in this Section 6.1 shall continue in full force and effect notwithstanding the expiration or other termination of this Lease and are expressly made for the benefit of, and shall be enforceable by, each Indemnified Party. The Lessee's obligations under this Section 6.1 shall be that of primary obligor irrespective of whether the Indemnified Party shall also be indemnified with respect to the same matter under any other agreement by any other Person.

(c) The indemnities and assumptions of liabilities set forth in this Section do not guarantee a residual value of the Equipment or any Item thereof.

(d) Upon the payment in full of any indemnities as contained in this Section 6.1 by the Lessee, and provided that no Default or Event of Default shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Party (except where the Lessee is also indemnifying a Person against whom the Indemnified Party has rights in respect of the matter against which indemnity has been given). Any payments received by such Indemnified Party from any Person (except the Lessee) as a result of any matter with respect to which such Indemnified Party has been paid in full pursuant to the indemnity provided for by the Lessee pursuant to this Section 6.1 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made to and retained by such Indemnified Party; provided that (i) such sum shall not be payable before such time as the Lessee shall have made all payments (including indemnity payments pursuant to this

Section 6.1) then due pursuant to any of the Operative Agreements and (ii) no Default or Event of Default shall have occurred and be continuing.

(e) Lessee further agrees that, with respect to any payment or indemnity to an Indemnified Party under this Section 6.1, Lessee's indemnity obligations shall include any amount necessary to hold such Indemnified Party harmless on an after-tax basis from all Taxes required to be paid by such Indemnified Party with respect to such payment or indemnity (including any payments under this Section 6.1(e)). Payment shall be made by the Lessee no later than the date on which the Indemnified Party must pay such Taxes.

(f) All amounts payable by the Lessee pursuant to this Section 6.1 shall be payable directly to the Indemnified Party. All the indemnities contained in this Section 6.1 and the obligation, if any, of the Indemnified Party to make payments to the Lessee pursuant to this Section 6.1, shall continue in full force and effect notwithstanding the expiration or other termination of the Lease in whole or in part, until all such obligations of the Lessee and each Indemnified Party have been met and such liabilities have been paid in full and are expressly made for the benefit of, and shall be enforceable by, the Lessee and each Indemnified Party. The Lessee's obligations under this Section 6.1 shall be that of primary obligor irrespective of whether the Indemnified Party shall also be indemnified with respect to the same matter under some other agreement by another Person.

6.2. General Tax Indemnity. (a) (i) Indemnity. All payments to be made by the Lessee hereunder will be free of all withholdings of any nature (including withholding taxes, monetary transfer fees or similar taxes and charges but not including any such taxes or charges excluded from indemnification hereunder). The Lessee agrees to pay, and indemnify and hold each Indemnified Party harmless from, all license and registration fees and all taxes (including, without limitation, franchise taxes), assessments, rates and charges, excises, permit fees, inspection fees, levies, imposts, duties, charges or withholding of any nature whatsoever, including, without limitation, sales, gross receipts, transfer, property, stamp, use or similar taxes, together with any penalties, fines or interest thereon (herein called "taxes or other impositions") imposed against any Indemnified Party, the Lessee, any Permitted Sublessee, the Equipment or any Item or part thereof by any federal, state or local government or taxing authority in the United States or by any foreign country or subdivision thereof, or by any international organization, upon or with respect to the Equipment or any Item or part thereof, or upon the purchase, ownership, substitution, sale, delivery, leasing, possession, use, operation, return or other disposition thereof, or upon the rentals, the receipt of earnings arising therefrom, or upon or with respect to

the Lease or upon the Rent or other sums payable by the Lessee hereunder or upon or with respect to any Permitted Sublease or upon the rentals or other sums payable by any Permitted Sublessee thereunder or with respect to the other Operative Agreements, any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to the Equipment or otherwise on or with respect to the transactions contemplated by the Operative Agreements (all such fees, taxes, assessments, rates and charges, excises, levies, imposts, duties, charges and withholdings, and all penalties, additions to tax and interest imposed in connection therewith being hereinafter called "Taxes").

(ii) Exclusions. The provisions of the second sentence of Section 6.2(a)(i) shall not apply to:

(1) any income, franchise and capital taxes measured by gross or net income (including any minimum or alternative minimum income taxes and any income taxes on or measured by items of tax preference), gross receipts, capital or net worth (including, without limitation, any such taxes collected by withholding), other than taxes in the nature of or in lieu of sales, use or a similar type of taxes (hereinafter referred to as "Income Taxes") imposed by (i) the United States Federal Government, or (ii) any state or local taxing jurisdiction in the United States in which the affected Indemnified Party maintains its principal office or principal place of business or in which the Indemnified Party is subject to taxes by reason of activities wholly unrelated to the transaction contemplated by the Operative Agreements;

(2) Income Taxes imposed on an Indemnified Party which is the Trustor, the Owner-Trustee or the Trust Estate by a foreign government or foreign taxing authority, to the extent, in a given jurisdiction, such Income Taxes exceed the portion of such Income Taxes which are imposed on the transactions contemplated by the Operative Agreements solely by reason of the location, operation, use, leasing or rental in such jurisdiction of the Equipment;

(3) Taxes imposed on an Indemnified Party which is the Trustor, the Owner-Trustee or the Trust Estate, arising from (i) any voluntary transfer or disposition by such Indemnified Party of any equitable or legal interest in the Equipment or other interest in the Trust Estate or interest arising under the Operative Agreements, including, without limitation, the revocation of the Trust Agreement, or (ii) any involuntary transfer or disposition of all or any portion of its respective equitable or legal ownership interest in the Equipment, the Trust Estate or the Operative Agreements due to bankruptcy or similar proceedings involving such Indemnified Party, unless, under either (i) or (ii) above, any such transfer or disposition shall occur (x) pursuant to the exercise of remedies under Section 14 of the

Lease or, upon 10 days prior notice to Lessee, during a period when a Default with respect to payment of Fixed Rent or Casualty Value or an Event of Default has occurred and is continuing under the Lease at the time of transfer or disposition and such transfer or disposition is a result of such Default with respect to payment of Fixed Rent or Casualty Value or Event of Default or (y) in connection with the termination of the Lease or action or direction of the Lessee or any direct or remote assignee or sublessee or any user or possessor of the Equipment pursuant to or as required or permitted by Section 11 or 18 of this Lease;

(4) Taxes imposed on any Indemnified Party which is a Note Purchaser, any Noteholder, the Collateral or the Security Trustee as a result of a transfer or other disposition of all or any portion of its respective equitable or legal interests in the Trust Estate or the Collateral or the Operative Agreements unless, in each case, such transfer or disposition shall occur (i) during a period when an Event of Default has occurred and is continuing under the Lease at the time of transfer or disposition, or (ii) in connection with the termination of the Lease or action or direction of the Lessee pursuant to Section 11 or 18 thereof;

(5) Taxes imposed on any Indemnified Party which result from the willful misconduct or gross negligence of such Indemnified Party;

(6) Taxes based on or measured by any fees received by the Owner-Trustee or the Security Trustee for acting as trustee or agent or for other services rendered in connection with any transaction contemplated by the Operative Agreements;

(7) So long as no Default with respect to the payment of Fixed Rent or Casualty Value or Event of Default shall have occurred and be continuing, Taxes imposed with respect to events occurring or matters arising after the expiration or earlier termination of the Term except to the extent resulting from a failure of Lessee to fully discharge its obligations under this Lease or the other Operative Agreements;

(8) In the case of an Indemnified Party which is the Security Trustee, any Note Purchaser or any Noteholder, any Tax in the nature of an intangible or similar tax upon or with respect to the value of the interest of any Note Purchaser or any Noteholder in any of the Notes imposed by any government or taxing authority;

(9) Taxes imposed on or with respect to a transferee (or subsequent transferee) of an original Indemnified Party to the extent they exceed the amount of Taxes that would have been imposed on or with respect to such original Indemnified Party or would not have been subject to indemnification as to such original Indemnified Party;

(10) Taxes imposed on the Trustor for which Lessee is obligated to pay the Trustor under the Tax Indemnity Agreement; or

(11) In the case of an Indemnified Party which is a Note Purchaser or any Noteholder, any Income Tax or transfer taxes relating to any payments of principal, interest or premium, if any, on the Notes, or to a Noteholder, imposed by any government or taxing authority.

(b) In the event any reports with regard to Taxes (other than Income Taxes) are required to be made with respect to the Equipment or any Items thereof, the Lessee will, where permitted to do so under applicable rules or regulations, make and timely file such reports in such a manner as to show the interest of the Lessor and any other Indemnified Party therein as shall be reasonably satisfactory to each thereof or, where not so permitted, will, as soon as the Lessee has knowledge thereof, notify the Lessor and any other Indemnified Party of such requirement and will assist in preparation of such reports by the Lessor or any other Indemnified Party in such manner as shall be reasonably satisfactory to each thereof. Each Indemnified Party shall respond promptly to any reasonable request by the Lessee for information within such Person's control with respect to the preparation or filing of any report. Unless otherwise required by law the Lessee shall include the Equipment in the ad valorem tax returns to be filed by the Lessee in the applicable states or localities and, unless otherwise required by law, no Indemnified Party shall include the Equipment in any ad valorem or other similar tax returns filed by it in such states or localities.

(c) Notwithstanding anything to the contrary in Section 6.2(a), the actions or omissions of any Indemnified Party shall not, in any way, impair the right of any other Indemnified Party to indemnification for Taxes which, but for such actions or omissions, would be indemnifiable hereunder or under the Tax Indemnity Agreement.

(d) Lessee further agrees that, with respect to any payment or indemnity to an Indemnified Party under this Section 6.2, and notwithstanding the proviso in Section 6.2(a), Lessee's indemnity obligations shall include any amount necessary to hold such Indemnified Party harmless on an after-tax basis from all Taxes required to be paid by such Indemnified Party with respect to such payment or indemnity (including any payments under this Section 6.2(d)). Payment shall be made by the Lessee no later than the date on which the Indemnified Party must pay such Taxes.

(e) All amounts payable by the Lessee pursuant to this Section 6.2 shall be payable directly to the Indemnified Party except to the extent paid to a governmental agency or taxing authority. All the indemnities contained in this Section 6.2 and

the obligation, if any, of the Indemnified Party to make payments to the Lessee pursuant to this Section 6.2, shall continue in full force and effect notwithstanding the expiration or other termination of the Lease in whole or in part, until all such obligations of the Lessee and each Indemnified Party have been met and such liabilities have been paid in full and are expressly made for the benefit of, and shall be enforceable by, the Lessee and each Indemnified Party. The Lessee's obligations under this Section 6.2 shall be that of primary obligor irrespective of whether the Indemnified Party shall also be indemnified with respect to the same matter under some other agreement by another Person.

(f) If any claim is made against any Indemnified Party, by commencement of proceedings against the Indemnified Party or otherwise, for any Taxes as to which the Lessee would have an indemnity obligation pursuant to this Section 6.2, such Indemnified Party shall promptly notify the Lessee of such claim in writing. The Lessee may, at its expense, in good faith and by appropriate legal proceedings, contest or defend an asserted claim or liability for which it is indemnifying under this Section 6.2 so long as in the reasonable opinion of each affected Indemnified Party, such defense is being diligently conducted by Persons reasonably satisfactory to such affected Indemnified Parties. Notwithstanding anything in this Section 6.2 to the contrary, no Indemnified Party need permit a contest if the amount of Taxes that are the subject of the contest is not in excess of \$25,000. If any Indemnified Party shall obtain a refund of all or any part of any Tax paid by the Lessee (or the equivalent thereof, in the form of a reduction of a deficiency, a set-off or otherwise) in contesting a proposed adjustment, such Indemnified Party shall pay the Lessee, but not before the Lessee shall have made all payments theretofore due to such Indemnified Party under the Operative Agreements, an amount equal to the lesser of (A) the amount of such refund and interest on such refund attributable the Tax payment by the Lessee (including interest that would have been received had no other matters been involved in the proceeding), plus any net tax benefit (or minus any net tax detriment) realized by such Indemnified Party as a result of any refund and payment by such Indemnified Party made pursuant to this sentence, and (B) such Tax payment by the Lessee to such Indemnified Party plus any other payment by the Lessee to such Indemnified Party theretofore made pursuant to this Section 6.2 plus any interest on the refund attributable to the Tax payment.

(g) If an Indemnified Party realizes a tax saving (by means of a reduction in tax payment, a refund or otherwise) as a result of the incurrence of any Tax for which Lessee shall have indemnified the Indemnified Party in accordance with this Section 6.2, the Indemnified Party shall pay to Lessee an amount equal to the sum of such tax saving plus any additional tax savings realized by the Indemnified Party as a result of such payment, but not in excess of the amount of the indemnity payment

with respect to such Tax made by Lessee to the Indemnified Party. Any Tax that is incurred by an Indemnified Party as a result of the disallowance or adjustment of the tax benefit or aggregate net reduction in Taxes for which the Indemnified Party shall have made a payment to Lessee pursuant to this Section 6.2(g) shall be treated as a Tax for which Lessee, notwithstanding the exclusions set forth in Section 6.2(a)(ii) above, is obligated to indemnify pursuant to this Section 6.2.

For purposes of this Section 6.2(g), items of foreign tax of an Indemnified Party shall be deemed to be utilized by the Indemnified Party as credits or deductions for any taxable period in accordance with the following priorities:

(1) First, all available foreign Taxes other than those described in the succeeding clauses of this sentence;

(2) Second, all available foreign Taxes for which the Indemnified Party was indemnified or held harmless by persons other than Lessee ("Unrelated Indemnitor") if the agreements relating to such indemnity or hold harmless right were entered into prior to the date hereof, to the extent that under such agreements (A) the Indemnified Party must pay, or provide a credit, to such Unrelated Indemnitors in respect of the utilization of such foreign Taxes as a credit or deduction and (B) such taxes are deemed to be utilized prior to the foreign Taxes of the Indemnified Party arising from this transaction; and

(3) Third, all available (A) foreign Taxes from this transaction for which Lessor has been indemnified or held harmless by Lessee and (B) foreign Taxes for which Lessor was indemnified or held harmless by Unrelated Indemnitors to the extent that under the agreements relating to such indemnity or hold harmless right the Indemnified Party must pay, or provide a credit, to such Unrelated Indemnitors in respect of the utilization of such foreign Taxes as a credit or deduction, and either (x) such foreign Taxes are deemed to be utilized on a pari passu basis with foreign Taxes arising from this transaction or (y) in the case where the agreements were entered into on or after the date hereof, such taxes are deemed to be utilized prior to the foreign Taxes of the Indemnified Party arising from this transaction; and

(4) Fourth, any remaining foreign Taxes arising from a transaction in which there is an agreement that such Taxes shall be utilized after such Taxes described above.

To the extent that some, but not all, of the available Taxes described in clause 3 above are utilized in any year, each item of foreign Tax shall be deemed to be utilized on a pro rata basis. The Indemnified Party shall make all determinations of the rights

of Unrelated Indemnitors under relevant agreements, provided that no such determination shall be considered correct if payment (or credits) are not made (or provided) to Unrelated Indemnitors in accordance with such determination. Once the foreign Tax for which an Indemnified Party was indemnified by Lessee is deemed to be utilized pursuant to the ordering rules contained in this paragraph, it shall not subsequently be recharacterized as not having been utilized as a result of a foreign Tax liability arising in a subsequent year.

If, for any reason, the Lessee is required to make any payment with respect to any Taxes imposed on any Indemnified Party pursuant to this Section 6.2, which Taxes are not the responsibility of the Lessee under Section 6.2(a)(ii) (which, for purposes of this paragraph only, shall be deemed to apply to the first and second sentences of Section 6.2(a)(i)), then such Indemnified Party shall pay to the Lessee an amount which equals the amount paid by the Lessee with respect to such Taxes plus interest thereon computed at an annual interest rate equal to the Late Rate.

(h) Any amount payable to Lessee pursuant to the terms of this Section 6.2 shall not be paid to or retained by Lessee if at the time of such payment or retention a Default with respect to the payment of Fixed Rent or Casualty Value or an Event of Default shall have occurred and be continuing under the Lease. At such time as there shall not be continuing any such Default with respect to the payment of Fixed Rent or Casualty Value or Event of Default, such amount shall be paid to the Lessee to the extent not previously applied against Lessee's obligations hereunder or under any of the other Operative Agreements.

SECTION 7. RULES, LAWS AND REGULATIONS.

The Lessee agrees to comply with all governmental laws, regulations, requirements and rules (including, without limitation, the rules of the United States Department of Transportation (including the rules and regulations of the Federal Railroad Administration), the Interstate Commerce Commission and the current Interchange Rules or supplements thereto of the Mechanical Division, Association of American Railroads as the same may be in effect from time to time) (the "Interchange Rules") with respect to the use and maintenance of each Item of Equipment subject to this Lease. In case any equipment or appliance is required to be altered, added, replaced or modified on any Item of Equipment in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such alterations, additions, replacements and/or modifications at its own expense and title thereto shall be immediately vested in the Lessor; provided, however, that Lessee may, in good faith and by appropriate legal proceedings, contest the validity or application

of any such law, regulation, requirement or rule in any reasonable manner which does not in the opinion of the Lessor or any assignee under Section 16 materially and adversely affect or endanger the title and interest of the Lessor or other rights of any such assignee in and to the Equipment or under any Operative Agreement.

SECTION 8. USE AND MAINTENANCE OF EQUIPMENT.

(a) The Lessee shall use the Equipment, and shall permit the Equipment to be used by a Permitted Sublessee under any Permitted Sublease, only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Equipment shall not be used in any manner which is in violation of, or more hazardous than permitted by, the insurance maintained under Section 11. The Lessee agrees that it will, under the terms of each Permitted Sublease, prohibit the assignment by the Permitted Sublessee of any Item of Equipment for the transport or storage of hazardous (as determined by CFR Title 49 "Hazardous Materials Regulation") substances or materials, corrosive substances or materials or other substances or materials, in any case, which are not commonly transported in similar equipment by rail common carriers.

(b) The Lessee shall, at its own cost and expense, maintain and keep the Equipment, each Item thereof, and the component parts thereof in good order and repair, ordinary wear and tear excepted, and suitable for the commercial use as originally designed and intended in interchange service in accordance with applicable Interchange Rules and prudent railroad industry practice pertaining to the applicable Permitted Sublessee. The Lessee shall maintain all records, logs and other materials required by the Association of American Railroads, the Department of Transportation or any other governmental authority having jurisdiction over the Equipment or the Lessee to be maintained in respect of the Equipment.

(c) Except as otherwise required by the provisions of Section 7 hereof and except as permitted pursuant to the third sentence of this paragraph, the Lessee shall not modify any Item of Equipment unless (i) such modifications, additions or improvements shall comply with all of the requirements set forth in Rev. Proc. 79-48 (and any rule, regulation or pronouncement of the Internal Revenue Service amending, supplementing, modifying or replacing Rev. Proc. 79-48) for advance ruling purposes (and Lessee agrees to provide upon Lessor's request reasonable evidence of such compliance), and (ii) the Lessee shall have obtained the prior written authority and approval of the Lessor and any assignee pursuant to Section 16, which authority and approval shall not be unreasonably withheld. Any parts installed or replacements made by the Lessee upon any Item of Equipment pursuant to Section 7 hereof or pursuant to its obligation to

maintain and keep the Equipment in good order, condition and repair under this Section 8 or which meet the requirements of clause (i) of the preceding sentence (except for severable improvements permitted by Rev. Proc. 79-48) shall in each case be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Lessor without cost or expense to the Lessor. The Lessee shall make no other additions or improvements to any Item of Equipment unless the same are readily removable without causing material damage to such Item of Equipment. Title to any such readily removable additions or improvements shall remain with the Lessee. If the Lessee shall at its cost cause such readily removable additions or improvements to be made to any Item of Equipment the Lessee may, or at the request of the Lessor, the Lessee shall, prior to the return of such Item of Equipment to the Lessor hereunder, remove the same at its own expense without causing material damage to such Item of Equipment; provided that the Lessor may, by delivery of written notice to the Lessee prior to any such removal, elect to purchase any such readily removable additions for a price equal to the greater of the Lessee's original cost less applicable depreciation or the Fair Market Value thereof. Title to any readily removable addition or improvement which has not been so removed by the Lessee from an Item of Equipment when such Item is returned to the Lessor pursuant to this Lease shall thereupon be vested in the Lessor.

SECTION 9. LIENS ON THE EQUIPMENT.

The Lessee will not directly or indirectly create, incur, assume or suffer to exist any Lien on or with respect to any Item of the Equipment, title thereto or any interest therein except Permitted Encumbrances and Liens which result from the Lessor's own acts or from claims against the Lessor not to be paid or indemnified against by the Lessee hereunder. The Lessee shall promptly, at its own expense, take such action as may be necessary to duly discharge any such Lien (and any claim which if unpaid might constitute or become such a Lien) not excepted above if the same shall arise at any time with respect to any Item of the Equipment, but the Lessee shall not be required to pay or discharge any such Lien so long as it shall in good faith and by appropriate legal proceedings contest the validity thereof in any reasonable manner which will not in the opinion of the Lessor or any assignee under Section 16 materially and adversely affect or endanger the title and interest of the Lessor or other rights of any such assignee in and to the Equipment and as to which such Lien the Lessee, if appropriate under generally accepted accounting principles, shall have set aside on its books and records adequate reserves.

SECTION 10. FILING.

On or prior to the Closing Date, the Lessee will cause this Lease to be duly filed, registered or recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303, and will file, register or record this Lease, and all financing and continuation statements and similar instruments, in such other places within or without the United States as the Lessor may reasonably request and will furnish the Lessor proof thereof. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will refile, re-register or re-record whenever required) any and all amendments or supplements to this Lease, or otherwise with respect to or including any other Operative Agreement, in connection with any assignment pursuant to Section 16 or otherwise, any financing statements or similar instruments, and any and all further instruments required by law or reasonably requested by the Lessor, for the purpose of protecting the Lessor's title to any Item of Equipment to the satisfaction of the Lessor's counsel or for the purpose of carrying out the intention of this Lease, including, without limitation, any such filings and recordings as shall be necessary to evidence any change in name of the Lessee or the Lessor, or any merger or consolidation thereof. The Lessee will pay all costs, charges and expenses incident to any such filing, re-filing, recording and re-recording or depositing and re-depositing of any such instruments or incident to the taking of such action.

Without limiting the generality of the foregoing, within 20 days of the execution and delivery of this Lease, the Lessee at its own expense, will (i) cause this Lease to be deposited with the Registrar General of Canada (notice of such deposit to be forthwith given in The Canada Gazette) pursuant to Section 86 of the Railway Act of Canada and (ii) provide the Lessor and the Security Trustee with a favorable opinion of Canadian counsel reasonably acceptable thereto, addressed to Lessor and the Security Trustee, covering such matters as they shall reasonably request including, without limitation, compliance with the Railway Act of Canada and protection of the Lessor's and the Security Trustee's interest in the Equipment.

SECTION 11. INSURANCE; PAYMENT FOR CASUALTY OCCURRENCE.

11.1. Insurance. (a) Lessee will at all times after delivery and acceptance of each Item of Equipment, at its own expense, carry and maintain or cause to be carried and maintained (i) All risks property insurance with respect to each such Item equal to the then Casualty Value, with a deductible not in excess of \$3,000,000 per occurrence, (ii) comprehensive public liability insurance with respect to third party personal, bodily injury including death, property damage, liability, including contractual

liability and cross liability, in each case with deductibles not in excess of \$5,000,000 per occurrence and in such amounts of not less than \$40,000,000 per occurrence and, (iii) insurance required under the Federal Employers Liability Act for employee injury or death or occupational disease, and Employers Liability Insurance as required by law. In each case, all such insurance: (A) shall insure against such risks as shall be consistent with prudent railroad industry practice, and (B) shall meet the requirements of Section 11.1(b). All such insurance shall be carried with insurance companies or insurers having all necessary power and authority to furnish the required coverage, and rated "AVI" or higher by A.M. Best Company Best's Insurance Guide and Key Ratings or otherwise be reasonably approved by the Lessor in the absence of such a rating. Provided no Event of Default exists, the Lessor shall, on the Lessee's request, consider and, in its reasonable discretion, approve an actuarially sound self-insurance program of Lessee which recognizes the financial condition and prospects of the Lessee and the availability of required insurance at such time. Notwithstanding the foregoing, if a Permitted Sublessee is maintaining insurance coverage pursuant to a Permitted Sublease (a) with deductibles less than the deductibles contained in clauses (i) or (ii) above or (b) from an insurance company rated higher than "AVI" by A.M. Best Company Best's Insurance Guide and Key Rating's, the Lessee will use its reasonable efforts to cause such insurance to be obtained for the benefit of the Lessor and the Security Trustee.

(b) Such insurance policies shall: (i) name and insure the Lessor, in its individual and trust capacities, and each assignee under Section 16 and any other Indemnified Party as additional insureds under the comprehensive public liability insurance and under the property insurance, shall insure the Lessor (or so long as any Secured Indebtedness remains unpaid, the Security Trustee) as sole loss payee, (ii) with respect to property insurance, provide insurer's waiver its right of subrogation, set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability against Lessor and each assignee under Section 16, (iii) with respect to property insurance, provide that such insurance as to the interest of the Lessor and each assignee under Section 16 shall not be invalidated by any act or neglect, action or inaction of Lessee or any other Person (other than the Lessor and each such assignee), regardless of any breach or violation of any warranty, declaration or condition contained in such policies by the Lessee or any other Person (other than Lessor and each such assignee), (iv) with respect to property insurance, provide that all such insurance is primary without right of contribution from any other insurance which might otherwise be maintained by the Lessor or any such assignee, (v) provide therein or by endorsement that thirty (30) days prior written notice of expiration, cancellation or modification shall be given to the Lessor and each assignee under Section 16 and ten (10) days prior written notice of cancellation

for monthly payment and (vi) provide that there is no recourse against Lessor or any such assignee for payment of premium, commissions, direct calls, assessments or advances. Lessee shall furnish the Lessor and each assignee under Section 16 with certificates or other satisfactory evidence of maintenance of the insurance so required and shall furnish binders or other formal confirmation reasonably acceptable to the Lessor evidencing renewals thereof as soon as practicable but in no event later than three (3) Business Days prior to such renewal and certificates of insurance within thirty (30) days after such renewal is effected or the expiration date of the original policy or policies, as the case may be. Notwithstanding the foregoing, if a Permitted Sublessee is maintaining liability insurance containing provisions similar to those set forth in clauses (iii) and/or (iv) of this Section 11.1(b), the Lessee will use its reasonable efforts to cause such insurance to be obtained for the benefit of the Lessor, the Security Trustee and each Participant.

(c) The proceeds of any property insurance received by the Lessor or the Security Trustee will be paid to the Lessee either (i) upon a written application signed by the Lessee to reimburse the Lessee for payment by it or a Permitted Sublessee of the costs of repairing, restoring, or replacing the item of Equipment which has been lost, damaged or destroyed (which application shall be accompanied by satisfactory evidence of such cost and the completion of such repair, restoration or replacement) or (ii) if this Lease is terminated with respect to such Item of Equipment because of the total destruction thereof, promptly upon payment by the Lessee of the Casualty Value; provided that, if the Lessee is at the time of the application in default in the payment of any other liability of the Lessee to the Lessor hereunder, such proceeds may be applied against such liability.

(d) On the Lessee's request, provided no Event of Default shall have occurred and be continuing, the Lessor shall assign in mutually satisfactory form and substance to the Lessee the right to recover property insurance proceeds directly from the Lessee's insurers, in lieu of the Lessor, if the Lessee: (i) shall have paid, and the Lessor shall be entitled to retain, the Casualty Value in respect of the subject casualty (in the case of casualty) or (ii) shall have evidenced repair of an Item (and full payment therefor) to the Lessor's satisfaction (in the case of damage to any Item of Equipment).

11.2. Duty of Lessee to Notify Lessor. In the event that during the Term of this Lease, or thereafter while any Item of Equipment is in the possession of the Lessee pursuant to Section 13 or 15 hereof (i) any Item of Equipment shall be or become lost or stolen for more than sixty (60) days, (ii) any Item of Equipment shall be or become destroyed, (iii) any Item of Equipment shall be or become in the reasonable opinion of the

Lessee, irreparably damaged, (iv) any Item of Equipment shall be or become in the reasonable opinion of the Lessee, worn out, unless caused by Lessee's failure to maintain and return such Item as herein required, (v) title to any Item of Equipment shall be requisitioned or taken by any governmental authority under the power of eminent domain or otherwise, (vi) the use of any Item of Equipment shall be requisitioned or taken for a stated period, or such use has continued for a period, in excess of the lesser of the then remaining Term of the Lease or, in the case of a requisition or taking by a United States governmental authority, two (2) years, or any other governmental authority, six (6) months, (vii) any Item of Equipment shall have been returned permanently to the Manufacturer pursuant to any applicable patent indemnity or a material breach of a Manufacturer's warranty, (viii) the use of any Item of Equipment in the normal course of interstate rail transportation shall have been prohibited as a result of any rule, regulation, order or other action by a United States governmental authority for a continuous period in excess of six (6) months, or (ix) the Lessee is unable to return any Item of Equipment at the end of the Term of the Lease because such Item has been requisitioned or taken by any governmental authority (any such occurrence being hereinafter called a "Casualty Occurrence"), the Lessee shall promptly and fully and in any event within thirty (30) days after it has knowledge of such Casualty Occurrence inform the Lessor and any assignee thereof pursuant to Section 16 in regard thereto and shall pay the Casualty Value of such Item in accordance with the terms of Section 11.3 hereof.

11.3. Sum Payable for Casualty Loss. The Lessee, on the next succeeding Rent Payment Date or the last day of any storage period pursuant to Section 13 hereof, as the case may be, following its notice to the Lessor and each assignee thereof pursuant to Section 16 that a Casualty Occurrence has taken place with respect to any Item of Equipment, shall pay to the Lessor (i) any Rent or other sum due on or prior to such date then remaining unpaid, and (ii) a sum equal to the Casualty Value of such Item of Equipment as of the date of such payment.

11.4. Rent Termination. Upon (and not until) payment of all sums required to be paid pursuant to Section 11.3 hereof in respect of any Item or Items of Equipment, the obligation to pay Rent for such Item or Items of Equipment accruing subsequent to the Casualty Value payment date shall terminate, but the Lessee shall continue to pay Rent for all other Items of Equipment.

11.5. Disposition of Equipment. The Lessee shall, as agent for the Lessor, dispose of any Item or Items of Equipment having suffered a Casualty Occurrence as soon as practicable. Any such disposition shall be on an "as is", "where is" basis without representation or warranty, express or implied for such Item's then fair market value. As to each separate Item of Equipment so disposed of, so long as no Event of Default hereunder shall have

occurred and be continuing and the Lessee shall have paid the Casualty Value thereof as herein provided, the Lessee may retain all amounts it receives, including, without limitation, any settlement of "depreciated value" as contemplated in the Interchange Rules arising from such disposition (including any insurance proceeds) and damages received by the Lessee by reason of such Casualty Occurrence. In disposing of such Item of Equipment, the Lessee shall take such action as the Lessor shall reasonably request to terminate any contingent liability which the Lessor might have arising after such disposition from or connected with such Item of Equipment.

11.6. Casualty Value. The Casualty Value of each Item of Equipment shall be an amount determined as of the date the Casualty Value is to be paid as provided in this Section 11 (and not the date of the Casualty Occurrence). Casualty Value for each Item shall be equal to that percentage of the Equipment Cost thereof set forth in Schedule 2 to Exhibit B hereto (as any such Schedule may be modified pursuant to Section 2.3 hereof).

11.7. Risk of Loss. The Lessee shall bear the risk of loss and, except as hereinabove in this Section 11 provided, shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any Item of Equipment from and after the date hereof and continuing until payment of the Casualty Value and all rental installments and other sums due on and prior to the date of payment of such Casualty Value in respect of such Item of Equipment has been made, such Item or the salvage thereof has been disposed of by the Lessor and the title to such Item or the salvage thereof and all risk of loss and liabilities incident to ownership have been transferred to the purchaser of such Item or the salvage thereof.

11.8. Eminent Domain. In the event that during the Term of the Lease the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period which has not yet become a Casualty Occurrence or for a stated period which does not constitute a Casualty Occurrence, the Lessee's obligation to pay all installments of Rent and other sums shall continue for the duration of such requisitioning or taking unless and until the same shall become a Casualty Occurrence. So long as no Event of Default shall have occurred and be continuing, the Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession.

SECTION 12. EQUIPMENT REPORTS.

12.1. Duty of Lessee to Furnish. On or before June 1, 1991, and on each June 1 thereafter, the Lessee will furnish to the Lessor and each assignee pursuant to Section 16 an accurate statement, as of the preceding December 31 (a) showing the amount, description and numbers of the Items of Equipment then leased hereunder, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the twelve (12) months ending on such December 31 (or since the date of settlements under this Lease, in the case of the first such statement), describing the insurance which is in force with respect to the Equipment and such other information regarding the condition or repair of the Equipment as the Lessor or any such assignee may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, to the best of its knowledge, the markings required by Section 4.2 hereof shall have been preserved or replaced.

12.2. Lessor's Inspection Rights. The Lessor, the Security Trustee, the Trustor or any holder of 20% or more of the outstanding Notes (or such Persons as any thereof may designate) shall have the right, but not the obligation, on prior notice to the Lessee, and during normal business hours, at their respective sole cost, expense and risk except as provided below, by their respective authorized representatives, accompanied by an employee of the Lessee and the applicable Permitted Sublessee, to inspect the Equipment and the Lessee's records with respect thereto, at such time as shall be reasonably necessary to confirm the existence and proper maintenance of the Equipment during the continuance of this Lease; provided, however, that the Lessee shall not be liable, except in the case of gross negligence or willful misconduct of the Lessee or of its employees or agents, for any injury to, or the death of, any Person exercising, either on behalf of the Lessor, the Security Trustee, the Trustor or any such Noteholder or any prospective purchaser or lessee therefrom, the rights of inspection granted under this Section 12.2, and the Lessee and any such Permitted Sublessee may require any such employee or agent, prior to entering its premises for such purposes, to execute a release limiting Lessee's and any such Permitted Sublessee's liability as aforesaid.

SECTION 13. RETURN OF THE EQUIPMENT UPON EXPIRATION OF TERM.

(a) Upon the expiration of the Term of this Lease with respect to the Items of Equipment then subject to this Lease, the Lessee will, at its own risk and expense, marshal and deliver possession of such Items of Equipment to the Lessor, at a reasonable number of locations within the continental United States as the Lessee shall reasonably designate and permit the Lessor, at the Lessee's risk and expense, to store such Items of

Equipment at such locations for a period not exceeding 90 days from such expiration date. All movement and storage of each such Item is to be at the risk and expense of the Lessee. During any such storage period the Lessee will permit the Lessor or any Person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of any such Item, to inspect the same, subject to the provisions of Section 12.2 hereof.

(b) Upon the return of the Equipment, Lessee shall at its own cost and expense have taken all necessary action to assure that each Item of Equipment shall be in the condition required by Section 7 and 8 hereof, with no broken or missing parts, and that each such Item will be in the condition required by the Interchange Rules (but excluding any rebuilding or refurbishing of the Equipment arising solely out of a requirement of an Interchange Rule) and Lessee agrees that it will take such action, complete and execute, or obtain execution of, such certificates or other documentation as shall be required by the Association of American Railroads or its successor to assure that each Item of Equipment shall then be permitted to enter or continue in interchange service. Lessee shall promptly upon demand pay such reasonable costs as shall be required to restore any Item of Equipment to the aforesaid redelivery condition, including the reimbursement of the Lessor of any such cost it shall incur to effect such restoration. The Lessor and the Lessee each agree, if requested by the other, that, with the participation of the applicable Permitted Sublessee, if any, a representative of the Lessor and the Lessee will perform jointly an inspection of the Equipment, or an appropriate representative sampling thereof, to insure compliance with the provisions of this Section 13 at such time and location and following such inspection standards as shall be mutually agreeable to the Lessor and the Lessee. During any storage period hereunder, the Lessee will, at its expense, effect and maintain insurance on the Equipment pursuant to Section 11.

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

SECTION 14. DEFAULT.

14.1. Events of Default. Any of the following events shall constitute an Event of Default hereunder:

(a) Default shall be made in the payment of any part of the Rent or Casualty Value provided in Section 2 or 11 hereof and such default shall continue for 5 days;

(b) The insurance coverage and endorsements required by Section 11 hereof shall not be in effect;

(c) The Lessee shall make or permit any sublease, assignment or transfer of this Lease, or of possession of any Item of the Equipment, not permitted by this Lease;

(d) Default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in any Operative Agreement (other than as described in paragraphs (a), (b), and (c) above), and such default shall continue for thirty (30) days after written notice from the Lessor to the Lessee, specifying the default and demanding the same to be remedied;

(e) Any representation or warranty made by the Lessee herein or in any Operative Agreement, or in any statement or certificate furnished to any Participant, the Lessor or the Security Trustee in connection therewith (other than any such statement or certificate delivered in connection with the Tax Indemnity Agreement) is untrue or incorrect in any material respect as of the date of issuance or making thereof;

(f) Final judgment or judgments for the payment of money aggregating in excess of \$2,000,000 shall be outstanding against the Lessee and such judgments have been outstanding for more than thirty (30) days from the date of its entry and have not been discharged in full, adequately bonded or stayed or otherwise subject to security reasonably satisfactory to the Lessor;

(g) The Lessee (i) shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or (ii) shall consent to any such relief or to the appointment of or taking possession by any such official in any voluntary case or other proceeding commenced against it, or (iii) shall make a general assignment for the benefit of creditors, or (iv) shall fail generally to pay its debts as they become due, or (v) shall take any corporate action to authorize any of the foregoing; or

(h) An involuntary case or other proceeding shall be commenced against the Lessee seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of sixty (60) days.

14.2. Remedies. Upon the occurrence of any Event of Default and at any time thereafter so long as the same shall be continuing, the Lessor may, at its option, declare this Lease to be in default, and at any time thereafter, so long as the Lessee shall not have remedied all outstanding Events of Default, the Lessor may do one or more of the following as the Lessor in its sole discretion shall elect, to the extent permitted by, and subject to compliance with any mandatory requirements of, applicable law then in effect:

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

(b) By notice in writing to the Lessee, terminate this Lease, whereupon all right of the Lessee to the use of the Equipment shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon, the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Equipment may be located and take possession of all or any of the Items of Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use such Items for any purpose whatever;

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

(d) Hold, keep idle or lease to others any Item of Equipment or any part thereof, as the Lessor in its sole discretion may determine, free and clear of any rights of the Lessee and without any duty to account to the Lessee with respect to such action or inaction or for any proceeds with respect thereto, except that the Lessee's obligation to pay Fixed Rent with respect to such Item due for any periods subsequent to the date upon which the Lessee shall have been deprived of use of such Item pursuant to this Section 14 shall be reduced (but not below zero for any Fixed Rent installment) by the net proceeds, if any, received by the Lessor from leasing such Item to any Person other than the Lessee;

(e) Whether or not the Lessor shall have exercised, or shall thereafter at any time exercise, any of its rights under paragraph (a), (b) or (d) above with respect to any Item of Equipment, the Lessor, by written notice to the Lessee specifying a payment date which shall be not earlier than ten (10) days after the date of such notice, may demand that the Lessee pay to the Lessor and the Lessee shall pay to the Lessor, on the payment date specified in such notice, as liquidated damages for loss of a bargain and not as a penalty (in lieu of the Fixed Rent for such Item of Equipment due after the payment date specified in such notice), any unpaid Rent for such Item of Equipment due for periods prior to the payment date specified in such notice plus whichever of the following amounts the Lessor, in its sole discretion, shall specify in such notice: (i) an amount equal to the difference between the present value of all future Fixed Rent for such Item and the present value of the Fair Rental Value (determined as hereafter in this Section 14 provided) of such Item or, if the Lessor has leased such Items to others pursuant to paragraph (d) above, for the period of such lease the rental payable thereunder, in each case for the remainder of the Base Term or then Renewal Term, as the case may be, as of the payment date specified in such notice, such present values, to be computed on the basis of a 10.07% per annum rate of discount from the respective dates upon which such Rent would be paid, or (ii) if the Lessor has not leased such Items to others pursuant to paragraph (d) above, an amount equal to the excess, if any, of the Casualty Value for such Item as of the Rent Payment Date next preceding the payment date specified in such notice or if such payment date occurs on a Rent Payment Date, then computed as of such Rent Payment Date, over the Fair Market Value of such Item (determined as hereafter in this Section 14 provided) as of the payment date specified in such notice;

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

(g) Whether or not the Lessor shall have exercised any of its rights under paragraph (a), (b) or (d) above, the Lessor may in lieu of exercising its rights under paragraph (e) above: (i) retain all Rent and additional sums theretofore paid by the Lessee or received by the Lessor in respect of such Item including any such then in possession which, had this Lease not been declared in default, would otherwise be payable to the Lessee hereunder, (ii) may recover from the Lessee all Rent and additional sums accrued and unpaid under any of the terms hereof as of the date of the declaration of default, and (iii) may transfer title to such Item to the Lessee by quit-claim bill of sale and recover from the Lessee as liquidated damages for loss of a bargain, but not as a penalty (in lieu of the Fixed Rent for such Item on Rent Payment Dates subsequent to the date of the declaration of default) an aggregate sum equal to the present value of (A) all Fixed Rent for such Item which would otherwise have accrued hereunder from the date of the declaration of default to the end of the Base Term or then Renewal Term, as the case may be, plus (B) the last Casualty Value payable during the term of this Lease, such present value to be computed on the basis of a 10.07% per annum rate of discount, from the respective dates upon which such Fixed Rent would have been payable hereunder had this Lease not been terminated.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid Rent due hereunder before or during the exercise of any of the foregoing remedies and for all reasonable legal fees and other costs and expenses incurred by reason of the occurrence of any Default or Event of Default or the exercise of the Lessor's remedies with

respect thereto, including without limitation the repayment in full of any costs and expenses necessary to be expended in repairing or modifying any Item in order to cause it to be in compliance with all maintenance and regulatory standards imposed by this Lease.

For purposes of this Section 14.2, the Fair Rental Value and Fair Market Value for any Item of Equipment shall be determined on the basis of an appraisal of an independent appraiser chosen by the Lessor, based upon the criteria for establishing Fair Market Value and Fair Rental Value set forth in Section 18.1 (but including the value which may be obtained from a used equipment dealer), and the cost of any such appraisal shall be borne by the Lessee.

14.3. Cumulative Remedies. The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims of any right to assert any offset against the rent payments due hereunder, and agrees to make the rent payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf in connection with the lease of the Equipment.

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

14.5. Notice of Event of Default. The Lessee also agrees to furnish to the Lessor and any assignee pursuant to Section 16, promptly upon any responsible officer becoming aware of any condition which constituted or constitutes a Default or an Event of Default under this Lease written notice specifying such condition and the nature and status thereof. For the purposes of this Section 14.5 a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

SECTION 15. RETURN OF EQUIPMENT UPON DEFAULT.

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

(a) Forthwith deliver such Items to not more than eight (8) storage locations as the Lessor shall reasonably designate;

(b) Permit the Lessor to store such Item until such Item has been sold, leased or otherwise disposed of by the Lessor and so stored at such locations without charge for insurance, rent or storage, and during such period of storage the Lessee shall continue to maintain all insurance required by Section 11.1 hereof; and

(c) Transport such Item one time to railroad interchange points in Chicago, Illinois or such other interchange points as the Lessor and the Lessee may agree.

Each such Item will, when placed in storage, be in the condition required by Sections 7 and 8 hereof; and the Lessee shall comply with the requirements of Section 13 hereof and as otherwise required by the Lessor to enable the same to be sold or leased to a third party for use in interchange service under the Interchange Rules. Lessee agrees that no Item shall be considered to have been returned under this Section 15 until Lessee has returned such Item in such condition.

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

15.3. Lessor Appointed Lessee's Agent. Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 15, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority (which power is coupled with an interest), at any time while the Lessee is obligated to deliver possession of any Items of Equipment to the Lessor, to demand and take possession of such Item in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Item.

SECTION 16. LESSOR ASSIGNMENTS OF LEASE.

(a) Right to Assign. Subject to the provisions of the Participation Agreement and the Trust Agreement, this Lease and all Rent and all other sums due or to become due hereunder may be assigned by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. Upon notice to the Lessee of any such assignment, the rent and other sums payable by the Lessee which are the subject matter of the assignment shall be paid to or upon the written order of the assignee. Such notice is hereby given of the assignment of this Lease and all Rent and other payments to be made to the Lessor hereunder to the Security Trustee under and pursuant to the Security Agreement, and the Lessee agrees to make all payments of Rent in accordance with the provisions of Section 2.4.

(b) Obligation and Right of Assignee. Any assignee pursuant to this Section 16 shall not be obligated to perform any duty, covenant or condition required to be performed by the Lessor under any of the terms hereof, but on the contrary, the Lessee and the Lessor each acknowledge and agree that notwithstanding any such assignment each and all of such duties, covenants or conditions required to be performed by the Lessor shall survive any such assignment and shall be and remain the sole liability of the Lessor. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of any such assignee in and to the sums payable by the Lessee under any provision of this Lease shall not be subject to any abatement whatsoever and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever whether by reason or failure of or defect in the Lessor's title or the failure of the Lessor to afford the right of quiet enjoyment to the Lessee, or any interruption from whatsoever cause in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other Person or for any cause whatsoever, it being the intent hereof that the Lessee shall be unconditionally and absolutely obligated to pay such assignee all of the rents and other sums which are the subject matter of the assignment, and (ii) all obligations of the Lessor to the Lessee under this Lease shall be and remain enforceable by the Lessee against, and only against, the Lessor. Notwithstanding any provision of this Lease to the contrary, the Lessee shall have the right to proceed against any assignee for any violation thereby of any rights of the Lessee hereunder.

(c) Amendments; Exercise of Rights and Remedies. Unless and until the Lessee shall have received written notice from Security Trustee that the Lien of the Security Agreement has

been released, the terms and provisions of the Security Agreement shall govern as to whether (i) the consent or agreement of either the Lessor or the Security Trustee, or both, shall be required in order to effect any amendment or modification of, or waive any requirements under this Lease, and (ii) the Lessor or the Security Trustee, or both, may exercise any right, privilege or remedy of the Lessor provided for in this Lease.

SECTION 17. ASSIGNMENTS BY LESSEE; USE AND POSSESSION.

17.1. Lessee's Rights to the Equipment; Sublease. So long as no Default or Event of Default shall have occurred and be continuing, the Lessee shall be entitled to the possession and use of the Equipment in accordance with the terms of the Lease but, without the prior written consent of the Lessor, THE LESSEE SHALL NOT ASSIGN, TRANSFER OR ENCUMBER ITS LEASEHOLD INTEREST (OTHER THAN TO GRANT A COLLATERAL ASSIGNMENT OF THIS LEASE FOR SECURITY TO LESSEE'S LENDERS) UNDER THIS LEASE EXCEPT TO A PERMITTED SUBLESSEE UNDER A PERMITTED SUBLEASE AND SHALL NOT PERMIT ANY PERMITTED SUBLESSEE TO ASSIGN, TRANSFER OR ENCUMBER ITS SUBLEASEHOLD INTEREST (OTHER THAN TO GRANT A COLLATERAL ASSIGNMENT OF ITS PERMITTED SUBLEASE TO SUCH PERMITTED SUBLESSEE'S LENDERS UNDER ITS PERMITTED SUBLEASE) EXCEPT TO A FURTHER PERMITTED SUBLESSEE, WHICH SHALL NOT BE PERMITTED TO ASSIGN, TRANSFER OR ENCUMBER ITS INTEREST TO ANY PARTY. The Lessee shall not, without the prior written consent of the Lessor, which consent shall not be unreasonably withheld, enter into any sublease with respect to, part with the possession or control of, or suffer or allow to pass out of its possession or control, any Item of Equipment, except as provided in Section 17.2 or pursuant to a sublease to any Person (each such sublease including any sublease thereunder, being herein called a "Permitted Sublease") which (a) shall be for a term not extending beyond the Term hereof, (b) shall provide for Equipment inspection rights for the benefit of the Indemnified Parties substantially similar to Section 12.2 hereof, and (c) except in the case of the Current Sublease, shall expressly provide that the rights of any sublessee (a "Permitted Sublessee") who receives possession by reason of a Permitted Sublease shall be subject and subordinate to each and every term, condition and provision of this Lease, including, without limitation, the Lessor's right of repossession pursuant to Section 14 of this Lease and to terminate such sublease upon such repossession. Each Permitted Sublease shall contain each of the limitations provided in clauses (a), (b) and (c) of the preceding sentence. No sublease, whether or not a Permitted Sublease, shall, except as contemplated by Section 21.11 hereof, in any way discharge or diminish any of the Lessee's obligations hereunder, and the Lessee shall remain primarily liable hereunder for the performance of all the terms, conditions and provisions of this Lease to the same extent as if such sublease had not occurred.

Promptly upon entering into any sublease, including any Permitted Sublease, for a term in excess of more than one year, the Lessee shall deliver to the Lessor a copy thereof.

17.2. Use and Possession in Railroad Operations. So long as no Event of Default shall have occurred and be continuing hereunder, the Lessee shall be entitled to the possession and use of the Equipment as a sublessor for lease to Permitted Sublessees under Permitted Subleases, which shall in turn be entitled to the possession and use thereof upon the lines of railroad owned or operated by it, or upon lines of railroad over which the Permitted Sublessee has trackage or other operating rights or over which equipment of the Permitted Sublessee is regularly operated pursuant to contract or upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through or pooling agreements, but only upon and subject to all the terms and conditions of the Permitted Sublease. Notwithstanding the foregoing, the Lessee shall at no time throughout the Term of this Lease assign or permit the assignment of or permit any sublessee, whether or not a Permitted Sublessee, to assign or permit the assignment of, any Item of Equipment for use in service (including, without limitation, the regular operation or maintenance thereof) outside the continental United States and Canada.

17.3. Merger, Consolidation or Acquisition of Lessee. Nothing in this Section 17 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Equipment or possession of the Equipment to any corporation into or with which the Lessee shall have become merged or consolidated or which shall have acquired all or substantially all of the property of the Lessee, and the Lessee may merge or consolidate with any other corporation or transfer all or substantially all of its property to any corporation, provided that (a) such corporation shall be, effective upon such transfer, a corporation incorporated in any state of the United States or the District of Columbia which shall have all necessary authorizations and approvals to own and operate such assets and which shall have duly assumed in writing the obligations of the Lessee hereunder and under each other Operative Agreement and (b) immediately prior to and after giving effect to such transaction, no Event of Default will have occurred and be continuing hereunder.

SECTION 18. OPTIONS TO RENEW AND PURCHASE.

18.1. Determination of Fair Market Value and Fair Rental Value. The Lessor and the Lessee shall promptly consult for the purpose of determining Fair Market Value and Fair Rental Value and any values agreed upon in writing shall constitute such Fair Market Value and Fair Rental Value. If the Lessor and the Lessee

fail to agree upon such values within thirty (30) days after the need to determine the same, then they shall be promptly determined by the Appraisal Procedure. Such Fair Market Value and Fair Rental Value shall be determined on the basis of the value which would be obtained in an arms's-length transaction between an informed and willing buyer-user or lessee (other than a used equipment dealer) and an informed and willing seller or lessor under no compulsion to sell, buy or lease. Any such determination shall be made (i) on the assumption that the Equipment is in the condition and state of repair required by this Lease, including the return conditions specified in Section 13, (ii) as respects Fair Rental Value, on the basis of a lease, having terms and conditions (other than the amount of Rent and without any purchase or renewal options) similar to the terms and conditions of this Lease (assuming a Term equal to contemplated renewal term), and (iii) giving effect to the removal of any parts which remain the property of the Lessee under the provisions of Section 8 hereof. All costs and expenses of any Appraisal Procedure pursuant to this Section 18 shall be borne by the Lessee and the Lessor, equally.

18.2. Early Option to Purchase. So long as no Default under Section 14.1(a) in respect of the payment of Fixed Rent or Casualty Value or Event of Default has occurred and is continuing, the Lessee shall have the right, upon no more than twelve (12) and no less than four (4) months prior written notice to the Lessor and the Security Trustee designating the Items to be purchased, to purchase all or part of the Items of Equipment then subject to this Lease as of March 31, 2008 in groups of at least 100 Items of Equipment (of if less than 100 Items of Equipment remain subject to this Lease as of March 31, 2008, then all of the Items of Equipment then subject to this Lease) at a price equal to the Fair Market Value thereof determined in accordance with this Section 18 as of March 31, 2008 not to exceed 60% of the Purchase Price thereof, which amount shall be paid to the Security Trustee for application under the Security Agreement.

18.3. Option to Purchase at End of Base Term or Renewal Term. So long as no Default under Section 14.1(a) in respect of the payment of Fixed Rent or Casualty Value or Event of Default has occurred and is continuing, the Lessee shall have the right upon no more than twelve (12) and no less than four (4) months prior written notice to the Lessor, to purchase all or part of the Items of Equipment then subject to this Lease in groups of at least 100 Items of Equipment (or if less than 100 Items of Equipment remain subject to this Lease as of the date of the expiration of the Base Term then all of the Items of Equipment then subject to this Lease) (a) on the date of the expiration of the Base Term, at a price equal to the Fair Market Value thereof determined in accordance with this Section 18 as of the date of the expiration of the Base Term not to exceed 50% of the Purchase Price thereof, and (b) on the date of expiration of the Renewal Term, if any, the Fair Market Value thereof determined in accordance with this Section 18 as of such expiration date.

18.4. Option to Renew. So long as no Default under Section 14.1(a) in respect of the payment of Fixed Rent or Casualty Value or Event of Default shall have occurred and be continuing, the Lessee shall have the right upon no more than twelve (12) and no less than four (4) months prior written notice to the Lessor to renew this Lease with respect to all, but not less than all of the Items of Equipment then subject to this Lease, for one (1) Renewal Term of two (2) years, commencing at the expiration of the Base Term. All of the provisions of this Lease shall be applicable during the Renewal Term except that the Casualty Values shall be determined in accordance with this Section 18 and Fixed Rent shall be an amount equal to 50% of the average Fixed Rent payable by the Lessee during the Base Term.

18.5. Casualty Value during Renewal Term. The Casualty Value for any Renewal Term shall be the value applicable to the date of determination as set forth in Schedule 2 to the Lease Supplement.

18.6. Delivery of Equipment. Unless the Lessee has elected to exercise its option to purchase the Items of Equipment then leased hereunder or to renew this Lease in respect of such Items of Equipment as provided in this Section 18, all of such Items of Equipment shall be returned to the Lessor at the end of the Base Term, or the Renewal Term, as the case may be, in accordance with Section 13 hereof.

SECTION 19. COLLATERAL ASSIGNMENT BY LESSEE OF CURRENT SUBLEASE.

19.1. Assignment. As collateral security for the payment of any and all of the obligations and liabilities of the Lessee due hereunder, the Lessee does hereby grant a security interest in and assigns to the Security Trustee, or if the Secured Indebtedness has been paid in full, to the Lessor all of its right, title and interest as lessor in, to and under the Current Sublease including all rentals and other sums payable to or receivable by Lessee, as lessor, under and pursuant thereto, including, without limitation, upon the occurrence and continuance of an Event of Default hereunder, the immediate and continuing right to exercise all rights of the Lessee, as lessor, thereunder, including the right to receive all such rental payments and other sums payable or receivable pursuant thereto; it being the intent and purpose hereof that the assignment and transfer to the Security Trustee, or if the Secured Indebtedness has been paid in full, to the Lessor of said rights shall be effective and operative immediately and shall continue in full force and effect at all times during the period from and after the date of this Lease until the end of the Term.

19.2. Rights of Lessee in Current Sublease; Segregation of Rental Payments. So long as no Event of Default shall have

occurred and be continuing, the Lessee shall have the right to receive all rentals and other sums payable under the Current Sublease; provided, however, that if any such Event of Default shall have occurred and be continuing, the Lessee shall (i) receive and retain any rental payments under the Current Sublease in trust for the benefit of the Lessor and the Security Trustee, (ii) deposit any such payment in the original form in which received into a separate account established for such purpose, into which no payments other than those described in clause (i) above shall be deposited, and (iii) remit from such separate account all amounts due and owing to the Security Trustee, or if the Secured Indebtedness has been paid in full, to the Lessor.

In addition to all other rights of the Lessor pursuant to this Section 20, Lessee hereby grants to the Security Trustee, or if the Secured Indebtedness has been paid in full, to the Lessor Lessee's power of attorney to collect in the event of the occurrence of an Event of Default, all rental payments due Lessee under the Current Sublease. Immediately upon any such event, Lessee agrees to direct in writing the Current Sublessee to pay all further rentals and other sums due and owing to the Lessee to the Security Trustee, or if the Secured Indebtedness has been paid in full, to the Lessor.

19.3. Further Assignment. The Lessee acknowledges and agrees that (i) all rights and interests of the Lessor pursuant to this Section 19 have been assigned by the Lessor to the Security Trustee pursuant to the Security Agreement, and (ii) the assignment provided for in this Section 19 shall not in any way obligate the Lessor or the Security Trustee or any of their respective successors or assigns to perform or satisfy any of the obligations or liabilities of the Lessee under the Current Sublease. The Lessor and Security Trustee acknowledge and agree that the assignment provided for in this Section 19 shall not, in and of itself, interfere with the Current Sublessee's right of quiet enjoyment contained in the Current Sublease.

19.4. Rights under Uniform Commercial Code. Upon the occurrence of any Event of Default under this Lease, the Security Trustee, or if the Secured Indebtedness has been paid in full, the Lessor shall, in addition to all other rights and remedies provided for herein, have in connection with the assignment provided for in this Section 19, all the rights of a secured party under the Uniform Commercial Code of Illinois (regardless of whether such Code is the law of the jurisdiction where the rights or remedies are asserted).

19.5. Further Assurance. Without limiting the foregoing the Lessee hereby agrees that it will execute and deliver to the Lessor and the Security Trustee such additional instruments, and

take all such additional action, as the Lessor or the Security Trustee may from time to time reasonably request in furtherance of the grant and assignment provided for in this Section 19.

19.6. Application of Moneys. All distributions and payments to the Lessor or the Security Trustee shall be applied by the Lessor and the Security Trustee to the payment and reduction of the obligations and liabilities of the Lessee under this Lease and in accordance with the terms and provisions of the Security Agreement.

19.7. Duration. The satisfaction or discharge of any part of the obligations or liabilities of the Lessee under this Lease shall not in any way satisfy or discharge the assignment provided for in this Section 19.7, but such assignment shall remain in full force and effect so long as any amount remains unpaid on any such obligations or liabilities.

SECTION 20. INTEREST ON OVERDUE RENTALS AND AMOUNTS ADVANCED.

Anything to the contrary herein contained notwithstanding, any nonpayment of Rent or other sums due hereunder shall result in the additional obligation on the part of the Lessee to pay an amount equal to interest at the Late Rate on such overdue amounts for the period of time during which they were overdue and not paid.

SECTION 21. MISCELLANEOUS.

21.1. Notices. Any notice provided for in this Lease shall be in writing or by a telecommunications device capable of creating a written record, and shall be effective (a) upon personal delivery thereof, including, without limitation, by overnight mail and courier service, (b) five (5) days after being deposited in the United States mail, certified or registered, postage prepaid, return receipt requested, or, (c) in the case of notice by such a telecommunications device, upon confirmation of receipt by such device, addressed to each party at the following addresses:

If to the Lessee:

GATX Capital Corporation
Four Embarcadero Center
San Francisco, California 94111
Attention: Contracts Administration Department
Fax No.: (415) 955-3415 or 16
Confirmation No.: (415) 955-3200

If to the Lessor:

Wilmington Trust Company, as Owner-Trustee
under GATX Trust No. 90-1
Rodney Square North
Wilmington, Delaware 19890
Attention: Corporate Trust
Administration
Fax No.: (302) 651-8882

with a copy to:

Ameritrust Company National Association
900 Euclid Avenue
Cleveland, Ohio 44115
Attention: Rufus Heard
Fax No.: (216) 861-6321
Confirmation No.: (216) 737-5723

If to the Security Trustee:

The Connecticut National Bank
777 Main Street
Hartford, Connecticut 06115
Attention: Corporate Trust
Administration
Fax No.: (203) 240-7920
Confirmation No.: (203) 728-4545

or as to any of the foregoing parties at such other address as such party may designate by notice duly given in accordance with this Section to the other parties.

21.2. Right of Lessor to Perform. If the Lessee shall fail to comply with any of its covenants herein contained, the Lessor or any assignee pursuant to Section 16 may, but shall not be obligated to, make advances to perform the same and to take all such action as may be necessary to obtain such performance. Any payment so made by any such party and all costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) incurred in connection therewith shall be payable by the Lessee to the party making the same upon demand as Additional Rent hereunder, with interest thereon at the Late Rate. No such action shall be deemed a repossession of any of the Equipment, and no such advance, performance or other act shall be deemed to relieve the Lessee from any default hereunder.

21.3. No Waiver. No delay or omission to exercise any right, power or remedy accruing to the Lessor upon any breach or default by the Lessee under this Lease shall impair any such right, power or remedy of the Lessor, nor shall any such delay or omission be construed as a waiver of any breach or default, or of

any similar breach or default hereafter occurring; nor shall any waiver of a single breach or default be deemed a waiver of any subsequent breach or default. All waivers under this Lease must be in writing, but any breach or default, once waived in writing, shall not be deemed to be continuing for any purpose of the Operative Agreements. All remedies either under this Lease or by law afforded to the Lessor shall be cumulative and not alternative.

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

21.5. Law Governing. This Lease shall be construed in accordance with the internal laws and decisions (as opposed to conflicts of law provisions) of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by any applicable federal statute, rule or regulation.

21.6. Currency. All amounts and moneys referred to in this Lease shall be construed to mean money which at the time is lawful money of the United States of America.

21.7. Headings and Table of Contents. All Section headings and the Table of Contents are inserted for convenience only and shall not affect any construction or interpretation of this Lease.

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

21.9. True Lease. It is the intent of the parties to this Lease that it will be a true lease and not a "conditional sale" and that the Lessor shall at all times be considered to be the owner of the Equipment which is the subject of this Lease for the purposes of all federal, state, city and local income taxes or for franchise taxes measured by net income, and that this Lease conveys to the Lessee no right, title or interest in the Equipment except as lessee.

21.10. Limitations of Liability. It is expressly understood and agreed by and between the Lessor and the Lessee and their respective successors and assigns that this Lease is executed by Wilmington Trust Company, not individually or personally but solely as Owner-Trustee under the Trust Agreement

in the exercise of the power and authority conferred and vested in it as such Owner-Trustee, that each and all of the representations, warranties, undertakings and agreements herein made on the part of the Owner-Trustee are each and every one of them made and intended not as personal representations, warranties, undertakings and agreements by Wilmington Trust Company or the Trustor, or for the purpose or with the intention of binding Wilmington Trust Company or the Trustor personally, but are made and intended for the purpose of binding only the Trust Estate as defined in the Trust Agreement, that this Lease is executed and delivered by Wilmington Trust Company solely in the exercise of the powers expressly conferred upon Wilmington Trust Company as Owner-Trustee under the Trust Agreement, that actions taken by the Owner-Trustee pursuant to its obligations hereunder may, in certain instances, be taken by the Owner-Trustee only upon specific authority of the Trustor, that nothing herein contained shall be construed as creating any liability of Wilmington Trust Company or the Trustor, individually or personally, or any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer or director of, Wilmington Trust Company or the Trustor, to perform any covenant either express or implied contained herein, all such liability, if any, being expressly waived by the Lessee, and that so far as Owner-Trustee or the Trustor, individually or personally is concerned, the Lessee and any person claiming by, through or under the Lessee shall look solely to the Trust Estate as defined under this Lease; provided, that nothing in this Section 21.10 shall be construed to limit in scope or substance those representations, warranties and covenants of Wilmington Trust Company made expressly in its individual capacity set forth in the Participation Agreement and the Security Agreement or to release the Wilmington Trust Company from liability in its individual capacity for willful misconduct or gross negligence (or with respect to the handling of funds, for liability with respect to failure to exercise ordinary care) or the representations, warranties and covenants of the Trustor in the Participation Agreement. The terms "Lessor" and "Owner-Trustee" as used in this Lease shall include any trustee succeeding Wilmington Trust Company as Owner-Trustee under the Trust Agreement or the Trustor if the trust created thereby is revoked. Any obligation of the Owner-Trustee hereunder may be performed by the Trustor, any such performance shall not be construed as revocation of the trust created by the Trust Agreement. Nothing contained in this Lease shall restrict the operation of the provisions of the Trust Agreement with respect to its revocation or the resignation or removal of the Trustee thereunder.

21.11. Performance by a Permitted Sublessee. The Lessor and the Lessee hereby agree that the performance by a Permitted Sublessee of an obligation of the Lessee contained in this Lease shall constitute performance by the Lessee of such obligation.

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

GATX CAPITAL CORPORATION

By: *Penelope A. Tichen*
Its VICE PRESIDENT

WILMINGTON TRUST COMPANY, not
in its individual capacity but
solely as Trustee under GATX
Trust No. 90-1

By: _____
Its _____

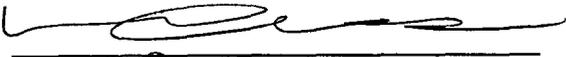
This Equipment Lease and the rentals and other sums due and to become due hereunder have been assigned by the Lessor to and made subject to a security interest in favor of The Connecticut National Bank, as Security Trustee. Any party intending to give consideration for any assignment by the Lessor of this Equipment Lease or any of the Lessor's rights hereunder should first inquire of such Security Trustee regarding its prior rights therein, and should further determine whether any such prior assignments or security agreements providing for such assignments have been filed and recorded with the office of the Secretary of the Interstate Commerce Commission.

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

GATX CAPITAL CORPORATION

By: _____
Its _____

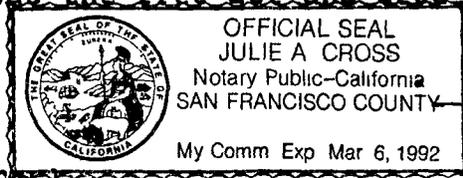
WILMINGTON TRUST COMPANY, not
in its individual capacity but
solely as Trustee under GATX
Trust No. 90-1

By: 
Its VP

This Equipment Lease and the rentals and other sums due and to become due hereunder have been assigned by the Lessor to and made subject to a security interest in favor of The Connecticut National Bank, as Security Trustee. Any party intending to give consideration for any assignment by the Lessor of this Equipment Lease or any of the Lessor's rights hereunder should first inquire of such Security Trustee regarding its prior rights therein, and should further determine whether any such prior assignments or security agreements providing for such assignments have been filed and recorded with the office of the Secretary of the Interstate Commerce Commission.

STATE OF CALIFORNIA)
) SS:
COUNTY OF SAN FRANCISCO)

On this 28th day of March, 1990, before me personally appeared Penelope A. Teicher, to me personally known, who being duly sworn, says that she is a(n) Vice President of GATX CAPITAL CORPORATION, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Julie A. Cross

Notary Public

[NOTARIAL SEAL]

My Commission Expires 3/6/92

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of March, 1990, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he is a(n) _____ of WILMINGTON TRUST COMPANY, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

My Commission Expires

[NOTARIAL SEAL]

FOR ATTACHMENT ONLY TO THE EQUIPMENT LEASE DATED AS OF MARCH 15, 1990.

DESCRIPTION OF ITEMS OF EQUIPMENT

Manufacturer of Equipment: Bethlehem Steel Corporation

Description and Mark and
Number of Items of
Equipment:

<u>Number of Cars</u>	<u>Description</u>	<u>Purchase Price Per Car</u>	<u>Total Purchase Price</u>
400	3000 Cubic Feet, 2 Compartment Covered Hopper Cars, Marked and numbered WC 84000 through 84399, both inclusive	\$46,328.60	\$18,531,440

(GATX Trust No. 90-1)

SCHEDULE A
(to Equipment Lease)

PRICING ASSUMPTIONS

Purchase Price and Settlements:	Closing Date to be March 30, 1990 covering 400 Items having Purchase Price per car of \$46,400
Debt Rate:	10%
Base Term:	Ending March 31, 2012
Transaction Expenses:	2.5% of Purchase Price
Equipment:	400 Items as described in Schedule A

(GATX Trust No. 90-1)

LEASE SUPPLEMENT NO. 1
[NOTE: Not to be filed at ICC]

This LEASE SUPPLEMENT NO. 1, dated March 30, 1990, between GATX Capital Corporation, a Delaware corporation (the "Lessee") and Wilmington Trust Company, a Delaware banking corporation, not individually but solely in its capacity as Owner-Trustee under GATX Trust No. 90-1 (the "Lessor");

W I T N E S S E T H:

The Lessor and the Lessee have heretofore entered into that certain Equipment Lease dated as of March 15, 1990 (the "Lease"). The terms used herein have the meanings specified in the Lease.

The Lease provides for the execution and delivery of a Lease Supplement substantially in the form hereof for the purpose of evidencing the Fixed Rent and Casualty Values payable for the Items of Equipment which shall from time to time become subject to the Lease.

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

1. The Fixed Rent payable with respect to each Item of Equipment on each Rent Payment Date is set forth in Schedule 1 hereto.
2. The Casualty Value for each Item of Equipment as of each Rent Payment Date is set forth in Schedule 2 hereto.

IN WITNESS WHEREOF, the Lessor and the Lessee have caused this Lease Supplement to be duly executed as of the day and year first above written and to be delivered as of the date first above written.

GATX CAPITAL CORPORATION

By: _____
Its: _____

WILMINGTON TRUST COMPANY, not
in its individual capacity but
solely as Trustee under GATX
Trust No. 90-1

By: _____
Its _____

The Lease and the rentals and other sums due and to become due hereunder and thereunder have been assigned by the Lessor to and made subject to a security interest in favor of The Connecticut National Bank, as Security Trustee. Any party intending to give consideration for any assignment by the Lessor of this Equipment Lease or any of the Lessor's rights hereunder should first inquire of such Security Trustee regarding its prior rights therein, and should further determine whether any such prior assignments or security agreements providing for such assignments have been filed and recorded with the office of the Secretary of the Interstate Commerce Commission.

DEFINITIONS

Re: GATX TRUST NO. 90-1
Annex 1

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(Not a part of the Agreement)

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DEFINITIONS

Re: GATX TRUST NO. 90-1

General Provisions

The following terms shall have the following meanings for all purposes of the Operative Agreements referred to below, unless otherwise defined in an Operative Agreement or the context thereof shall otherwise require. In the case of any conflict between the provisions of this Definition Annex and the provisions of the main body of any Operative Agreement, the provisions of the main body of such Operative Agreement shall control the construction of such Operative Agreement.

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

Defined Terms

"Additional Rent" shall mean all amounts, liabilities and obligations (other than Fixed Rent) which the Lessee is obligated to pay under the Lease or the Participation Agreement, including, but not limited to, Casualty Value payments, and amounts, if any, payable, under Section 2.6 of the Participation Agreement (to the extent such payment does not give rise to a rental adjustment under Section 2.3 of the Lease) by the Lessee.

"Appraisal Procedure" shall mean the following procedure for determining the Fair Market Value or the Fair Rental Value, as the case may be, of any property. If either party to the Lease 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 fifteen (15) days after such notice is given, each party shall appoint a qualified independent appraiser within twenty (20) days after such notice is given. If one party appoints an appraiser pursuant to the preceding sentence, the appraisal shall be made by such appraiser if the other party fails to appoint a second appraiser within the applicable time limit. If both parties appoint appraisers, the two appraisers so appointed shall within thirty (30) days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within thirty (30) days after such notice is given, either party may apply to the American Arbitration Association to make such appointment, and both parties shall be bound by any such

appointment. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine one or more of the Fair Market Value or the Fair Rental Value of such property within twenty (20) days after its or their appointment. If the parties shall have appointed a single appraiser, its determination of values shall be final. If three appraisers shall be appointed, the values determined by the three appraisers shall be averaged, the determination which differs most from such average shall be excluded, the remaining two determinations shall be averaged and such average shall be final.

"Assigned Agreements" shall mean the Lease and all of the other agreements referred to in Section 1.3 of the Security Agreement.

"Bankruptcy Code" shall mean the Bankruptcy Code as amended from time to time, 11 U.S.C. §101 et seq.

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

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

"Bill of Sale" shall have the meaning specified in Section 4.1 of the Participation Agreement.

"Business Day" shall mean any day other than a Saturday, Sunday or day on which banks in the states of California, Connecticut, Ohio or Delaware are authorized or permitted to be closed.

"Casualty Occurrence" shall have the meaning specified in Section 11.2 of the Lease.

"Casualty Value" shall mean during the Base Term the amount determined in accordance with a Lease Supplement substantially in the form of Exhibit B to the Lease, and during the Renewal Term, the amount determined in accordance with Section 18 of the Lease.

"Closing Date" shall mean the date of sale by the Lessee and purchase by the Lessor of the Equipment pursuant to the Participation Agreement.

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

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

"Current Sublease" shall mean the Equipment Lease dated as of February 15, 1990 between the Lessee, as lessor, and the Current Sublessee.

"Current Sublessee" shall mean Wisconsin Central Ltd., a railroad common carrier organized as an Illinois corporation.

"Default" under the Lease shall mean any event which would constitute an Event of Default under the Lease if any requirement in connection therewith for the giving of notice or the lapse of time, or both, had been satisfied.

"Default" under the Security Agreement shall mean any event which would constitute an Event of Default under the Security Agreement if any requirement in connection therewith for the giving of notice, or the lapse of time, or both, had been satisfied.

"Employee benefit plan" has the meaning specified in Section 3 of ERISA.

"Enforcement Date" shall have the meaning specified in Section 7.3(a) of the Security Agreement.

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

"Equipment Lease" - See "Lease."

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

"Event of Default" under the Lease is defined in Section 14 thereof.

"Event of Default" under the Security Agreement is defined in Section 7.1 thereof.

"Excepted Rights in Collateral" shall mean the following described properties, rights, interests and privileges:

(a) the right of the Owner-Trustee or the Trustor to assent to a Permitted Contest under the Lease but not to the exclusion of any other affected Indemnified Parties;

(b) all payments of any indemnity under the Tax Indemnity Agreement, Section 6 of the Lease or Section 7 of the Participation Agreement which by the terms thereof are payable to the Owner-Trustee (in its individual or trust capacities) or the Trustor for its own account;

(c) any insurance proceeds payable under general public liability policies maintained by the Lessee pursuant to Section 11 of the Lease which by the terms of such policies or the terms of the Lease are payable directly to the Owner-Trustee (in its individual or trust capacities) or the Trustor for its own account;

(d) all rights of the Owner-Trustee or the Trustor under the Lease to demand, collect, sue for or otherwise obtain all amounts from the Lessee due the Owner-Trustee or the Trustor on account of any such indemnities or payments referred to in paragraph (b) above and to seek legal or equitable remedies to require the Lessee to maintain the insurance coverage referred to in paragraph (c) above;

(e) if an Event of Default under the Lease based solely on a breach of any covenant of the Lessee to pay any indemnity referred to in paragraph (b) above or to maintain any insurance referred to in paragraph (c) above shall occur and be continuing, the right of the Owner-Trustee or the Trustor to exercise the remedies, but only those remedies, provided for in Section 14.2(a) of the Lease, to enforce performance by the Lessee of any covenants of the Lessee to pay any such indemnity or payment directly to the Owner-Trustee or the Trustor or to maintain such insurance or recover damages for the breach of any such covenant;

provided that in all events, the rights described in clauses (d) and (e) above shall be limited in the manner provided in the final paragraph of Section 7.3 of the Security Agreement.

"Fair Market Value" shall mean with respect to the Equipment or any Item thereof, the fair market sales value of the Equipment or such Item, determined in accordance with Section 14 or Section 18 of the Lease, as the case may be.

"Fair Rental Value" shall mean with respect to the Equipment or any Item thereof, the fair market rental value of the Equipment or such Item, determined in accordance with Section 14 or Section 18 of the Lease, as the case may be.

"Fixed Rent" shall mean all rent payable pursuant to Section 2.1(a) of the Lease for the Base Term and all Rent payable pursuant to Section 18 of the Lease for the Renewal Term, if any.

"Guidelines" shall mean the guidelines set forth in Revenue Procedure 75-21, 1975-1 C.B. 715, as further set forth in Revenue Procedure 75-28, 1975-1 C.B. 752, and as modified in Revenue Procedure 76-30, 1976-2 C.B. 647 and Revenue Procedure 79-48, 1979-2 C.B. 529 that are applied by the Internal Revenue Service in determining, for advance ruling purposes, whether leveraged lease transactions (other than transactions which are treated as leases pursuant to Section 168(f)(8) of the Code) are leases for federal income tax purposes.

"Indemnified Parties" shall mean the Participants, the Owner-Trustee (in its individual or trust capacities), the Trust Estate and the Security Trustee, and successors, assigns, agents, servants, officers and employees of each of the foregoing.

"Interchange Rules" shall have the meaning specified in Section 7 of the Lease.

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

"Item of Equipment" or "Item" shall mean each item of the Equipment.

"Late Rate" shall mean interest at the annual rate equal to the lesser of (a) the highest rate permitted by applicable law and (b) 12.07%.

"Lease" or "Equipment Lease" shall mean the Equipment Lease dated as of March 15, 1990 between the Lessor, as lessor, and the Lessee, as lessee as amended or supplemented from time to time.

"Lease Supplement" shall mean the Lease Supplement, substantially in the form of Exhibit A to the Lease, entered into between the Lessor and the Lessee, covering the Equipment.

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

"Lessor" shall mean the Owner-Trustee, as lessor under the Lease.

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

"Lien" shall mean any mortgage, pledge, security interest, lien, encumbrance or other charge of any kind on property.

"Loan Value" shall have the meaning set forth in Section 5.1(c) of the Security Agreement.

"Manufacturer" shall mean Bethlehem Steel Corporation.

"Net Economic Return" shall have the meaning specified in Section 2.3 of the Lease.

"Noteholder" shall mean the holder of any Note issued and outstanding under the Security Agreement.

"Note Purchaser" shall mean each Note Purchaser named in the Participation Agreement and its respective successors and assigns, including successive holders of the Notes.

"Notes" shall mean the 10.07% Secured Notes due March 31, 2010 of the Owner-Trustee substantially in the form attached to the Security Agreement.

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

"Operative Agreements" shall mean and include the Participation Agreement, the Bill of Sale, the Trust Agreement, the Lease, the Lease Supplement, the Notes outstanding at the time of reference, the Security Agreement and the Tax Indemnity Agreement.

"Order Note" shall mean any note issued pursuant to the Security Agreement as an unregistered Note transferable by endorsement and delivery.

"Owner-Trustee" shall mean Wilmington Trust Company not in its individual capacity but solely in its capacity as trustee under the Trust Agreement and its successors in trust thereunder.

"Owner-Trustee Agreements" shall mean the Operative Agreements to which Wilmington Trust Company, either in its individual or trust capacity, is a party.

"Participants" shall mean the Note Purchasers and the Trustor.

"Participation Agreement" shall mean the Participation Agreement dated as of March 15, 1990, among the Lessee, the Participants, the Owner-Trustee and the Security Trustee.

"Permitted Contest" shall mean a good-faith contest which each Indemnified Party determines will be conducted in a manner so as to prevent the imposition of any criminal penalty on, or adverse effect on the title, property or right of, such Indemnified Party, of the legality or validity of any of the taxes, assessments, levies, fees or other governmental charges, or other claims, Liens or impositions which, under the terms of the Lease, are required to be paid or discharged by the Lessee or the Lessor, as the case may be, but for such contest.

"Permitted Encumbrances" with respect to the Equipment and each Item thereof, shall mean (i) the interest of the Lessee and the Owner-Trustee, respectively, under the Lease; (ii) any Liens thereon for taxes, assessments, levies, fees and other governmental and similar charges not due and payable or the amount or validity of which is being contested by a Permitted Contest; (iii) any Liens of mechanics, suppliers, materialmen and laborers for work or services performed or materials furnished in connection with the Equipment or any Item thereof which are not due and payable or the amount or validity of which is being contested by a Permitted Contest; (iv) the Lien and security interest granted to the Security Trustee under and pursuant to the Security Agreement; and (v) the interest of any Person in respect of a Permitted Sublease.

"Permitted Sublease" and "Permitted Sublessee" shall have the meanings specified in Section 17.1 of the Lease, and shall include the Current Sublease and the Current Sublessee, respectively.

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

"Pricing Assumptions" shall have the meaning specified in Section 2.3 of the Lease.

"Purchase Price" shall mean, for each Item of Equipment, \$46,328.60, and for all of the Equipment, \$18,531,440.

"Register" shall mean the register caused to be kept by the Owner-Trustee at the principal office of the Security Trustee for the purpose of recording the registration and transfer of the Notes.

"Registered Note" shall mean any fully registered Note issued pursuant to the Security Agreement.

"Regulations" shall mean the income tax regulations issued, published or promulgated under the Code.

"Renewal Term" shall mean any term in respect of which the Lessee shall have exercised its option to renew the Lease pursuant to Section 18 thereof.

"Rent" shall mean all Fixed Rent and Additional Rent.

"Rent Payment Dates" shall mean September 30, 1990 and the last day of each March and September thereafter throughout, to and including September 30, 2011.

"Secured Indebtedness" shall mean the outstanding Notes and all principal thereof (and premium, if any) and interest thereon and all additional amounts and other sums at any time due and owing from or required to be paid by the Owner-Trustee under the terms of the outstanding Notes or the Security Agreement.

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

"Security Agreement" shall mean the Security Agreement - Trust Deed dated as of March 15, 1990 between the Owner-Trustee, as debtor, and the Security Trustee, as secured party as amended or supplemented from time to time.

"Security Trustee" shall mean The Connecticut National Bank and its successors in trust as security trustee under the Security Agreement.

The term "separate account" shall have the meaning specified in Section 3 of ERISA.

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

"Tax Indemnity Agreement" shall mean the Income Tax Indemnification Agreement dated as of March 15, 1990 between the Lessee and Trustor.

"Term" shall mean the full term of the Lease, including the Base Term and any Renewal Term, subject to the provisions of Sections 11 and 14 of the Lease.

"Transaction Expenses" shall mean the expenses paid by the Trustor pursuant to Section 2.6(a) of the Participation Agreement.

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

"Trust Agreement" shall mean the Trust Agreement dated as of March 15, 1990 between the Trustor and Wilmington Trust Company.

"Trust Estate" shall mean all the estate, right, title and interest of the Owner-Trustee in, to and under the Equipment and the Operative Agreements including, without limitation, all funds advanced to the Owner-Trustee by the Trustor, all proceeds from the sale of the Notes, all installments and other payments of Rent, insurance proceeds, Casualty Values, condemnation awards, purchase price and sale proceeds, and all other proceeds of any kind for or with respect to the Equipment and the Operative Agreements.

"Trustor" shall mean Ameritrust Company National Association, a national banking association, and its successors and permitted assigns of its Beneficial Interest.

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

"Voting Stock" shall mean Securities of any class or classes of a corporation, the holders of which are ordinarily, in the absence of contingencies, entitled to elect a majority of the corporate directors (or persons performing similar functions).