

DONELAN, CLEARY, WOOD & MASER, P C

ATTORNEYS AND COUNSELORS AT LAW

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16936

RECORDATION NO _____ FILED 1425

JUL 18 1990 - 12 40 PM

July 18, 1990

INTERSTATE COMMERCE COMMISSION

FILED
JUL 18 12 39 PM '90

The Honorable Sidney L. Strickland, Jr.
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

0-199A012

Dear Secretary McGee:

Enclosed for recordation, under the provisions of 49 U.S.C. §11303(a) and the regulations thereunder, are an original and three (3) counterparts of Lease Agreement (including Riders One, Two, and Three thereto), dated as of March 1, 1990, between General Electric Capital Corporation (hereinafter "Lessor"), Burlington Northern Railroad Company (hereinafter "Lessee"), and BN Leasing Corporation.

The names and addresses of the parties to the enclosed Lease Agreement are as follows:

LESSOR: General Electric Capital Corporation
1600 Summer Street
Stamford, CT 06905
Attn: Manager-Operations, Transportation
& Industrial Funding

LESSEE: Burlington Northern Railroad Company
777 Main Street
Fort Worth, TX 76102
Attn: Treasurer

OTHER PARTY: BN Leasing Corporation
777 Main Street
Fort Worth, TX 76102
Attn: Treasurer

Handwritten signature: Cleary, Wood & Maser

The Honorable Sidney L. Strickland, Jr.

July 18, 1990

Page 2

A general description of the railroad equipment covered by the enclosed document follows:

<u>Description of Units</u>	<u>Quantity</u>	<u>Unit Initials and Numbers</u>
A332, XL, 50', 70-ton boxcars	90	For a listing of the unit initials and numbers, see Rider One (1) to Lease Agreement
B314, XM, 50' 70-ton boxcars	285	For a listing of the unit initials and numbers, see Rider Two (2) to Lease Agreement
C113, LO, 4750 cubic foot, 100-ton covered hoppers	261	For a listing of the unit initials and numbers, see Rider Three (3) to Lease Agreement

Please return the original of the enclosed document to John K. Maser III, Esquire, Donelan, Cleary, Wood, & Maser, P.C., Suite 850, 1275 K Street, N.W., Washington, D.C. 20005-4006 or to the bearer hereof.

Also enclosed is a remittance in the amount of \$15.00 for the required recording fee.

A short summary of the document to appear in the index follows:

PRIMARY DOCUMENT

Lease Agreement (including Riders One, Two, and Three thereto), dated as of March 1, 1990, between General Electric Capital Corporation ("Lessor"), Burlington Northern Railroad Company ("Lessee"), and BN Leasing Corporation, relating to: (1) ninety (90) 50', 70-ton boxcars, bearing identification marks and numbers as listed in Rider One to Lease Agreement; (2) two hundred eighty five (285) 50', 70-ton

DONEGAN, CLEARY, WOOD & MASER, P C
The Honorable Sidney L. Strickland, Jr.
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boxcars, bearing identification marks and numbers as listed in Rider Two to Lease Agreement; and (3) two hundred sixty one (261) 4750 cubic foot, 100-ton covered hoppers, bearing identification marks and numbers as listed in Rider Three to Lease Agreement.

Respectfully submitted by,



JOHN K. MASER III

Attorney-In-Fact

Enclosure
286-6

Interstate Commerce Commission
Washington, D.C. 20423

7/18/90

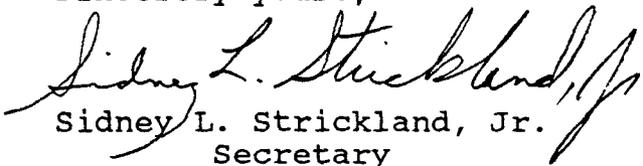
OFFICE OF THE SECRETARY

John K. Maser III
Donelan, Cleary, Wood & Maser P.C.
1275 K Street N.W. Suite 850
Washington, D.C. 20005-4006

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 7/18/90 at 12:40pm, and assigned recordation number(s). 16936

Sincerely yours,


Sidney L. Strickland, Jr.
Secretary

16936

RECORDATION NO. _____ FILED 1485

JUL 18 1990 -12 40 PM

INTERSTATE COMMERCE COMMISSION

LEASE AGREEMENT

This Agreement dated as of the 1st day of March, 1990 ("Agreement") between **GENERAL ELECTRIC CAPITAL CORPORATION**, a New York corporation, with its principal office at 260 Long Ridge Road, Stamford, Connecticut 06927 (hereinafter called "Lessor"), **BURLINGTON NORTHERN RAILROAD COMPANY**, a Delaware corporation, with its principal office at 3800 Continental Plaza, 777 Main Street, Ft. Worth, Texas 76102 (hereinafter called "Lessee"), and **BN LEASING CORPORATION**, a Delaware corporation, with its principal office at 3800 Continental Plaza, 777 Main Street, Ft. Worth, Texas 76102 (hereinafter called "BNLC"), **WITNESSETH THAT:**

In consideration of the mutual terms and conditions hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, Lessor and Lessee hereto agree as follows:

ARTICLE 1: LEASE

Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, the equipment shown on each Rider hereto and such additional Riders as may be added from time to time by agreement of the parties (all such equipment being hereinafter individually referred to as a "Unit" and collectively referred to as the "Units"). Each Rider shall set forth a description of the Units covered thereby, including such facts as the number of Units of each type, the Association of American Railroads ("AAR") or United States Department of Transportation ("DOT") specifications, rental charges, term throughout which the Unit or Units shall remain in Lessee's service, renewal options, purchase options, the delivery date and location and such other information as may be desired by both parties, including any variation from the terms of this Agreement. In the event of any conflict between this Agreement and any Rider, the Rider shall control with respect to the Units subject to such Rider. It is the intent of all parties to this Agreement that this Agreement be a true lease.

ARTICLE 2: TERM

The term of this Agreement with respect to each Unit shall commence on the date of delivery to and acceptance of such Unit by Lessee in the manner set forth in Article 3 and shall terminate, unless otherwise sooner terminated by any other provision hereof, on the date specified in the applicable Rider attached hereto (hereinafter referred to as the "Lease Term").

ARTICLE 3: DELIVERY AND ACCEPTANCE

Lessor will, at its expense, deliver the Units to the Lessee at the interchange point(s) on Lessee's lines specified in the applicable Rider. Upon delivery, Lessee will have the right to inspect each Unit and will accept such Unit if it: (a) complies with the description set forth in the Rider and (b) meets Lessee's standards and

requirements as established during a sample inspection of the Units. Lessee retains the right to reject any Unit which fails to meet the standards or requirements as set forth in the preceding sentence and will notify Lessor, in writing, within ten (10) business days after delivery, of Lessee's rejection of the Unit and the specific reason for such rejection. Failure to notify Lessor as to the rejection of a Unit or the use of any Unit by Lessee or at its direction will constitute acceptance of the Unit by Lessee. Upon delivery and acceptance of all of the Units set forth in a Rider, if Lessor so desires and so notifies Lessee, Lessee shall execute and deliver to Lessor a Certificate of Acceptance in the form attached hereto as Exhibit A.

ARTICLE 4: MARKINGS

At the time of delivery of the Units by Lessor to Lessee, Lessor will have the Units plainly marked on each side with the identification marks of Lessee. If such markings (or any of the markings required pursuant to Article 16 B) shall at any time be removed or become illegible, wholly or in part, Lessee shall, as soon as possible, cause such markings to be restored or replaced, at Lessee's expense with respect to Lessee's marks and at Lessor's expense with respect to markings required pursuant to Article 16 B. Lessee shall not otherwise place, or permit to be placed, any lettering or marking of any kind upon the Units without Lessor's prior written consent, which shall not be unreasonably withheld. In no event shall Lessee place or permit to be placed any marking or lettering on the Units which may reasonably be interpreted as a designation of ownership.

ARTICLE 5: PAYMENT OF RENTALS

A. Lessee agrees to pay Lessor the rent specified in the Rider for each Unit. The rent for each Unit shall be paid in semiannual installments, payable in arrears, commencing six months following delivery of all of the Units. The first payment for any Unit shall be equal to the prorated amount for the time from delivery and acceptance of the Unit until the first payment date for such Unit. If any of the rent payment dates falls on a Saturday, Sunday or legal holiday, the rent shall be due on the next succeeding business day. In the event Lessor notifies Lessee in writing that the right to receive rents has been assigned in accordance with Article 16 hereof, Lessee shall make payment in the manner designated in such notice or as otherwise designated in writing by such assignee.

B. Lessee will, on demand, pay to Lessor interest at the prime rate, as published in the Wall Street Journal, plus 2% on any payment of rent not paid when due for any period during which such rent is overdue.

C. This Agreement is a net lease and Lessee's obligation to pay rent and other amounts payable hereunder shall be absolute and unconditional and, except as herein specifically provided, Lessee shall not be entitled to any abatement of rent, reduction thereof, counterclaim or setoff against rent, including, but not limited to, abatements, reductions, counterclaims or setoffs due to any existing or future claims of the Lessee against Lessor under this Lease or otherwise; nor, except as otherwise expressly provided herein, shall this lease terminate, or the respective obligations of Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to

or loss or destruction of all or any of the Units from whatsoever cause, it being the intention of the parties hereto that the rents and other amounts payable by Lessee hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Agreement.

ARTICLE 6: TITLE

Lessee acknowledges and agrees that by the execution of this Agreement it does not obtain, and by payments and performance hereunder it does not, and will not, have or obtain any title to the Units or any property right or interest therein, legal or equitable, except solely as Lessee hereunder and subject to all of the terms hereof.

ARTICLE 7: POSSESSION AND USE

So long as Lessee is not in default under this Agreement, neither the Lessor nor any person acting by, through or under the Lessor nor any person to whom Lessor may have transferred any interest in this Agreement or any Units under this Agreement shall disturb or interfere with the possession, use and quiet enjoyment of the Units by Lessee in accordance with the terms of this Agreement and in the manner customarily used in the railroad business.

ARTICLE 8: MAINTENANCE

The Lessee shall, at its own cost and expense, maintain the Units in good condition and repair, ordinary wear and tear and passage of time excepted. Any parts installed or replacements made by Lessee upon any Unit shall be considered accessions to such Unit and title thereto shall be immediately vested in Lessor, without cost or expense to Lessor.

ARTICLE 9: MODIFICATIONS

In the event the AAR, DOT or any other governmental agency having jurisdiction over the operation, safety or use of railroad equipment requires that the Units be added to, modified, or in any manner adjusted in order to qualify them for operation in railroad interchange, Lessee will cause such addition, modification or adjustment to be made at its own expense; provided, however, that the Lessee may, in good faith and by appropriate legal proceedings, contest the validity or application of any such requirement in any reasonable manner which does not adversely affect the rights or interests of the Lessor in the Units or hereunder. Notwithstanding anything herein to the contrary, if Lessee determines in good faith that any required addition, modification or adjustment to the Units would be economically impractical, Lessee may treat such requirement as a Casualty with respect to such Units under the provisions of Article 11 hereof. Except for alterations or changes required by law, Lessee shall not, without the prior written consent of Lessor, effect any change in the design, construction or body of the Units. Lessor's consent to modifications or additions to the Units which do not impair the value or

utility of the Units shall not be unreasonably withheld, provided that such modifications or additions which are not readily removable without material damage to or diminution of the Units shall be considered accessions to the Units and title thereto shall be immediately vested in Lessor without cost or expense to Lessor.

ARTICLE 10: COMPLIANCE WITH REGULATIONS

Lessee shall, at its own expense, comply with all governmental laws, regulations and requirements, including without limitation the AAR Interchange Rules, the rules and regulations of the Federal Railway Administration, DOT and the Interstate Commerce Commission ("ICC") with respect to the title, use, maintenance and operation of the Units. Lessee shall be responsible for obtaining all necessary railroad permissions, approvals and consents for use of the Units and shall bear all risk of failure to obtain such permissions, approval and consent, or of cancellation thereof. Lessor shall take, at no cost or expense to Lessor, all actions reasonably requested by Lessee in order to assist Lessee in obtaining such permissions, approvals or consents.

ARTICLE 11: CASUALTY

A. In the event that any Unit shall be or become lost, stolen, or in Lessee's good faith opinion, worn out, contaminated or destroyed (any such occurrence or determination being hereinafter called a "Casualty"), the Lessee shall promptly and fully (after it has knowledge of such Casualty, but in no event later than 30 days after the date of such occurrence) inform Lessor in regard thereto.

B. Following the occurrence of a Casualty with respect to any Unit, the Lessee shall, on the first rental payment date after its notice of a Casualty with respect to such Unit, pay to Lessor the casualty value for such rental payment date as set forth in the casualty schedule of the applicable Rider (hereinafter called a "Casualty Payment") plus any other sums due on or prior to such date in respect of such Unit then remaining unpaid. If no casualty schedule is contained in the applicable Rider, the Lessee shall pay to the Lessor the amount prescribed by the AAR Interchange Rules for the loss or destruction of such Unit.

C. Upon payment of all sums required to be paid pursuant to Article 11 B hereof in respect of any Unit, the obligation to pay rent for such Unit accruing subsequent to the Casualty Payment date will terminate and the Unit will be deleted from this Agreement but the Lessee shall continue to pay rent for all other Units.

D. Upon payment of the applicable amounts following a Casualty, title to the Unit which has suffered such Casualty shall immediately vest in Lessee and Lessor will take all actions reasonably requested by Lessee to transfer such title to Lessee.

ARTICLE 12: PROHIBITION OF LIENS

Lessee, at its own expense, will promptly pay or cause to be paid, or otherwise satisfy and discharge, any and all sums claimed by any person (except for sums

claimed by the Lessor or anyone arising by, through or under the Lessor) which, if unpaid, might become a lien upon any Unit, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not adversely affect the title, property or rights of Lessor created or purported to be created hereunder.

ARTICLE 13: TAXES

Lessee agrees to assume responsibility for the filing and payment of all taxes, assessments and other governmental charges levied or assessed upon or in respect of the Units or the use of the Units under the terms hereof (exclusive, however, of any tax based on the net income of Lessor), including but not limited to any ad valorem or property taxes, all license, franchise or registration fees, fines, tariffs, switching, demurrage and any sales or use taxes payable on account of the leasing of the Units; provided, Lessee will be under no obligation to pay any such taxes or other charges so long as Lessee in good faith and by appropriate legal or administrative proceedings contests the validity or amount thereof or directs Lessor to contest the validity or amount thereof, and the nonpayment thereof does not adversely affect the title, property or rights of Lessor in or to any Unit.

ARTICLE 14: INSURANCE

Lessee will, at all times prior to the return of the Units to Lessor, at its own expense, cause to be carried and maintained (i) property insurance in respect of the Units and (ii) public liability insurance with respect to third party personal injury and property damage, against such risks and in such amounts, if any, customarily insured against by railroad companies, if any, in respect of similar equipment, and in any event comparable to those insured against by the Lessee in respect to similar equipment owned or leased by it.

ARTICLE 15: INDEMNITIES

A. Lessee agrees to indemnify, protect and hold harmless the Lessor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including but not limited to reasonable attorney fees and disbursements, penalties and interest arising out of or as the result of the use, operation, condition, maintenance, storage or return of the Units or any accident in connection with the use, operation, maintenance, condition, storage or return of the Units during the term of this Agreement, excepting, however, any loss, damage, injury, liability, claim, demand or expense which is attributable to the gross negligence or willful misconduct of the Lessor, its agents or employees. The indemnities arising under this paragraph during the Lease Term shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of this Agreement.

B. Without limiting the generality of the foregoing, Lessor shall not be liable for any loss or damage to any commodities loaded or shipped in the Units. Lessee agrees to assume responsibility for, to indemnify Lessor against, and to hold Lessor harmless from, any claim in respect of such loss or damage.

ARTICLE 16: ASSIGNMENT; SUBLEASE; SUBORDINATION

A. So long as Lessee shall not be in default under this Agreement, Lessee may sublease the Units to others, provided, however, that the rights of any such sublessee shall be subject and subordinate to, and any such sublease shall be made expressly subject and subordinate to, all of the terms of this Agreement, and Lessee shall remain obligated to perform all of its duties and obligations hereunder. In addition, before Lessee enters into any such sublease, Lessee must obtain Lessor's prior approval, and Lessor agrees that such approval shall not be unreasonably withheld and that such determination is to be given within five (5) business days of the date of receipt of such request. No sublease of any Unit shall in any way discharge or diminish any of Lessee's obligations to Lessor hereunder including, but not limited to, the payments due to Lessor pursuant to Article 5 of this Agreement.

B. This Agreement and the applicable Rider(s) shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. It is understood and agreed that Lessor or any such successor or assignee may assign this Agreement with respect to some or all of the Units to any security trustee, secured party or owner of such Units (each herein a "Lease Assignee"). Upon delivery of a written notice of assignment to Lessee, Lessor as used herein shall mean such Lease Assignee. Lessee shall consent to and acknowledge in writing, upon receipt of notice of assignment, such assignment of this Agreement by Lessor or any Lease Assignee; provided, that any such consent and/or acknowledgement shall not in any manner increase or change the rights, obligations, duties or legal position of the Lessee nor in any way permit the diminution of Lessee's right to possession and quiet enjoyment of the Units so long as Lessee is not in default hereunder. Lessor warrants that any Lease Assignee shall agree to all the terms and conditions of this Agreement (including without limitation the provisions of Article 7 hereof). Each Lease Assignee shall warrant that any subsequent Lease Assignee shall agree to all terms and conditions of this Agreement (including without limitation the provisions of Article 7 hereof).

ARTICLE 17: RETURN OF UNITS

A. Return of Units Upon Expiration of Agreement. Upon the expiration or earlier termination of this Agreement (except as provided in Article 17 B hereof) with respect to any Unit, including any optional renewal term pursuant to Article 22 hereof, Lessee will, at its own cost and expense, at the request of Lessor, deliver possession of such Unit to Lessor upon such tracks of the Lessee as Lessor may reasonably designate taking into account, among other things, Lessee's storage capacity, security and access, or, in the absence of such designation, as the Lessee may select and permit Lessor to store such Unit on such tracks for a period not exceeding 120 days. The Lessee will transport each Unit once at any time within such 120 day period from such storage location to any reasonable destination or

interchange point within the continental United States on railroad lines operated by Lessee, f.o.b., all as directed by Lessor upon not less than 15 days prior written notice to Lessee. Lessee shall not be obligated to transport any Unit more than once at the request of Lessor, after which Lessee will have no further obligation with respect to any Unit so moved and such Unit will be deleted from this Agreement. During any such storage period Lessee will permit Lessor or any person designated by Lessor, at their own risk, to inspect the Units; provided, however, that Lessee will 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 the rights of inspection granted under this sentence. Lessee shall be responsible for the Units in accordance with the terms of this Agreement until such time as each Unit is delivered pursuant to Lessor's disposition instructions but in no event shall such responsibility extend beyond the storage period. The Units shall be delivered free from all charges and liens except those which may result from an act or omission of Lessor and free from all accumulations or deposits from commodities transported in or on the Units while in the service of Lessee. Upon the termination of the 120 day storage period the reasonable cost of storage and/or transporting any Unit shall be for the account of Lessor.

B. Return of Units Upon Default. If Lessor shall terminate this Agreement pursuant to Article 21 B hereof, Lessee shall forthwith deliver possession of the Units to Lessor. For the purpose of delivering possession of any Unit to Lessor as above required, Lessee shall at its own cost, expense and risk:

- (i) Forthwith place such Unit upon such storage tracks of Lessee as Lessor may reasonably designate;
- (ii) Permit Lessor to store such Unit on such track without charge until such Unit has been sold, leased, or otherwise disposed of by Lessor; and
- (iii) Transport such Unit one time to any railroad interchange point within the continental United States on any railroad lines operated by Lessee, all as directed by Lessor.

Upon application to any court of equity having jurisdiction, Lessor shall be entitled to a decree against Lessee requiring specific performance of the provisions of this Article 17 B

ARTICLE 18: INSPECTION

Lessor shall, at its sole cost and expense, at any reasonable time during normal business hours, upon reasonable notice to Lessee and without interfering with Lessee's operations, have the right to enter the premises of Lessee for the purpose of inspecting the Units to ensure Lessee's compliance with its obligations hereunder. Lessor shall enter and occupy Lessee's property at Lessor's sole risk and shall be subject at all times to Lessee's operating and safety requirements. Any injury, death or property damage arising out of such entry, occupancy and inspection, except if caused by Lessee's gross negligence or willful misconduct, shall be the entire responsibility of Lessor, and Lessor will indemnify and hold harmless Lessee from any and all such liabilities.

ARTICLE 19: DISCLAIMER

LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, QUALITY OR ANY OTHER MATTER RELATING TO THE UNITS, OR THE MATERIAL, EQUIPMENT OR WORKMANSHIP THEREIN OR THEREOF. ALL SUCH RISKS ARE TO BE BORNE BY LESSEE AND LESSOR SHALL IN NO EVENT BE RESPONSIBLE FOR ANY DIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION STRICT LIABILITY IN TORT). LESSEE CONFIRMS THAT IT HAS SELECTED THE UNITS ON THE BASIS OF ITS OWN JUDGMENT AND EXPRESSLY DISCLAIMS RELIANCE UPON ANY STATEMENTS, REPRESENTATIONS OR WARRANTIES MADE BY LESSOR, AND LESSEE ACKNOWLEDGES THAT LESSOR IS NOT A MANUFACTURER OR VENDOR OF ANY OF THE UNITS.

ARTICLE 20: REPRESENTATIONS AND WARRANTIES

Lessee represents and warrants that (a) Lessee is a duly organized, validly existing corporation in good standing under the laws of the state of its incorporation and is duly qualified to do business in all jurisdictions in which qualification is required in order for it to carry out the transactions contemplated by this Agreement; (b) Lessee has full corporate power, authority and legal right to execute, deliver and perform this Agreement, the execution, delivery and performance hereof has been duly authorized by all necessary corporate action of Lessee, and the Agreement was duly executed and delivered by Lessee; and (c) there is no action, suit, investigation or proceeding by or before any court, arbitrator, administrative agency or other governmental authority pending or threatened against Lessee which involves the Units or the transactions contemplated by this Agreement.

ARTICLE 21: DEFAULT

A. The occurrence of any of the following events shall be an Event of Default by Lessee:

- (i) The nonpayment by Lessee of any sum required herein to be paid to Lessor or any Lease Assignee by Lessee and such nonpayment shall continue for ten (10) business days after Lessee's receipt of notice from Lessor;
- (ii) Lessee shall fail to maintain the insurance required by Article 14;
- (iii) The Lessee becomes insolvent or fails generally to pay its debts as such debts become due, or files a petition for reorganization or liquidation under the federal Bankruptcy Code, or seeks dissolution of the Lessee under applicable law, or causes or suffers an order for relief to be entered against it under applicable federal or state bankruptcy law, or makes an assignment for the benefit of creditors or applies for or consents to the appointment of a custodian, trustee or receiver for the Lessee or for the major part of its property, or takes any corporate action

in furtherance of any of the foregoing, or a petition for reorganization or liquidation under the federal Bankruptcy Code or other applicable bankruptcy or insolvency law shall be filed against the Lessee;

(iv) Any representation or warranty made by Lessee herein or in any other document delivered to Lessor by Lessee related to this Agreement shall have been false or incorrect in any material respect on the date when made and such breach or default remains material and continues for a period of thirty (30) days after Lessee's receipt of written notice from Lessor of such breach or default; or

(v) The breach by Lessee of any other term, covenant, or condition of this Agreement, which is not cured within thirty (30) days of Lessee's receipt of written notice from Lessor unless such breach is curable and Lessee is diligently attempting to cure such breach, such cure period not to exceed one hundred twenty (120) days in any event.

B. Upon the occurrence of any Event of Default, Lessor may:

(i) Terminate this Agreement and proceed by any lawful means to recover damages for a breach hereof. Lessor shall use reasonable efforts to mitigate such damages; or

(ii) Terminate Lessee's right to possession and use of the Units, whereupon all rights and interest of Lessee in the Units shall terminate and thereupon Lessor may enter upon any premises where the Units may be located and take possession of them and henceforth hold, possess and enjoy the same free from any right of Lessee, and Lessor shall nevertheless have the right to recover from Lessee any rent and other amounts which are then due and payable, or which may have accrued to the date of such termination; or

(iii) Proceed by any lawful means to enforce performance by Lessee of this Agreement.

Lessee shall bear the costs and expenses, including without limitation reasonable attorney fees and disbursements, incurred by Lessor in connection with the exercise of its remedies pursuant to this Article 21.B. No remedy referred to in this Article 21 B is intended to be exclusive but each shall be cumulative and in addition to any other remedy otherwise available to Lessor at law or in equity. Lessee hereby waives any mandatory requirement of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law.

ARTICLE 22: PURCHASE AND RENEWAL OPTIONS

Provided that no Event of Default, or any event which with lapse of time or the giving of notice, or both, would constitute such an Event of Default, shall have occurred and be continuing, BNLC shall have the right to exercise for any or all Units the: (i) Early Purchase Option, (ii) Purchase Option, or (iii) Renewal Option, if any,

according to the terms specified in the applicable Rider. Any renewal term with respect to the Units shall be subject to all the terms of this Agreement including those contained in the applicable Rider. BNLC shall give Lessor written notice of not less than 90 days (but not more than 360 days) of its election to exercise any options provided for in such Rider.

ARTICLE 23: RECORDS

Lessee will perform all record keeping functions related to the use of the Units by Lessee and other railroads that Lessee, in the normal course of business, from time to time, performs for similar equipment owned or leased by Lessee. Lessee agrees to make such information available to Lessor from time to time as Lessor may reasonably request.

ARTICLE 24: GOVERNING LAWS

The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Texas. This Agreement, together with any Rider(s) attached hereto, contains all of the terms and conditions agreed to between the parties, and no other prior agreements, oral or otherwise, concerning the subject matter of this Agreement, shall be deemed to exist or bind either party hereto. The terms of this Agreement and the rights and obligations of the parties may be changed or waived only by writing executed by both parties.

ARTICLE 25: SEVERABILITY

Any provision of this Agreement 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 provision in any other jurisdiction.

ARTICLE 26: FURTHER ASSURANCES; FINANCIAL INFORMATION

A. Lessee will, at its expense, promptly and duly execute and deliver to Lessor such further documents and assurances and take such further action as Lessor may from time to time reasonably request in order to more effectively carry out the intent and purpose of this Agreement and to establish and protect the rights, interests and remedies created or intended to be created in favor of Lessor hereunder, including, without limitation, the execution, delivery, recordation and filing of documents with the Interstate Commerce Commission, and the execution and filing of Uniform Commercial Code financing statements in the appropriate jurisdictions.

B. Lessee will furnish to Lessor not later than 120 days after the end of each fiscal year of Lessee, a consolidated balance sheet of Lessee as at the end of such fiscal year, and the consolidated statements of income and cash flow of Lessee for

such fiscal year, together with equivalent information for the prior fiscal year, all in reasonable detail, prepared in accordance with generally accepted accounting principles and audited by a nationally recognized firm of independent certified public accountants.

ARTICLE 27: NOTICES

Unless otherwise expressly specified or permitted by the terms of this Agreement or any Rider hereto, all notices required or permitted herein shall be in writing and shall become effective (a) upon personal delivery thereof, including, without limitation, by overnight mail and courier service, or (b) in the case of notice by United States mail, certified or registered, postage prepaid, return receipt requested, upon receipt thereof, in each case addressed to each party hereto at its address set forth below or, in the case of any such party hereto, at such other address as such party may from time to time designate by written notice to the other parties hereto:

If to the Lessee:

Burlington Northern Railroad Company
777 Main Street
Fort Worth, Texas 76102
Attention: Treasurer

If to the Lessor:

General Electric Capital Corporation
1600 Summer Street
Stamford, Connecticut 06905
Attention: Manager - Operations, Transportation
& Industrial Funding

If to BNLC:

BN Leasing Corporation
777 Main Street
Fort Worth, Texas 76102
Attention: Treasurer

IN WITNESS WHEREOF, the parties have executed this Agreement as of the 1st day of March, 1990.

**BURLINGTON NORTHERN RAILROAD
COMPANY**

By
Title Vice President and Treasurer

BN LEASING CORPORATION

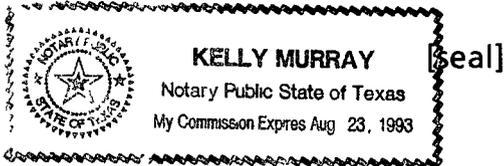
By
Title Vice President and Treasurer

**GENERAL ELECTRIC CAPITAL
CORPORATION**

By
Title MANAGER - OPERATIONS

STATE OF TEXAS)
) ss.
COUNTY OF TARRANT)

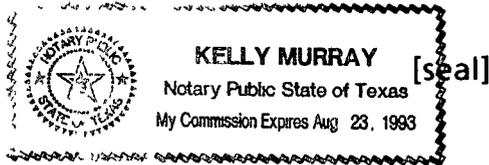
On this 1st day of March, 1990, before me personally appeared Robert F. McKenney to me personally known, who being duly sworn, did depose and say that such person is Vice President and Treasurer of the Burlington Northern Railroad Company and that the foregoing Lease Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of such corporation.



Kelly Murray
Notary Public

STATE OF TEXAS)
) ss.
COUNTY OF TARRANT)

On this 1st day of March, 1990, before me personally appeared Robert F. McKenney, to me personally known, who being duly sworn, did depose and say that such person is Vice President and Treasurer of the BN Leasing Corporation and that the foregoing Lease Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of such corporation.



Kelly Murray
Notary Public

STATE OF CONNECTICUT)
) ss.
COUNTY OF FAIRFIELD)

On this 1st day of March, 1990, before me personally appeared DONALD H. EAKIN, to me personally known, who being duly sworn, did depose and say that such person is MANAGER-OPERATIONS of the General Electric Capital Corporation and that the foregoing Lease Agreement was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of such corporation.

[seal]

Alice F. Nell
Notary Public

ALICE F. NELL
NOTARY PUBLIC, STATE OF CONNECTICUT
MY COMMISSION EXPIRES MARCH 31, 1993

EXHIBIT A

I, the duly authorized representative for Burlington Northern Railroad Company (Lessee), do hereby certify that I have inspected each of the units of equipment identified below and I have accepted delivery of each such unit on the date and at the time and place set forth below:

Number of Units:

Description of Units:

Unit Numbers:

Delivered at:

The equipment is subject to all the terms and conditions of the Agreement between General Electric Capital Corporation, Lessor, Burlington Northern Railroad Company, Lessee, and BN Leasing Corporation, BNLC, dated March 1, 1990 and Rider

_____.

Date: _____

Time: _____

**Authorized Representative of
Lessee**

RIDER ONE (1) TO LEASE AGREEMENT

Effective this 1st day of March, 1990, this Rider shall become a part of the Agreement between **General Electric Capital Corporation**, Lessor, **Burlington Northern Railroad Company**, Lessee, and **BN Leasing Corporation, BNLC**, dated March 1, 1990 (the "Agreement"). The Units described herein shall be leased to Lessee, subject to the terms and conditions in said Agreement and this Rider as shown below:

- I. NUMBER OF UNITS: Ninety (90).
- II. DESCRIPTION OF UNITS: A332, XL, 50', 70 ton boxcar.
- III. LEASE TERM: March 1, 1990 through February 28, 2005.
- IV. RENTAL RATE: \$660 per Unit per semiannual period.
- V. PAYMENT DATES: September 1 and March 1.
- VI. EARLY PURCHASE OPTION: Subject to Article 22 of the Agreement, BNLC has the right to purchase any or all of the Units remaining on March 1, 1992 for \$11,500 per Unit.
- VII. PURCHASE OPTION: Subject to Article 22 of the Agreement, BNLC has the right to purchase any or all of the Units remaining at the end of the Lease Term for the lower of their then Fair Market Value, as determined not later than 30 days prior to the expiration of the Lease Term, or \$4,000 per Unit.
- VIII. RENEWAL OPTION: Subject to Article 22 of the Agreement, BNLC has the right to extend the term of this Agreement in respect of any or all of the Units remaining at the end of the Lease Term for a period of up to two (2) years at the Units' then Fair Market Rental Value, as determined not later than 30 days prior to the expiration of the Lease Term.
- IX. DELIVERY DATE: March 1, 1990.
- X. PLACE OF DELIVERY: The Units are already in Lessee's possession and Lessee hereby accepts the Units under the Agreement "as is, where is".
- XI. COST OF DELIVERY: At Lessee's expense.

RIDER ONE (1) TO LEASE AGREEMENT

XII. UNIT INITIALS AND NUMBERS:

BN 332100 - 332105 (all inclusive)
BN 332109 - 332111 (all inclusive)
BN 332114 - 332135 (all inclusive)
BN 332137 - 332146 (all inclusive)
BN 332148 - 332163 (all inclusive)
BN 332165 - 332183 (all inclusive)
BN 332187 - 332199 (all inclusive)
SLSF 13585

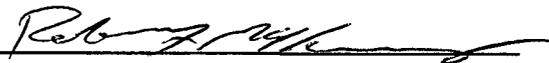
XIII. CASUALTY SCHEDULE:

<u>Rental Payment Date</u>	<u>Casualty Value</u>	<u>Rental Payment Date</u>	<u>Casualty Value</u>
3/1/90	\$12,000	3/1/98	\$8,553
9/1/90	\$11,875	9/1/98	\$8,321
3/1/91	\$11,750	3/1/99	\$8,077
9/1/91	\$11,625	9/1/99	\$7,821
3/1/92	\$11,500	3/1/00	\$7,552
9/1/92	\$10,483	9/1/00	\$7,270
3/1/93	\$10,347	3/1/01	\$6,973
9/1/93	\$10,205	9/1/01	\$6,662
3/1/94	\$10,055	3/1/02	\$6,335
9/1/94	\$9,898	9/1/02	\$5,992
3/1/95	\$9,733	3/1/03	\$5,631
9/1/95	\$9,559	9/1/03	\$5,253
3/1/96	\$9,377	3/1/04	\$4,855
9/1/96	\$9,186	9/1/04	\$4,438
3/1/97	\$8,985	3/1/05	\$4,000
9/1/97	\$8,775		

RIDER ONE (1) TO LEASE AGREEMENT

IN WITNESS WHEREOF, the parties have executed this Rider as of the 1st day of March, 1990.

**BURLINGTON NORTHERN RAILROAD
COMPANY**

By 
Title Vice President and Treasurer

BN LEASING CORPORATION

By 
Title Vice President and Treasurer

**GENERAL ELECTRIC CAPITAL
CORPORATION**

By 
Title MANAGER - OPERATIONS

RIDER TWO (2) TO LEASE AGREEMENT

Effective this 1st day of March, 1990, this Rider shall become a part of the Agreement between **General Electric Capital Corporation**, Lessor, **Burlington Northern Railroad Company**, Lessee, and **BN Leasing Corporation**, BNLC, dated March 1, 1990 (the "Agreement"). The Units described herein shall be leased to Lessee, subject to the terms and conditions in said Agreement and this Rider as shown below:

- I. NUMBER OF UNITS: Two hundred eighty five (285).
- II. DESCRIPTION OF UNITS: B314, XM, 50', 70 ton boxcar.
- III. LEASE TERM. March 1, 1990 through February 28, 2005.
- IV. RENTAL RATE: \$660 per Unit per semiannual period.
- V. PAYMENT DATES: September 1 and March 1.
- VI. EARLY PURCHASE OPTION: Subject to Article 22 of the Agreement, BNLC has the right to purchase any or all of the Units remaining on March 1, 1992 for \$11,500 per Unit.
- VII. PURCHASE OPTION: Subject to Article 22 of the Agreement, BNLC has the right to purchase any or all of the Units remaining at the end of the Lease Term for the lower of their then Fair Market Value, as determined not later than 30 days prior to the expiration of the Lease Term, or \$4,000 per Unit.
- VIII. RENEWAL OPTION: Subject to Article 22 of the Agreement, BNLC has the right to extend the term of this Agreement in respect of any or all of the Units remaining at the end of the Lease Term for a period of up to two (2) years at the Units' then Fair Market Rental Value, as determined not later than 30 days prior to the expiration of the Lease Term.
- IX. DELIVERY DATE: March 1, 1990.
- X. PLACE OF DELIVERY: The Units are already in Lessee's possession and Lessee hereby accepts the Units under the Agreement "as is, where is".
- XI. COST OF DELIVERY: At Lessee's expense.

RIDER TWO (2) TO LEASE AGREEMENT

XII. UNIT INITIALS AND NUMBERS:

BN 217501 - 217514 (all inclusive)	BN 217670 - 217686 (all inclusive)
BN 217516 - 217523 (all inclusive)	BN 217688 - 217690 (all inclusive)
BN 217525 - 217533 (all inclusive)	BN 217693 - 217695 (all inclusive)
BN 217535 - 217542 (all inclusive)	BN 217697 - 217706 (all inclusive)
BN 217544 - 217547 (all inclusive)	BN 217708 - 217711 (all inclusive)
BN 217549 - 217550 (all inclusive)	BN 217713 - 217718 (all inclusive)
BN 217552 - 217560 (all inclusive)	BN 217720 - 217722 (all inclusive)
BN 217562 - 217568 (all inclusive)	BN 217724 - 217736 (all inclusive)
BN 217571 - 217575 (all inclusive)	BN 217738 - 217750 (all inclusive)
BN 217577 - 217578 (all inclusive)	BN 217752 - 217755 (all inclusive)
BN 217580 - 217582 (all inclusive)	BN 217757 - 217762 (all inclusive)
BN 217584 - 217587 (all inclusive)	BN 217765, BN 217767
BN 217589 - 217616 (all inclusive)	BN 217769 - 217774 (all inclusive)
BN 217618 - 217623 (all inclusive)	BN 217777 - 217778 (all inclusive)
BN 217625 - 217644 (all inclusive)	BN 217780 - 217787 (all inclusive)
BN 217646 - 217660 (all inclusive)	BN 217789 - 217790 (all inclusive)
BN 217662 - 217664 (all inclusive)	BN 217792 - 217799 (all inclusive)
BN 217666 - 217668 (all inclusive)	BN 332107, BN 332136, BN 332164

SLSF 44000, SLSF 44015, SLSF 44024, SLSF 44051, SLSF 44061, SLSF 44069
 SLSF 44076, SLSF 44124, SLSF 44161, SLSF 44165, SLSF 44169, SLSF 44191
 SLSF 44192, SLSF 44196, SLSF 44219, SLSF 44223, SLSF 44251, SLSF 44263
 SLSF 44264, SLSF 44276, SLSF 44288, SLSF 44291

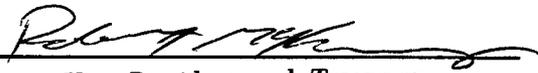
XIII. CASUALTY SCHEDULE:

<u>Rental Payment Date</u>	<u>Casualty Value</u>	<u>Rental Payment Date</u>	<u>Casualty Value</u>
3/1/90	\$12,000	3/1/98	\$8,553
9/1/90	\$11,875	9/1/98	\$8,321
3/1/91	\$11,750	3/1/99	\$8,077
9/1/91	\$11,625	9/1/99	\$7,821
3/1/92	\$11,500	3/1/00	\$7,552
9/1/92	\$10,483	9/1/00	\$7,270
3/1/93	\$10,347	3/1/01	\$6,973
9/1/93	\$10,205	9/1/01	\$6,662
3/1/94	\$10,055	3/1/02	\$6,335
9/1/94	\$9,898	9/1/02	\$5,992
3/1/95	\$9,733	3/1/03	\$5,631
9/1/95	\$9,559	9/1/03	\$5,253
3/1/96	\$9,377	3/1/04	\$4,855
9/1/96	\$9,186	9/1/04	\$4,438
3/1/97	\$8,985	3/1/05	\$4,000
9/1/97	\$8,775		

RIDER TWO (2) TO LEASE AGREEMENT

IN WITNESS WHEREOF, the parties have executed this Rider as of the 1st day of March, 1990.

**BURLINGTON NORTHERN RAILROAD
COMPANY**

By 
Title Vice President and Treasurer

BN LEASING CORPORATION

By 
Title Vice President and Treasurer

**GENERAL ELECTRIC CAPITAL
CORPORATION**

By 
Title MANAGER - OPERATIONS

RIDER THREE (3) TO LEASE AGREEMENT

Effective this 1st day of March, 1990, this Rider shall become a part of the Agreement between **General Electric Capital Corporation**, Lessor, **Burlington Northern Railroad Company**, Lessee, and **BN Leasing Corporation**, BNLC, dated March 1, 1990 (the "Agreement"). The Units described herein shall be leased to Lessee, subject to the terms and conditions in said Agreement and this Rider as shown below:

- I. NUMBER OF UNITS: Two hundred sixty one (261).
- II. DESCRIPTION OF UNITS. C113, LO, 4750 cubic foot, 100-ton covered hopper.
- III. LEASE TERM: March 1, 1990 through February 28, 2005.
- IV. RENTAL RATE: \$1,186 per Unit per semiannual period.
- V. PAYMENT DATES: September 1 and March 1.
- VI. EARLY PURCHASE OPTION: Subject to Article 22 of the Agreement, BNLC has the right to purchase any or all of the Units remaining on March 1, 1992 for \$20,000 per Unit.
- VII. PURCHASE OPTION: Subject to Article 22 of the Agreement, BNLC has the right to purchase any or all of the Units remaining at the end of the Lease Term for the lower of their then Fair Market Value, as determined not later than 30 days prior to the expiration of the Lease Term, or \$5,000 per Unit.
- VIII. RENEWAL OPTION: Subject to Article 22 of the Agreement, BNLC has the right to extend the term of this Agreement in respect of any or all of the Units remaining at the end of the Lease Term for a period of up to two (2) years at the Units' then Fair Market Rental Value, as determined not later than 30 days prior to the expiration of the Lease Term.
- IX. DELIVERY DATE: March 1, 1990.
- X. PLACE OF DELIVERY: The Units are already in Lessee's possession and Lessee hereby accepts the Units under the Agreement "as is, where is".
- XI. COST OF DELIVERY: At Lessee's expense.

RIDER THREE (3) TO LEASE AGREEMENT

XII. UNIT INITIALS AND NUMBERS:

BN 445400	BN445511	BN445614	SLSF 79513	SLSF 79627	SLSF 79735
BN 445402	BN445514	BN445616	SLSF 79515	SLSF 79629	SLSF 79736
BN 445403	BN445515	BN445617	SLSF 79516	SLSF 79630	SLSF 79737
BN 445408	BN445517	BN445619	SLSF 79517	SLSF 79633	SLSF 79742
BN 445410	BN445518	BN445620	SLSF 79524	SLSF 79634	SLSF 79744
BN 445414	BN445519	BN445623	SLSF 79526	SLSF 79635	SLSF 79748
BN 445418	BN445520	BN445624	SLSF 79532	SLSF 79636	SLSF 79750
BN 445419	BN445522	BN445625	SLSF 79536	SLSF 79642	SLSF 79755
BN 445420	BN445526	BN445626	SLSF 79538	SLSF 79646	SLSF 79756
BN 445422	BN445528	BN445628	SLSF 79541	SLSF 79648	SLSF 79757
BN 445423	BN445531	BN445630	SLSF 79543	SLSF 79649	SLSF 79758
BN 445428	BN445532	BN445632	SLSF 79549	SLSF 79651	SLSF 79764
BN 445429	BN445537	BN445633	SLSF 79550	SLSF 79652	SLSF 79767
BN 445430	BN445538	BN445640	SLSF 79551	SLSF 79653	SLSF 79768
BN 445431	BN445539	BN445641	SLSF 79554	SLSF 79658	SLSF 79769
BN 445433	BN445540	BN445643	SLSF 79555	SLSF 79660	SLSF 79773
BN 445434	BN445541	BN445645	SLSF 79556	SLSF 79661	SLSF 79775
BN 445435	BN445544	BN445646	SLSF 79557	SLSF 79666	SLSF 79779
BN 445437	BN445545	BN445647	SLSF 79559	SLSF 79668	SLSF 79782
BN 445439	BN445547	BN445649	SLSF 79560	SLSF 79672	SLSF 79785
BN 445445	BN445550	BN445652	SLSF 79561	SLSF 79673	SLSF 79786
BN 445447	BN445554	BN445653	SLSF 79563	SLSF 79675	SLSF 79787
BN 445452	BN445555	BN445654	SLSF 79570	SLSF 79677	SLSF 79788
BN 445458	BN445557	BN445659	SLSF 79572	SLSF 79679	SLSF 79790
BN 445464	BN445559	BN445661	SLSF 79575	SLSF 79680	SLSF 79791
BN 445465	BN445562	BN445662	SLSF 79578	SLSF 79685	SLSF 79792
BN 445466	BN445563	BN445663	SLSF 79580	SLSF 79687	SLSF 79793
BN 445467	BN445564	BN445665	SLSF 79581	SLSF 79694	SLSF 79796
BN 445469	BN445565	BN445666	SLSF 79584	SLSF 79696	SLSF 79797
BN 445473	BN445567	BN445670	SLSF 79587	SLSF 79697	SLSF 79798
BN 445474	BN445569	BN445671	SLSF 79590	SLSF 79698	SLSF 79799
BN 445476	BN445570	BN445672	SLSF 79591	SLSF 79699	
BN 445477	BN445574	BN445674	SLSF 79594	SLSF 79700	
BN 445479	BN445576	BN445677	SLSF 79596	SLSF 79701	
BN 445482	BN445578	BN445678	SLSF 79600	SLSF 79702	
BN 445483	BN445581	BN445680	SLSF 79602	SLSF 79706	
BN 445485	BN445582	BN445681	SLSF 79604	SLSF 79707	
BN 445486	BN445584	BN445683	SLSF 79606	SLSF 79708	
BN 445488	BN445589	BN445689	SLSF 79608	SLSF 79709	
BN 445489	BN445590	BN445694	SLSF 79610	SLSF 79711	
BN 445493	BN445591	BN445695	SLSF 79612	SLSF 79712	
BN 445497	BN445592	SLSF 79501	SLSF 79613	SLSF 79713	
BN 445498	BN445595	SLSF 79504	SLSF 79616	SLSF 79718	
BN 445499	BN445603	SLSF 79505	SLSF 79623	SLSF 79721	
BN 445501	BN445604	SLSF 79507	SLSF 79624	SLSF 79727	
BN 445507	BN445605	SLSF 79512	SLSF 79625	SLSF 79729	

RIDER THREE (3) TO LEASE AGREEMENT

XIII. CASUALTY SCHEDULE.

<u>Rental Payment Date</u>	<u>Casualty Value</u>	<u>Rental Payment Date</u>	<u>Casualty Value</u>
3/1/90	\$21,500	3/1/98	\$14,265
9/1/90	\$21,125	9/1/98	\$13,792
3/1/91	\$20,750	3/1/99	\$13,296
9/1/91	\$20,375	9/1/99	\$12,775
3/1/92	\$20,000	3/1/00	\$12,228
9/1/92	\$18,192	9/1/00	\$11,653
3/1/93	\$17,916	3/1/01	\$11,050
9/1/93	\$17,625	9/1/01	\$10,416
3/1/94	\$17,321	3/1/02	\$9,751
9/1/94	\$17,001	9/1/02	\$9,052
3/1/95	\$16,665	3/1/03	\$8,319
9/1/95	\$16,312	9/1/03	\$7,549
3/1/96	\$15,941	3/1/04	\$6,740
9/1/96	\$15,553	9/1/04	\$5,891
3/1/97	\$15,144	3/1/05	\$5,000
9/1/97	\$14,715		

IN WITNESS WHEREOF, the parties have executed this Rider as of the 1st day of March, 1990.

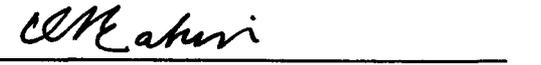
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