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ELLSWORTH C. ALVORD (1964)

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DEC 16 2 50 PM '91  
MOTOR OPERATING UNIT

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*7-132*

December 13, 1991

*New Number*

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

RECORDATION NO 17629  
FILED 1991

DEC 16 1991 2 55 PM

INTERSTATE COMMERCE COMMISSION

RECORDATION NO 17629 A  
FILED 1991

DEC 16 1991 2 52 PM

INTERSTATE COMMERCE COMMISSION

Dear Mr. Strickland:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11303(a) are two fully executed and acknowledged copies each of an Equipment Lease dated as of December 13, 1991, a primary document as defined in the Commission's Rules for the Recordation of Documents under 49 C.F.R. Section 1177 and a Certificate of Acceptance No. 1 dated December 13, 1991, a secondary document.

The names and addresses of the parties to the enclosed Equipment Lease are:

Lessor: Security Pacific Equipment Leasing, Inc.  
Four Embarcadero Center  
San Francisco, California 94111

Lessee: Champion International Corporation  
One Champion Plaza  
Stamford, Connecticut 06921

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

One hundred twenty-five (125) Gunderson 100-ton Plate C Boxcars bearing CRLE reporting marks and road numbers 6200 through 6324, both inclusive.

Also enclosed is a check in the amount of \$32 payable to the order of the Interstate Commerce Commission covering the required recordation fee.

*Counterparts - C.T. Kappler*

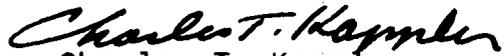
Mr. Sidney L. Strickland, Jr.  
December 13, 1991  
Page Two

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

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

Equipment Lease dated as of December 13, 1991 between Security Pacific Equipment Leasing, Inc., Lessor and Champion International Corporation, Lessee, covering 125 Boxcars, CRLE 6200 - CRLE 6324, both inclusive.

Very truly yours,

  
Charles T. Kappler

CTK/bg  
Enclosures

Interstate Commerce Commission  
Washington, D.C. 20423

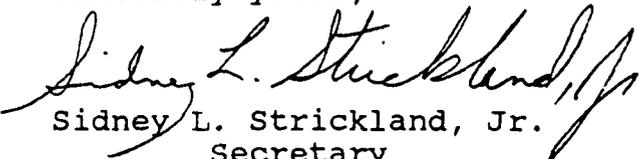
OFFICE OF THE SECRETARY

Charles T. Kappler  
Alvord And Alvord  
200 World Center Building  
918 Sixteenth Street, N. W.  
Washington, DC 20006-2973

Dear Sirs:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 12/16/91 at 2:55PM, and assigned recordation number(s). 17629-17629-A, 17630-17630-A.

Sincerely yours,

  
Sidney L. Strickland, Jr.  
Secretary

RECORDATION NO. 7629 FILED 1991

*New number*

DEC 16 1991 2:02 PM  
INTERSTATE COMMERCE COMMISSION

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**EQUIPMENT LEASE**

Dated as of December 13, 1991

Between

**SECURITY PACIFIC EQUIPMENT  
LEASING, INC.,**

Lessor

And

**CHAMPION INTERNATIONAL CORPORATION**

Lessee

with Respect to 125 Gunderson 100-Ton  
Plate C Boxcars

---

THIS IS COUNTERPART NO. 2 OF 5 SERIALLY NUMBERED, MANUALLY EXECUTED COUNTERPARTS. NO SECURITY INTEREST, AND NO RIGHT, TITLE OR INTEREST IN THIS LEASE MAY BE CREATED THROUGH THE TRANSFER AND POSSESSION OF ANY COUNTERPART OTHER THAN COUNTERPART NO. 1. THIS LEASE HAS BEEN ASSIGNED TO AND IS SUBJECT TO A SECURITY INTEREST IN FAVOR OF THE CANADA LIFE ASSURANCE COMPANY, CANADA LIFE INSURANCE COMPANY OF NEW YORK AND CANADA LIFE INSURANCE COMPANY OF AMERICA

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**ATTACHMENTS TO EQUIPMENT LEASE:**

- Exhibit A - Description of Items of Equipment.
- Exhibit B - Form of Certificate of Acceptance.
- Exhibit C-1 and C-2 - Schedules of Fixed Rentals.
- Exhibit D-1 and D-2 - Schedules of Casualty Values.
- Exhibit E - Lessor Assumptions

## EQUIPMENT LEASE

THIS EQUIPMENT LEASE dated as of December 13, 1991 between SECURITY PACIFIC EQUIPMENT LEASING, INC., a Delaware corporation (the "*Lessor*") and CHAMPION INTERNATIONAL CORPORATION, a New York corporation (the "*Lessee*").

WHEREAS the Lessee and the Lessor desire to set forth the terms and conditions under which Lessor shall purchase and lease to Lessee and Lessee shall lease from Lessor, the equipment (collectively the "*Equipment*" or "*Items of Equipment*" and individually an "*Item*" or "*Item of Equipment*") described in Exhibit A hereto and made a part hereof.

NOW THEREFORE, Lessor and Lessee agree as follows:

### SECTION 1. PURCHASE OF EQUIPMENT BY LESSOR.

*Section 1.1 Funding Dates.* Subject to the terms and conditions hereof, Lessor's investment in Items of Equipment to be leased hereunder shall be made on December 16, 1991 or such date prior to December 30, 1991 that the funding of the first Items of Equipment takes place (the "*First Funding Date*"), December 30, 1991, and on February 3, 1992, or following Lessee's acceptance of the last Item of Equipment, but in no event later than February 28, 1992, (each, a "*Funding Date*"); provided that the maximum amount of Lessor's Cost of Equipment with respect to which Lessor shall be obligated to make its investment as provided herein, shall be limited to \$7,893,875.00.

*Section 1.2 Lessor Financing of Investment in Equipment.* Lessee acknowledges and agrees that Lessor intends to fund Lessor's Cost of those Items of Equipment to be settled for on each Funding Date as follows: (i) 20% of Lessor's Cost with Lessor's own funds with respect to December 1991 Funding Dates and 20% of Lessor's Cost with respect to any Funding Date in 1992; and (ii) 80% of Lessor's Cost with respect to Funding Dates in December 1991 and 80% of Lessor's Cost with respect to any Funding Date in 1992, by issuing and selling its NonRecourse Secured Notes (the "*Notes*") to a financial institution satisfactory to Lessor, pursuant to a Notes Purchase Agreement and Security Agreement dated of even date herewith. Such Notes shall be secured by an assignment as security of Lessor's interest in and to the Equipment and in and to this Equipment Lease, as contemplated by Section 18 hereof. Lessor shall pay the Manufacturer the Lessor's Cost of the Items of Equipment to be settled for on each Funding Date, subject to the terms of this Lease and the Purchase Agreement Assignment of even date herewith executed by Lessee, Lessor and Manufacturer.

*Section 1.3 Certain Definitions.* For all purposes of the transactions contemplated by this Lease, the following terms shall have the meanings provided below:

*"Closing Date"*. Closing date shall mean the date of this Lease or such other date as the funding of the first Items of Equipment takes place.

*"Lessor's Cost"*. Lessor's Cost shall mean the purchase price payable by Lessor for the Items of Equipment as evidenced by the invoices of the Manufacturer thereof (including costs for final assembly and all other costs that are permitted to be capitalized under generally accepted accounting principles, and including sales and excise taxes, if any.)

*"Lessor Liens"*. as defined in Section 10(b).

*"Manufacturer"*. Manufacturer shall mean Gunderson, Inc.

*"Operative Agreements"*. Operative Agreements shall mean this Equipment Lease, Certificates of Acceptance, the Tax Indemnity Agreement, the Purchase Agreement Assignment and Consent, the Bills of Sale from Manufacturer to Lessor, the Security Agreement, the Notes, and the Consent and Agreement of Champion International Corporation, all as modified or supplemented from time to time by a duly authorized and executed writing in accordance with their term.

## SECTION 2. ACCEPTANCE AND LEASE OF EQUIPMENT.

*Section 2.1. Intent to Lease.* The Lessor shall lease to the Lessee and the Lessee shall lease from the Lessor all Items of Equipment which are delivered to and accepted pursuant to Section 2.3 hereof, for the Rents, and on and subject to the terms and conditions herein set forth.

*Section 2.2. Inspection and Acceptance.* Following delivery of each Item of Equipment, the Lessee shall inspect each Item, and upon the Lessee's determination in its sole discretion that an Item is satisfactory, the Lessee shall accept those Items of Equipment on behalf of itself and the Lessor by executing and delivering to the Lessor a certificate of acceptance in the form attached hereto as Exhibit B ("*Certificate of Acceptance*") with respect to such Items of Equipment; *provided, however*, that the Lessee shall not accept and the Lessor shall have no obligation to purchase or lease any Item of Equipment delivered after February 28, 1992; and provided further that Lessor shall not be obligated to fund Items of Equipment accepted by Lessee in December 1991 after December 31, 1991, provided, however that on the December 30, 1991 Funding Date, Lessor shall fund all Items of Equipment accepted by Lessee on or before December 30, 1991.

*Section 2.3. Certificate of Acceptance.* The Lessee's execution and delivery of a Certificate of Acceptance with respect to an Item of Equipment pursuant to Section 3.2 hereof shall conclusively establish that, as between the Lessor and the Lessee, but without limiting or otherwise affecting the Lessee's or the Lessor's rights, if any, against the Manufacturer, 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, and that such Item of Equipment is in good order and condition and conforms to the specifications applicable thereto and to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications, if any, and to all standards recommended by the Association of American Railroads applicable to railroad equipment of the character of

the Equipment as of the date of this Lease. By execution and delivery of such Certificate of Acceptance, the Lessee represents that it has no knowledge of any such defect. Lessee shall convey, or cause to be conveyed to Lessor good and marketable title to those Items of Equipment accepted by Lessee on any Certificate of Acceptance, free and clear of all liens and encumbrances except for this Lease and any liens arising through Lessor including the interests of Lessor's assignee pursuant to Section 18.

### SECTION 3. RENTALS AND PAYMENT DATES.

*Section 3.1. Rent for Equipment.* The Lessee agrees to pay the following rent for each Item of Equipment (collectively the following amounts shall be referred to as "Rent"):

(a) *Interim Rental.* For each Item of Equipment Lessee shall pay to Lessor, for each day from and including the Funding Date applicable to an Item of Equipment to, but excluding the Basic Lease Term Commencement Date an amount equal to the daily equivalent of the average Fixed Rentals applicable to such Item over the Basic Lease Term, ("Interim Rental"). Lessee shall pay Interim Rentals for each Item of Equipment to Lessor on the Basic Lease Term Commencement Date; and

(b) *Fixed Rental.* For each Item of Equipment, the Lessee shall pay to the Lessor two hundred sixteen (216) monthly installments of fixed rental payable in arrears, as set forth in Exhibit C-1 hereto with respect to Items of Equipment accepted by Lessee on Certificates of Acceptance in December, 1991; and as set forth in Exhibit C-2 hereto with respect to Items of Equipment accepted by Lessee on Certificates of Acceptance in 1992 ("*Fixed Rental*"); (unless Lessee shall have exercised its Early Buyout Purchase Option under Section 20.1 hereof in which event Lessee shall pay 180 monthly installments of Fixed Rental, and all other amounts required under Section 20.1); and

(c) *Supplemental Rent.* In addition to its obligation to pay Fixed Rental hereunder, Lessee also agrees to pay, as supplemental rent hereunder ("*Supplemental Rent*"), any and all amounts, liabilities and obligations (other than Fixed Rental) which Lessee assumes or agrees to pay hereunder, including without limitation, interest pursuant to Section 22 on any part of any installment of Fixed Rental or other amounts payable by Lessee hereunder not paid when due, Casualty Value, Purchase Option Amount, the indemnities provided for in Sections 7 and 11 hereunder, payments provided for in Section 20 hereof, and payments under the Tax Indemnity Agreement.

*Section 3.2. Rent Payment Dates.* The basic term of this Lease with respect to all Items of Equipment shall begin on March 1, 1992 ("*Basic Lease Term Commencement Date*") and continue for eighteen (18) years thereafter (the "*Basic Lease Term*"). The first installment of Fixed Rental for each Item of Equipment shall be due and payable on April 1, 1992 and the balance of said installments shall be payable on the first day of each month thereafter with the final such installment payable on March 1, 2010, all in accordance with Exhibits C-1 and C-2 hereto. Each payment of Supplemental Rent shall be due and payable on the dates provided herein. If any of the Rent Payment

Dates, or date on which any other payment is due hereunder is not a Business Day, the rent payment otherwise payable on such date shall be payable on the next succeeding Business Day without penalty or interest. For purposes of this Lease, the term "*Business Day*" means calendar days, excluding Saturdays, Sundays and holidays on which banks in the State of California are authorized or required to close.

*Section 3.3. Place and Manner of Payments.* The Lessee agrees that it will make payments due hereunder by check of the Lessee drawn on a bank located in the continental United States and mailed to Lessor at the address herein provided or at such other address as the Lessee shall have been previously advised in writing.

*Section 3.4. Net Lease.* This Lease is a net lease and the Lessee's obligation to pay all Interim Rental, Fixed Rental and Supplemental Rent 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 18 hereof; 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 all or any Item of Equipment by condemnation or otherwise, the prohibition of or interference with Lessee's use of the Equipment, the invalidity or unenforceability of this Lease, the insolvency of the Lessee, the commencement of any bankruptcy proceedings by or against the Lessee, 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 Rents 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 13, 16 or 20 hereof, or until, pursuant to Section 15 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 fully 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. The Lessee hereby waives any and all existing or future claims of any right to assert any offset against the rent payments due hereunder, and agrees to make the rent payments regardless of any offset or claim which may be asserted by the Lessee on its behalf in connection with the lease of the Equipment. Each rental or other payment paid by Lessee in accordance with the terms of this Lease shall be final and the Lessee shall not seek to recover all or part of such payment from the Lessor or any assignee pursuant to Section 18 hereof for any reason whatsoever; provided however that nothing herein shall be construed as a waiver of Lessee's right, and Lessee shall be entitled to seek monetary damages or specific performance or other relief on account of any failure of Lessor, or its assignee pursuant to Section 18 hereof, to perform its obligations under this Lease or any other Operative Agreement or on account of any act or breach of any agreement, warranty or representation of Lessor, so long as Lessee shall, continue to make payments of Rent and all other payments and perform its

obligations under this Lease. So long as no Event of Default has occurred and is continuing, amounts paid in error by the Lessee in excess of the rentals or other amounts then due and payable under the Lease shall be promptly refunded to Lessee upon notification by Lessee to Lessor. Should an Event of Default have occurred and be continuing, Lessor shall apply any such amounts received by it to Lessee's obligations hereunder.

*Section 3.5. Adjustment of Rentals.* The installments of Fixed Rental set forth in Exhibit C-1 and C-2 hereto and the Casualty Value tables attached hereto as Exhibit D-1 and D-2 have been calculated in accordance with the assumptions of Lessor set forth in Exhibit E hereto.

If such assumptions shall prove to be incorrect, then the Lessor acting in good faith shall, prior to March 1, 1992 recompute the Fixed Rentals, the Casualty Values and Purchase Option Amounts upwards or downwards in order to (A) preserve the Lessor's net after-tax yield and aggregate net after-tax cash flows ("Net Economic Return"), based on (1) the same methodology and investment assumptions utilized by the Lessor in establishing the original Fixed Rental, Casualty Value and Purchase Option Amounts and (2) the same accounting standards in effect as of the applicable Funding Date while (B) minimizing the net present value of the Fixed Rental to the Lessee to the extent possible consistent with the foregoing clause (A); provided however, that the Purchase Option Amounts shall only be adjusted upwards and may never be less than the amounts provided in Section 20.1(a) hereof. The Lessor and the Lessee shall execute and deliver a Lease Supplement, satisfactory to Lessor and Lessee reflecting any revisions to the Purchase Option Amounts and to Exhibits C-1, C-2 and D-1 and D-2 hereof made pursuant to this Section.

Any notice to the Lessee from the Lessor setting forth the results of any recomputation pursuant to the paragraph above shall be accompanied by a letter from the Lessor enclosing the recomputation and setting forth in reasonable detail the reasons for such recomputation and stating that such recomputation was made in accordance with this Section 3.5. If requested in writing by the Lessee within 30 days after the receipt of any such notice of recomputation, the Lessor hereby agrees to have a nationally recognized accounting firm of independent certified public accountants selected by the Lessor and acceptable to Lessee to review at the Lessee's expense such recomputation and verify to the Lessee that such recomputation was correctly made in accordance with the standards described in this Section 3.5. If such review reveals a miscalculation, then the Lessor shall readjust the schedules of Fixed Rental, and Casualty Values and Purchase Option Amounts pursuant to the results of such review. Lessor will reimburse Lessee for the reasonable costs of the accountant's review, should the recomputation result in an adjustment of 5 basis points or more to net present value of the remaining Fixed Rentals as computed in connection with the foregoing verification procedures.

#### SECTION 4. TERM OF THE LEASE.

The term of this Lease as to each Item of Equipment shall consist of the applicable Interim Lease Term, Basic Lease Term and any renewal term permitted hereunder. The Interim Lease Term for each Item of Equipment shall begin on the date of Acceptance of any Item of Equipment and shall continue for each day up to but not

including the Basic Lease Term Commencement Date. The Basic Lease Term shall commence on the Basic Lease Term Commencement Date and shall, subject to the provisions of Section 13, 16 and 20 hereof, continue for 18 years and terminate on February 28, 2010.

## SECTION 5. OWNERSHIP AND MARKING OF EQUIPMENT AND FILING.

*Section 5.1. Retention of Title.* The Lessor 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 sublessee. Lessee acknowledges and agrees that Lessor is the owner of the Equipment and that nothing herein shall be construed as conveying to Lessee any beneficial right, title or interest in or to the Equipment, except as Lessee hereunder.

*Section 5.2. Duty to Number and Mark Equipment.* The Lessee will cause each Item of Equipment to be kept numbered with the identifying number as set forth in Exhibit A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each Item of Equipment in letters not less than one inch in height as follows:

**"OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE 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 18 hereof. The Lessee will replace promptly any such names and word or words which may be removed, obliterated, defaced or destroyed. The Lessee will not change the identifying number of any Item of Equipment unless and until (i) a statement of new identifying numbers to be substituted therefor shall have been delivered to the Lessor and any assignee under Section 18 hereof by the Lessee and filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited and (ii) the Lessee shall have furnished the Lessor and its assignee an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect, preserve and maintain the Lessor's title to, or the security interest of Lessor's assignee in such Equipment and no filing, recording, deposit or giving of notice with or to any other federal, state or local government or agency thereof is necessary to protect, preserve and maintain said interests in such Equipment while operating in any jurisdiction wherein any instrument in respect thereof has been or is required to be filed, registered, deposited or recorded in order to evidence a security interest in the Equipment. The Lessor agrees to execute at Lessee's cost and expense all amendments hereto necessary to accomplish such filings, recordings and deposits.

*Section 5.3. 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 its name as well as the names or initials or other insignia used by the Lessee or its affiliates or any sublessee on railroad equipment used by any of them of the same or a

similar type for convenience of identification of the right of the Lessee to use the Equipment under this Lease or of any sublessee to use the Equipment.

*Section 5.4. Filing.* The Lessee shall, from time to time, during the Term of this Lease execute, acknowledge, deliver, file, register and record (and will refile, reregister or rerecord whenever required) any and all instruments reasonably requested by the Lessor or its assignee (including filings with the Interstate Commerce Commission) for the purpose of protecting, preserving and maintaining the Lessor's title to, or such assignee's security interest in, any Item of Equipment to the satisfaction of the Lessor or its assignee or their respective counsel or for the purpose of carrying out the intentions of this Lease, and in connection with any such action, will deliver to the Lessor and its assignee proof of such filings, negotiations or closings. The Lessee will pay all costs, charges and expenses incident to any such filing, refile, recording and rerecording or depositing and repositing of any such instruments or incident to the taking of such action.

## SECTION 6. DISCLAIMER OF WARRANTIES.

THE LESSEE LEASES THE EQUIPMENT, AS-IS, WHERE-IS, WITH ALL FAULTS, IN WHATEVER CONDITION IT MAY BE, WITHOUT ANY AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, BY THE LESSOR, AND THE LESSOR EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO (A) THE FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OF ANY ITEMS OR ITEMS OF EQUIPMENT, (B) THE LESSOR'S TITLE THERETO, (C) THE LESSEE'S RIGHT TO THE QUIET ENJOYMENT THEREOF, (SUBJECT TO SECTION 23 HEREOF) (D) THE MANUFACTURE, DESIGN OR CONDITION OF, OR THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE EQUIPMENT, OR (E) ANY OTHER MATTER WHATSOEVER WITH RESPECT TO THE EQUIPMENT, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE ARE TO BE BORNE BY THE LESSEE. The Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease 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; and Lessor agrees, at Lessee's request, to cooperate with Lessee in the enforcement thereof; *provided, however,* that if at any time an Event of Default shall have occurred and be continuing, at Lessor's option, such power of attorney shall terminate, and the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other Person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Item of Equipment or by any inadequacy thereof or deficiency or defect, whether patent or latent 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) subject to Section 23 any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Item of Equipment. The Lessee's delivery of a Certificate of

Acceptance shall be conclusive evidence as between the Lessee and the Lessor that all Items of Equipment described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

## SECTION 7. LESSEE'S INDEMNITY.

*Section 7.1. Scope of Indemnity.* The Lessee shall defend, indemnify and save harmless the Lessor and any assignee of the Lessor pursuant to Section 18 hereof and their respective affiliates, agents, servants, shareholders, directors, officers, employees, successors and assigns, (collectively the "*Indemnitees*" and individually an "*Indemnitee*"), on a net after tax basis, from and against any claim, cause of action, damages, liability, cost or expense (including, without limitation reasonable, counsel fees and costs in connection therewith) which may be incurred in any manner by or for the account of any of them relating to any Item of Equipment or any part thereof, including, without limitation:

(i) the design, manufacture, financing, refinancing, registration, purchase, delivery, ownership, acceptance, rejection, possession, improvement, use, operation, leasing, subleasing, condition, maintenance, repair, sale, return, replacement, storage, abandonment or other application or disposition of any Item of Equipment (whether defects are latent or discoverable by the Lessee or any Indemnitee),

(ii) by reason or as the result of any act or omission (whether negligent or otherwise) of the Lessee for itself or as agent or attorney-in-fact for the Lessor hereunder,

(iii) arising out of this Lease or the other Operative Agreements (except those matters expressly covered by the Tax Indemnity Agreement) to which Lessee is a party, or any sublease,

(iv) as a result of claims for patent, trademark or copyright infringements,

(v) as a result of claims for negligence or strict liability in tort,

(vi) any violation by Lessee of any other agreement, or any law, rule, regulation, including, without limitation, any environmental laws, rules or regulations, ordinance or restriction affecting or applicable to the Equipment or the leasing, ownership, use, replacement, adaption or maintenance thereof, or

(vii) any injury to or death of any Person or any damage to or loss of property or damage to the environment caused by or arising from ownership, use, maintenance, repair, replacement, operation or the condition (whether defects are latent or discoverable by the Lessee or any Indemnitee) of any Item of Equipment,

except only that the Lessee shall not be required to indemnify any Indemnitee under this Section 7 for any claim, cause of action, damages, liability, cost or expense resulting from (x) the willful misconduct or gross negligence of such Indemnitee, or breach by such

Indemnitee of its obligations hereunder, other than willful misconduct or gross negligence imputed to such Indemnitee solely by reason of its interest in the Items of Equipment; or (y) any Imposition (as defined in Section 11.2). The indemnities and assumptions of liabilities set forth in this Section 7.1 do not guarantee to any party at any time a residual value in the Equipment nor do they guarantee the payment of the Notes or any interest accrued thereon.

*Section 7.2. Continuation of Indemnities; Notices; Defenses.* The indemnities and assumptions of liability in this Section 7 contained shall continue in full force and effect notwithstanding the termination of this Lease, or the termination of the term hereof in respect of any one or more Items of Equipment, whether by expiration of time, by operation of law or otherwise arising with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination. So long as no Event of Default shall have occurred and be continuing, the Lessee shall at its sole cost and expense be entitled to contest, in good faith and by appropriate legal proceedings and shall assume full responsibility for, the defense and settlement of such claim or liability, *provided* that the Lessee shall keep the Indemnitee which is the subject of such proceeding fully apprised of the status of such proceeding and shall provide such Indemnitee with all information with respect to such proceeding as such Indemnitee shall reasonably request. Notwithstanding any of the foregoing to the contrary, the Lessee shall not be entitled to control and assume responsibility for the defense and settlement of such claim or liability if such proceeding will involve the risk of imposition of criminal liability on Lessor, nor shall the Lessee settle or compromise any claim or liability if such would result in the sale, forfeiture, loss or creation of a lien on any Item of Equipment. Lessee shall give the Indemnitees prompt written notice of any suit, attachment, lien or other judicial process of which Lessee has knowledge, affecting any Item of Equipment. Each Indemnitee shall give Lessee prompt written notice of any such matter of which it has written notice provided however that the failure of any Indemnitee to provide such notice to Lessee shall not release Lessee from any obligations under this Section 7, except to the extent such failure prejudices or prevents the Lessee from contesting such matter. Each Indemnitee agrees to cooperate with Lessee and it's attorneys in the defense and settlement of any claim or liability.

## SECTION 8. RULES, LAWS AND REGULATIONS.

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

## SECTION 9. MAINTENANCE; USE AND POSSESSION; MODIFICATIONS; WITHDRAWAL; SUBLEASE.

*Section 9.1. Maintenance.* The Lessee shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, and in accordance with prudent industry practices and suitable for use in

interchange in accordance with federal regulations and the Interchange Rules and in conformance with any requirements pertaining to warranties of the Manufacturer or insurance policies required pursuant to Section 12 hereof and in accordance with all Lessee's maintenance procedures, if any. In no event shall the Lessee discriminate as to the maintenance of any Item of Equipment (including the periodicity of maintenance or recordkeeping in respect of such Item) as compared to equipment of a similar nature which the Lessee owns or leases. Lessee will maintain or cause to be maintained all records, logs and other materials required by relevant industry standards or any governmental authority having jurisdiction over the Equipment required to be maintained in respect of any Item of Equipment, all as if Lessee were the owner of such Equipment, regardless of whether any such requirements, by their terms, are nominally imposed on the Lessee or the Lessor.

*Section 9.2. Use and Possession.* (a) The Lessee shall use the Equipment only in the manner for which it was designed and intended and in accordance with all governmental laws, regulations, requirements and rules and the Interchange Rules, and so as to subject it only to ordinary wear and tear. In no event shall the Lessee make use of any Equipment in any jurisdiction not included in the insurance coverage required by Section 12 hereof. The Lessee may only use the Equipment within the 48 contiguous United States and limited use in Canada. Lessee shall be entitled to any per diem amounts earned by the Equipment in interchange service during the term of this Lease, so long as no Event of Default shall have occurred and is continuing.

**(b) WITHOUT THE PRIOR WRITTEN CONSENT OF THE LESSOR WHICH SHALL NOT BE UNREASONABLY WITHHELD, THE LESSEE SHALL NOT ASSIGN OR TRANSFER ITS LEASEHOLD INTEREST UNDER THIS LEASE IN ANY OF THE EQUIPMENT; PROVIDED THAT THE LESSEE SHALL IN ANY EVENT REMAIN PRIMARILY LIABLE HEREUNDER FOR THE PERFORMANCE OF ALL OF THE TERMS OF THIS LEASE TO THE SAME EXTENT AS IF ANY SUCH PERMITTED ASSIGNMENT OR TRANSFER HAD NOT OCCURRED.**

(c) So long as no Event of Default shall have occurred and be continuing, the Lessee may sublease one or more Items of Equipment for one or more terms, each of which shall not exceed the lesser of two years or the remaining term of the lease; provided that Lessee shall give Lessor prior written notice of such sublease, and any such sublessee shall have and continue to have a credit rating equal to or better than Baa1 or equivalent rating from a recognized rating service and *provided* further that (i) the rights of any sublessee shall be expressly subject and subordinate to all of the terms of this Lease and the rights of Lessor and any assignee pursuant to Section 18 hereof, and (ii) in any event the Lessee shall remain primarily liable hereunder for the performance of all of the terms of this Lease to the same extent as if such sublease had not occurred. If the proposed sublessee's credit rating is less than Baa1 or its equivalent, each such sublease shall require Lessor's prior written consent, such consent not to be unreasonably withheld.

*Section 9.3. Modifications.* In case any equipment or appliance is required to be altered, added, replaced or modified (the "Alterations") on any Item of Equipment in order to comply with Section 8 hereof, the Lessee agrees to promptly make such Alterations at its own expense. The Lessee may modify and improve the Equipment,

and remove parts and improvements; *provided* that, except as required by the preceding sentence, the Lessee shall not modify any Item of Equipment in any manner which will decrease the value, utility, condition, remaining useful life or marketability of such Item of Equipment. Any parts installed or replacements made by the Lessee upon any Item of Equipment pursuant to the first sentence of this Section 9.3 or pursuant to its obligation to maintain and keep the Equipment in good order, condition and repair under this Section 9 shall 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. Title to any additions or improvements other than those referred to in the preceding sentence which are readily removable without causing damage to such Item of Equipment or diminishing the value, utility, condition or remaining useful life that such Item of Equipment had prior to such addition or improvement 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, prior to the return of such Item of Equipment to the Lessor hereunder, remove the same at its own expense without causing damage to such Item of Equipment; *provided* that upon notice to the Lessee not less than 45 days prior to the expiration of the Lease, Lessor shall have the right to purchase such additions or improvements at the fair market value thereof, except for such readily removable additions or improvements which are of a proprietary nature to Lessee.

#### SECTION 10. LIENS ON THE EQUIPMENT.

(a) The Lessee will not create, incur, assume or suffer to exist, and shall pay or satisfy and discharge, any and all claims against, through or under the Lessee and its successors or assigns which, if unpaid, might constitute or become a lien or a charge upon any Item of Equipment; and any other liens or charges which arise by virtue of claims against, through or under any other party, other than Lessor's Liens. So long as no Event of Default shall have occurred and be continuing, the Lessee shall not be required to pay or discharge any such claims so long as Lessee shall in good faith and by appropriate legal proceedings contest the validity thereof in any reasonable manner which will not affect or endanger in any material respect the title and interest of the Lessor or the security interest or other rights of any assignee under Section 18 hereof in and to the Equipment, unless Lessee has provided adequate security therefor. The Lessee shall give the Lessor prompt written notice of any such contest. The Lessee's obligations under this Section 10 shall survive the termination of this Lease with respect to any claim, lien or encumbrance arising prior to termination of this Lease and the earlier of return or sale of an Item in accordance of this Lease, or arising in respect of any acts or events occurring prior to termination of this Lease and the earlier of return or sale of an Item in accordance herewith.

(b) During the Lease Term, Lessor will not create or suffer to exist and will promptly remove, discharge or bond or cause to be removed, discharged or bonded, any liens or encumbrances on the Equipment or any Item thereof arising from claims by, through or against the Lessor not related to the transactions contemplated by the Operative Agreements or the ownership of the Equipment or the use, lease or administration of the Equipment under the Operative Agreements ("Lessor's Liens"), and will pay any charge or other amount which Lessor may be obligated to pay in respect of any such Liens, unless the Lessor shall, at its own expense, contest the existence,

amount, applicability, extent or validity thereof in good faith and by appropriate legal proceedings diligently pursued, prosecuted or appealed that do not involve any material risk of the sale, forfeiture or loss of the title, rights or interests of Lessor, Lessee, or assignee of Lessor pursuant to Section 18, in and to any Item, the Lease or any Rent or other amount payable under the Lease. The Lessor's obligation under this Section 10(b) shall survive expiration or termination of this Lease for acts or events occurring prior thereto.

## SECTION 11. PAYMENT OF STATE AND LOCAL TAXES.

The Lessee shall defend, indemnify and save harmless the Lessor and any assignee of the Lessor pursuant to Section 18 hereof and their respective affiliates, successors and assigns, (collectively, the "*Indemnitees*", and individually, an "*Indemnitee*") on a net after-tax basis from and against, and as between the Lessee and each Indemnitee the Lessee hereby assumes liability with respect to, all fees (including, without limitation, license fees and registration fees), taxes (including, without limitation, income, gross receipts, franchise, sales, use, value added, property and stamp taxes), assessments, levies, imposts, duties, charges or withholdings of any nature whatsoever, together with any and all penalties, additions to tax, fines or interest thereon (except for penalties, additions to tax, fines or interest resulting from an Indemnitee's act or failure to act) imposed against any of the Indemnitees, any Item of Equipment or the Lessee, upon, arising from or relating to (i) any Item of Equipment, (ii) the financing, purchase, delivery, ownership, possession, use, operation, leasing, subleasing, sale, or other disposition of any Item, (iii) the rental payments, receipts or earnings arising from any Item of Equipment or payable pursuant to this Lease, or otherwise with respect to or in connection with the transactions contemplated thereby (herein called "*Impositions*"); *provided* that, except with respect to indemnification payments hereunder or payments pursuant to this Section 11.2, Impositions shall not include as to each respective Indemnitee: (i) United States Federal income tax liability; (ii) any Impositions imposed on or measured by the net income of the Indemnitee or any franchise or similar taxes of doing business imposed on the capital or net worth of the Indemnitee imposed by any state, local or foreign government or taxing authority or subdivision thereof, except to the extent such Impositions are solely attributable to the use or location of any Item of Equipment in the taxing jurisdiction or are in the nature of sales, use, property (whether tangible or intangible), *ad valorem* or similar taxes; (iii) any amount that is imposed as a result of the sale, transfer or other disposition, by the Lessor of any of its rights with respect to any Item of Equipment unless such sale, transfer or other disposition is a consequence of an Event of Default, results from any substitution, repair or replacement of any Item of Equipment under Section 13 hereof, or results from any sale, transfer or disposition required or provided for under this Lease; and (iv) any Impositions to the extent they exceed the Impositions that would have been imposed had an Indemnitee not transferred, sold or disposed of its interest or rights in any Item of Equipment to a non-U.S. person, unless such transfer, sale or disposition is a consequence of an Event of Default.

The Lessee agrees to pay, on demand, any and all Impositions, and to keep at all times all and every part of each Item of Equipment free and clear of all Impositions which might in any way affect the interest of any Indemnitee therein or result in a lien upon any such Item of Equipment; *provided, however*, that the Lessee shall be under no obligation to pay any Imposition so long as the Lessee is contesting in good faith and

by appropriate legal proceedings such Imposition and the nonpayment thereof does not, in the reasonable opinion of the Indemnitees, materially adversely affect the interest of any Indemnatee in and to the Equipment. The Lessee shall consult with the Indemnatee regarding the conduct of any such contest.

If any Impositions shall have been charged or levied against any Indemnatee directly and paid by such Indemnatee after such Indemnatee shall have given written notice thereof to the Lessee and the same shall have remained unpaid for a period of ten business days thereafter, the Lessee shall reimburse such Indemnatee on presentation of invoice therefor. Prior to making such payment, such Indemnatee shall promptly notify the Lessee of the Impositions charged or levied (but the failure to so notify the Lessee shall not relieve the Lessee of its obligation hereunder).

In the event any reports with respect to Impositions are required to be made, the Lessee will either prepare and file such reports (and in the case of reports which are required to be filed on the basis of individual Items of Equipment, such reports shall be prepared and filed in such manner as to show as required the interests of each Indemnatee in such Items of Equipment) or, if it shall not be permitted to file the same, it will notify each Indemnatee of such reporting requirements, prepare such reports in such manner as shall be satisfactory to each Indemnatee and deliver the same to each Indemnatee within a reasonable period prior to the date the same is to be filed. The Lessee shall provide such information as the Lessor may reasonably require from the Lessee to enable the Lessor to fulfill its tax filing, tax audit, and tax litigation obligations.

Lessee shall continue to be liable for any Imposition that accrues or becomes payable or is levied or assessed during (or is attributable to) the period of time in which this Lease is in existence or prior to the return of the Equipment in accordance with Section 15 hereof notwithstanding the expiration or termination of this Lease. Lessee shall not be liable for impositions attributable to the Equipment imposed with respect to any period commencing after, or with respect to an act occurring after the expiration or earlier termination of this Lease and the return or sale of the Equipment in accordance with this Lease unless such imposition is the result of Lessee's failure to perform its obligations under this Lease.

## SECTION 12. INSURANCE.

The Lessee shall at all times after delivery and acceptance of each Item of Equipment, at its own expense, keep or cause to be kept such Equipment insured by a reputable insurance company or companies in amounts and against risks (including public liability insurance) and with deductibles and terms and conditions not less favorable than the insurance, if any, maintained by the Lessee with respect to similar equipment which it owns or leases. Notwithstanding the foregoing, the Lessee may self-insure the Equipment against physical damage for the full amount of the aggregate Casualty Value attributable to the Equipment as shown on Exhibit D-1 and D-2 hereto.

The Lessee shall maintain public liability insurance naming the Lessor and any assignee under Section 18 as additional named insureds against bodily injury, death or property damage arising out of the use or operation of the Equipment with general liability limits of not less than \$20,000,000 per occurrence or in the aggregate; *provided* that such coverage may provide for deductible amounts not exceeding \$5,000,000.

Any insurance carried in accordance with this Section 12 shall be endorsed to provide that (i) in as much as such policy or policies are written to cover more than one insured all terms, conditions, insuring agreements and endorsements, with the exception of limits of liability, shall operate in the same manner as if there were a separate policy or policies covering each insured, (ii) neither the Lessor, nor its assignee under Section 18 shall have any obligation for premiums or calls; and (iii) the coverage provided by such insurance shall not be invalidated by any action or inaction of the Lessee or any other Person and (iv) such coverage shall not be cancelled or materially changed (as hereinafter defined) without at least 30 days (or, for non-payment of premiums, 10 days) prior written notice to the Lessor and its assignee under Section 18 and the certificate shall confirm such statement. For purposes of this Section 12, material change shall be defined as changes in policy limits, exclusions or deductibles.

The Lessee shall, on or before the Closing Date furnish the Lessor, and its assignee under Section 18 with certificates or other satisfactory evidence of maintenance of the insurance required under this Section 12. Lessee shall furnish to the Lessor and its assignee under Section 18 certificates evidencing renewal of policies of insurance required to be maintained pursuant to this Section 12, as soon as practical after such certificates become available.

### SECTION 13. CASUALTY OCCURRENCE.

*Section 13.1. Duty of Lessee to Notify Lessor.* In the event that any Item of Equipment shall be or become lost, stolen, destroyed or irreparably damaged during the term of this Lease or thereafter while such Item of Equipment is in the possession of the Lessee or any sublessee pursuant to Section 9.2 (c) hereof, or there is a taking of title to any Item of Equipment or any Item of Equipment shall be requisitioned or taken over for use by any governmental authority under the power of eminent domain or otherwise for a stated period or a period of use which exceeds the lesser of 18 months or the remaining portion of the Basic Lease Term or any renewal term of this Lease then in effect (any such occurrence being hereinafter called a "*Casualty Occurrence*"), the Lessee shall within 45 days following such Casualty Occurrence fully inform the Lessor and any assignee of the Lessor pursuant to Section 18 hereof in regard thereto, designating the date of occurrence of such Casualty Occurrence, and shall within 90 days following such Casualty Occurrence elect to either (i) pay the Casualty Value (as defined in Section 13.6 hereof) of such Item in accordance with the terms of Section 13.2 hereof, or (ii) if the Lessee complies with the terms of Section 13.3 hereof, substitute replacement items of equipment in accordance with such terms.

*Section 13.2. Sum Payable for Casualty Loss.* Unless the Lessee shall have elected to comply with the provisions of Section 13.3 hereof with respect to a Casualty Occurrence, the Lessee, on the Rent Payment Date immediately following the earlier of (a) 90 days following such Casualty Occurrence with respect to any Item or Items of Equipment, or (b) 45 days following receipt of insurance proceeds with respect to such Casualty Occurrence, shall pay to the Lessor any accrued Interim Rental, Fixed Rentals and Supplemental Rent with respect to such Item due under this Lease or any Operative Document on or prior to such date then remaining unpaid, plus the Casualty Value applicable to such Item of Equipment as defined in Section 13.6. Any amounts paid to Lessor from a handling railroad or any other person or entity (except for insurance paid

by Lessor's own insurance coverage, if any) as a result of a Casualty Occurrence shall be credited to Lessee's obligations to pay Casualty Value and other amounts due under Section 13.2 to the extent of any unpaid portion thereof, and the excess, if any, over such amounts shall be promptly refunded by Lessor to Lessee.

*Section 13.3 Substitution of Equipment.* (a) The Lessee shall, within the lesser of 180 days of a Casualty Occurrence or the expiration or termination of the Lease with respect to any Item or Items of Equipment where the Lessee has elected to replace such Item or Items, convey or cause to be conveyed to Lessor, for lease by Lessor to Lessee hereunder in replacement of the Item or Items which sustained such Casualty Occurrence, title to a replacement Item or Items, such replacement Item or Items to be of substantially similar car type and age, and having at least the same value, utility, remaining useful life and condition as the Item or Items so replaced (assuming such replaced Item or Items were in the condition and repair required under the terms of this Lease) at Lessor's option to be established by appraisal.

(b) Prior to or at the time of any conveyance of any replacement Item or Items, Lessee, at its own expense, will furnish the Lessor and any assignee pursuant to Section 18 with the following documents which shall have been duly authorized, executed and delivered by the respective parties thereto and shall be in full force and effect on the date of such conveyance:

(i) a full warranty bill of sale, in form and substance satisfactory to the Lessor and any assignee pursuant to Section 18, for such replacement Item or Items from the Lessee to the Lessor;

(ii) supplements hereto in form and substance reasonably satisfactory to the Lessor and any assignee pursuant to Section 18, covering such replacement Item or Items duly executed by the parties thereto and filed in all public offices wherein this Lease and any assignee's security interest shall have been filed;

(iii) an acknowledgement by the Lessee to the Lessor to the effect that the Lessee will indemnify the Lessor in accordance with the Tax Indemnity Agreement for any adverse tax consequences resulting from such replacement; and

(iv) such other documents and evidence as the Lessor or its assignee pursuant to Section 18 hereof, or their respective counsel, may reasonably request in order to establish the consummation of the transactions contemplated by this Section 13.3(b).

Upon full compliance by the Lessee with the terms of this Section 13.3(b), the Item or Items which suffered the Casualty Occurrence shall be disposed of in accordance with Section 13.5 hereof and, so long as no Event of Default has occurred and is continuing, any casualty insurance proceeds relating to such replaced Item of Equipment from insurance maintained by the Lessee arising out of such Casualty Occurrence which are then held by the Lessor or its assignee under Section 18 (or in which either has an interest) shall be released to the Lessee.

*Section 13.4. Rent Termination/Risk of Loss.* Upon (and not until) payment of all sums required to be paid pursuant to Section 13.2 hereof in respect of any Item or Items of Equipment, the obligation to pay Fixed Rental for such Item or Items of Equipment accruing subsequent to the date of payment of Casualty Value and all other obligations of the Lessee with respect to such Items of Equipment shall terminate, except for obligations of the Lessee arising under Sections 3, 5, 7, 8, 11, 12, 13, 16 and 22 which obligations shall remain in full force and effect and be binding upon Lessee; and otherwise the terms of this Lease shall remain in full force and effect with respect to all other Items of Equipment not suffering a Casualty Occurrence.

*Section 13.5. Disposition of Equipment.* The Lessee shall, as agent for the Lessor, dispose of such Item or Items of Equipment having suffered a Casualty Occurrence as soon as it is able to do so in a commercially reasonable manner. Any such disposition shall be on an "as-is", "where-is" basis without representation or warranty, express or implied, except as to the absence of Lessor's Liens. As to each separate Item of Equipment so disposed of, so long as no Event of Default shall have occurred and be continuing, and upon payment of all sums to be paid pursuant to Section 13.2, the Lessee may retain all amounts arising from such disposition plus any insurance proceeds from policies maintained by Lessee and damages received by the Lessee by reason of such Casualty Occurrence in excess of the Casualty Value attributable thereto. Lessee shall dispose of Items of Equipment in accordance with applicable law, including hazardous waste and environmental laws.

*Section 13.6. Casualty Value.* The Casualty Value of each Item of Equipment shall be determined as of the date of Casualty Value is required to be paid in accordance with Section 13.2, and shall be equal to that percentage of the Purchase Price of such Item of Equipment opposite such date of payment, as set forth in the Schedule of Casualty Values attached hereto as Exhibit D-1 and D-2.

*Section 13.7. Eminent Domain.* In the event that during the term of this Lease the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for a period not constituting a Casualty Occurrence, the Lessee's obligation to pay all installments of rental and other sums shall continue for the duration of such requisitioning or taking. 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 from time to time during the term all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession. Any amounts paid to Lessor by a governmental authority as compensation for requisition shall be applied to Lessee's obligation to pay Rent hereunder.

#### SECTION 14. ANNUAL REPORTS; INSPECTION.

*Section 14.1. Financial Reports.* The Lessee agrees that it will furnish directly to Lessor and any assignee pursuant to Section 18 the following:

- (a) As soon as available and in any event within 60 days after the end of each quarterly period, except the last, of each fiscal year, a consolidated balance sheet of the Lessee as at the end of such period and a consolidated statement of income and retained income of the Lessee for the period

beginning on the first day of such fiscal year and ending on the date of such balance sheet, the consolidated income statement setting forth increases and decreases from the corresponding figures for the corresponding period of the preceding fiscal year, which statements have been prepared in accordance with generally accepted principles of accounting and certified subject to year end audit adjustments by the Treasurer or accounting officer of the Lessee;

(b) As soon as available and in any event within 120 days after the last day of each fiscal year, a copy of the Lessee's consolidated balance sheet, consolidated income statement and consolidated statement of retained income of the Lessee setting forth increases and decreases from the corresponding figures for the preceding fiscal year, which statements will have been prepared in accordance with generally accepted principles of accounting and certified by a firm of independent public accountants of recognized national standing selected by the Lessee covering the operations of the Lessee; provided however that in lieu of delivery of Lessee's consolidated statements, Lessee may provide Lessor with Lessee's annual report to shareholders if such annual report contains substantially similar information and detail which is similarly certified; and

(c) Such additional information as the Lessor may reasonably request concerning the Lessee.

*Section 14.2. Lessor's Inspection Rights.* The Lessor and any assignee of the Lessor pursuant to Section 18 hereof each shall have the right, but no obligation, at their respective sole cost and expense, by their respective authorized representatives, 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. So long as no Event of Default shall have occurred and be continuing, such inspection rights shall be subject to reasonable prior written notice to the Lessee and be conducted at a time convenient to Lessee; and in any event, such inspection shall be conducted so as not to unreasonably interfere with the operation or maintenance of the Equipment, or the conduct of Lessee's business. Any inspection of the Lessee's records shall be conducted only during regular business hours of the Lessee.

## SECTION 15. RETURN OF EQUIPMENT UPON EXPIRATION OF TERM.

(a) At the expiration of the Basic Lease Term or any renewal term pursuant to Section 20.3 hereof with respect to the Items of Equipment, unless the Lessee exercises the purchase options granted by Section 20.1 with respect to such Items of Equipment, the Lessee will, at its own cost and expense, deliver possession of such Items of Equipment to the Lessor at up to five locations which locations shall be designated by the Lessee and approved by the Lessor, which approval shall not be unreasonably withheld, not less than 60 days prior to the expiration of the Basic Lease Term or any renewal thereof, (the "*Designated Locations*"). In the event any Item of Equipment is not returned to the Lessor, the Lessee shall pay to the Lessor for each day from and after the expiration of the Basic Lease Term with respect to such item, or any renewal thereof to the date such Item of Equipment is returned as provided in this Section 15 an amount equal to the greater of (i) the daily equivalent

Fixed Rental, or (ii) the daily equivalent industry rate with respect to such Item. Lessee shall provide Lessor not less than 15 business days' notice of its inability to return any Item at the expiration of the Basic Lease Term. No Item of Equipment shall be deemed returned under this Section 15 unless Lessee is at the same time returning at least 10% of the Equipment then under Lease to the same Designated Location.

(b) Each Item returned to the Lessor pursuant to this Section 15 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, in a condition suitable for the purposes for which such Item was intended, and in a condition of no lesser quality than would then have existed had no unbalanced loading or lading of any corrosive or abrasive substances been carried at any time throughout the term of this Lease, (ii) meet the standards then in effect for railroad equipment of the same type and age as the Equipment, and shall be eligible for interchange, under the Interchange Rules and/or the applicable rules of any governmental agency or other organization with jurisdiction, (iii) have been maintained in accordance with provisions of Section 9 hereof, (iv) have attached or affixed thereto any special device considered an accession thereto as provided in Section 9 hereof and (v) be accompanied by related records, logs and other materials relating to the maintenance thereof.

## SECTION 16. DEFAULT.

*Section 16.1. Events of Default.* Any of the following events shall constitute an Event of Default hereunder:

(a) Lessee shall fail to pay when due any part of Interim Rental, or any Fixed Rental, within 5 days but not less than 3 business days, after receipt of notice of such failure to pay; or Lessee shall fail to pay Supplemental Rent pursuant to Section 3.1(c), Casualty Value, or Purchase Option Amount payable hereunder, within 15 days of receipt of Lessor's notice of Lessee's failure to pay the same;

(b) Lessee shall fail to observe or perform any other of the covenants, conditions and agreements to be performed by it contained herein and the same shall continue unremedied for a period of 30 days after receipt of written notice to Lessee;

(c) Any representation or warranty made by the Lessee herein or in any statement or certificate furnished to the Lessor, or any assignee pursuant to Section 18 pursuant to or in connection with this Lease shall prove at any time to be incorrect in any material respect as of the date of issuance or making thereof and shall remain material and materially incorrect at the time in question, unless the representation or warranty is made true within 30 days after receipt by Lessee of notice thereof;

(d) The Lessee becomes insolvent or fails generally to pay its debts as such debts become due, or causes an order for relief to be entered against it, or acquiesces in the entering of such an order against it, under applicable federal or state bankruptcy law, or makes an assignment for the benefit of

creditors or applies for or consents to the appointment of a custodian, trustee or receiver for the Lessee or for the major part of its property;

(e) A custodian, trustee or receiver is appointed for the Lessee or for the major part of its property and is not discharged within 60 days after such appointment;

(f) Bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, or other proceedings for relief under any bankruptcy law or similar law for the relief of debtors, are instituted by or against the Lessee and, if instituted against the Lessee, are consented to or are not dismissed or stayed within 60 days after such institution, (but then only so long as such stay shall continue in full force); or

(g) The Lessee fails to maintain insurance in accordance with Section 12 hereof.

*Section 16.2. Remedies.* If any Event of Default has occurred and is continuing, the Lessor or, in the event this Lease shall have been assigned to an assignee pursuant to Section 18 hereof, such assignee, at its option, may:

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

(b) By notice in writing to the Lessee, terminate this Lease, whereupon all 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, but the Lessor shall nevertheless have a right to recover from the Lessee any and all amounts payable hereunder or under any other Operative Document, including all amounts of Supplement Rent which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum with respect to each Item of Equipment which represents the excess of the present worth, at the time of such termination, of all rentals for such Item which would otherwise have accrued hereunder from the date of such termination to the end of the Term of this Lease over the then present worth of the then Fair Rental Value of such Item for such period computed by discounting from the end of such Term to the date of such termination, rentals which the Lessor reasonably estimates to be

obtainable for the use of such Item during such period, such present worth to be computed in each case on a basis of a 5% per annum discount, compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, or (y) an amount equal to the excess if any of the Casualty Value of such Item of Equipment as of the rent payment date on or immediately preceding the date of termination over the amount the Lessor reasonably estimates to be the Fair Market Value thereof at such time; *provided, however*, that in the event the Lessor shall have sold any Item of Equipment, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (y) of this part (i) with respect thereto may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor, on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value of such Item of Equipment as of the rent payment date on or immediately preceding the date of termination over the net proceeds of such sale, and (ii) any damages and expenses, other than for a failure to pay rental, in addition thereto, including reasonable attorneys' fees, which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental. Lessor shall attempt in good faith to mitigate its damages, but shall be under no obligation to sell or release the Equipment or any item thereof.

For purposes of this Section 16.2, the Fair Rental Value and Fair Market Value for any Item of Equipment shall be determined in the manner provided for appraisal arrangements specified below; *provided* that any sale in a commercially reasonable manner of any Item of Equipment prior to any such determination shall conclusively establish the Fair Market Value of such Item and any rental in a commercially reasonable manner of any Item of Equipment prior to any such determination shall conclusively establish the Fair Rental Value of such Item for the period of such rental.

The Fair Rental Value or Fair Market Value, as the case may be, of the Items of Equipment shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee or buyer, as the case may be (other than a lessee or buyer, as the case may be, currently in possession), and an informed and willing lessor or seller, as the case may be, under no compulsion to lease or sell, as the case may be on an "as-is, where-is" basis. If the Lessor and the Lessee are unable to agree upon a determination of the Fair Rental Value or the Fair Market Value of such Items of Equipment within 20 days after receipt by Lessee of written notice setting forth the method to be used to calculate damages pursuant to Section 16.2(b), such value shall be determined in accordance with the foregoing definition by a qualified, independent Appraiser chosen by the Lessor. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. The expenses and fees of the Appraiser shall be borne by the Lessee.

*Section 16.3. 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; provided that Lessor shall not be entitled to duplicate relief or recovery with respect to any specific element of Lessor's damages. 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.

*Section 16.4. Lessor's Failure to Exercise Rights.* The failure of the Lessor to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

*Section 16.5.* Except as otherwise expressly provided for in this Lease, neither the Lessee nor the Lessor shall be liable to the other for special, incidental or consequential damages.

## SECTION 17. RETURN OF EQUIPMENT UPON DEFAULT.

*Section 17.1. Lessee's Duty to Return.* If the Lessor or any assignee of the Lessor pursuant to Section 18 hereof shall terminate this Lease pursuant to Section 16 hereof, the Lessee shall upon written demand by Lessor, forthwith deliver possession of the Equipment to the Lessor. For the purpose of delivering possession of any Item of Equipment to the Lessor as above required, the Lessee shall at its own cost, expense and risk (except as hereinafter stated):

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

(b) Permit the Lessor to store such Equipment on such tracks for a period not to exceed 60 days without charge for insurance, rent or storage until such Equipment has been sold, leased or otherwise disposed of by the Lessor and during such period of storage the Lessee shall continue to maintain all insurance required by Section 12 hereof; and

(c) Transport the Equipment to any place on any lines of railroad or to any connecting carrier for shipment, within 600 miles of the location of any Item, all as the Lessor may direct in writing.

All Equipment returned shall be in the condition required by Section 15 hereof.

All amounts earned in respect of the Equipment after the date of termination of this Lease pursuant to Section 16 hereof shall be paid to the Lessor or in the event this Lease has been assigned pursuant to Section 18 hereof, to such assignee, and, if received by the Lessee, shall be promptly turned over to the Lessor, or in the case of such assignment, to such assignee. In the event any Item of Equipment is not assembled, delivered and stored as hereinabove provided within 15 days after the termination of this Lease, the Lessee shall, in addition, pay to the Lessor as

liquidated damages and not as a penalty or, in the case of such assignment, to such assignee, for each day thereafter an amount equal to the amount, if any, by which the higher of (i) an amount equal to the daily equivalent of the rental in effect immediately prior to the termination of the Lease for such Item of Equipment, or (ii) 125% of the Fair Rental Value (determined in the manner provided in Section 16.2 hereof) for such Item of Equipment for each such day exceeds the amount, if any, received by the Lessor or such assignee (either directly or from the Lessee) for such day for such Item pursuant to the preceding sentence.

*Section 17.2. 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

*Section 17.3. Lessor Appointed Lessee's Agent.* Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 17, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Items of Equipment to the Lessor, 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 18. ASSIGNMENTS BY LESSOR.

This Lease and all rent and all other sums due or to become due hereunder may be assigned in whole or in part 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 and receipt by Lessee of such assignor's written acknowledgment of and agreement to be bound by, the terms of this Lease, including but not limited to, Lessee's right of quiet enjoyment. 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. 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 (except as otherwise provided in this Lease) be subject to any abatement whatsoever and shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever whether by reason of failure of or defect in the Lessor's title, or any interruption from whatsoever cause in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, [except in the event of a wrongful act on the part of such assignee] the Lessee shall be unconditionally and absolutely obligated to pay such assignee all of the rents and other sums which are the subject matter of the assignment, (ii) unless and until the Lessee shall have received written notice from such assignee that its lien on the Equipment has been released, (1) the consent or agreement of either the Lessor or

such assignee, or both, shall be required in order to effect any amendment or modification of, or waive any requirements under this Lease, and (2) the Lessor or such assignee, or both, may receive the benefit of or exercise any right, privilege or remedy of the Lessor provided for in this Lease, and (iii) 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.

It is understood and agreed that the right, title and interest of any such assignee in, to and under this Lease and the rents and other sums due and to become due hereunder shall be subject and subordinate to the interest of the Lessee in and to the Equipment and its right of quiet enjoyment hereunder so long as no Event of Default shall have occurred and be continuing hereunder.

## SECTION 19. CONSOLIDATION, MERGER AND SALE OF ALL ASSETS.

The Lessee may merge or consolidate with any other corporation or sell, lease or otherwise dispose of all or substantially all of its assets to any Person; *provided* that that any corporation which is to be the surviving or acquiring corporation in such transaction (a) shall be a solvent corporation organized and existing under the laws of the United States of America or a state thereof which is not tax-exempt, (b) shall (unless the Lessee is the surviving corporation), by agreement in writing, expressly assume the due and punctual payment of the Fixed Rentals and other amounts due and to become due under this Lease, and the due and punctual performance and observance of all the covenants and provisions of this Lease and the other Operative Agreements to be performed by the Lessee, (c) shall have provided Lessor with an opinion of its counsel that the Lease is valid, binding and enforceable against such corporation.

The Lessee shall preserve and keep in full force and effect its corporate existence, rights and franchises and all licenses and permits necessary to the performance of its obligations hereunder, except as otherwise provided in the preceding paragraph.

## SECTION 20. PURCHASE OPTIONS; RENEWAL OPTIONS.

### *Section 20.1. Purchase Options.*

(a) Early Buyout Purchase Option. Provided this Lease has not been earlier terminated and no Event of Default under Sections 16.1(a)(d)(e) or (f) shall have occurred and be continuing, upon not less than 120 days notice prior to March 1, 2007 ("Early Buyout Date") the Lessee may give written notice, which shall be irrevocable, to the Lessor and any assignee pursuant to Section 18 that the Lessee elects to purchase one or more of the Items then leased under the Lease, at a price equal to (a) 47.38% of Lessor's Cost with respect to Items funded by Lessor on or prior to December 31, 1991, or (b) 52.35% of Lessor's Cost for Items funded by Lessor prior to February 29, 1992 (each of the foregoing, a "Purchase Option Amount"). If the Lessee shall fail to give such notice within the required time period, the Lessee shall have no further right to purchase said Items under this paragraph (a). If the Lessee shall give such notice, the Lessee shall purchase on the Early Buyout Date the Items

designated in its original notice to Lessor, by paying the applicable Purchase Option Amount with respect thereto and any other Fixed Rental and Supplemental Rent then due and owing, and the Lessor shall forthwith convey and transfer to the Lessee all of Lessor's right, title and interest in such Items with no warranties or representation of any kind, except that Lessor conveys whatever title it received from the manufacturer or Lessee, as the case may be, on the Funding Date for such Item, free of liens created against, by or through Lessor.

(b) **End of Term Option.** So long as no Event of Default, under Sections 16.1(a)(d)(e) or (f) shall have occurred and be continuing, the Lessee shall have the right to purchase one or more of the Items of Equipment then leased hereunder at the expiration of the Basic Lease Term, at a price equal to the Fair Market Value of such Items of Equipment determined in accordance with Section 20.3 hereof. The Lessee shall give the Lessor written notice not less than 120 days prior to the end of the applicable Basic Lease Term of its election to exercise the purchase option provided for in this Section which notice shall be irrevocable. Payment of the Fair Market Value of the Items of Equipment, together with all other amounts due and owing under the Operative Agreements to which the Lessee is a party, shall be made at the place of payment specified in Section 3.3 hereof in immediately available funds against delivery of a bill of sale transferring and assigning to the Lessee all right, title and interest of the Lessor in and to the Equipment on an "as-is" "where-is" basis and containing a warranty as to the absence of Lessor's Liens. The Lessor shall not be required to make any other representation or warranty as to the condition of the Equipment or any other matters, and may specifically disclaim any such representations or warranties. Lessor shall convey whatever title it received from the manufacturer or Lessee as the case may be on the Funding Date for said Item(s).

(c) Promptly after sale of Items of Equipment to Lessee under Section 20.1(a) or (b), Lessor shall provide Lessee with evidence of the release of the security interest of any assignee under Section 18, including filed UCC-3 financing statements, if any.

*Section 20.2. Renewal Option.* So long as no Event of Default shall have occurred and be continuing, the Lessee shall have the option to renew this Lease with respect to one or more of the Items of Equipment for consecutive renewal terms of one year each (not to exceed four renewal terms in the aggregate) at the Fair Rental Value thereof determined in accordance with Section 20.3 hereof. The Lessee shall give the Lessor written notice not less than 120 days prior to the end of the applicable Basic Lease Term or any then effective renewal term of its election to exercise the renewal option provided for in this Section which notice shall be irrevocable. Any renewal term shall commence immediately upon the end of the Basic Lease Term or the previous renewal term, as the case may be. The Casualty Value payable during any renewal term for any Item shall equal the Fair Market Value thereof, determined in accordance with Section 20.3 hereof. Except as specifically provided in this Section 20.2, all terms of this Lease shall apply during any renewal terms.

*Section 20.3. Determination of Fair Rental Value and Fair Market Value.* For purposes of this Section 20, the Fair Rental Value or Fair Market Value for any Item of Equipment shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee or buyer, as the case may be (other than a lessee or buyer, as the case may be, currently in possession) and an informed and willing lessor or seller, as the case may be, under no compulsion to lease or sell, as the case may be. Any such determination shall be made (i) on the assumption that the Equipment is in at least the condition and state of repair required by this Lease (including Section 15) and on the assumption that no lading was carried that was abrasive or corrosive or unbalanced, (ii) as respects Fair Rental Value, on the basis of a lease having terms and conditions (other than Rent and renewal and purchase options) similar to the terms and conditions of this Lease, (iii) giving effect to the removal of any parts which the Lessee is entitled to remove under the provisions of Section 9 hereof, and (iv) on the assumption that the Equipment is not subject to this Lease or any other lease or sublease. If the Lessor and the Lessee are unable to agree upon a determination of the Fair Rental Value or the Fair Market Value of such Items of Equipment within 20 days after the expiration of the applicable Basic Lease Term or renewal term, as the case may be, such value shall be determined in accordance with the foregoing definition by any qualified Independent Appraiser mutually agreed upon by the Lessor and the Lessee. If Lessor and Lessee are unable to agree on such an appraiser within 20 days, such value shall be determined by a panel of three Independent Appraisers, one of whom shall be selected by Lessee, another of whom shall be selected by Lessor and the third of whom shall be selected by such other two Appraisers or, if such Appraisers shall be unable to agree upon a third Appraiser within 10 days of the selection date of the second of such two Appraisers, by the American Arbitration Association; provided, that if either party shall not select its Appraiser within 15 days, such value shall be determined solely by the appraiser selected by the other party. Such Appraiser or Appraisers shall be instructed to make such determination within a period of 30 days following final appointment and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. If three Appraisers shall be appointed, (a) and if none of the values determined differs from the others by an amount equal to 15% of the lowest value determined by any Appraiser, then all three values shall be averaged and such average value shall constitute the determination of the Appraisers, otherwise (b) the value of the Appraiser that differs most (in dollar amount) from the values of the other two Appraisers shall be excluded, the remaining two values shall be averaged and such average value shall constitute the determination of the Appraisers. The foregoing manner of selecting Appraisers shall for purposes of this Section, be referred to as the "Appraisal Procedure". Fees and expenses relating to an Appraisal Procedure shall be payable as follows:

Each party shall bear its respective fees and expenses, provided (A) if an appraisal shall be conducted by one Appraiser only, Lessee and Lessor shall share equally the fees and expenses of such Appraiser, or (B) if an appraisal shall be conducted by more than one Appraiser, Lessee shall bear the fees and expenses of the Appraiser appointed by Lessee and one half the fees and expenses of the Appraiser jointly appointed by Lessee and Lessor; and provided, further, that if Lessee does not exercise such purchase or renewal

option, after utilization of the Appraisal Procedure, then Lessee shall reimburse Lessor for all fees and expenses paid by Lessor in respect of such Appraisal Procedure.

*Section 20.4. Delivery of Equipment.* Unless the Lessee has elected to purchase or renew the lease of the Items of Equipment then leased hereunder as provided in this Section 20, all of such Items of Equipment shall be returned to the Lessor at the end of the Basic Lease Term or any renewal term in accordance with Section 15 hereof.

**SECTION 21. WARRANTIES AND REPRESENTATIONS OF THE LESSEE.** The Lessee warrants and represents to the Lessor that:

(a) *Corporate Organization and Authority.* The Lessee is a corporation duly organized, validly existing and in good standing under the laws of the State of New York; has all requisite corporate power and authority and all material, licenses and permits as are in the reasonable judgment of the Lessee necessary to own and operate its respective properties and to carry on its business as now conducted; and is duly licensed or qualified and is in good standing as a foreign corporation in each jurisdiction in which the character of the property owned or leased by it or the nature of the business transacted by it makes such qualification necessary and where the failure to so qualify would materially affect adversely the ability of the Lessee to carry on its business as now conducted.

(b) *Valid Contracts.* Each of the Operative Agreements to which the Lessee is a party have been duly authorized, executed and delivered by the Lessee and constitutes the legal, valid and binding obligation, contract and agreement of the Lessee enforceable in accordance with its terms (assuming due authorization and valid execution and delivery thereof by each of the other parties to such agreements), except as enforceability may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting the rights of creditors generally, and (ii) principles of equity (whether enforcement is sought in a proceeding at law or in equity).

(c) *Financial Statements.*

(i) The consolidated balance sheet of the Lessee and its subsidiaries as of December 31, 1990, and the consolidated statement of earnings and retained income for the fiscal year ended on said date, together with unaudited consolidated balance sheet of the Lessee and its subsidiaries as of September 30, 1991 and the related unaudited consolidated statement of income and retained income for the nine month period ending on said date, have each been prepared in accordance with generally accepted accounting principles consistently applied and present fairly in all material respects the financial position of the Lessee and its consolidated subsidiaries as of such dates and the results of operations of the Lessee and its consolidated subsidiaries for such periods, subject in the case of unaudited financial statements to normal year end adjustments.

(ii) Since September 30, 1991 there has been no material adverse change in the condition, financial or otherwise, of the Lessee and its subsidiaries as shown on the consolidated balance sheet of the Lessee and its subsidiaries as of such date, except as disclosed in Lessee's 10-Q for the quarter ending September 30, 1991.

(d) *Full Disclosure.* The financial statements referred to in paragraph (c) hereof do not, nor does any written statement furnished by the Lessee in connection with the negotiation of the Lease or any other Operative Agreement to which Lessee is a party, contain any untrue statement of a material fact or omit a material fact necessary to make the statements contained therein or herein not misleading. There is no fact peculiar to the Lessee which the Lessee has not disclosed in writing including without limitation in Lessee's reports on Forms 10-K, 10-Q and 8-K which materially affects adversely nor to Lessee's knowledge will materially affect adversely the properties, business, prospects, profits or condition (financial or otherwise) of the Lessee and its subsidiaries, taken as a whole.

(e) *Pending Litigation.* There are no proceedings pending or, to the knowledge of the Lessee threatened against the Lessee or any United States subsidiary in any court or before any governmental authority or arbitration board or tribunal in which there is a reasonable possibility of an adverse decision which could materially and adversely affect the Lessee's ability to perform its obligations under the Operative Agreements to which it is a party. To the knowledge of the Lessee, neither the Lessee nor any United States subsidiary is in default with respect to any order of any court or governmental authority or arbitration board or tribunal, the default under which would materially affect adversely the ability of the Lessee to perform its obligations under the Operative Agreements to which it is a party.

(f) *Corporate Authority; No Conflict with Certificate of Incorporation, Etc.* The execution and delivery by the Lessee of each of the Operative Agreements to which it is a party and compliance by the Lessee with all of the provisions of said instruments:

(i) are within the corporate powers of the Lessee; and

(ii) will not violate any provisions of any law or any order of any court or governmental authority or agency and will not conflict with or result in any breach of any of the terms, conditions or provisions of, or constitute a default under the Articles of Incorporation or By-Laws of the Lessee or any indenture, mortgage, conditional sale, loan or credit agreement or other instrument to which the Lessee is a party or by which it may be bound or result in the imposition of any liens or encumbrances on any property of the Lessee.

(g) *No Existing Defaults Under the Lease.* No Event of Default as defined in the Lease has occurred and is continuing and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute an Event of Default as therein defined.

(h) *Approvals.* Except for any such consents, approvals or actions as have been obtained or taken on or before the date hereof, no consent or approval is required to be obtained from, and no action need be taken by, any governmental body, agency or official in connection with the execution, delivery and performance by the Lessee of this Lease and the Operative Agreements to which it is a party.

(i) *Insurance.* The insurance required by Section 12 of the Lease is in full force and effect and all premiums due on or prior to the date hereof in respect of such insurance have been paid in full.

(j) *Income Taxes.* All income Federal and State tax returns required to be filed by the Lessee have, in fact, been filed, and all taxes which are shown on such returns to be due and payable in such returns have been paid to the extent such taxes have become due. No material controversy in respect of additional income taxes due is pending or to the knowledge of the Lessee threatened, which controversy if determined adversely would materially and adversely affect the Lessee's ability to perform its obligations under any Operative Agreement to which it is a party. Under Accounting Principles Board Opinion Number 11, the provision for taxes on the financial books of the Lessee is adequate for all open years, and for its current fiscal period.

(k) *Filings.* On each Funding Date, all filings, other than filings of this Lease and Certificates of Acceptance with the Interstate Commerce Commission to be made by Lessor on the Closing Date and each Funding Date with respect to the transactions contemplated hereby, which are necessary or desirable in the United States to protect the rights of the Lessor under the Lease and in and to the Equipment and to perfect the right, title and interest therein of any assignee pursuant to Section 18 hereof will have been duly made, in each case as against creditors of and purchasers from the Lessee.

(l) *No Violations.* The Lessee is not in violation of any term of its Restated Certificate of Incorporation, as amended, its By-Laws, as amended, or, to its knowledge in any material respect of other material agreement or instrument to which it is a party or by which it may be bound. The Lessee to its knowledge is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject, the failure to comply with which would have a material and adverse effect on its operations or condition, financial or otherwise, or would impair the ability of the Lessee to perform its obligations under the Operative Agreements to which it is a party, and has obtained all licenses, permits, franchises and other governmental authorizations material to the conduct of its business, and where the failure to have so obtained such license, permit franchise or other authorization would materially, adversely affect the ability of the Lessee to perform its obligations under the Operative Agreements to which the Lessee is a party.

(m) *Transfer Taxes.* On each Funding Date all sales, use or transfer taxes due and payable upon the purchase of the Equipment by the Lessor and on the lease thereof to the Lessee will have been paid or will be paid in a timely manner thereafter or such transactions will then be exempt from any such taxes. To Lessee's knowledge, no taxes, fees or other charges in connection with the execution and delivery of the Operative Agreements to which Lessee is a party are payable.

(n) *Chief Executive Office.* The Lessee's chief executive office and principal place of business, and the place where its records concerning the Equipment and its interest in, and all documents relating thereto are kept, is in One Champion Plaza, Stamford, Connecticut.

(o) The Lessee has not offered any such interest for sale to, or solicited offers to buy any thereof from, or otherwise approached or negotiated with respect thereto with any prospective purchaser other than, in the case of the Lessor's interest, the Lessor and not more than 35 other institutional investors, and in the case of any other interest, not more than 35 institutional investors, each of whom was offered a portion of Lessor's Interest at private sale for investment and each of which the Lessee had reasonable grounds to believe, and did believe, has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of investment in the Lease transaction. With the exception of Helm Financial Corporation, Lessee has not engaged any broker, funder or other intermediary in connection with the transactions contemplated hereunder.

## SECTION 22. INTEREST ON OVERDUE RENTALS AND AMOUNT PAID BY LESSOR.

Anything to the contrary herein contained notwithstanding, any nonpayment of Fixed Rental or Supplemental Rent due hereunder, or by the Lessor on behalf of the Lessee, shall result in the additional obligation on the part of the Lessee to pay interest thereon at a rate equal to the higher of (i) 11.10% per annum, or (ii) the Prime Rate plus 2% (or the maximum rate of interest permitted by law, whichever is less) on such overdue amounts or expenditures, for the period of time during which they are overdue or expended and not repaid. "Prime Rate" shall mean the per annum rate of interest from time to time announced by Security Pacific National Bank or its successor, as its prime rate or other corporate base rate.

## SECTION 23. COVENANT OF QUIET ENJOYMENT.

During the Lease Term of any Item of Equipment hereunder and so long as no Event of Default has occurred and is continuing, Lessor covenants and agrees that Lessee shall have the right to uninterrupted use and enjoyment of such Item on the terms and conditions provided herein without any interference from Lessor or those claiming through or against Lessor (other than claims of mechanics, suppliers, material, men and laborers for work or services performed or materials furnished in connection with the Equipment or any Item thereof which are claims by or through the Lessor solely by virtue of Lessor being the owner of the Equipment) including, but not limited to any assignee or lender or mortgagee of Lessor. For purposes of

this Section 23, the delivery of notices of default or nonperformance delivered under and pursuant to Section 16 shall not be deemed to constitute a violation of this Section 23. Lessor shall indemnify, defend and hold Lessee harmless from and against any person claiming through or against Lessor (except Lessor's assignee pursuant to Section 18 hereof), an interest in, or any such person interfering with Lessee's rights to use and enjoyment of the Equipment in accordance with the terms of this Lease.

#### SECTION 24. CLOSING CONDITIONS.

*Section 24.1 Conditions Precedent.* Lessor's commitment to purchase and lease the Equipment hereunder is subject to satisfaction of the following conditions on the Closing Date:

- (a) The Operative Agreements shall have been duly executed and delivered by all parties thereto; and shall be in full force and effect.
- (b) The Lessor shall have, at the cost and expense of Lessee, caused the Lease to be duly filed, recorded and deposited in conformance with Section 11303 of the Interstate Commerce Act for the protection of the title of Lessor in the Equipment; and Lessor shall have furnished Lessee with evidence thereof.
- (c) Lessee shall have provided Lessor with certified copies of Lessee's charter and by-laws, certified copies of resolutions authorizing Lessee's execution and delivery of the Operative Documents to which it is a party, and certificates of the corporate secretary or assistant secretary of the Lessee regarding signature and incumbency of the officers executing such documents on behalf of Lessee.
- (d) Lessee shall have provided Lessor with a written opinion of Lessee's counsel covering the matters set forth in Section 21(a),(b),(e),(f) and (h) hereof, in form and substance satisfactory to Lessor.
- (e) Lessor shall have received certificates of insurance evidencing the liability insurance coverages required by Section 12 hereof.
- (f) Lessor shall have obtained the unconditional written commitment of Canada Life Assurance Company to finance 80% of the Purchase Price of the Equipment on each Funding Date on terms acceptable to Lessor.
- (g) Lessor shall have received copies of an appraisal, addressed to the Lessor, satisfactory in form and substance to the Lessor, and reaching such conclusions as the Lessor shall reasonably request, including (i) that the fair market value of the Items of Equipment on such Funding Date is equal to the Purchase Price (ii) that at the end of the Basic Lease Term the estimated fair market value of each Item will be at least 20% of the Purchase Price of such Item (without including in such value any increase or decrease for inflation or deflation), (iii) that at the end of the Basic Lease Term and the remaining useful life of such Item will be at least 20% of the estimated economic useful

life of such Item for all periods from and after such Funding Date, (iv) that the estimated fair market value of the Items of Equipment, taking into account the appropriate rate of inflation subsequent to such Funding Date, at the fifteenth anniversary of the Basic Lease Term Commencement Date will not be greater than 47.38% of Lessor's Cost with respect to Items funded in 4th quarter of 1991 and Items funded in 1992, respectively, and (v) that the Items will not be considered "limited-use *property*" as defined in Rev. Proc. 76-30, 1976-2 C.B. 467.

(h) The Lessor shall have received from its tax counsel a favorable written opinion with respect to the Federal income tax aspects of the transactions contemplated hereby and with respect to such other legal matters as the Lessor may request.

*Section 24.2 Conditions Precedent to each Funding Date.* The obligations of the Lessor to make its investment specified in Section 1.2 hereof with respect to the Items of Equipment on each Funding Date shall be subject to the satisfaction or waiver of the following additional conditions:

(a) *Execution of Operative Agreements.* On or before each Funding Date, the Operative Agreements shall have been duly executed and delivered by the parties thereto and shall be in full force and effect.

(b) *Certificates of Acceptance.* On or prior to each Funding Date, the Lessee shall have delivered to Lessor a Certificate of Acceptance covering the Items of Equipment to be settled for on such Funding Date executed by a duly authorized representative of the Lessee pursuant to Section 2 hereof.

(c) *Recordation and Filing.* On or before each Funding Date, the Lessor shall have, at the expense of Lessee, caused the Certificates of Acceptance describing the Items of Equipment to be funded on such date to be duly filed, recorded and deposited in conformity with Section 11303 of the Interstate Commerce Act for the protection of the title of the Lessor or the security interest of any assignee pursuant to Section 18 in the Equipment, and furnished Lessee and any such evidence thereof.

(d) *Representations/No Default.* On each Funding Date, the representations and warranties of the Lessee set forth in Section 21 hereof shall be true and correct on such Funding Date with the same effect as though made on or as of that date; and no Casualty Occurrence and no Event of Default under the Lease or event which with the lapse of time or the giving of notice, or both, would constitute such Event of Default, has occurred and is continuing.

(e) *Bill of Sale.* On each Funding Date there shall have been delivered to Lessor an original executed Bill of Sale for the Items of Equipment to be settled for on such date.

(f) *Proceedings Satisfactory as of Funding Date.* On each Funding Date all proceedings taken in connection with the transactions contemplated hereby and all documents and papers relating thereto shall be satisfactory to Lessor and its special counsel, if any.

(g) No material adverse change shall have occurred to Lessee's financial condition as described in Lessee's more recent financial statements provided to Lessor prior to the Closing Date, in Lessor's reasonable opinion.

(h) *Lessor Financing.* On each Funding Date, funds shall have been made available to Lessor to finance the balance of the Purchase Price of the Items to be funded on that date, on terms and conditions satisfactory to Lessor.

## SECTION 25. MISCELLANEOUS.

*Section 25.1. Notices.* Any notice required or permitted to be given by either party hereto to the other shall be in writing and shall be deemed to have been duly given when delivered personally or by means of telex, telecopy or other wire transmission, or mailed by registered or certified mail, postage prepaid, or sent by courier, in each case addressed as follows and effective upon receipt:

If to the Lessor: Security Pacific Equipment Leasing, Inc.  
Four Embarcadero Center  
12th Floor  
San Francisco, California 941 11  
Attention: Operations Department - LEV

If to the Lessee: Champion International Corporation  
One Champion Plaza  
Stamford, Connecticut 06921  
Attention: Executive Vice President -  
Publication Papers  
with a copy to its General Counsel

or addressed to any such party at such other address as such party shall hereafter furnish to such other parties in writing.

*Section 25.2. Right of Lessor to Perform.* If the Lessee shall fail to comply with any of its covenants herein contained, either the Lessor or, in the case of an assignment by the Lessor pursuant to Section 18 hereof, the assignee thereunder 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 upon giving Lessee prior written notice which is not responded to by Lessee within 3 business days after the giving of such notice. 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 Supplemental Rent hereunder, with interest at the rates provided in Section 22.

*Section 25.3. Execution in Counterparts.* This Lease, and any Lease Supplement hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument. To the extent that this Lease or any Lease Supplement constitutes "chattel paper" as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest in this Lease may be created through the transfer or possession of any counterpart other than the counterpart marked "Original" and bearing the receipt therefor executed by the secured party on the signature page thereof.

*Section 25.4. Law Governing.* This Lease shall be construed in accordance with the laws of the State of New York without regard to principles of conflicts of law; *provided, however,* that the parties shall be entitled to all rights conferred by any applicable Federal statute, rule or regulation.

*Section 25.5. Headings and Table of Contents.* All Section headings and the Table of Contents are inserted for convenience only and shall not affect any construction or interpretation of this Lease.

*Section 25.6. Severability.* Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall be as to such jurisdiction ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.

*Section 25.7. Lessor Furnished Insurance.* Without limiting any obligation of the Lessee to maintain insurance in effect pursuant to Section 12 hereof, the Lessor may, at its own election and expense, maintain for its own benefit such additional public liability and/or property damage insurance as it shall deem appropriate so long as such insurance shall not impair the enforcement of or collection upon any policies maintained pursuant to said Section 12.

*Section 25.8. Transaction Expenses.* Each party shall be responsible for its own costs and expenses incurred in connection with the negotiation and documentation of the transactions contemplated hereby, whether or not said transaction is consummated.

*Section 25.9. Amendments.* The Lessee agrees to pay all fees and expenses of the Lessor and any assignee pursuant to Section 18 (including counsel fees and disbursements) in connection with any amendment, supplement, consent or waiver requested by Lessee relating to the Operative Agreements to which the Lessee is a party.

*Section 25.10. Merger.* Lessor and Lessee acknowledge that there are no agreements or understandings, written or oral, between them with respect to the Equipment, other than as set forth in the Operative Agreements and that this Lease and the Operative Agreements to which Lessee is a party contain the entire agreement between Lessor and Lessee. This Lease may not be altered, modified, terminated, or discharged except by a writing signed by the party against whom enforcement of such alteration, modification, termination or discharge is sought.

*Section 25.11. Attorneys Fees.* In the event of any action or suit brought to enforce the terms hereof, the prevailing party shall be entitled to receive from the other party, as additional damages, its reasonable attorneys fees and costs.

*Section 25.12. Lessee's Failure to Exercise Rights.* The waiver by Lessee of any breach of any obligation of Lessor, or its assignee pursuant to Section 18, shall not be deemed a waiver of such obligation or any subsequent breach of the same or any other 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.

SECURITY PACIFIC EQUIPMENT  
LEASING, INC.

By John E. Selby  
Its CONTRACT ADMINISTRATOR

CHAMPION INTERNATIONAL CORPORATION

By \_\_\_\_\_  
Its \_\_\_\_\_

STATE OF CALIFORNIA )  
 ) SS  
COUNTY OF SAN FRANCISCO )

On this 12th day of December, 1991, before me personally appeared Joan E. Selby, to me personally known, who being by me duly sworn, say that she is a Contract Administrator of SECURITY PACIFIC EQUIPMENT LEASING, INC., that said instrument was signed 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.

  
\_\_\_\_\_  
Notary Public

[NOTARIAL SEAL]

My commission expires: 8/5/94

STATE OF CONNECTICUT )  
 ) SS  
COUNTY OF FAIRFIELD )

On this \_\_\_\_ day of December, 1991, before me personally appeared \_\_\_\_\_, to me personally known, who being by me duly sworn, say that he is a \_\_\_\_\_ of CHAMPION INTERNATIONAL CORPORATION, that said instrument was signed 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

[NOTARIAL SEAL]

My commission expires:

*Section 25.11. Attorneys Fees.* In the event of any action or suit brought to enforce the terms hereof, the prevailing party shall be entitled to receive from the other party, as additional damages, its reasonable attorneys fees and costs.

*Section 25.12. Lessee's Failure to Exercise Rights.* The waiver by Lessee of any breach of any obligation of Lessor, or its assignee pursuant to Section 18, shall not be deemed a waiver of such obligation or any subsequent breach of the same or any other 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.

SECURITY PACIFIC EQUIPMENT  
LEASING, INC.

By \_\_\_\_\_  
Its

CHAMPION INTERNATIONAL CORPORATION

By Frank Kreuzel  
Its Vice President and Treasurer

STATE OF )  
 ) SS  
COUNTY OF )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1991, before me personally appeared \_\_\_\_\_, to me personally known, who being by me duly sworn, say that he is a \_\_\_\_\_ of SECURITY PACIFIC EQUIPMENT LEASING, INC., that said instrument was signed 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

[NOTARIAL SEAL]

My commission expires:

STATE OF CONNECTICUT )  
 ) SS  
COUNTY OF FAIRFIELD )

On this 12<sup>th</sup> day of December, 1991, before me personally appeared Frank Knusel, to me personally known, who being by me duly sworn, say that he is a the Vice President & Treasurer of CHAMPION INTERNATIONAL CORPORATION, that said instrument was signed 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.

Elizabeth J. Tchir  
Notary Public

[NOTARIAL SEAL]

My commission expires:

NOTARY PUBLIC  
MY COMMISSION EXPIRES MARCH 31, 1992  
ELIZABETH J. TCHIR  
NOTARY PUBLIC  
MY COMMISSION EXPIRES MARCH 31, 1992

EXHIBIT A  
(to Equipment Lease)

DESCRIPTION OF ITEMS OF EQUIPMENT

<u>IDENTIFYING MARKS AND NUMBERS*</u>	<u>NUMBER OF CARS</u>	<u>DESCRIPTION</u>	<u>PURCHASE PRICE EACH</u>	<u>TOTAL PURCHASE PRICE</u>
CRLE 6200- 6324	125	Gunderson 100-Ton Plate C Boxcars	\$63,151.00	\$7,893,875.00

\* All numbers inclusive

EXHIBIT B

\*\*\*\*\*  
CERTAIN RIGHTS OF LESSOR UNDER THE EQUIPMENT LEASE DESCRIBED BELOW AND IN THE EQUIPMENT COVERED HEREBY HAVE BEEN ASSIGNED TO, AND ARE SUBJECT TO, A SECURITY INTEREST IN FAVOR OF CANADA LIFE ASSURANCE COMPANY, AS SECURED PARTY UNDER A NONRECOURSE SECURITY AGREEMENT DATED AS OF DECEMBER , 1991, FROM LESSOR TO CANADA LIFE ASSURANCE COMPANY. THE EQUIPMENT LEASE HAS BEEN EXECUTED IN SEVERAL COUNTERPARTS. THE "ORIGINAL" COUNTERPART IS THAT WHICH CONTAINS THE RECEIPT THEREFOR EXECUTED BY CANADA LIFE ASSURANCE COMPANY ON THE SIGNATURE PAGE THEREOF. TO THE EXTENT THAT THE EQUIPMENT LEASE CONSTITUTES "CHATTEL PAPER," AS SUCH TERM IS DEFINED IN THE UNIFORM COMMERCIAL CODE AS IN EFFECT IN ANY APPLICABLE JURISDICTION, NO SECURITY INTEREST IN SAID LEASE MAY BE CREATED THROUGH THE TRANSFER OR POSSESSION OF ANY COUNTERPART OTHER THAN THE COUNTERPART MARKED "ORIGINAL" AND CONTAINING SUCH RECEIPT.  
\*\*\*\*\*

**CERTIFICATE OF ACCEPTANCE No. \_\_\_\_\_  
UNDER EQUIPMENT LEASE DATED AS OF \_\_\_\_\_, ("LEASE")  
BETWEEN SECURITY PACIFIC EQUIPMENT LEASING, INC., AS LESSOR  
AND CHAMPION INTERNATIONAL CORPORATION, AS LESSEE**

Lessee hereby represents and warrants that Lessee (as agent for Lessor) has inspected, received, approved and accepted delivery under the Lease of the following Items of Equipment together with all accessories, parts and appliances installed thereon or belonging thereto and all manuals and records relating thereto:

PLACE ACCEPTED: (See attached schedule)

DATE ACCEPTED: (See attached schedule)

LESSOR'S COST: (See attached schedule)

DESCRIPTION AND IDENTIFYING NUMBER: (See attached schedule)

Lessee hereby further represents, warrants and certifies to Lessor, that on and as of the date of Lessee's acceptance of said Items of Equipment, the Equipment described herein: (1) is tangible personal property; (2) has been delivered to and is in the possession of Lessee; (3) has been fully inspected by qualified agents of Lessee; (4) is in good order, operating condition, and repair (subject to any minor undischarged obligations of suppliers, manufacturers, transporters or installers thereof to promptly update and conform the same as provided by their respective agreements and warranties); (5) meets all recommended or applicable safety standards; (6) is new and has not been used by anyone for any purpose prior to the date of Lessee's acceptance of the Equipment, and the original use thereof will commence with the Lessee

and Lessor under the Equipment Lease; (7) is, as of the date of Lessee's acceptance of the Equipment, available for use and service by Lessee and Lessor; and (8) has been marked or labeled showing Lessor's interest in the form and to the extent required by Lessor. Lessee further certifies that on the date of Lessee's acceptance of Equipment, Lessee has accepted the same from the supplier(s) on behalf of Lessor and on behalf of Lessee under the Equipment Lease.

CHAMPION INTERNATIONAL CORPORATION

By \_\_\_\_\_  
Authorized Representative of Lessee

The "Original" counterpart of this Certificate of Acceptance received this \_\_\_\_\_ day of \_\_\_\_\_, 199\_, by the undersigned.

CANADA LIFE ASSURANCE COMPANY

By \_\_\_\_\_  
Title \_\_\_\_\_

## FIXED RENTAL SCHEDULE

RENT PAYMENT DATE	RENT AS % OF LESSOR'S COST
4/ 1/1992	0.734340
5/ 1/1992	0.734340
6/ 1/1992	0.734340
7/ 1/1992	0.734340
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3/ 1/2010	0.897527

## FIXED RENTAL SCHEDULE

RENT PAYMENT DATE	RENT AS % OF LESSOR'S COST
4/ 1/1992	0.759162
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## SCHEDULE OF CASUALTY VALUES

DATE	CASUALTY VALUE AS % OF LESSOR'S COST
1 MAR 1992	104.79484448
1 APR 1992	104.97865301
1 MAY 1992	105.09586790
1 JUN 1992	105.25017027
1 JUL 1992	105.40504776
1 AUG 1992	105.48409332
1 SEP 1992	105.60108472
1 OCT 1992	105.71851433
1 NOV 1992	105.76413514
1 DEC 1992	105.84907682
1 JAN 1993	105.93557436
1 FEB 1993	105.94734599
1 MAR 1993	105.99802131
1 APR 1993	106.04988523
1 MAY 1993	106.05021856
1 JUN 1993	106.07755880
1 JUL 1993	106.10584211
1 AUG 1993	106.08251304
1 SEP 1993	106.08585871
1 OCT 1993	106.08989488
1 NOV 1993	106.04223342
1 DEC 1993	106.02090558
1 JAN 1994	106.00000841
1 FEB 1994	105.92732479
1 MAR 1994	105.88062442
1 APR 1994	105.83408749
1 MAY 1994	105.75175990
1 JUN 1994	105.68719028
1 JUL 1994	105.62260050
1 AUG 1994	105.52221597
1 SEP 1994	105.43931324
1 OCT 1994	105.35620193
1 NOV 1994	105.23729086
1 DEC 1994	105.13557855
1 JAN 1995	105.03346428
1 FEB 1995	104.89554428
1 MAR 1995	104.77453296
1 APR 1995	104.65292120
1 MAY 1995	104.50701114
1 JUN 1995	104.37208314
1 JUL 1995	104.23641637
1 AUG 1995	104.07650936
1 SEP 1995	103.92734651
1 OCT 1995	103.77730338

1 NOV 1995	103.60307917
1 DEC 1995	103.43935587
1 JAN 1996	103.27460752
1 FEB 1996	103.08573839
1 MAR 1996	102.90712144
1 APR 1996	102.72733133
1 MAY 1996	102.52377186
1 JUN 1996	102.33006846
1 JUL 1996	102.13504204
1 AUG 1996	101.91631055
1 SEP 1996	101.70717673
1 OCT 1996	101.49656660
1 NOV 1996	101.26425036
1 DEC 1996	101.04033061
1 JAN 1997	100.81479298
1 FEB 1997	100.57918711
1 MAR 1997	100.34612314
1 APR 1997	100.11138776
1 MAY 1997	99.86662481
1 JUN 1997	99.62430270
1 JUL 1997	99.38025484
1 AUG 1997	99.12621525
1 SEP 1997	98.87451662
1 OCT 1997	98.62103707
1 NOV 1997	98.35760277
1 DEC 1997	98.09640772
1 JAN 1998	97.83337576
1 FEB 1998	97.56042718
1 MAR 1998	97.28961431
1 APR 1998	97.01690766
1 MAY 1998	96.73964413
1 JUN 1998	96.46177340
1 JUL 1998	96.18196265
1 AUG 1998	95.89764710
1 SEP 1998	95.61262856
1 OCT 1998	95.32562300
1 NOV 1998	95.03416616
1 DEC 1998	94.74190870
1 JAN 1999	94.44761647
1 FEB 1999	94.14892794
1 MAR 1999	93.84933930
1 APR 1999	93.54766739
1 MAY 1999	93.24700800
1 JUN 1999	92.94269384
1 JUL 1999	92.63625866
1 AUG 1999	92.33090556
1 SEP 1999	92.02180603
1 OCT 1999	91.71054710
1 NOV 1999	91.40044152
1 DEC 1999	91.08649603
1 JAN 2000	90.77035210
1 FEB 2000	90.45543455
1 MAR 2000	90.13658176
1 APR 2000	89.81549084

1 MAY 2000	89.49567202
1 JUN 2000	89.17183517
1 JUL 2000	88.84571974
1 AUG 2000	88.52095299
1 SEP 2000	88.19206899
1 OCT 2000	87.86086530
1 NOV 2000	87.53108872
1 DEC 2000	87.19709370
1 JAN 2001	86.86073717
1 FEB 2001	86.52588811
1 MAR 2001	86.18671742
1 APR 2001	85.68195569
1 MAY 2001	85.17855866
1 JUN 2001	84.66907225
1 JUL 2001	84.15594308
1 AUG 2001	83.64625624
1 SEP 2001	83.12934888
1 OCT 2001	82.60873500
1 NOV 2001	82.09169559
1 DEC 2001	81.56727355
1 JAN 2002	81.03908017
1 FEB 2002	80.51459655
1 MAR 2002	79.98256496
1 APR 2002	79.44669606
1 MAY 2002	78.91446514
1 JUN 2002	78.37462187
1 JUL 2002	77.83087374
1 AUG 2002	77.28712713
1 SEP 2002	76.73944665
1 OCT 2002	76.18780461
1 NOV 2002	75.63624518
1 DEC 2002	75.08058803
1 JAN 2003	74.52095322
1 FEB 2003	73.96148089
1 MAR 2003	73.39774907
1 APR 2003	72.83002141
1 MAY 2003	72.26231236
1 JUN 2003	71.69047253
1 JUL 2003	71.11450577
1 AUG 2003	70.53863923
1 SEP 2003	69.95847608
1 OCT 2003	69.37416690
1 NOV 2003	68.79004130
1 DEC 2003	68.20145026
1 JAN 2004	67.60869420
1 FEB 2004	67.01620613
1 MAR 2004	66.41908166
1 APR 2004	65.81777296
1 MAY 2004	65.21762041
1 JUN 2004	64.61161363
1 JUL 2004	64.00180565
1 AUG 2004	63.39324126
1 SEP 2004	62.77864737
1 OCT 2004	62.16023420

1 NOV 2004	61.54315060
1 DEC 2004	60.91986335
1 JAN 2005	60.29273725
1 FEB 2005	59.66702777
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1 APR 2005	58.39899015
1 MAY 2005	57.76792226
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1 JUL 2005	56.48169670
1 AUG 2005	55.84246409
1 SEP 2005	55.19209890
1 OCT 2005	54.53953402
1 NOV 2005	53.89202594
1 DEC 2005	53.23321608
1 JAN 2006	52.57218751
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1 APR 2006	50.61092644
1 MAY 2006	49.97261987
1 JUN 2006	49.31550442
1 JUL 2006	48.65373999
1 AUG 2006	48.01668355
1 SEP 2006	47.36054472
1 OCT 2006	46.69982569
1 NOV 2006	46.06458953
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1 JAN 2007	44.75090171
1 FEB 2007	44.11808673
1 MAR 2007	43.46564271
1 APR 2007	42.80877923
1 MAY 2007	42.17886367
1 JUN 2007	41.52912198
1 JUL 2007	40.87505266
1 AUG 2007	40.24877673
1 SEP 2007	39.60240172
1 OCT 2007	38.95179966
1 NOV 2007	38.32986171
1 DEC 2007	37.68755267
1 JAN 2008	37.04112629
1 FEB 2008	36.42426081
1 MAR 2008	35.78675338
1 APR 2008	35.14524791
1 MAY 2008	34.53402385
1 JUN 2008	33.90198772
1 JUL 2008	33.26608173
1 AUG 2008	32.66140734
1 SEP 2008	32.03565197
1 OCT 2008	31.40616539
1 NOV 2008	30.80888909
1 DEC 2008	30.19026488
1 JAN 2009	29.56805905
1 FEB 2009	28.97907161
1 MAR 2009	28.36847156
1 APR 2009	27.75445095

1 MAY 2009	27.17446566
1 JUN 2009	26.57271394
1 JUL 2009	25.96771344
1 AUG 2009	25.38979174
1 SEP 2009	24.76815735
1 OCT 2009	24.13305092
1 NOV 2009	23.52320031
1 DEC 2009	22.88056980
1 JAN 2010	22.22423400
1 FEB 2010	21.59291821
1 MAR 2010	20.92858406

## SCHEDULE OF CASUALTY VALUES

DATE	CASUALTY VALUE AS % OF LESSOR'S COST
1 MAR 1992	104.43636043
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1 MAY 1992	104.91049834
1 JUN 1992	105.15003028
1 JUL 1992	105.39089663
1 AUG 1992	105.59224355
1 SEP 1992	105.81493687
1 OCT 1992	106.03877838
1 NOV 1992	106.22291215
1 DEC 1992	106.42820195
1 JAN 1993	106.63444745
1 FEB 1993	106.80079062
1 MAR 1993	106.98809305
1 APR 1993	107.17615224
1 MAY 1993	107.28956315
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1 JUL 1993	107.59203334
1 AUG 1993	107.66839280
1 SEP 1993	107.78198871
1 OCT 1993	107.89552620
1 NOV 1993	107.93359121
1 DEC 1993	108.00846914
1 JAN 1994	108.08286043
1 FEB 1994	108.08134628
1 MAR 1994	108.11620731
1 APR 1994	108.15013912
1 MAY 1994	108.13148047
1 JUN 1994	108.13712615
1 JUL 1994	108.14151949
1 AUG 1994	108.09299568
1 SEP 1994	108.07181628
1 OCT 1994	108.05230850
1 NOV 1994	107.98167928
1 DEC 1994	107.93677510
1 JAN 1995	107.89208330
1 FEB 1995	107.79618542
1 MAR 1995	107.72565919
1 APR 1995	107.65507746
1 MAY 1995	107.54921251
1 JUN 1995	107.46052789
1 JUL 1995	107.37160278
1 AUG 1995	107.24740179
1 SEP 1995	107.14009728
1 OCT 1995	107.03236252

1 NOV 1995	106.88935867
1 DEC 1995	106.76296050
1 JAN 1996	106.63593743
1 FEB 1996	106.47365146
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1 MAY 1996	106.01027884
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1 JUL 1996	105.68892134
1 AUG 1996	105.50404183
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1 NOV 1996	104.95398768
1 DEC 1996	104.76439959
1 JAN 1997	104.57355756
1 FEB 1997	104.35914233
1 MAR 1997	104.15436658
1 APR 1997	103.94818735
1 MAY 1997	103.71879453
1 JUN 1997	103.49863888
1 JUL 1997	103.27692848
1 AUG 1997	103.03308977
1 SEP 1997	102.79773282
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1 JUL 1998	100.26142838
1 AUG 1998	99.98610892
1 SEP 1998	99.71283785
1 OCT 1998	99.43764041
1 NOV 1998	99.15264623
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1 FEB 1999	98.28976284
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1 JUN 1999	97.10208918
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1 AUG 1999	96.49294448
1 SEP 1999	96.18518635
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1 NOV 1999	95.56111005
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1 JAN 2000	94.92832030
1 FEB 2000	94.60661382
1 MAR 2000	94.28367872
1 APR 2000	93.95849992

1 MAY 2000	93.63451796
1 JUN 2000	93.30654711
1 JUL 2000	92.97629217
1 AUG 2000	92.64730908
1 SEP 2000	92.31423872
1 OCT 2000	91.97884320
1 NOV 2000	91.64479638
1 DEC 2000	91.30656197
1 JAN 2001	90.96596060
1 FEB 2001	90.62678668
1 MAR 2001	90.28332285
1 APR 2001	89.76874758
1 MAY 2001	89.25544923
1 JUN 2001	88.73603719
1 JUL 2001	88.21293665
1 AUG 2001	87.69325634
1 SEP 2001	87.16629750
1 OCT 2001	86.63558581
1 NOV 2001	86.10842632
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1 JAN 2002	85.03540609
1 FEB 2002	84.50067414
1 MAR 2002	83.95833454
1 APR 2002	83.41211004
1 MAY 2002	82.86949545
1 JUN 2002	82.31921066
1 JUL 2002	81.76497278
1 AUG 2002	81.21448605
1 SEP 2002	80.65615574
1 OCT 2002	80.09380296
1 NOV 2002	79.53534599
1 DEC 2002	78.96886858
1 JAN 2003	78.39829811
1 FEB 2003	77.82925336
1 MAR 2003	77.25457472
1 APR 2003	76.67571835
1 MAY 2003	76.09692594
1 JUN 2003	75.51392546
1 JUL 2003	74.92667131
1 AUG 2003	74.33952931
1 SEP 2003	73.74810266
1 OCT 2003	73.15234546
1 NOV 2003	72.55674921
1 DEC 2003	71.95679077
1 JAN 2004	71.35242393
1 FEB 2004	70.74826744
1 MAR 2004	70.13967027
1 APR 2004	69.52661046
1 MAY 2004	68.91373571
1 JUN 2004	68.29636570
1 JUL 2004	67.67445300
1 AUG 2004	67.05277617
1 SEP 2004	66.42652335
1 OCT 2004	65.79564679

1 NOV 2004	65.16505754
1 DEC 2004	64.52981056
1 JAN 2005	63.88996863
1 FEB 2005	63.25071212
1 MAR 2005	62.60606599
1 APR 2005	61.95705174
1 MAY 2005	61.30951027
1 JUN 2005	60.65535868
1 JUL 2005	59.99721711
1 AUG 2005	59.34064159
1 SEP 2005	58.67726860
1 OCT 2005	58.00988591
1 NOV 2005	57.34416121
1 DEC 2005	56.67145262
1 JAN 2006	55.99471309
1 FEB 2006	55.31972465
1 MAR 2006	54.63756356
1 APR 2006	53.95135004
1 MAY 2006	53.27033443
1 JUN 2006	52.57759448
1 JUL 2006	51.88246146
1 AUG 2006	51.19262549
1 SEP 2006	50.49087172
1 OCT 2006	49.78670961
1 NOV 2006	49.08793439
1 DEC 2006	48.37832142
1 JAN 2007	47.66423225
1 FEB 2007	46.97464475
1 MAR 2007	46.26405373
1 APR 2007	45.54760368
1 MAY 2007	44.85614605
1 JUN 2007	44.14362825
1 JUL 2007	43.42528478
1 AUG 2007	42.73263855
1 SEP 2007	42.01863912
1 OCT 2007	41.29885351
1 NOV 2007	40.60549081
1 DEC 2007	39.89048099
1 JAN 2008	39.16973089
1 FEB 2008	38.47615089
1 MAR 2008	37.76062909
1 APR 2008	37.03941970
1 MAY 2008	36.34599039
1 JUN 2008	35.63040198
1 JUL 2008	34.90918485
1 AUG 2008	34.21653903
1 SEP 2008	33.50143763
1 OCT 2008	32.78077379
1 NOV 2008	32.08949602
1 DEC 2008	31.37546595
1 JAN 2009	30.65594755
1 FEB 2009	29.96665418
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1 APR 2009	28.53656336

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1	OCT	2009	24.33858767
1	NOV	2009	23.66497545
1	DEC	2009	22.96831798
1	JAN	2010	22.26740518
1	FEB	2010	21.60116022
1	MAR	2010	20.91157374

## LESSOR ASSUMPTIONS

### 4TH QUARTER 1991 DELIVERIES

Lessor's Cost:	\$63,151.00 per Item of Equipment
Acceptance of Items:	13 Items on December 16, 1991 67 Items on December 30, 1991
Funding of Items:	13 Items on December 16, 1991 67 Items on December 30, 1991
Basic Lease Term Commencement Date:	March 1, 1992
Basic Lease Term:	18 Years

### 1st QUARTER 1992 DELIVERIES

Lessor's Cost:	\$63,151.00 per Item of Equipment
Acceptance of Items:	45 Items on February 3, 1992
Funding of Items:	45 Items on February 3, 1992
Basic Lease Term Commencement Date:	March 1, 1992
Basic Lease Term:	18 Years

EXHIBIT E  
(To Equipment Lease)