

RECORDATION NO. 18297 FILED 1425

Law Offices of

3-183A003

JUL 2 1993 11-05 AM

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MOTOR OPERATING UNIT

RECORDATION NO. 18297 FILED 1425

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RECORDATION NO. 18297 FILED 1425

JUL 2 1993 11-05 AM

July 2, 1993

690

INTERSTATE COMMERCE COMMISSION

Mr. Sidney L. Strickland, Jr., Secretary
Interstate Commerce Commission
Twelfth Street & Constitution Avenue, N.W.
Washington, DC 20423

RECORDATION NO. 18297 New No. FILED 1425

JUL 2 1993 11-05 AM

INTERSTATE COMMERCE COMMISSION

- A
- B
- C

Re: Southern Pacific Transportation Company
Leveraged Lease Financing of Locomotives

Dear Mr. Strickland:

We are enclosing for recording pursuant to Section 11303 of Title 49 of the United States Code an original and five counterparts of each of the primary documents and each of the secondary documents described below, which secondary documents are related to the enclosed primary documents. The undersigned has acted as special counsel in connection with the preparation of the enclosed documents and has knowledge of the matters set forth therein.

The enclosed primary documents are as follows:

Equipment Lease dated as of June 15, 1993, between U.S. Trust Company of California, N.A., as lessor (the "Lessor"), and Southern Pacific Transportation Company, as lessee (the "Lessee").

Trust Indenture and Security Agreement dated as of June 15, 1993 between U.S. Trust Company of California, N.A., as owner trustee (the "Owner Trustee"), and The Bank of New York, as indenture trustee (the "Indenture Trustee").

The enclosed secondary documents are as follows:

Lease Supplement No. 1 dated July 2, 1993, between the Lessor and the Lessee. The primary document to which this Lease Supplement No. 1 is connected is the Equipment Lease referred to above and which is being submitted for recording concurrently herewith.

Trust Indenture Supplement No. 1 dated July 2, 1993, of the Owner Trustee. The primary document to which this Trust Indenture Supplement No. 1 is connected is the

Billy J. Gira
County Clerk

Trust Indenture and Security Agreement referred to above and which is being submitted for recording concurrently herewith.

The names and addresses of the parties to the documents are as follows:

EQUIPMENT LEASE AND LEASE SUPPLEMENT NO. 1:

Lessee: Southern Pacific Transportation Company
Southern Pacific Building
One Market Plaza
San Francisco, California 94105

Lessor: U.S. Trust Company of California, N.A.,
as Owner Trustee
555 South Flower Street
Los Angeles, California 90071

TRUST INDENTURE AND SECURITY AGREEMENT:

Owner Trustee: U.S. Trust Company of California, N.A.,
as Owner Trustee
555 South Flower Street
Los Angeles, California 90071

Indenture Trustee: The Bank of New York
101 Barclay Street
New York, New York 10007

TRUST INDENTURE SUPPLEMENT NO. 1:

Owner Trustee: U.S. Trust Company of California, N.A.,
as Owner Trustee
555 South Flower Street
Los Angeles, California 90071

The Equipment Lease provides, *inter alia*, for the lease by the Lessor to the Lessee of certain locomotives (the "*Items of Equipment*"). The Trust Indenture and Security Agreement provides, *inter alia*, for the granting of a security interest in the Items of Equipment in favor of the Indenture Trustee in order to secure the Owner Trustee's performance of certain obligations under the Trust Indenture and any Trust Indenture Supplement executed and delivered from time to time and the Lessee's performance of certain obligations under the Equipment Lease and any Lease Supplement executed and delivered from time to time. Lease Supplement No. 1 provides, *inter alia*, for the Equipment Lease to apply to the 24 locomotives bearing the road numbers set forth in Exhibit A to Lease Supplement No. 1, namely the road numbers set forth in Schedule 1 hereto. Trust Indenture Supplement No. 1 provides, *inter alia*, for the Trust Indenture to apply to the 24 locomotives bearing the road numbers set forth

CHAPMAN AND CUTLER

July 2, 1993

Page 3

in Schedule 1 to Trust Indenture Supplement No. 1, namely the road numbers set forth in Schedule 1 hereto.

A general description of the equipment covered as of the date hereof by the aforesaid documents is set forth in Schedule 1 attached to this letter and made a part hereof.

A fee of sixty-four dollars (\$64.00) is enclosed. Please time and date stamp the enclosed copy of each of the enclosed documents along with the extra copy of this letter as proof of filing and recordation of the enclosed documents and return the original and any extra copies of such documents and this letter not needed by the Commission for recordation to:

Ross D. Taylor
Chapman and Cutler
111 West Monroe Street
Chicago, Illinois 60603

A short summary of each of the documents to appear in the index follows:

(1) EQUIPMENT LEASE:

Equipment Lease dated as of June 15, 1993 between U.S. Trust Company of California, N.A., as Lessor, 555 South Flower Street, Los Angeles, California 90071, and Southern Pacific Transportation Company, as Lessee, Southern Pacific Building, One Market Plaza, San Francisco, California 94105, covering locomotives bearing the road numbers set forth in such Lease Supplements as may be executed and delivered from time to time pursuant to such Equipment Lease.

(2) TRUST INDENTURE AND SECURITY AGREEMENT :

Trust Indenture and Security Agreement dated as of June 15, 1993 between U.S. Trust Company of California, N.A., as Owner Trustee, 555 South Flower Street, Los Angeles, California 90071 and The Bank of New York, as Indenture Trustee, 101 Barclay Street, New York, New York 10007, covering locomotives bearing the road numbers set forth in such Trust Indenture Supplements as may be executed and delivered from time to time pursuant to such Trust Indenture and Security Agreement.

July 2, 1993

Page 4

(3) LEASE SUPPLEMENT NO. 1:

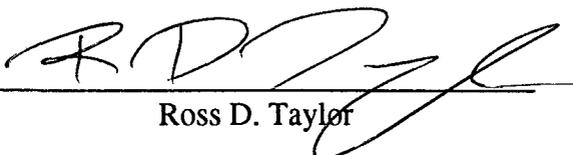
Lease Supplement No. 1 dated July 2, 1993 between U.S. Trust Company of California, N.A., as Lessor, 555 South Flower Street, Los Angeles, California 90071, and Southern Pacific Transportation Company, as Lessee, Southern Pacific Building, One Market Plaza, San Francisco, California 94105, covering 24 locomotives bearing the road numbers set forth in Exhibit A to such Lease Supplement No. 1, namely road numbers set forth in Schedule 1 hereto. Lease Supplement No. 1 is related to the Equipment Lease dated as of June 15, 1993 which is filed concurrently herewith.

(4) TRUST INDENTURE SUPPLEMENT NO. 1:

Trust Indenture Supplement No. 1 dated July 2, 1993 of U.S. Trust Company of California, N.A., 555 South Flower Street, Los Angeles, California 90071, covering 24 locomotives bearing the road numbers set forth in Schedule 1 to such Trust Indenture Supplement No. 1, namely road numbers set forth in Schedule 1 hereto. Trust Indenture Supplement No. 1 is related to the Trust Indenture and Security Agreement dated as of June 15, 1993 which is filed concurrently herewith.

Very truly yours,

CHAPMAN AND CUTLER

By 
Ross D. Taylor

RDT:
Enclosures

DESCRIPTION OF ITEMS OF EQUIPMENT

UNITS	DESCRIPTION OF UNITS	SELLER	ROAD NUMBERS
24	Diesel Electric Locomotives consisting of:	General Motors	
	9 Model GP 40-2 Locomotives		SP 7600, 7609, 7611, 7613, 7615, 7616, 7617, 7620, 7623
	4 Model SD 40-2 Locomotives		SP 7314, 7316, 7325, 7338
	11 Model SD 40-T2 Locomotives		SP 8352, 8353, 8365, 8366, 8492, 8493, 8495, 8527, 8548, 8557, 8559

Interstate Commerce Commission
Washington, D.C. 20423

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7/2/93

OFFICE OF THE SECRETARY

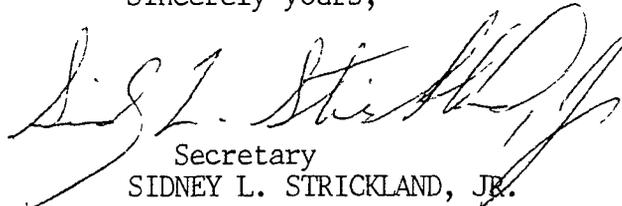
Ross D. Taylor
Chapman & Cutler
111 West Monroe
Chicago, Illinois 60603

Dear

Sir:

The enclosed document(s) was recorded pursuant to the provisions
of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303,
on **7/2/93** at **11:05am**, and assigned
recordation number(s). **18297, 18297-A, 18297-B & 18297-C**

Sincerely yours,



Secretary
SIDNEY L. STRICKLAND, JR.

Enclosure(s)

18297
RECORDED OR FILED 1993
JUL 2 1993 11-05 AM
INTERSTATE COMMERCE COMMISSION

EQUIPMENT LEASE

Dated as of June 15, 1993

Between

U.S. TRUST COMPANY OF CALIFORNIA, N.A.,
as Owner Trustee

LESSOR

And

SOUTHERN PACIFIC TRANSPORTATION COMPANY

LESSEE

Re: Diesel Electric Locomotives

CERTAIN OF THE RIGHT, TITLE AND INTEREST OF LESSOR IN AND TO THIS LEASE, THE EQUIPMENT COVERED HEREBY AND THE RENT DUE AND TO BECOME DUE HEREUNDER HAVE BEEN ASSIGNED AS COLLATERAL SECURITY TO, AND ARE SUBJECT TO A SECURITY INTEREST IN FAVOR OF, THE BANK OF NEW YORK AS INDENTURE TRUSTEE UNDER A TRUST INDENTURE AND SECURITY AGREEMENT DATED AS OF JUNE 15, 1993 BETWEEN SAID INDENTURE TRUSTEE, AS SECURED PARTY, AND LESSOR, AS DEBTOR. INFORMATION CONCERNING SUCH SECURITY INTEREST MAY BE OBTAINED FROM THE INDENTURE TRUSTEE AT ITS ADDRESS SET FORTH IN SECTION 21.1 OF THIS LEASE.

TABLE OF CONTENTS

SECTION	HEADING	PAGE
Parties		1
Recitals		1
SECTION 1.	LEASE AND DELIVERY OF EQUIPMENT	1
Section 1.1.	Intent to Lease and Hire	1
Section 1.2.	Lease Supplement	1
SECTION 2.	RENTALS AND PAYMENT DATES	2
Section 2.1.	Interim Rent	2
Section 2.2.	Basic Rent	2
Section 2.3.	Supplemental Rent	2
Section 2.4.	Adjustment of Rentals	2
Section 2.5.	Manner of Payments	4
SECTION 3.	TERM OF THE LEASE	4
SECTION 4.	OWNERSHIP AND MARKING OF EQUIPMENT	5
Section 4.1.	Retention of Title	5
Section 4.2.	Duty to Number and Mark Equipment	5
Section 4.3.	Prohibition against Certain Designations	5
SECTION 5.	DISCLAIMER OF WARRANTIES; WARRANTY ASSIGNMENTS; QUIET ENJOYMENT	6
SECTION 6.	RULES, LAWS AND REGULATIONS	7
SECTION 7.	USE AND MAINTENANCE OF EQUIPMENT	8
SECTION 8.	LIENS ON THE EQUIPMENT	9
SECTION 9.	FILINGS; FURTHER ASSURANCES	9
Section 9.1.	Filings	9
Section 9.2.	Further Assurances	9
Section 9.3.	Expenses	9

SECTION 10.	VOLUNTARY TERMINATION	9
Section 10.1.	Right of Termination	9
Section 10.2.	Sale of Equipment	10
Section 10.3.	Retention of Equipment by Lessor	10
Section 10.4.	Termination of Lease.....	11
SECTION 11.	INSURANCE	11
SECTION 12.	LOSS, DESTRUCTION, REQUISITION, ETC	13
Section 12.1.	Event of Loss.....	13
Section 12.2.	Replacement or Payment upon Event of Loss.....	13
Section 12.3.	Rent Termination.....	14
Section 12.4.	Disposition of Equipment; Replacement of Item.....	14
Section 12.5.	Eminent Domain	15
Section 12.6.	Application of Payments During Existence of Event of Default	15
SECTION 13.	EQUIPMENT REPORTS	16
Section 13.1.	Duty of Lessee to Furnish	16
Section 13.2.	Lessor's Inspection Rights	16
SECTION 14.	RETURN OF THE EQUIPMENT UPON EXPIRATION OF TERM	16
SECTION 15.	DEFAULT	17
Section 15.1.	Events of Default.....	17
Section 15.2.	Remedies	18
Section 15.3.	Cumulative Remedies	21
Section 15.4.	No Waiver	21
Section 15.5.	Notice of Event of Default	21
Section 15.6.	Lessee's Duty to Return	22
Section 15.7.	Specific Performance	22
Section 15.8.	Lessor Appointed Lessee's Agent.....	22
SECTION 16.	NET LEASE, ETC	22
SECTION 17.	ASSIGNMENT	23
Section 17.1.	Assignment by Lessor	23
Section 17.2.	Assignment by Lessee	23
SECTION 18.	USE AND POSSESSION	24
Section 18.1.	Lessee's Rights to the Equipment; Sublease.....	24

Section 18.2.	Use and Possession in Railroad Operations	24
SECTION 19.	OPTIONS TO RENEW AND PURCHASE	25
Section 19.1.	Determination of Fair Market Value and Fair Rental Value.....	25
Section 19.2.	Election to Retain or Return Equipment	25
Section 19.3.	Option to Purchase	25
Section 19.4.	Option to Renew	25
Section 19.5.	Delivery of Equipment.....	26
SECTION 20.	INTEREST ON OVERDUE RENTALS AND AMOUNTS	
	ADVANCED	26
SECTION 21.	MISCELLANEOUS	26
Section 21.1.	Notices.....	26
Section 21.2.	Right of Lessor to Perform.....	27
Section 21.3.	Amendments and Waivers.....	27
Section 21.4.	Execution in Counterparts	28
Section 21.5.	Law Governing.....	28
Section 21.6.	Currency	28
Section 21.7.	Headings and Table of Contents; Section References.....	28
Section 21.8.	Severability	28
Section 21.9.	True Lease	28
Section 21.10.	Limitations of Liability	28
Section 21.11.	Successors and Assigns	29
Section 21.12.	Survival	29
Section 21.13.	Incorporation by Reference	29
Signatures		30

ATTACHMENTS TO EQUIPMENT LEASE:

- Schedule 1 — Description of Items of Equipment
- Schedule 2 — Pricing Assumptions
- Schedule 3 — Interim Rent and Basic Rent
- Schedule 4 — Stipulated Loss Value
- Schedule 5 — Termination Value
- Exhibit A — Lease Supplement
- Exhibit B — Insurance Letter
- Appendix A— Definitions

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EQUIPMENT LEASE

THIS EQUIPMENT LEASE dated as of June 15, 1993 is between U.S. TRUST COMPANY OF CALIFORNIA, N.A., a national banking association, not in its individual capacity but solely as Owner Trustee under the Trust Agreement (the "Lessor"), and SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation (the "Lessee").

RECITALS

A. Concurrently with the execution of this Equipment Lease, General Electric Capital Corporation, a New York corporation (the "Owner Participant"), and the Lessor are entering into the Trust Agreement creating a trust and authorizing the Lessor to act for the Owner Participant in connection with the transactions contemplated hereby and thereby.

B. The Lessor contemplates purchasing certain items of rail equipment described in Schedule 1 (the "Equipment").

C. Upon purchase of the Equipment by the Lessor, the Lessee shall lease and let and the Lessor shall hire to the Lessee the Equipment for the rental and on and subject to the terms and conditions set forth herein and in the Lease Supplements to be then executed and delivered by the Lessor and the Lessee with respect to each Item of Equipment.

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

NOW THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Lessor and the Lessee agree as follows:

SECTION 1. LEASE AND DELIVERY OF EQUIPMENT.

Section 1.1. Intent to Lease and Hire. Upon purchase of the Equipment by the Lessor, the Lessee shall lease and let and the Lessor shall hire to the Lessee each Item of Equipment for the rental and on and subject to the terms and conditions set forth herein and in a Lease Supplement to be then executed and delivered by the Lessor and the Lessee with respect to each Item of Equipment.

Section 1.2. Lease Supplement. The Lessee's execution and delivery of a Lease Supplement with respect to an Item of Equipment 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 any manufacturer of such Item of Equipment, 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 appears to conform 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 such Item of Equipment as of the date of this Lease. By execution and delivery of such Lease Supplement, the Lessee represents that it has no knowledge of any such defect.

SECTION 2. RENTALS AND PAYMENT DATES.

Section 2.1. Interim Rent. The Lessee hereby agrees to pay the Lessor Interim Rent for each Item of Equipment during the Interim Term in one installment payable on the Basic Term Commencement Date in the amount set forth in Schedule 3 hereto for such date.

Section 2.2. Basic Rent. The Lessee hereby agrees to pay the Lessor Basic Rent for each Item of Equipment for the Basic Term quarterly in arrears in the amounts set forth in Schedule 3 hereto for each Rent Payment Date. Anything contained herein or in the Participation Agreement to the contrary notwithstanding, each installment of Basic Rent (both before and after any adjustment pursuant to Section 2.4) shall be, under any circumstances and in any event, in an amount at least sufficient for the Lessor to pay in full as of the due date of such installment, any payment of principal of and interest on the Notes required to be paid by the Lessor pursuant to the Indenture on such due date.

Section 2.3. Supplemental Rent. The Lessee also agrees to pay to the Lessor, or to whosoever shall be entitled thereto, any and all Supplemental Rent, promptly as the same shall become due and owing, or where no due date is specified, promptly after demand by the Person entitled thereto, and in the event of any failure on the part of the Lessee to pay any Supplemental Rent, the Lessor shall have all rights, powers and remedies provided for herein or by law or equity or otherwise as in the case of nonpayment of Basic Rent. The Lessee will also pay, as Supplemental Rent, (i) on demand, to the extent permitted by applicable law, an amount equal to interest at the Late Rate on any part of any installment of Basic Rent not paid when due for any period for which the same shall be overdue and on any payment of Supplemental Rent not paid when due or demanded, as the case may be, for the period from such due date or demand until the same shall be paid, and (ii) in the case of any refinancing of the Notes pursuant to Section 10.1 of the Participation Agreement, on the Refunding Date, an amount equal to the Make Whole Amount, if any, with respect to the aggregate principal amount of the Notes being prepaid. All Supplemental Rent to be paid pursuant to this Section 2.3 shall be payable in the type of funds and in the manner set forth in Section 2.5.

Section 2.4. Adjustment of Rentals. (a) The Lessee and the Lessor agree that the Interim Rent, Basic Rent and the Stipulated Loss Value and Termination Value percentages as set forth herein have been calculated on the assumptions set forth in Schedule 2. If any of such assumptions shall prove to be incorrect, then the Lessee and the Lessor agree that the percentages for Interim Rent, Basic Rent, Stipulated Loss Values and Termination Values will

be adjusted upwards or downwards as required as soon as practicable after receipt of invoices for the transaction expenses, except that (x) no adjustments shall be made with respect to any amendment to, or change in, the Code, any Regulation thereunder, any published Revenue Ruling or other document of the Treasury or the Internal Revenue Service, any applicable state statutes, regulations, or similar documents, or the rate of tax under the laws of the United States or of any state on the taxable income of corporations, which is promulgated or enacted after a Closing Date with respect to Items of Equipment closed for on such Closing Date and (y) no adjustment shall be made with respect to any favorable amendment or change to the extent that Owner Participant certifies in writing (which certification shall state the basis for such conclusion) that it is unable to use the incremental tax benefits arising from such amendment or change; *provided however*, to the extent that the Owner Participant so certifies, it shall, if able, transfer, pass through or make available to the Lessee such tax benefits except to the extent that such transfer, pass through or otherwise results in a reduction of tax benefits to the Owner Participant. Any such adjustment shall be made in such manner as to (1) maintain the Owner Participant's Net Economic Return (computed on the same assumptions, including tax rates, as were utilized by the Owner Participant in originally evaluating this transaction except for any corrected assumptions giving rise to the adjustment) that would have been realized by the Owner Participant over the entire term of this Lease had such assumptions proved correct, while (2) minimizing the net present value (utilizing a discount rate of 6.82% per annum) of the Basic Rent to the Lessee to the extent possible consistent with the foregoing clause (1). The Lessor shall furnish the Lessee and the Indenture Trustee with revised schedules setting forth any adjustments required by this Section 2.4 as soon as practicable after receipt of invoices for the transaction expenses, accompanied by a letter from the Lessor setting forth in reasonable detail the reasons for the recomputation of Interim Rent, Basic Rent, Stipulated Loss Values and Termination Values and stating that such recomputation was made in accordance with this Section 2.4. All such adjustments shall be in compliance with the provisions of Revenue Procedure 75-21 and Revenue Procedure 75-28 and shall not cause the Lease to be treated as a "disqualified leaseback or long-term agreement" within the meaning of Section 467 of the Code and shall be made in a manner otherwise designed to comply with Section 467 of the Code and any regulation thereunder. If the Lessee requests, at the Lessee's expense (except as otherwise provided below), the methodologies and assumptions utilized in calculating such revised schedules shall be verified by a nationally recognized independent accounting firm selected by the Lessor, and the Lessor shall provide such materials to such accounting firm as it shall reasonably request to enable it to verify such revised schedules. All such materials shall be and remain confidential as to the Lessee and all other third parties. If such review reveals a miscalculation, then the Lessor shall readjust the Interim Rent, Basic Rent and Stipulated Loss Value and Termination Value percentages pursuant to the results of such review. If such review reveals a miscalculation which results in an increase in the net present value of the Interim Rent and Basic Rent by more than ten (10) basis points, the Lessor shall pay the costs of such review. The Lessor and the Lessee shall enter into a Lease Supplement evidencing such revised Interim Rent, Basic Rent, Stipulated Loss Value and Termination Value schedules.

(b) The Lessor shall have the right to reoptimize the amortization of the Notes in connection with the adjustments allowed by clause (a) in accordance with Section 10.12 of the Participation Agreement.

(c) Notwithstanding the foregoing, any adjustment made to the payments of Interim Rent, Basic Rent, Stipulated Loss Value or Termination Values with respect to the Basic Term pursuant to the foregoing shall comply with the following requirements: (i) each installment of Interim Rent and Basic Rent, as so adjusted, under any circumstances and in any event, will be in an amount at least sufficient for the Owner Trustee to pay in full as of the due date of such installment any payment of principal of and interest on the Notes required to be paid on the date of such installment of Interim Rent or Basic Rent, and (ii) Stipulated Loss Value and Termination Value, as so adjusted, under any circumstances and in any event, will be an amount which, together with any other amounts required to be paid by the Lessee under the Lease in connection with an Event of Loss or a termination of the Lease, as the case may be, will be at least sufficient to pay in full, as of the date of payment thereof, the aggregate unpaid principal of, and all unpaid interest on the Notes, accrued to the date on which Stipulated Loss Value or Termination Value, as the case may be, is paid in accordance with the terms hereof.

Section 2.5. Manner of Payments. All Rent (other than Supplemental Rent payable to Persons other than the Lessor, which shall be payable to such other Persons in accordance with written instructions furnished to the Lessee by such Persons, as otherwise provided in any of the Operative Agreements or as required by law) shall be paid by the Lessee to the Lessor at its office at 555 South Flower Street, Los Angeles, California 90071. All Rent shall be paid by the Lessee in funds consisting of lawful currency of the United States of America, which shall be immediately available to the recipient not later than 11:00 a.m. (Eastern time) on the date of such payment, *provided*, that so long as the Indenture shall not have been discharged pursuant to the terms thereof, the Lessor hereby directs, and the Lessee agrees, that all Rent (excluding Excepted Property) payable to the Lessor shall be paid directly to the Indenture Trustee at the times and in funds of the type specified in this Section 2.5 at the office of the Indenture Trustee at 101 Barclay Street, New York, New York 10007, or at such other location in the United States of America as the Indenture Trustee may otherwise direct. If a Rent Payment Date is not a Business Day, the payment otherwise due on such Rent Payment Date shall be payable on the next succeeding Business Day and (provided such payment is made on such succeeding Business Day) no interest shall accrue on the amount of such payment from and after such Rent Payment Date to the time of such payment on such next succeeding Business Day.

SECTION 3. TERM OF THE LEASE.

The interim term for the Items of Equipment delivered on a particular Closing Date shall commence on such Closing Date and continue through and including the day immediately preceding the Basic Term Commencement Date (the "*Interim Term*"). The basic term of this Lease for each Category of Equipment (the "*Basic Term*") shall commence on October 2, 1993 (the "*Basic Term Commencement Date*") and shall terminate on July 2, 2002, subject to earlier termination pursuant to Sections 10, 11 and 15. Subject and pursuant to the terms of Section 19 hereof, the Lessee may elect one Renewal Term at the end of the Basic Term with respect to all Items of Equipment.

SECTION 4. OWNERSHIP AND MARKING OF EQUIPMENT.

Section 4.1. Retention of Title. The Lessor, as between the Lessor and the Lessee, shall and hereby does retain full legal title to and beneficial ownership of the Equipment notwithstanding the delivery thereof to and possession and use thereof by the Lessee hereunder or any sublessee under any sublease permitted hereby.

Section 4.2. Duty to Number and Mark Equipment. The Lessee will (a) cause each Item to be kept numbered with one of its unit numbers as set forth in Schedule 1 to the Lease Supplement executed and delivered on the relevant Closing Date, and (b) keep and maintain, as soon as practicable after such Item becomes subject to the terms of this Lease, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting colors upon both sides of each Item in letters not less than one inch in height a legend substantially as follows:

“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 right, title and interest of the Lessor to such Item, its rights under this Lease and the rights of the Indenture Trustee. The Lessee will replace promptly any such names and word or words which may be removed, defaced, obliterated or destroyed. The Lessee will not change the unit number of any Item except in accordance with a statement of new unit numbers to be substituted therefor, which statement previously shall have been delivered to the Lessor and, so long as the Indenture shall not have been discharged pursuant to its terms, the Indenture Trustee by the Lessee prior to or contemporaneously with such change and a supplement to this Lease and, if not so discharged, the Indenture with respect to such new unit numbers shall be filed, recorded or deposited in all public offices where this Lease and the Indenture shall have been filed, recorded or deposited and in such other places, if any, where the Lessor and, so long as the Indenture shall not have been discharged pursuant to its terms, the Indenture Trustee may reasonably request in order to protect, preserve and maintain its right, title and interest in the Items. The costs and expenses of all such supplements, filings, recording and deposits shall be borne by the Lessee.

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

SECTION 5. DISCLAIMER OF WARRANTIES; WARRANTY ASSIGNMENTS; QUIET
 ENJOYMENT.

(a) WITHOUT WAIVING ANY CLAIM THE LESSEE MAY HAVE AGAINST ANY SELLER, SUPPLIER OR MANUFACTURER THE LESSEE ACKNOWLEDGES AND AGREES THAT (i) THE EQUIPMENT AND EACH ITEM THEREOF IS OF A SIZE, DESIGN, CAPACITY AND MANUFACTURE SELECTED BY AND ACCEPTABLE TO THE LESSEE, (ii) THE LESSEE IS SATISFIED THAT THE EQUIPMENT AND EACH ITEM THEREOF IS SUITABLE FOR ITS PURPOSES, (iii) NEITHER THE LESSOR NOR THE OWNER PARTICIPANT IS A MANUFACTURER OR A DEALER IN PROPERTY OF SUCH KIND, (iv) THE EQUIPMENT AND EACH ITEM THEREOF IS LEASED HEREUNDER SUBJECT TO ALL APPLICABLE LAWS AND GOVERNMENTAL REGULATIONS NOW IN EFFECT OR HEREAFTER ADOPTED AND IN THE STATE AND CONDITION OF EVERY PART THEREOF WHEN THE SAME FIRST BECAME SUBJECT TO THIS LEASE, WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND BY THE LESSOR, AND (v) THE LESSOR LEASES AND THE LESSEE TAKES EACH ITEM "AS-IS", "WHERE-IS" AND "WITH ALL FAULTS", IN WHATEVER CONDITION IT MAY BE, AND THE LESSEE ACKNOWLEDGES THAT NEITHER THE LESSOR, AS LESSOR OR IN ITS INDIVIDUAL CAPACITY, NOR THE OWNER PARTICIPANT MAKES NOR SHALL BE DEEMED TO HAVE MADE, AND EACH EXPRESSLY DISCLAIMS, ANY AND ALL RIGHTS, CLAIMS, WARRANTIES OR REPRESENTATIONS EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, DESIGN, OPERATION, MERCHANTABILITY THEREOF OR AS TO THE TITLE OF THE EQUIPMENT, THE QUALITY OF THE MATERIAL OR WORKMANSHIP THEREOF OR CONFORMITY THEREOF TO SPECIFICATIONS, FREEDOM FROM PATENT, COPYRIGHT OR TRADEMARK INFRINGEMENT, THE ABSENCE OF ANY LATENT OR OTHER DEFECT, WHETHER OR NOT DISCOVERABLE, OR AS TO THE ABSENCE OF ANY OBLIGATIONS BASED ON STRICT LIABILITY IN TORT OR ANY OTHER EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER WITH RESPECT THERETO, except that the Lessor, in its individual capacity, represents and warrants that on each Closing Date, the Lessor shall have received whatever title to the Equipment settled for on such Closing Date as was conveyed to the Lessor by the Seller and each Item will be free of Lessor's Liens attributable to the Lessor and provided that the foregoing disclaimer in clause (v) shall not extend to the Owner Participant's representation and warranty contained in Section 3.5(a)(v) of the Participation Agreement.

(b) Subject to the next following sentence, the Lessee hereby assigns to the Lessor all rights, if any, with respect to the Equipment against the manufacturers of the Equipment, including, without limitation, all claims under any indemnities or warranties, whether for condition of goods, patent or otherwise, and any other rights arising under any purchase orders or agreements pertaining to the Equipment. The Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease prior to any Lease Event of Default to assert and enforce, from time to time, in the name and for the account of the Lessor and the Lessee, as their interests may appear, but in all cases at the sole cost and expense of the Lessee, whatever claims and rights the Lessor may have as owner of the Equipment against the manufacturers or any prior owner thereof; *provided, however*, that if at any time a Lease Default or Lease Event of Default shall have occurred and be continuing, at the 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, at the Lessee's request and at the Lessee's expense, cooperate in the enforcement of any indemnities or warranties or the prosecution of any claims by the Lessee against such manufacturers or prior owners under this paragraph (b).

(c) 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 of the commodities, items or materials from time to time contained therein, whether or not permitted by the terms hereof, or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; *provided* that in the event the Lessor shall be a shipper of any such commodities, items or materials, this clause (i) shall not relieve the Lessor from any responsibilities or obligations which it would otherwise have as shipper thereof; (ii) the use, operation or performance of any Item of Equipment or any risks relating thereto; (iii) any interruption of service, use, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Item of Equipment. The Lessee's delivery of a Lease Supplement 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.

(d) So long as no Event of Default shall have occurred and be continuing, the Lessor agrees that the Lessee shall be entitled to quiet use and enjoyment of the Equipment in accordance with this Lease.

SECTION 6. RULES, LAWS AND REGULATIONS.

The Lessee agrees to comply with all governmental laws, regulations, requirements and rules (including, without limitation, the rules of the United States Department of Transportation (including the rules and regulations of the Federal Railroad Administration), the Interstate Commerce Commission and the current Interchange Rules or supplements thereto of the Mechanical Division, Association of American Railroads as the same may be in effect from time to time (the "*Interchange Rules*")) with respect to the use and maintenance of each Item of Equipment subject to this Lease. Subject to the provisions of Sections 7(b) and (c) below, in case any equipment or appliance is required to be altered, added, replaced or modified on any Item of Equipment in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such alterations, additions, replacements and/or modifications at its own expense and title thereto shall be immediately vested in the Lessor; *provided, however*, that Lessee may, in good faith and by appropriate legal proceedings, contest the validity or application of any such law, regulation, requirement or rule in any reasonable manner which does not adversely affect the property rights or interests of the Lessor or the Indenture Trustee in the Equipment or under any Operative Agreement.

SECTION 7. USE AND MAINTENANCE OF EQUIPMENT.

(a) The Lessee shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Lessee agrees that it will not discriminate against any Item of Equipment (as compared to other similar equipment owned or leased by Lessee) with respect to its use, operation or maintenance in contemplation of the expiration or termination of this Lease. The Equipment shall not be used in any manner which is in violation of the insurance maintained under Section 11. The Lessee shall at no time assign, or permit any sublessee to assign, any Item of Equipment for the transport or storage of hazardous (as determined by CFR Title 49 "Hazardous Materials Regulation") substance or materials except to the extent the same are commonly transported in similar equipment by rail common carriers.

(b) The Lessee shall, at its own cost and expense, (i) maintain and keep the Equipment, each Item thereof, and the component parts thereof in good order and repair, and (ii) limit perforation from corrosion, erosion or other damage, in each case to a standard at least equal to and no less thorough and complete than required by the standard and frequency of maintenance performed on other similar equipment owned or leased by the Lessee. In any event the Lessee agrees, at its own cost and expense, to maintain and keep the Equipment in the condition received by the Lessee from the Lessor, ordinary wear and tear excepted, and suitable for the commercial use as originally designed and intended in interchange service in accordance with applicable Interchange Rules (whether requirements are nominally imposed on the Lessor or the Lessee) and prudent industry practice. The Lessee shall also maintain all records, logs and other materials required by the Association of American Railroads, the Department of Transportation or any other governmental authority having jurisdiction over the Equipment or the Lessee to be maintained in respect of the Equipment.

(c) Any parts installed or replacements made by the Lessee upon any Item of Equipment pursuant to Section 6 hereof or pursuant to its obligation to maintain and keep the Equipment in good order, condition and repair under this Section 7 shall in either case be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Lessor without cost or expense to the Lessor. The Lessee shall make no other additions or improvements to any Item of Equipment unless the same are readily removable without causing material damage to such Item of Equipment. Title to any such readily removable additions or improvements shall remain with the Lessee. If the Lessee shall at its cost cause such readily removable additions or improvements to be made to any Item of Equipment the Lessee may, or at the request of the Lessor, the Lessee shall, prior to the return of such Item of Equipment to the Lessor hereunder, remove the same at its own expense without causing material damage to such Item of Equipment; *provided* that the Lessor may, by delivery of written notice to the Lessee prior to any such removal, elect to purchase any such readily removable additions for a price equal to the Fair Market Value thereof determined in the manner provided in Section 19.1. Title to any readily removable addition or improvement which has not been so removed by the Lessee from an Item of Equipment when such Item is returned to the Lessor pursuant to this Lease shall thereupon be vested in the Lessor.

SECTION 8. LIENS ON THE EQUIPMENT.

The Lessee will not directly or indirectly create, incur, assume or suffer to exist any Lien on or with respect to any Item of Equipment, title thereto or any interest therein except Lessor's Liens and Permitted Liens. The Lessee shall promptly, at its own expense, take such action as may be necessary to duly discharge any such Lien (and any claim which if unpaid might constitute or become such a Lien) not excepted above if the same shall arise at any time with respect to any Item of Equipment; *provided* that, so long as no Lease Event of Default shall have occurred and be continuing, the Lessee shall not be required to pay or discharge any such Lien so long as it shall in good faith and by appropriate legal proceedings contest the validity thereof in any reasonable manner which does not adversely affect the property rights or interests of the Lessor or the security interest or other rights of the Indenture Trustee in and to the Equipment or under any Operative Agreement.

SECTION 9. FILINGS; FURTHER ASSURANCES.

Section 9.1. Filings. On or prior to each Closing Date, the Lessee will cause this Lease, the Indenture and each Lease Supplement and Indenture Supplement dated such Closing Date to be duly filed, registered or recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. § 11303, and promptly following each Closing Date, will cause this Lease, the Indenture and each Lease Supplement and Indenture Supplement dated such Closing Date to be deposited with the Registrar General of Canada (notice of such deposit to be forthwith given in The Canada Gazette) pursuant to Section 90 of the Railway Act of Canada.

Section 9.2. Further Assurances. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will refile, re-register or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Indenture Trustee for the purpose of establishing and protecting the rights and remedies created in favor of the Lessor and the Indenture Trustee hereunder or for the purpose of carrying out the intention of this Lease, including, without limitation, any such filings and recordings as shall be necessary to evidence any change in name of the Lessee or any merger or consolidation thereof.

Section 9.3. Expenses. The Lessee will pay all costs, charges and expenses (including reasonable attorneys' fees) incident to any such filing, re-filing, recording and re-recording or depositing and re-depositing of any such instruments or incident to the taking of such action.

SECTION 10. VOLUNTARY TERMINATION.

Section 10.1. Right of Termination. So long as no Lease Default or Lease Event of Default shall have occurred and be continuing, the Lessee shall have the right, at its option at any time or from time to time during the Basic Term on or after the fifth anniversary of the Basic Term Commencement Date to terminate the Lease with respect to all (but not less than all) of the Items of any model (either GP 40-2 or SD 40-2, including T2) of Equipment as set

forth on Schedule 1 hereto (the "*Terminated Items*") if the Lessee determines in good faith (as evidenced by a certified copy of a resolution adopted by the Lessee's Board of Directors and a certificate executed by the Vice President-Finance, the Treasurer or the Controller of the Lessee or such other evidence as shall be satisfactory to the Lessor) that such Items have become obsolete or surplus to the Lessee's requirements, by delivering at least 120 days' prior notice to the Lessor and the Indenture Trustee specifying a proposed date of termination for such Items (the "*Termination Date*"), which date shall be a Rent Payment Date occurring not later than 180 days after such notice, any such termination to be effective on the Termination Date. So long as (a) the Lessor shall not have given the Lessee a notice of election to retain the Terminated Items in accordance with Section 10.3, or (b) notice of prepayment of the Notes shall not have been given pursuant to Section 2.9 of the Indenture, the Lessee may withdraw the termination notice referred to above at any time prior to the Termination Date, whereupon this Lease shall continue in full force and effect. The Lessee agrees that if it withdraws a termination notice it will reimburse the Lessor, the Owner Participant, the Indenture Trustee and the holders of the Notes for all reasonable out-of-pocket costs and expenses incurred by any thereof in connection therewith.

Section 10.2. Sale of Equipment. During the period from the date of such notice given pursuant to Section 10.1 to the Termination Date, the Lessee, as agent for the Lessor and at the Lessee's sole cost and expense, shall use reasonable best efforts to obtain bids from Persons other than the Lessee or Affiliates thereof for the cash purchase of the Terminated Items, and the Lessee shall promptly, and in any event at least five Business Days prior to the proposed date of sale, certify to the Lessor in writing the amount and terms of each such bid, the proposed date of such sale and the name and address of the party submitting such bid. Unless the Lessor shall have elected to retain the Terminated Items in accordance with Section 10.3, on the Termination Date: (i) the Lessee shall, subject to the prior or concurrent receipt (x) by Lessor of all amounts owing to Lessor pursuant to the next sentence, and (y) by the Persons entitled thereto of all unpaid Supplemental Rent due on or before the Termination Date, deliver the Terminated Items to the bidder (which shall not be the Lessee or any Affiliate thereof), if any, which shall have submitted the highest cash bid prior to such date, in the same manner and condition as if delivery were made to the Lessor pursuant to Section 14 and (ii) the Lessor shall, without recourse or warranty (except as to the absence of any Lessor's Lien) simultaneously therewith sell the Terminated Items to such bidder. The net proceeds of sale realized at such sale shall be paid to and retained by the Lessor and, in addition, on the Termination Date, the Lessee shall pay to the Lessor, (A) all unpaid Rent with respect to such Terminated Items due and payable on or prior to the Termination Date, and (B) the excess, if any, of (1) the Termination Value for the Terminated Items computed as of the Termination Date, over (2) the net cash sales proceeds (after the deduction of all reasonable costs and expenses of the Lessor and the Owner Participant in connection with such sale) of the Terminated Items. If no sale shall have occurred this Lease shall continue in full force and effect with respect to such Items; *provided* that if such sale shall not have occurred solely because of the Lessee's failure to pay the amounts hereinabove required, the Lessee shall have no further right to terminate this Lease with respect to such Items.

Section 10.3. Retention of Equipment by Lessor. Notwithstanding the provisions of Sections 10.1 and 10.2, the Lessor may irrevocably elect by written notice to the Lessee, no

later than 60 days after receipt of the Lessee's notice of termination, not to sell the Terminated Items on the Termination Date, whereupon the Lessee shall (i) deliver the Terminated Items to the Lessor in the same manner and condition as if delivery were made to the Lessor pursuant to Section 14, treating the Termination Date as the termination date of the Lease Term with respect to the Terminated Items, and (ii) pay to the Lessor, or to the Persons entitled thereto, all Basic Rent and all Supplemental Rent due and owing on the Termination Date and unpaid and an amount equal to the difference between the Termination Value of such Terminated Items and the Fair Market Value thereof (determined in accordance with Section 19.1). If the Lessor elects not to sell the Terminated Items as provided in this Section 10.3, then the Lessor shall pay, or cause to be paid, to the Indenture Trustee in funds of the type and in an amount equal to the outstanding principal amount of the Notes issued in respect of such Terminated Items and all accrued and unpaid interest to the date of prepayment of such Notes on such Termination Date; *provided* that unless the Lessor shall have paid all such amounts to the Indenture Trustee on the Termination Date, this Lease shall continue in full force and effect. If the Lessor shall fail to prepay the Notes pursuant to this Section 10.3 and as a result thereof this Lease shall not be terminated with respect to the Terminated Items on a proposed Termination Date, the Lessor shall (x) thereafter no longer be entitled to exercise its election to retain such Terminated Items, and (y) reimburse the Lessee for any expenses incurred by it in obtaining bids pursuant to Section 10.2, and the Lessee may thereafter designate by notice to the Lessor and the Indenture Trustee a new Termination Date (which shall be a Rent Payment Date) occurring not less than 60 days after the date of such notice.

Section 10.4. Termination of Lease. In the event of either (x) any such sale and receipt by the Lessor and the Indenture Trustee of all of the amounts provided in Section 10.2 or (y) retention of the Equipment and payment in full by the Lessor in compliance with Section 10.3, and upon compliance by the Lessee with the other provisions of this Section 10, the obligation of the Lessee to pay Basic Rent hereunder for such Terminated Items shall cease and the Lease Term for the Terminated Items shall end.

SECTION 11. INSURANCE.

(a) Lessee will at all times after delivery and acceptance of the Equipment, at its own expense, carry and maintain or cause to be carried and maintained (i) all-risk property insurance with respect to each Item of Equipment and (ii) public liability insurance, including but not limited to sudden and accidental pollution and evacuation expense to the extent available on the same terms as to other Class I railroads and including Federal Employer Liability Act coverage, with respect to the Equipment, in each case in amounts (but in no event less than \$25 million of public liability insurance), with deductibles and against risks customary for insurance obtained by Class I railroads on similar equipment, and in any event in amounts, with deductibles or self-insured retention and against risks comparable to those provided for in insurance maintained by the Lessee on similar equipment owned or leased by it.

(b) Such insurance policies shall: (i) name and insure the Lessor, the Owner Participant, the Indenture Trustee and the holders of the Notes as additional insureds under the comprehensive public liability insurance and name the Indenture Trustee, so long as the

Indenture shall not have been discharged in accordance with its terms, and thereafter the Lessor, as sole loss payee under a standard mortgage loss payable endorsement under the property insurance, (ii) provide insurer's waiver of its right of subrogation, set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability against the Lessor, the Owner Participant, the Indenture Trustee and the holders of the Notes, (iii) provide that all such insurance is primary without right of contribution from any other insurance which might otherwise be maintained by the Lessor, the Owner Participant, the Indenture Trustee or the holders of the Notes, (iv) provide therein or by endorsement that thirty (30) days prior written notice of expiration, cancellation or modification in a manner materially adverse to the Lessor, the Owner Participant, the Indenture Trustee or the holders of the Notes, shall be given to the Lessor, the Owner Participant, the Indenture Trustee or the holders of the Notes, as the case may be, and ten (10) days prior written notice of cancellation for non-payment, (v) provide that there is no recourse against the Lessor, the Owner Participant, the Indenture Trustee or the holders of the Notes for payment of premium, commissions, direct calls, assessments or advances, and (vi) provide that the interests of the Lessor, the Owner Participant, the Indenture Trustee and the holders of the Notes shall not be invalidated by any action or inaction of the Lessee or any other Person. On each Closing Date, the Lessee shall furnish the Lessor, the Indenture Trustee and the Participants with certificates or other satisfactory evidence of maintenance of the insurance with respect to the Items delivered on such Closing Date so required and shall furnish binders or other formal confirmation reasonably acceptable to the Lessor and the Indenture Trustee evidencing renewals thereof as soon as practicable but in no event later than five (5) Business Days prior to such renewal and certificates of insurance within thirty (30) days after such renewal is effected or the expiration date of the original policy or policies, as the case may be. The Lessee's insurance broker will deliver to the Lessee, with copies to the Lessor and the Indenture Trustee, concurrently with the certificates referenced above, a letter in the form attached hereto as Exhibit B.

(c) The proceeds of any property insurance required to be carried by the Lessee with respect to any Item received by the Lessor or the Indenture Trustee will be paid to the Lessee either (i) if such Item shall have suffered an Event of Loss, upon satisfactory evidence of the compliance by the Lessee with its obligations under Section 12.2(i) or 12.2(ii), as the case may be; or (ii) if such Item shall have suffered damage not constituting an Event of Loss, upon a written application signed by the Lessee to reimburse the Lessee for payment of the costs of repairing such Item (which application shall be accompanied by satisfactory evidence of such cost and the completion of such repair, restoration or replacement); *provided* that, if a Lease Default or Lease Event of Default shall have occurred and be continuing, such proceeds shall be held by the Lessor, or if the Indenture shall not have then been discharged pursuant to its terms, the Indenture Trustee, as security for the Lessee's obligations under this Lease, and at such time as there shall not be continuing any such Lease Default or Lease Event of Default, such proceeds shall be paid to the Lessee.

(d) On the Lessee's request, provided no Lease Default or Lease Event of Default shall have occurred and be continuing, the Lessor or the Indenture Trustee, as the case may be, shall assign in mutually satisfactory form and substance to the Lessee the right to recover property insurance proceeds directly from the Lessee's insurers, in lieu of the Lessor or the

Indenture Trustee, if the Lessee: (i) shall have complied with its obligations under Section 12.2 (in the case of an Event of Loss) or (ii) shall have evidenced repair of an Item (and full payment therefor) to the Lessor's satisfaction (in the case of damage to any Item not constituting an Event of Loss).

SECTION 12. LOSS, DESTRUCTION, REQUISITION, ETC.

Section 12.1. Event of Loss. In the event that during the Term of this Lease, or thereafter while any Item of Equipment is in the possession of the Lessee pursuant to Section 14 or 15 hereof (i) any Item of Equipment shall be or become lost or stolen for more than thirty (30) days, (ii) any Item of Equipment shall be or become destroyed, (iii) any Item of Equipment shall be or become, in the reasonable opinion of the Lessee and, during the last 18 months of the Basic Term, the Owner Participant, beyond economic repair, (iv) title to any Item of Equipment shall be requisitioned or taken by any governmental authority under the power of eminent domain or otherwise, or (v) the use of any Item of Equipment shall be requisitioned or taken for a period in excess of the remaining Basic Term or any Renewal Term then in effect (any such occurrence being hereinafter called a "Event of Loss"), the Lessee, in accordance with the terms of Section 12.2, shall promptly and fully notify the Lessor and the Indenture Trustee of such Event of Loss.

Section 12.2. Replacement or Payment upon Event of Loss. Upon the occurrence of an Event of Loss with respect to any Item of Equipment, the Lessee shall as soon as reasonably practical and in any event within 30 days after a Responsible Officer of the Lessee shall have actual knowledge of such occurrence give the Lessor and the Indenture Trustee notice of such occurrence of such Event of Loss (which notice shall identify the Item involved) and such notice shall designate which one of the following options the Lessee shall elect to perform:

(i) Upon the Lessee's election to perform under this clause (i), as promptly as practicable following such election, and in any event on or before the next Rent Payment Date occurring not less than 90 days after the date of notice of such Event of Loss, the Lessee shall comply with Section 12.4(b) and shall convey or cause to be conveyed to the Lessor a Replacement Item to be leased to the Lessee hereunder, such Replacement Item to be of the same manufacture and model (or otherwise approved by the Lessor, which approval shall not be unreasonably withheld) as the Item replaced and free and clear of all Liens (other than Permitted Liens) and to have a Fair Market Value, utility, remaining economic useful life, residual value and condition at least equal to the Item so replaced (assuming such Item was in the condition required to be maintained by the terms of this Lease); or

(ii) on the Rent Payment Date which is not less than 90 days following the date of notice of such Event of Loss, the Lessee shall pay or cause to be paid to the Lessor (or in the case of Supplemental Rent, to the Persons entitled thereto) in funds of the type specified in Section 2.5, (a) an amount equal to the Stipulated Loss Value of each such Item suffering an Event of Loss determined as of such Rent Payment Date, (b) all Basic Rent payable on such date in respect of such Item, and (c) all other Rent then due and

payable hereunder, it being understood that until such Stipulated Loss Value and other sums are paid, there shall be no abatement or reduction of Basic Rent.

Section 12.3. Rent Termination. Upon the replacement of any Item or Items in compliance with Section 12.2(i) (but only as to replaced Items and not any Replacement Item) or upon the payment of all sums required to be paid pursuant to Section 12.2 in respect of any Item or Items, the Lease Term with respect to such Item or Items and the obligation to pay Rent for such Item or Items accruing subsequent to the date of payment of Stipulated Loss Value or date of conveyance of such Replacement Item or Items pursuant to Section 12.2 shall terminate; *provided* that Lessee shall be obligated to pay all Rent in respect of such Item or Items which is payable under Section 12.2 with respect to such payment of Stipulated Loss Value or such replacement of such Item or Items and in respect of all other Items then continuing to remain subject to this Lease; *provided further* that it is understood and agreed that, in the event of a replacement in compliance with Section 12.2(i), the Rent paid with respect thereto on the Rent Payment Date next following the conveyance of the Replacement Item or Items shall be deemed paid in respect of, and allocated between, both the Replacement Item or Items and the original Item or Items it or they replaced.

Section 12.4. Disposition of Equipment; Replacement of Item. (a) Upon the payment of all sums required to be paid pursuant to Section 12.2(ii) in respect of any Item or Items, the Lessor will convey to the Lessee or its designee all right, title and interest of the Lessor in and to such Item or Items, "as is", "where is", without recourse or warranty, except for a warranty against Lessor's Liens, and shall execute and deliver to the Lessee or its designee such bills of sale and other documents and instruments as the Lessee or its designee may reasonably request to evidence such conveyance. As to each separate Item so disposed of, so long as no Lease Default or Lease Event of Default shall have occurred and be continuing, any proceeds received by the Owner Participant, the Lessor or the Lessee from another person as a result of an Event of Loss up to the Stipulated Loss Value payable in respect of an Event of Loss shall be applied to the Lessee's obligation to pay such Stipulated Loss Value or, if the Lessee has previously paid such Stipulated Loss Value, to reimburse the Lessee for such payment. Any such proceeds in excess of the Stipulated Loss Value payable in respect of an Event of Loss shall be allocated between the Lessee and the Lessor as follows: (1) if such excess results from insurance paid for by the Lessee, such excess shall belong to the Lessee, (2) if such excess results from compensation paid through the interchange system, such excess shall belong to the Lessor, (3) if such excess results from a condemnation or requisition award or any other cause, such excess shall be allocated to the Lessee and the Lessor as their interests may appear.

(b) At the time of or prior to any replacement of any Item, the Lessee, at its own expense, will (A) furnish the Lessor with a warranty bill of sale with respect to the Replacement Item in form and substance satisfactory to the Lessor, (B) cause a Lease Supplement substantially in the form of Exhibit A hereto, subjecting such Replacement Item to this Lease, and duly executed by the Lessee, to be delivered to the Lessor for execution and, upon such execution, to be filed for recordation in the same manner as provided for the original Lease Supplements in Section 9.1, (C) so long as the Indenture shall not have been satisfied and discharged, cause an Indenture Supplement substantially in the form of Exhibit B

to the Indenture for such Replacement Item, to be delivered to the Lessor and to the Indenture Trustee for execution and, upon such execution, to be filed for recordation in the same manner as provided for the original Indenture Supplement in Section 9.1, (D) furnish the Lessor and the Indenture Trustee with an opinion of Lessee's counsel (which may be Lessee's in-house counsel), to the effect that (x) the bill of sale referred to in clause (A) above constitutes an effective instrument for the conveyance of title to the Replacement Item to the Lessor, (y) legal and beneficial title to the Replacement Item has been delivered to the Lessor, free and clear of all Liens (other than Permitted Liens), and (z) all filings and recordings required pursuant to the terms of (B) and (C) above have been accomplished, (E) furnish to the Owner Participant an agreement by the Lessee, in form and substance reasonably satisfactory to the Owner Participant, that the Lessee will indemnify the Owner Participant for any adverse tax consequences resulting from such replacement; *provided, however*, that if in the Owner Participant's sole judgment it is not proper to take a favorable position on its tax returns with respect to any matter relating to such replacement, indemnification satisfactory to the Owner Participant with respect to such matter will be paid prior to the making of the replacement, and (F) furnish such other documents and evidence as the Owner Participant, the Lessor or the Indenture Trustee, or their respective counsel, may reasonably request in order to establish the consummation of the transactions contemplated by this Section 12.4, and the Owner Participant shall have received an appraisal (prepared at the expense of the Lessee) reasonably satisfactory to it with respect to the Replacement Item, which appraisal shall confirm that the value, utility and useful life of the Replacement Item is at least equal to that of the Item so replaced, assuming such item was in the condition and repair required to be maintained by the terms of this Lease. For all purposes hereof, upon passage of title thereto to the Lessor the Replacement Item shall be deemed part of the property leased hereunder and the Replacement Item shall be deemed an "Item" of Equipment as defined herein. Upon such passage of title, the Lessor will transfer to the Lessee, without recourse or warranty (except as to Lessor's Liens), all of the Lessor's right, title and interest in and to the replaced Item, and upon such transfer, the Lessor will request in writing that the Indenture Trustee execute and deliver to the Lessee an appropriate instrument releasing such replaced Item from the lien of the Indenture.

Section 12.5. Eminent Domain. In the event that during the Lease Term the use of any Item is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for a period which does not constitute an Event of Loss, the Lessee's obligation to pay all installments of Basic Rent shall continue for the duration of such requisitioning or taking. The Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession.

Section 12.6. Application of Payments During Existence of Event of Default. Any amount referred to in Section 12.5 or in Section 12.4(a) which is payable to the Lessee shall not be paid to the Lessee, or if it has been previously paid directly to Lessee, shall not be retained by the Lessee, if at the time of such payment a Lease Default or Lease Event of Default shall have occurred and be continuing, but shall be paid to and held by the Lessor, or if the Indenture shall not then have been discharged pursuant to its terms, to the Indenture Trustee, as security for the obligations of the Lessee under this Lease, and at such time as

there shall not be continuing any such Lease Default or Lease Event of Default, such amount shall be paid to the Lessee.

SECTION 13. EQUIPMENT REPORTS.

Section 13.1. Duty of Lessee to Furnish. On or before May 1, 1994, and on each May 1 thereafter, the Lessee will furnish to the Lessor and the Indenture Trustee an accurate statement, as of the preceding December 31 (a) showing the amount, description and unit numbers of the Items of Equipment then leased hereunder, the amount, description and unit numbers of all Items of Equipment that have suffered an Event of Loss during the twelve (12) months ending on such December 31 (or since the date of this Lease, in the case of the first such statement), describing the insurance which is in force with respect to the Equipment and such other information regarding the condition or repair of the Equipment as the Lessor, the Owner Participant or the Indenture Trustee may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 4.2 hereof shall have been preserved or replaced.

Section 13.2. Lessor's Inspection Rights. The Lessor, the Owner Participant, the Indenture Trustee and each holder of the Notes each shall have the right, but not the obligation, on reasonable prior notice to the Lessee, and during normal business hours, at their respective sole cost, expense and risk except as provided below, by their respective authorized representatives, accompanied by an employee of the Lessee, to inspect the Equipment and the Lessee's records with respect thereto, with such frequency as shall be reasonably necessary to confirm the existence and proper maintenance of the Equipment; *provided, however*, that the Lessee shall not be liable, except in the case of gross negligence or willful misconduct of the Lessee or of its employees or agents, for any injury to, or the death of, any Person exercising, either on behalf of the Owner Participant, the Lessor, the Indenture Trustee, any holder of the Notes or any prospective purchaser or lessee therefrom, the rights of inspection granted under this Section 13.2 and *provided further* that during the continuance of a Lease Event of Default, any such inspection shall be at the Lessee's cost and expense.

SECTION 14. RETURN OF THE EQUIPMENT UPON EXPIRATION OF TERM.

(a) Upon the expiration of the Term of this Lease, the Lessee will, at its own risk and expense, marshal and deliver possession of the Equipment to the Lessor at such place of interchange on the Lessee's lines as the Lessor may reasonably designate. All movement of each Item is to be at the risk and expense of the Lessee. The Lessee shall provide 90 days storage of the Equipment at the Lessee's expense including insurance and, at the Lessor's request, will provide an additional 30 days of storage of the Equipment at the Lessor's expense.

(b) Upon the return of the Equipment, the Lessee shall at its own cost and expense have taken all necessary action to assure that each Item of Equipment shall be in the condition required by Section 6 and 7 hereof. The Lessor and the Lessee each agree, if requested by the other, that a representative thereof will perform jointly with the other an inspection of the

Equipment, or an appropriate representative sampling thereof, to insure compliance with the provisions of this Section 14 at such time and location and following such inspection standards as shall be mutually agreeable to the Lessor and the Lessee. Upon such redelivery of an Item of Equipment, the Lessee agrees to provide to the Lessor originals or legible facsimile copies of all manuals, drawings, diagrams, records, logs and other materials and inspection, modification, overhaul and maintenance records applicable thereto; *provided* that the Lessee agrees to maintain all such materials in the same manner as it maintains the same for similar owned equipment.

(c) The assembling, delivery in the required condition, storage, insurance and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee to so assemble, deliver in the required condition, store, insure and transport the Equipment. All amounts earned in respect of the Equipment after the date of expiration of this Lease shall belong to the Lessee so long as the Lessee shall have returned the Equipment as required hereby.

SECTION 15. DEFAULT.

Section 15.1. Events of Default. Any of the following events shall constitute Lease Events of Default hereunder:

(a) Default shall be made in the payment of any part of the Interim Rent, Basic Rent, Stipulated Loss Value or Termination Value and such default shall continue for five (5) Business Days;

(b) Default shall be made in the payment of Supplemental Rent and such default shall continue for ten (10) Business Days after notice thereof to the Lessee;

(c) Default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in any Operative Agreement (other than the Tax Indemnity Agreement), and such default shall continue for thirty (30) days after written notice to the Lessee, specifying the default and demanding the same to be remedied; *provided* that if such default is cureable but is not capable of cure within such 30 day period, no such default shall constitute a Lease Event of Default hereunder for a period of 90 days after receipt of such notice so long as the Lessee is diligently proceeding to cure such default and so long as such failure to cure such default will not result in the sale, forfeiture or loss of any Item of Equipment;

(d) Any representation or warranty made by the Lessee herein or in any Operative Agreement (other than the Tax Indemnity Agreement) shall be untrue or incorrect in any material respect as of the date of issuance or making thereof and shall remain material for 30 days after written notice thereof to the Lessee; *provided* that if such misrepresentation is cureable but is not capable of cure within such 30 day period,

no such misrepresentation shall constitute a Lease Event of Default for a period of 90 days after receipt of such notice so long as the Lessee is diligently proceeding to cure such misrepresentation and so long as failure to cure such misrepresentation will not result in the sale, forfeiture or loss of any Item of Equipment;

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

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

(g) The Lessee shall default in the maintenance of the insurance coverage required by Section 11.1(a) hereof; or

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

Section 15.2. Remedies. Upon the occurrence of any Event of Default and at any time thereafter so long as the same shall be continuing, the Lessor may, at its option, declare this Lease to be in default, and at any time thereafter, so long as the Lessee shall not have remedied all outstanding Events of Default, the Lessor may do one or more of the following as the Lessor in its sole discretion shall elect, to the extent permitted by, and subject to compliance with any mandatory requirements of, applicable law then in effect:

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

(b) By notice in writing to the Lessee, the Lessor may demand that the Lessee, and the Lessee shall, upon written demand of the Lessor and at the Lessee's expense forthwith return all of the Items of Equipment to the Lessor or its order in the manner and condition required by, and otherwise in accordance with all of the provisions of Section 15.6; or the Lessor with or without notice or judicial process may by its agents enter upon the premises of the Lessee where any of the Equipment may be located and take possession of and remove all or any of the Items and thenceforth hold, possess and

enjoy the same free from any right of the Lessee, or its successors or assigns, to use such Items for any purpose whatever;

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

(d) Hold, keep idle or lease to others any Item of Equipment or any part thereof, as the Lessor in its sole discretion may determine, free and clear of any rights of the Lessee and without any duty to account to the Lessee with respect to such action or inaction or for any proceeds with respect thereto, except that the Lessee's obligation to pay Basic Rent with respect to such Item due for any periods subsequent to the date upon which the Lessee shall have been deprived of use of such Item pursuant to this Section 15 shall be reduced (but not below zero for any Basic Rent installment) by the net proceeds, if any, received by the Lessor from leasing such Item to any Person other than the Lessee;

(e) Whether or not the Lessor shall have exercised, or shall thereafter at any time exercise, any of its rights under paragraph (a), (b) or (d) above with respect to any Item of Equipment, the Lessor, by written notice to the Lessee specifying a payment date which shall be not earlier than ten (10) days after the date of such notice, may demand that the Lessee pay to the Lessor and the Lessee shall pay to the Lessor, on the payment date specified in such notice, as liquidated damages for loss of a bargain and not as a penalty (in lieu of the Basic Rent for such Item of Equipment due after the payment date specified in such notice), any unpaid Rent for such Item of Equipment due for periods prior to the payment date specified in such notice plus whichever of the following amounts the Lessor, in its sole discretion, shall specify in such notice: (i) an amount equal to the difference between the present value of all future Basic Rent for such Item and the present value of the Fair Rental Value (determined as hereafter in this Section 15 provided without assuming such Item is in the condition and state of repair required by this Lease) of such Item or, if the Lessor has leased such Items to others pursuant to paragraph (d) above, for the period of such lease the rental payable thereunder, in each case for the remainder of the Basic Term or the Renewal Term, as the case may be, as of the payment date specified in such notice, such present values to be computed on the basis of a rate of discount equal to the Debt Rate from the respective dates upon which such Rent would be paid, or (ii) if the Lessor has not leased such Items to others pursuant to paragraph (d) above, an amount equal to the excess, if any, of the Stipulated Loss Value for such Item as of the Rent Payment Date next preceding the payment date specified in such notice or if such payment date occurs on a Rent Payment Date, then computed as of such Rent Payment Date, over the Fair Market

Value of such Item (determined as hereafter in this Section 15 provided without assuming such Item is in the condition and state of repair required by this Lease) as of the payment date specified in such notice; or (iii) an amount equal to the higher of Stipulated Loss Value for such Item computed as of the Rent Payment Date next preceding the payment date specified in such notice or if such payment date occurs on a Rent Payment Date, then computed as of such Rent Payment Date, or the Fair Market Value of such Item (assuming it is in the condition and state of repair required by this Lease) as of the payment date specified in such notice, and upon payment by the Lessee pursuant to this clause (iii) of such Stipulated Loss Value or Fair Market Value, as the case may be, and of all other amounts payable by the Lessee under this Lease and under the other Operative Agreements in respect of such Item, the Lessor shall transfer without recourse or warranty all right, title and interest of the Lessor in and to such Item to the Lessee or as it may direct, and the Lessor shall execute and deliver such documents evidencing such transfer as the Lessee shall reasonably request;

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

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

of discount equal to the Debt Rate, from the respective dates upon which such Basic Rent would have been payable hereunder had this Lease not been terminated; and

(h) The Lessor may rescind or terminate this Lease or may exercise any other right or remedy that may be available to it under applicable law.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid Rent due hereunder before or during the exercise of any of the foregoing remedies and for all reasonable legal fees and other costs and expenses incurred by reason of the occurrence of any Lease Default or Lease Event of Default or the exercise of the Lessor's remedies with respect thereto, including without limitation the repayment in full of any costs and expenses necessary to be expended in repairing or modifying any Item in order to cause it to be in compliance with all maintenance and regulatory standards imposed by this Lease.

For purposes of this Section 15.2, the Fair Rental Value and Fair Market Value for any Item of Equipment shall be determined on the basis of an appraisal of an independent appraiser chosen by the Lessor, based upon the criteria for establishing Fair Market Value and Fair Rental Value set forth in Section 19.1 (but including the value which may be obtained from a used equipment dealer), and the cost of any such appraisal shall be borne by the Lessee.

Section 15.3. Cumulative Remedies. The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims of any right to assert any offset or counterclaim against the Rent payments due hereunder, and agrees to make the Rent payments regardless of any offset or counterclaim or claim which may be asserted by the Lessee or on its behalf in connection with the lease of the Equipment. To the extent permitted by applicable law, the Lessee hereby waives any rights now or hereafter conferred by statute or otherwise that may require the Lessor to sell, lease or otherwise use the Equipment in mitigation of the Lessor's damages as set forth in Section 15.2 or that may otherwise limit or modify any of the Lessor's rights and remedies provided in this Section 15.

Section 15.4. No Waiver. No delay or omission to exercise any right, power or remedy accruing to Lessor upon any breach or default by Lessee under this Lease shall impair any such right, power or remedy of Lessor, nor shall any such delay or omission be construed as a waiver of any breach or default, or of any similar breach or default hereafter occurring; nor shall any waiver of a single breach or default be deemed a waiver of any subsequent breach or default.

Section 15.5. Notice of Event of Default. The Lessee also agrees to furnish to the Lessor, promptly upon any responsible officer becoming aware of any condition which constituted or constitutes a Lease Default or a Lease Event of Default notice specifying such condition and the nature and status thereof. For the purposes of this Section 15.5 a

"responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

Section 15.6. Lessee's Duty to Return. If the Lessor or any assignee of the Lessor shall terminate this Lease pursuant to this Section 15, the Lessee shall forthwith deliver possession of the Equipment to the Lessor. For the purpose of delivering possession of any Item to the Lessor as above required, the Lessee shall at its own cost, expense and risk (except as hereinafter stated):

(a) Forthwith deliver such Items to such point or points on the lines of the Lessee or any of its affiliates as the Lessor shall reasonably designate or, in the absence of such designation, as the Lessee may select;

(b) Permit the Lessor to store such Items on the lines or premises of the Lessee without charge for insurance, rent or storage until such items have 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 11 hereof and maintain the Items of Equipment as provided hereby and thereafter deliver such Items as provided in clause (a).

Section 15.7. 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 15.8. Lessor Appointed Lessee's Agent. Without in any way limiting the obligation of the Lessee under the foregoing provisions of Section 15.6, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority (which power is coupled with an interest), at any time while the Lessee is obligated to deliver possession of any Items of Equipment to the Lessor, to demand and take possession of such Items in the name and on behalf of the Lessee from whosoever shall be at the time in possession of such Items.

SECTION 16. NET LEASE, ETC.

This Lease is a net lease and the Lessee's obligation to pay all Rent payable hereunder shall be absolute, unconditional and irrevocable and shall not be affected by any circumstance of any character including, without limitation, (i) any set-off, abatement, counterclaim, suspension, recoupment, reduction, rescission, defense or other right that Lessee may have against the Lessor, the Owner Participant, the Indenture Trustee or any holder of the Notes, any vendor or manufacturer of any Item of Equipment, or any other Person for any reason whatsoever, (ii) any defect in or failure of title, merchantability, condition, design, compliance with specifications, operation or fitness for use of all or any part of any Item of Equipment,

(iii) any damage to, or removal, abandonment, requisition, taking, condemnation, loss, theft or destruction of all or any part of any Item of Equipment or any interference, interruption, restriction, curtailment or cessation in the use or possession of any Item of Equipment by the Lessee or any other Person for any reason whatsoever or of whatever duration, (iv) any insolvency, bankruptcy, reorganization or similar proceeding by or against the Lessee, the Lessor, the Owner Participant, the Indenture Trustee, any holder of the Notes or any other Person, (v) the invalidity, illegality or unenforceability of this Lease, any other Operative Agreement, or any other instrument referred to herein or therein or any other infirmity herein or therein or any lack of right, power or authority of the Lessee, the Lessor, the Owner Participant, the Indenture Trustee, any holder of the Notes or any other Person to enter into this Lease or any other Operative Agreement or to perform the obligations hereunder or thereunder or consummate the transactions contemplated hereby or thereby or any doctrine of force majeure, impossibility, frustration or failure of consideration, (vi) the breach or failure of any warranty or representation made in this Lease or any other Operative Agreement by the Lessee, the Lessor, the Owner Participant, the Indenture Trustee, any holder of the Notes or any other Person, or (vii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing. 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 this Lease with respect to any Item of Equipment, except in accordance with the express terms hereof. If for any reason whatsoever this Lease shall be terminated in whole or in part by operation of law or otherwise, except as specifically provided herein, the Lessee nonetheless agrees to the maximum extent permitted by law, to pay to the Lessor or to the Indenture Trustee, as the case may be, an amount equal to each installment of Interim Rent and Basic Rent and all Supplemental Rent due and owing, at the time such payment would have become due and payable in accordance with the terms hereof had this Lease not been terminated in whole or in part. Each payment of Rent made by the Lessee hereunder shall be final and Lessee shall not seek or have any right to recover all or any part of such payment from the Lessor or any Person for any reason whatsoever.

SECTION 17. ASSIGNMENT.

Section 17.1. Assignment by Lessor. The Lessee and the Lessor hereby confirm that concurrently with the execution and delivery of this Lease, the Lessor has executed and delivered to the Indenture Trustee the Indenture, which assigns as collateral security and grants a security interest in favor of the Indenture Trustee in, to and under this Lease and certain of the Rent payable hereunder (excluding Excepted Property), all as more explicitly set forth in the Indenture. The Lessor agrees that it shall not otherwise assign or convey its right, title and interest in and to this Lease, the Equipment or any Item, except as expressly permitted by and subject to the provisions of the Participation Agreement, the Trust Agreement and the Indenture.

Section 17.2. Assignment by Lessee. Except in the case of any requisition for use by any governmental authority or any agency or instrumentality thereof referred to in Section 11.1, the Lessee will not, without the prior written consent of the Lessor and the Indenture Trustee, assign, transfer or encumber any of its rights hereunder, except as provided

herein and in the Participation Agreement; *provided* that the Lessee may assign its rights and/or obligations hereunder to any corporation in accordance with the provisions of Section 6.4 of the Participation Agreement.

SECTION 18. USE AND POSSESSION.

Section 18.1. Lessee's Rights to the Equipment; Sublease. So long as no Lease Event of Default shall have occurred and be continuing, the Lessee shall be entitled to the possession and use of the Equipment in accordance with the terms of this Lease. THE LESSEE SHALL NOT, WITHOUT THE PRIOR WRITTEN CONSENT OF THE LESSOR, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD, ENTER INTO ANY SUBLEASE WITH RESPECT TO, PART WITH THE POSSESSION OR CONTROL OF, OR SUFFER OR ALLOW TO PASS OUT OF ITS POSSESSION OR CONTROL, ANY ITEM OF EQUIPMENT, except as provided in Section 18.2 or pursuant to a sublease (a "*Permitted Sublease*") to a domestic rail common carrier (a "*Permitted Sublessee*") which (a) shall be for a term not extending beyond the Lease Term hereof, (b) shall include maintenance provisions identical to Sections 6 and 7 hereof, and (c) shall expressly provide that the rights of any sublessee who receives possession by reason of a Permitted Sublease shall be subject and subordinate to each and every term, condition and provision of this Lease and the Indenture, including, without limitation, the Lessor's right of repossession pursuant to Section 15 of this Lease and to terminate such sublease upon such repossession. No sublease, whether or not a Permitted Sublease, shall in any way discharge or diminish any of the Lessee's obligations hereunder, and the Lessee shall remain primarily liable hereunder for the performance of all the terms, conditions and provisions of this Lease to the same extent as if such sublease had not occurred. Promptly upon entering into any sublease with a term exceeding 90 days, including any Permitted Sublease, the Lessee shall assign such sublease to the Lessor as security for the Lessee's obligations hereunder and deliver to the Lessor and the Indenture Trustee a copy thereof.

Section 18.2. Use and Possession in Railroad Operations. So long as no Lease Event of Default shall have occurred and be continuing, the Lessee shall be entitled to the possession of the Equipment and to the use thereof upon the lines of railroad owned or operated by it, or upon lines of railroad over which the Lessee has trackage or other operating rights or over which equipment of the Lessee is regularly operated pursuant to contract or upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through or pooling agreements, but only upon and subject to all the terms and conditions of this Lease. NOTWITHSTANDING THE FOREGOING, THE LESSEE SHALL AT NO TIME THROUGHOUT THE TERM OF THIS LEASE ASSIGN OR PERMIT THE ASSIGNMENT OF OR PERMIT ANY SUBLESSEE, WHETHER OR NOT A PERMITTED SUBLESSEE, TO ASSIGN OR PERMIT THE ASSIGNMENT OF, ANY ITEM OF EQUIPMENT FOR USE IN SERVICE (INCLUDING, WITHOUT LIMITATION, THE REGULAR OPERATION OR MAINTENANCE THEREOF) OUTSIDE THE CONTINENTAL UNITED STATES AND CANADA; *PROVIDED* THAT ITEMS OF EQUIPMENT REPRESENTING NOT MORE THAN 15% OF THE AGGREGATE APPRAISED VALUE OF ALL EQUIPMENT THEN SUBJECT TO THIS LEASE MAY BE LOCATED IN MEXICO. THE LESSEE CONTEMPLATES THAT THE ONLY USE OF ANY ITEM OF EQUIPMENT OUTSIDE THE UNITED STATES WILL BE USE IN CANADA OR MEXICO ON A TEMPORARY BASIS WHICH IS NOT EXPECTED TO EXCEED A TOTAL OF 90 DAYS IN ANY TAXABLE YEAR.

SECTION 19. OPTIONS TO RENEW AND PURCHASE.

Section 19.1. Determination of Fair Market Value and Fair Rental Value. The Lessor and the Lessee shall promptly, upon the Lessee's notice of the exercise of the options set forth in Section 19.3 or 19.4, as the case may be, consult for the purpose of determining Fair Market Value and Fair Rental Value and any values agreed upon in writing shall constitute such Fair Market Value and Fair Rental Value. If the Lessor and the Lessee fail to agree upon such values within thirty (30) days after the need to determine the same, then they shall be promptly determined by the Appraisal Procedure. Such Fair Market Value and Fair Rental Value shall be determined on the basis of the value which would be obtained in an arms'-length transaction between an informed and willing buyer-user or lessee (other than a used equipment dealer) and an informed and willing seller or lessor under no compulsion to sell, buy or lease. Any such determination shall be made (i) on the assumption that the Equipment is in the condition and state of repair required by this Lease, including the return conditions specified in Section 14, (ii) as respects Fair Rental Value, on the basis of a lease, having terms and conditions (other than the amount of Rent and without any purchase or renewal options) similar to the terms and conditions of this Lease (assuming a lease term equal to contemplated renewal term), (iii) giving effect to the removal of any parts which remain the property of the Lessee under the provisions of Section 7 hereof, and (iv) without regard to any rights of the Lessee (including purchase or renewal options) under this Lease. All costs and expenses of any Appraisal Procedure pursuant to this Section 19 shall be borne by the Lessee and the Lessor equally.

Section 19.2. Election to Retain or Return Equipment. Not less than 360 days nor more than 720 days prior to the end of the Basic Term, the Lessee will give the Lessor irrevocable notice of its decision to return or retain all but not less than all of the Items of Equipment at the end of the Basic Term. If the Lessee elects to retain such Items of Equipment, Lessee shall comply with Section 19.3 and/or 19.4 hereof, as it may elect in accordance with the provisions thereof including the notice requirements stated therein.

Section 19.3. Option to Purchase. So long as no Lease Event of Default has occurred and is continuing, the Lessee shall have the right upon 90 days irrevocable prior notice to the Lessor, to purchase all, but not less than all, of the Items of Equipment then subject to this Lease (a) on the date of the expiration of the Basic Term, at a price equal to the lesser of (i) the Fair Market Value thereof determined in accordance with this Section 19 as of such expiration date, or (ii) 76.5% of the Equipment Cost thereof in the case of the Model GP40 locomotives; and 80.0% of the Equipment Cost thereof in the case of the Model SD40 locomotives, and (b) on the date of expiration of the Renewal Term, if any, the Fair Market Value thereof determined in accordance with this Section 19 as of such expiration date.

Section 19.4. Option to Renew. So long as no Lease Event of Default shall have occurred and be continuing, the Lessee may, upon 90 days irrevocable prior notice, renew this Lease as to all, but not less than all, of the Items of Equipment then leased hereunder for a renewal term of not less than one year nor more than five years, as the Lessee shall elect in such notice, and each quarterly installment of Basic Rent payable during such renewal term shall be in an amount equal to the Fair Rental Value for all such Items of Equipment. Such

renewal term shall commence immediately upon the expiration of the Basic Term. The Stipulated Loss Value payable during the renewal term in respect of any Item of Equipment suffering an Event of Loss shall be equal to the Fair Market Value of such Item for such renewal term determined pursuant to Section 19.1 at the commencement of such renewal term.

Section 19.5. Delivery of Equipment. Unless the Lessee has elected to exercise its option to purchase the Items of Equipment then leased hereunder or to renew this Lease in respect of such Items of Equipment as provided in this Section 19, all of such Items of Equipment shall be returned to the Lessor at the end of the Basic Term, or the Renewal Term, as the case may be, in accordance with Section 14 hereof.

SECTION 20. INTEREST ON OVERDUE RENTALS AND AMOUNTS ADVANCED.

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

SECTION 21. MISCELLANEOUS.

Section 21.1. Notices. Unless otherwise expressly specified or permitted by the terms hereof, all communications and notices provided for herein shall be in writing or by a telecommunications device capable of creating a written record, and any such notice shall become effective (i) upon personal delivery thereof, including, without limitation, by overnight mail and courier service, (ii) in the case of notice by United States mail, certified or registered, postage prepaid, return receipt requested, upon receipt thereof, or (iii) in the case of notice by such a telecommunications device, upon transmission thereof, provided such transmission is promptly confirmed by any of the methods set forth in clauses (i) or (ii) above, in each case addressed to each party hereto at its address set forth below or, in the case of any such party hereto, at such other address as such party may from time to time designate by notice to the other parties hereto:

If to the Owner Participant:

General Electric Capital Corporation
1600 Summer Street, 6th Floor
Stamford, Connecticut 06927
Attention: Manager - Rail Operations
Fax No.: (203) 357-6680
Confirmation No.: (203) 357-6563

If to the Lessor:

U.S. Trust Company of California, N.A.,
555 South Flower Street
Los Angeles, California 90071
Attention: Corporate Trust Administration
Fax No.: (213) 489-3371
Confirmation No.:(213) 488-4000

with a copy to:

United States Trust Company of New York
114 West 47th Street
New York, New York 10021
Attention: Louis P. Young
Corporate Trust and Agency Division
Fax No.: (212) 852-1625
Confirmation No.: (212) 852-1000

If to the Indenture Trustee:

The Bank of New York
101 Barclay Street
New York, New York 10007
Attention: Corporate Trust Administration
Fax No.: (212) 815-5999
Confirmation No.: (212) 815-5736

If to the Lessee:

Southern Pacific Transportation Company
Southern Pacific Building, Room 666
One Market Plaza
San Francisco, California 94105
Attention: Vice President - Finance
Fax No.: (415) 541-2932
Confirmation No.: (415) 541-2589

with copy to Vice President
and General Counsel
Fax No.: (415) 495-5436
Confirmation No.: (415) 541-1781

Section 21.2. Right of Lessor to Perform. If the Lessee shall fail to make any payment required to be made by it hereunder or shall fail to perform or comply with any of its other covenants herein contained, the Lessor may, but shall not be obligated to, make such payment or perform or comply with such covenant. Any payment so made by the Lessor and all costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) incurred in connection with such payment or the performance or compliance with such covenant shall be payable by the Lessee to the Lessor upon demand as Supplemental Rent hereunder, with interest thereon at the Late Rate from such date of payment, to the extent permitted by applicable law. No such action shall be deemed a repossession of any of the Equipment, and no such advance, performance or other act shall be deemed to relieve the Lessee from any default hereunder.

Section 21.3. Amendments and Waivers. No term, covenant, agreement or condition of this Lease may be terminated, amended or compliance therewith waived (either generally or in a particular instance, retroactively or prospectively) except by an instrument or instruments in

writing executed by each party hereto and except as may be permitted by the terms of the Indenture.

Section 21.4. Execution in Counterparts. This Lease may be executed in any number of counterparts, each executed counterpart constituting an original but all together only one Lease.

Section 21.5. Law Governing. THIS LEASE SHALL BE IN ALL RESPECTS GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE; *PROVIDED, HOWEVER,* THAT THE PARTIES SHALL BE ENTITLED TO ALL RIGHTS CONFERRED BY ANY APPLICABLE FEDERAL STATUTE, RULE OR REGULATION.

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

Section 21.7. Headings and Table of Contents; Section References. The headings of the Sections of this Lease and the Table of Contents are inserted for purposes of convenience only and shall not affect any construction or interpretation of this Lease. All references herein to numbered sections, unless otherwise indicated, are to sections of this Lease.

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

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

Section 21.10. Limitations of Liability. It is expressly agreed and understood that all representations, warranties and undertakings of the Lessor hereunder (except as expressly provided herein) shall be binding upon the Lessor only in its capacity as Owner Trustee under the Trust Agreement and in no case shall U.S. Trust Company of California, N.A., be personally liable for or on account of, any statements, representations, warranties, covenants or obligations stated to be those of the Lessor hereunder, except that the Lessor (or any successor Owner Trustee) shall be personally liable for its gross negligence or wilful misconduct and for its breach of its covenants, representations and warranties contained herein to the extent covenanted or made in its individual capacity.

Section 21.11. Successors and Assigns. This Lease shall be binding upon and shall inure to the benefit of, and be enforceable by, the parties hereto and their respective permitted successors and assigns.

Section 21.12. Survival. All warranties, representations, indemnities and covenants made by either party hereto, herein or in any certificate or other instrument delivered by such party or on the behalf of any such party under this Lease, shall be considered to have been relied upon by the other party hereto and shall survive the consummation of the transactions contemplated hereby on each Closing Date regardless of any investigation made by either such party or on behalf of either such party.

Section 21.13. Incorporation by Reference. The payment obligations set forth in Sections 7.1 and 7.2 of the Participation Agreement are hereby incorporated by reference.

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.

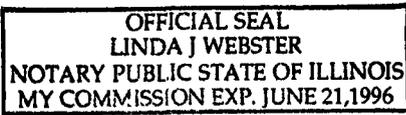
U.S. TRUST COMPANY OF CALIFORNIA, N.A.,
not in its individual capacity but solely as
Owner Trustee under the Trust Agreement

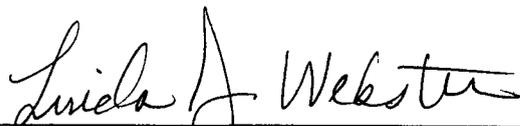
By 
Its Authorized Signatory

Executed this 30th day of June, 1993 in
Oak Park, Illinois.

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

On this 30th day of June, 1993, before me personally appeared Louis P. Young to me personally known, who being duly sworn, says that he is an Authorized Signatory of U.S. TRUST COMPANY OF CALIFORNIA, N.A., that said instrument was signed on such date 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:

SOUTHERN PACIFIC TRANSPORTATION
COMPANY

By Adriene B. Bailey
Its Vice President Service Planning
and Design

Executed this 30th day of June, 1993 in
Oakbrook, Illinois.

STATE OF ILLINOIS)
) SS:
COUNTY OF ~~Rock~~ DuPage)

On this 30th day of June, 1993, before me personally appeared Adriene B. Bailey,
to me personally known, who being by me duly sworn, says that she is the
Vice President Service Planning and Design of SOUTHERN PACIFIC TRANSPORTATION COMPANY, that said
instrument was signed on such date 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.

Linda J. Webster
Notary Public

[NOTARIAL SEAL]



My Commission Expires:

DESCRIPTION OF ITEMS OF EQUIPMENT

UNITS	DESCRIPTION OF UNITS	SELLER	EQUIPMENT COST PER ITEM	TOTAL EQUIPMENT COST
47	Diesel Electric Locomotives consisting of:	General Motors		
	9 Model GP 40-2 Locomotives		\$425,000	3,825,000
	7 Model SD 40-2 Locomotives		\$500,000	3,500,000
	31 Model SD 40-T2 Locomotives		\$500,000	<u>15,500,000</u>
		Total Equipment Cost		22,825,000

PRICING ASSUMPTIONS

The following assumptions are referred to in Section 2.4.

	FIRST CLOSING	SECOND CLOSING
	7/2/93	9/30/93
Closing date/Delivery date		
Basic Term Commencement Date:	October 2, 1993	October 2, 1993
Equipment - SD-40-2 Locomotives		
- Cost/Unit	\$500,000	\$500,000
- Number	4	3
Equipment - GP-40-2 Locomotives		
- Cost/Unit	\$425,000	\$425,000
- Number	9	0
Equipment - SD-40-T2 Locomotives		
- Cost/Unit	\$500,000	\$500,000
- Number	11	20
Debt Rate	6.82%	6.82%
Debt Amortization		See Annex 1 to this Schedule
Depreciation:		
- SD-40-2 Locomotives	30% ADR, 70% 7 yr MACRS	
- GP-40-2 Locomotives	29.412% ADR, 70.588% 7 yr MACRS	
- SD-40-T2 Locomotives	30% ADR, 70% 7 yr MACRS	
ITC	0	0
Transaction Costs	1%	1%
Equity Funding Index Rate	N/A	5.35
(5-year average U.S. Treasury Rate)		

11 2
1 2
0 1

RENTAL PAYMENTS

Interim Rent payable for all Items of Equipment shall be equal to the Equipment Cost of such Items of Equipment multiplied by the rent factor set forth below for the Basic Term Commencement Date. Basic Rent payable for each Item of Equipment shall be equal to the Equipment Cost of such Item multiplied by the rent factor set forth below for each Rent Payment Date.

[INTENTIONALLY OMITTED FROM ICC FILED DOCUMENT]

STIPULATED LOSS VALUE

[INTENTIONALLY OMITTED FROM ICC FILED DOCUMENT]

SCHEDULE 4
(to Equipment Lease)

TERMINATION VALUE

[INTENTIONALLY OMITTED FROM ICC FILED DOCUMENT]

SCHEDULE 5
(to Equipment Lease)

LEASE SUPPLEMENT NO. ____

This LEASE SUPPLEMENT NO. ____, dated _____, 199__, between U.S. TRUST COMPANY OF CALIFORNIA, N.A., not in its individual capacity but solely as Owner Trustee (the "*Lessor*") and SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation (the "*Lessee*");

WITNESSETH:

The Lessor and the Lessee have heretofore entered into that certain Equipment Lease dated as of June 15, 1993 (the "*Lease*"). The terms used herein have the meanings specified in the Lease.

The Lease provides for the execution and delivery of a Lease Supplement substantially in the form hereof for the purpose of evidencing the lease, delivery and acceptance of Items of Equipment under the Lease.

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

1. The Lessor hereby leases to the Lessee and Lessee hereby leases from the Lessor the Items of Equipment described on Exhibit A to this Lease Supplement No. ____, on and subject to the terms and conditions set forth herein and in the Lease.
2. The Lessee represents to the Owner Trustee, the Indenture Trustee and each Participant that the Lessee has caused each such Item of Equipment to be inspected by its qualified inspector and that each Item of Equipment complies with all the specifications of the work order relating to its manufacture or rebuilding and complies with all the Interchange Rules applicable to such Item.

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

U.S. TRUST COMPANY OF CALIFORNIA, N.A.,
not in its individual capacity but solely as
Owner Trustee under the Trust Agreement

By _____
Its

Executed this ____ day of _____ in
_____.

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

On this ____ day of _____, before me personally appeared _____, to me personally known, who being duly sworn, says that he is a _____ of U.S. TRUST COMPANY OF CALIFORNIA, N.A., that said instrument was signed on such date 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:

SOUTHERN PACIFIC TRANSPORTATION
COMPANY

By _____
Its

Executed this ____ day of _____ in
_____.

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

On this ____ day of _____, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he is the _____ of SOUTHERN PACIFIC TRANSPORTATION COMPANY, that said instrument was signed on such date 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:

FORM OF INSURANCE LETTER

(Date)

Southern Pacific Transportation
Company

Attn: Director of Risk Management

Re: Equipment Lease dated as of June 15, 1993 between
 Southern Pacific Transportation Company (Lessee)
 and U.S. Trust Company of California, N.A., (Owner Trustee)

As requested, this is an opinion letter concerning coverages provided to Southern Pacific Transportation Company.

The following coverages — all-risk property insurance and public liability insurance — in my opinion conform with the Insurance Section 11.1 of the above-referenced Equipment Lease provided to our office by Southern Pacific Transportation Company.

The insurance companies used are markets generally used in our normal business transactions for Class I railroads.

[LESSEE'S INSURANCE BROKER]

cc: U.S. Trust Company of California, N.A.,
 as Owner Trustee
 The Bank of New York,
 as Indenture Trustee

EXHIBIT B
(to Equipment Lease)

APPENDIX A
Equipment Lease
Trust Indenture and Security Agreement
Participation Agreement

DEFINITIONS

GENERAL PROVISIONS

The following terms shall have the following meanings for all purposes of the Operative Agreements referred to below, unless otherwise defined in an Operative Agreement or the context thereof shall otherwise require and such meanings shall be equally applicable to both the singular and the plural forms of the terms herein defined. In the case of any conflict between the provisions of this Appendix A and the provisions of the main body of any Operative Agreement, the provisions of the main body of such Operative Agreement shall control the construction of such Operative Agreement.

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

DEFINED TERMS

"Affiliate" of any Person shall mean any other Person which directly or indirectly controls, or is controlled by, or is under a common control with, such Person. The term *"control"* means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and the terms *"controlling"* and *"controlled"* shall have meanings correlative to the foregoing.

"Appraisal" shall have the meaning specified in Section 4.3(b) of the Participation Agreement.

"Appraisal Procedure" shall mean the following procedure for determining the Fair Market Value or the Fair Rental Value, as the case may be, of any property. If either party to the Lease shall have given written notice to the other party requesting determination of such value by the Appraisal Procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within fifteen (15) days after such notice is given, each party shall appoint a qualified independent appraiser within twenty (20) days after such notice is given. If one party appoints an appraiser pursuant to the preceding sentence, the appraisal shall be made by such appraiser if the other party fails to appoint a second appraiser within the applicable time limit. If both parties appoint appraisers, the two appraisers so appointed shall within

thirty (30) days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within thirty (30) days after such notice is given, either party may apply to the American Arbitration Association to make such appointment, and both parties shall be bound by any such appointment. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine one or more of the Fair Market Value or the Fair Rental Value of such property within twenty (20) days after its or their appointment. If the parties shall have appointed a single appraiser, its determination of values shall be final. If three appraisers shall be appointed, the values determined by the three appraisers shall be averaged, the determination which differs most from such average shall be excluded, the remaining two determinations shall be averaged and such average shall be final.

"Bankruptcy Code" shall mean the Bankruptcy Code of 1978, as amended from time to time, 11 U.S.C. §101 *et. seq.*

"Basic Rent" shall mean, with respect to any Item of Equipment, all rent payable by the Lessee pursuant to Section 2.2 of the Lease for the Basic Term for such Item, and all rent payable pursuant to Section 19.4 of the Lease for any Renewal Term for such Item.

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

"Basic Term Commencement Date" shall mean October 2, 1993.

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

"Bill of Sale" shall mean the bill of sale, dated a Closing Date or the date that any Replacement Item is subjected to the Lease, covering any Items of Equipment delivered on such Closing Date or such Replacement Item, as the case may be.

"Business Day" shall mean any day other than a Saturday, Sunday or a day on which commercial banking institutions are authorized or required by law, regulation or executive order to be closed in the States of California and New York.

"Closing Date" shall have the meaning specified in Section 2.3 of the Participation Agreement.

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

"Commitment" with respect to the Owner Participant, shall have the meaning specified in Section 2.1 of the Participation Agreement and with respect to any Loan Participant, shall have the meaning specified in Section 2.2(b) to the Participation Agreement.

"Debt Rate" shall mean the rate of interest per annum borne by the Notes then outstanding (computed on the basis of a 360-day year of twelve 30-day months).

"Equipment" shall mean collectively those items of railroad rolling stock described in the Lease, the Lease Supplements and the Indenture Supplements, together with any and all accessions, additions, improvements and replacements from time to time incorporated or installed in any item thereof which are the property of the Owner Trustee pursuant to the terms of a Bill of Sale or the Lease.

"Equipment Cost" shall mean, for each Item of Equipment, the purchase price therefor paid by the Owner Trustee pursuant to Section 2 of the Participation Agreement and as set forth in Schedule 1 to the Lease with respect to such Item.

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

"Event of Loss" shall have the meaning specified in Section 12.1 of the Lease.

"Excepted Property" shall mean (i) all indemnity payments (including, without limitation, payments pursuant to Section 7 of the Participation Agreement and payments under the Tax Indemnity Agreement) to which the Owner Participant, the Owner Trustee as trustee or in its individual capacity or any of their respective successors, permitted assigns, directors, officers, employees, servants and agents is entitled pursuant to the Operative Agreements, (ii) any right, title or interest of the Owner Trustee as trustee or in its individual capacity or the Owner Participant to any payment which by the terms of Section 21.2 of the Lease or any corresponding payment under Section 2.3 of the Lease shall be payable to or on behalf of the Owner Trustee as trustee or in its individual capacity or to the Owner Participant, as the case may be, (iii) any insurance proceeds payable to or on behalf of the Owner Trustee as trustee or in its individual capacity or to the Owner Participant, under any public liability insurance maintained by Lessee pursuant to Section 11 of the Lease or by any other Person, (iv) Transaction Costs or other amounts or expenses paid or payable to, or for the benefit of Owner Trustee, as trustee or in its individual capacity, or Owner Participant pursuant to the Participation Agreement or the Trust Agreement, (v) any rights of the Owner Participant or the Owner Trustee as trustee and in its individual capacity to demand, collect, sue for, or otherwise receive and enforce payment of the foregoing amounts, and (vi) the respective rights of the Owner Trustee as trustee and in its individual capacity or the Owner Participant to the proceeds of the foregoing.

"Fair Market Value" shall mean with respect to the Equipment or any Item thereof, the fair market sales value of the Equipment or such Item, determined in accordance with Section 15 or Section 19 of the Lease, as the case may be.

"Fair Rental Value" shall mean with respect to the Equipment or any Item thereof, the fair market rental value of the Equipment or such Item, determined in accordance with Section 15 or Section 19 of the Lease, as the case may be.

"Indemnified Party" shall mean the Owner Participant, the Owner Trustee (both in its individual capacity and as Owner Trustee), the Indenture Trustee, the Loan Participants and each holder of a Note, and each of their respective directors, officers, employees, Affiliates,

successors and permitted assigns, agents and servants, the Trust Estate and the Indenture Estate.

"Indenture" shall mean the Trust Indenture and Security Agreement dated as of June 15, 1993 between the Owner Trustee and the Indenture Trustee, as amended, supplemented or otherwise modified from time to time, including supplementation by each Indenture Supplement pursuant thereto.

"Indenture Default" shall mean an Indenture Event of Default or an event which with notice or the lapse of time or both would become an Indenture Event of Default.

"Indenture Estate" shall have the meaning specified in the Granting Clause of the Indenture.

"Indenture Event of Default" shall have the meaning specified in Section 4.1 of the Indenture.

"Indenture Supplement" shall mean an Indenture Supplement dated a Closing Date or the date that any Replacement Item is subjected to the lien and security interest of the Indenture, substantially in the form of Exhibit B to the Indenture, covering the Items delivered on such Closing Date or such Replacement Item, as the case may be.

"Indenture Trustee" shall mean The Bank of New York, a New York banking corporation, as trustee under the Indenture and its successors thereunder.

"Indenture Trustee Agreements" shall mean the Operative Agreements to which the Indenture Trustee is or will be a party.

"Interchange Rules" shall have the meaning specified in Section 6 of the Lease.

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

"Interim Rent" shall mean the rent payable by the Lessee to the Lessor pursuant to Section 2.1 of the Lease.

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

"Late Rate" shall mean the lesser of 1% over the Debt Rate and the maximum interest rate from time to time permitted by law.

"Lease" shall mean the Equipment Lease dated as of June 15, 1993, between the Owner Trustee as Lessor and the Lessee as amended, supplemented or otherwise modified from time to time. The term *"Lease"* shall include each Lease Supplement entered into pursuant to the terms of the Lease.

"Lease Default" shall mean a Lease Event of Default or an event which with notice or lapse of time or both would become a Lease Event of Default.

"Lease Event of Default" shall mean a Lease Event of Default under the Lease as specified in Section 15 thereof.

"Lease Supplement" shall mean a Lease Supplement, dated a Closing Date or the date that any Replacement Item is subjected to the Lease, substantially in the form of Exhibit A to the Lease, between the Lessor and the Lessee, in respect of an Item of Equipment delivered on such Closing Date or such Replacement Item, as the case may be.

"Lease Term" shall mean, with respect to any Item of Equipment, the Interim Term, the Basic Term and any Renewal Term then in effect.

"Lessee" shall mean Southern Pacific Transportation Company, a Delaware corporation, and any corporation which succeeds thereto by merger or consolidation or which acquires all or substantially all of the assets thereof.

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

"Lessor" shall have the meaning specified in the recitals to the Lease.

"Lessor's Liens" means any Lien affecting, on or in respect of the Equipment, the Lease or the Trust Estate arising as a result of (i) claims against Lessor (in its individual capacity or as Owner Trustee) or the Owner Participant, not related to the transactions contemplated by the Operative Agreements, or (ii) acts or omissions of the Lessor (in its individual capacity or as Owner Trustee) or the Owner Participant not related to the transactions contemplated by the Operative Agreements or in breach of any covenant or agreement of such Person set forth in any of the Operative Agreements, or (iii) taxes imposed against the Lessor (in its individual capacity or as Owner Trustee) or the Owner Participant or the Trust Estate which are not indemnified against by the Lessee pursuant to the Participation Agreement or under the Tax Indemnity Agreement.

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

"Loan Participants" shall mean the Loan Participants named in the Participation Agreement and their respective successors and assigns, including successive holders of the Notes.

"Make Whole Amount" shall mean, with respect to the prepayment of the Notes under Section 2.9(c) of the Indenture, an amount payable by the Lessee equal to the excess of (a) the present value of the principal and interest payments on and in respect of the Notes being prepaid or paid, as the case may be, that would otherwise become due and payable (without giving effect to such prepayment or payment) (including the final payment on the maturity date of Notes), all determined by discounting such payments and prepayments semiannually

at a rate which is equal to the Treasury Rate over (b) the aggregate principal amount of the Notes then to be paid or prepaid. To the extent that the Treasury Rate at the time of such payment is equal to or higher than, 6.82%, the Make Whole Amount is zero.

"Net Economic Return" shall mean after-tax economic yields, aggregate net after-tax cash flows and return on investment.

"Notes" shall mean the 6.82% Secured Notes due January 2, 2002 of the Owner Trustee issued under and pursuant to the Indenture.

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

"Operative Agreements" shall mean the Participation Agreement, the Trust Agreement, the Notes, the Lease, each Lease Supplement, the Indenture, each Indenture Supplement and the Tax Indemnity Agreement.

"Owner Participant" shall mean General Electric Capital Corporation, a New York corporation, and its permitted successors and assigns.

"Owner Participant Agreements" shall mean the Operative Agreements to which the Owner Participant is or will be a party.

"Owner Trustee" shall mean U.S. Trust Company of California, N.A., a national banking association, not in its individual capacity but solely as Owner Trustee under the Trust Agreement and its successors thereunder.

"Owner Trustee Agreements" shall mean the Operative Agreements to which the Owner Trustee, either in its individual or fiduciary capacity, is or will be a party.

"Participants" shall mean the Loan Participants and the Owner Participant.

"Participation Agreement" shall mean the Participation Agreement dated as of June 15, 1993, among the Lessee, the Owner Participant, the Owner Trustee, the Indenture Trustee and the Loan Participants.

"Permitted Liens" with respect to the Equipment and each Item thereof, shall mean (i) the interest of the Lessee and the Owner Trustee under the Lease and the Lease Supplements; (ii) any Liens thereon for taxes, assessments, levies, fees and other governmental and similar charges not due and payable or the amount or validity of which is being contested in good faith by appropriate legal proceedings in any reasonable manner which does not adversely affect the property rights or interests of the Owner Trustee or the Indenture Trustee in the Equipment or under any Operative Agreement; (iii) any Liens of mechanics, suppliers, materialmen and laborers for work or services performed or materials furnished in connection with the Equipment or any Item thereof which are not due and payable or the amount or validity of which is being contested in good faith by appropriate legal proceedings in any reasonable manner which does not adversely affect the property rights or interests of the Owner Trustee or the Indenture Trustee in the Equipment or under any Operative Agreement; and (iv) the Lien and security interest of the Indenture Trustee under the Indenture.

"Permitted Sublease" and *"Permitted Sublessee"* shall have the meanings specified in Section 18.1 of the Lease.

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

"Renewal Term" shall mean any term in respect of which the Lessee shall have exercised its option to renew the Lease with respect to any Item of Equipment pursuant to Section 19 thereof.

"Rent" shall mean all Interim Rent, Basic Rent and Supplemental Rent.

"Rent Payment Dates" shall mean, for the Basic Term, the dates provided for payment of Basic Rent in Schedule 3 to the Lease and for any Renewal Term, each October 2, January 2, April 2 and July 2 throughout, and including the final day of, such Renewal Term.

"Replacement Item" shall mean a locomotive which shall have been leased under the Lease pursuant to Section 12.4 of the Lease.

"Responsible Officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of any party contained in any Operative Agreement, the President, or any Vice President, Treasurer, Assistant Treasurer, Controller or other officer, who in the normal performance of his operational responsibility would have knowledge of such matters and the requirements with respect thereto.

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

"Seller" shall mean General Motors Corporation (Electro-Motive Division).

"*Stipulated Loss Value*" for any Item of Equipment as of any date of determination shall mean the amount determined by multiplying the Equipment Cost for such Item by the percentage set forth in Schedule 4 to the Lease opposite the Rent Payment Date on which such Stipulated Loss Value is being determined; *provided* that during any Renewal Term, "Stipulated Loss Value" shall be determined as provided in Section 19.4 of the Lease; and *provided further* that amounts applied to the prepayment of the Notes pursuant to the provisions of Section 3.2(b) of the Indenture with respect to any Item as the result of an Event of Loss shall correspondingly reduce the Lessee's obligation to pay Stipulated Loss Value with respect to such Item. Anything contained in the Lease or in the Participation Agreement to the contrary notwithstanding, Stipulated Loss Value for such Item (both before and after any adjustment pursuant to Section 2.4 of the Lease) will, under any circumstances and in any event, be an amount which, together with any other amounts required to be paid by Lessee under the Lease in connection with an Event of Loss, will be at least sufficient to pay in full as of the date of payment thereof the aggregate unpaid principal of the Equipment Notes issued in respect of such Item, together with all unpaid interest thereon accrued to the date on which such amount is paid in accordance with the terms hereof and all other amounts then due to the holders of the Notes.

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

"*Supplemental Rent*" shall mean all amounts, liabilities and obligations (other than Basic Rent) which the Lessee is obligated to pay under the Operative Agreements to or on behalf of any of the other parties thereto, including, but not limited to, Termination Value and Stipulated Loss Value payments.

"*Taxes*" shall have the meaning specified in Section 7.2(b) of the Participation Agreement.

"*Tax Indemnity Agreement*" shall mean the Tax Indemnity Agreement dated as of June 15, 1993 between the Lessee and the Owner Participant.

"*Terminated Items*" shall have the meaning specified in Section 10.1 of the Lease.

"*Termination Date*" shall have the meaning specified in Section 10.1 of the Lease.

"*Termination Value*" for any Item of Equipment as of any date of determination shall mean the amount determined by multiplying the Equipment Cost for such Item by the percentage set forth in Schedule 5 to the Lease opposite the Rent Payment Date on which such Termination Value is being determined. Anything contained in the Lease or in the Participation Agreement to the contrary notwithstanding, Termination Value for such Item (both before and after any adjustment pursuant to Section 2.4 of the Lease) will, under any circumstances and in any event, be an amount which, together with any other amounts

required to be paid by Lessee under the Lease in connection with such termination, will be at least sufficient to pay in full as of the date of payment thereof the aggregate unpaid principal of the Notes issued in respect of such Item, together with all unpaid interest thereon accrued to the date on which such amount is paid in accordance with the terms thereof and all other amounts then due to the holders of the Notes.

"Total Equipment Cost" shall mean the sum of the Equipment Cost for each Item of Equipment.

"Transaction Costs" shall have the meaning specified in Section 2.6 of the Participation Agreement.

"Treasury Rate" shall mean at any time with respect to the Notes being prepaid the sum of (i) .50%, plus (ii) the weekly average of the yield to maturity on the United States Treasury obligations with a constant maturity (as compiled by and published in the most recently published issue of the United States Federal Reserve Statistical Release designated H.15(519) or its successor publication) most nearly equal to (by rounding to the nearest month) the Weighted Average Life to Maturity of the Notes then being prepaid. If no maturity exactly corresponding to such Weighted Average Life to Maturity of the Notes shall appear therein, the weekly average yield for the two most closely corresponding published maturities shall be calculated pursuant to the foregoing sentence and the Treasury Rate shall be interpolated from such yields on a straight-line basis (rounding, in the case of relevant periods, to the nearest month).

"Trust Agreement" shall mean the Trust Agreement dated as of June 15, 1993, between the Owner Participant and U.S. Trust Company of California, N.A., as amended, supplemented or otherwise modified from time to time.

"Trust Estate" shall have the meaning set forth in Section 2.02 of the Trust Agreement.

"Weighted Average Life to Maturity" with respect to the Notes shall mean, as at the time of determination, the number of years obtained by dividing the then Remaining Dollar-years of the Notes by the sum of the remaining scheduled principal payments on such Notes. The term *'Remaining Dollar-years'* of the Notes means the product obtained by (1) multiplying (A) the amount of each then scheduled required principal payment (including payment at final maturity), by (B) the number of years (calculated to the nearest one-twelfth) which will elapse between the date of determination of the Weighted Average Life to Maturity of the Notes and the date of such required payment is due, and (2) totaling all the products obtained in (1).