



Counterparts - Daniel Kirtel

Norfolk Southern Corporation  
Law Department  
Three Commercial Place  
Norfolk, Virginia 23510-2191

3-099A020  
RECORDATION NO. 15651-F FILED 1425  
APR 9 1993 11:35 AM  
J. Gary Lane  
INTERSTATE COMMERCE COMMISSION

Writer's Direct Dial Number  
(804) 629-2818

April 7, 1993

Mr. Sidney L. Strickland, Jr.  
Secretary  
Interstate Commerce Commission  
12th and Constitution Avenue, N.W.  
Washington, D.C. 20423

Dear Mr. Strickland:

In accordance with 49 U.S.C. § 11303 and the Commission's rules, I submit herewith for recording with the Commission five (5) counterparts of the document described below. I request that four (4) of the counterparts be returned to the undersigned.

(1) This document is an Assignment and Assumption Agreement dated as of April 1, 1993, executed by **TCS Leasing, Inc.**, formerly named Triple Crown Services, Inc. (the "Assignor"), and by **Triple Crown Services Company** (the "Assignee").

(2) This document is a "secondary document" under 49 C.F.R. § 1177.1, pertaining to the following primary document: Equipment Leasing Agreement between NEMLC Leasing Corporation (as lessor) and Union Pacific Motor Freight Company (formerly named Missouri Pacific Truck Lines, Inc.) (as lessee) dated as of January 10, 1988, and assigned recordation number 15651.

(3) I request that this Assignment and Assumption Agreement also be listed in the index under the name of **Union Pacific Motor Freight Company (formerly Missouri Pacific Truck Lines, Inc.)** and under the name of **NEMLC Leasing Corporation**.

(4) The equipment covered by the primary document to which this relates is generally described as follows:

| <u>Number of Units</u> | <u>General Description</u> | <u>AAR Symbol</u> | <u>Identity Marks</u> |
|------------------------|----------------------------|-------------------|-----------------------|
| 175                    | Mark V Model Trailers      | ---               | NERZ 418001-418175    |
| 100                    | RoadRailer® Bogies         | ---               | NETX 87001-87100      |

3 Mark V Adapterailers

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NEAX 000001-  
000003

(5) The names and addresses of the parties executing the Assignment and Assumption Agreement are as follows:

ASSIGNOR: TCS Leasing, Inc. (formerly named Triple Crown Services, Inc.)  
c/o Norfolk Southern Corporation  
110 Franklin Road, S.E.  
Roanoke, Virginia 24042

ASSIGNEE: Triple Crown Services Company  
6920 Pointe Inverness Way (Suite 300)  
Fort Wayne, Indiana 46804

(6) After recordation, please return four original counterparts of the document, stamped with the Commission's recordation data, to the undersigned at Norfolk Southern Corporation, Three Commercial Place, Norfolk, Virginia 23510.

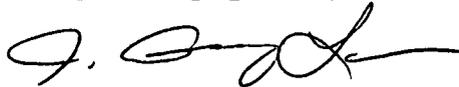
(7) The recordation fee of \$16.00 is enclosed.

(8) A short summary of the Assignment and Assumption Agreement for use in the index follows:

This is an Assignment and Assumption Agreement dated as of April 1, 1993, between TCS Leasing, Inc. (formerly named Triple Crown Services, Inc.), 110 Franklin Rd., Roanoke, VA 24042 (as Assignor), and Triple Crown Services Company, 6920 Pointe Inverness Way, Suite 300, Fort Wayne, IN 46804 (as Assignee). This document relates to an Equipment Leasing Agreement dated January 10, 1988, between NEMLC Leasing Corporation and Union Pacific Motor Freight Company (formerly Missouri Pacific Truck Lines, Inc.) (assigned recordation number 15651), covering 175 Mark V Trailers, 100 RoadRailer® Bogies and 3 Mark V Adapterailers.

Please acknowledge receipt on the enclosed copy of this letter.

Very truly yours,



J. Gary Lane

jgl  
encl.

Interstate Commerce Commission

Washington, D.C. 20423

4/9/93

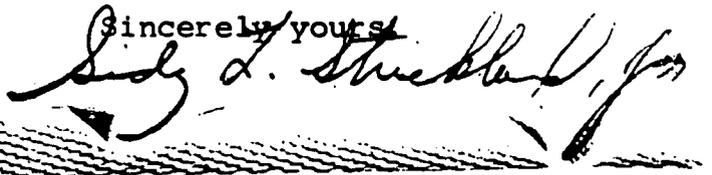
OFFICE OF THE SECRETARY

J. Gary Lane  
Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, VA. 23510-2191

Dear Sirs:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 4/9/93 at 11:35AM, and assigned re-  
recording number(s). 15651-F

Sincerely yours,



Secretary

SIDNEY L. STRICKLAND, JR.

Enclosure(s)

SE-30  
(7/79)

(UP Lease) APR 9 1993 11:35 AM

ASSIGNMENT AND ASSUMPTION AGREEMENT

INTERSTATE COMMERCE COMMISSION

This Assignment and Assumption Agreement is made this 1st day of April, 1993, by and among TCS LEASING, INC. (formerly named Triple Crown Services, Inc.), an Oklahoma corporation ("Assignor"), and TRIPLE CROWN SERVICES COMPANY, a general partnership formed under the laws of Delaware ("Assignee").

WHEREAS, Assignor and UNION PACIFIC MOTOR FREIGHT COMPANY (formerly named Missouri Pacific Truck Lines, Inc.), a Delaware corporation ("Sublessor"), entered into a Sublease Agreement dated as of October 4, 1989, which was amended and supplemented by an Amendment to Sublease Agreement dated September 3, 1991, a Renewal Rider dated October 10, 1991 and a Second Amendment to Sublease Agreement dated October 31, 1992 (copies of such Sublease Agreement, Amendments and Renewal Rider being attached hereto as Exhibit A), which Sublease Agreement, as amended or supplemented, hereinafter is referred to as the "Sublease Agreement";

WHEREAS, pursuant to the Sublease Agreement, Sublessor agreed to sublease to Assignor 175 Thrall Mark V Trailers, 100 RoadRailer® Rail Bogies and 3 Mark V Adapterailers (the "Equipment");

WHEREAS, Assignee desires to use the Equipment in connection with its intermodal transportation business;

WHEREAS, Assignor desires to assign and delegate to Assignee all of Assignor's rights and obligations under the Sublease Agreement and Sublessor has consented to such proposed assignment and delegation in accordance with Section 18 of the Sublease Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Assignor and Assignee, the parties hereto hereby agree as follows:

1. Assignment and Delegation. Upon the terms and subject to all the conditions herein set forth, Assignor hereby assigns, transfers and delegates to Assignee all of Assignor's rights, duties and obligations under the Sublease Agreement.

2. Acceptance and Assumption. Assignee hereby accepts the foregoing assignment and delegation and hereby assumes and agrees to be primarily responsible and liable for all of the duties, obligations and liabilities of Assignor under the Sublease Agreement. Assignee agrees to be bound by and to comply with and perform all terms, provisions and conditions of the Sublease Agreement pertaining to Assignor as the "Sublessee" thereunder.

Assignee agrees that, as between Assignor and Assignee, Assignee shall be primarily responsible for and liable to Sublessor for all obligations and liabilities imposed on Assignor pursuant to the Sublease Agreement, including without limitation all rental and other payment obligations.

3. Effective Date. This Agreement shall be effective on the date hereof.

4. Taxes and Fees. Assignee shall be responsible and liable for any and all property, sales, use or other similar taxes or fees that may be imposed upon or incurred by Assignor or Assignee (i) pursuant to the Sublease Agreement, (ii) as a result of or incident to the execution of this Assignment Agreement or (iii) as a result of the ownership or use of the Equipment, and Assignee agrees to reimburse Assignor on demand for any such taxes or fees that may be assessed against or imposed on Assignor.

5. No Warranties. ASSIGNEE ACKNOWLEDGES AND AGREES THAT ASSIGNOR HAS NOT MADE AND WILL NOT MAKE ANY REPRESENTATIONS OR WARRANTIES AS TO THE MERCHANTABILITY, FITNESS, OR PHYSICAL CONDITION OF, TITLE TO OR ANY OTHER MATTER AFFECTING OR RELATING TO THE EQUIPMENT. ASSIGNOR MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, OPERABILITY OR DESIGN OF, OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP IN, THE EQUIPMENT, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND HEREBY EXPRESSLY DISCLAIMS LIABILITY AND SHALL NOT BE LIABLE FOR LOST PROFIT OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR COMMERCIAL LOSSES OF ANY KIND.

6. Risk of Loss; Allocation of Revenues and Expenses. (a) As between Assignor and Assignee, the risk of loss of or damage to the Equipment and the rights, if any, against insurance carriers or third parties arising from such loss or damage shall belong to the Assignor prior to the date hereof. On the date hereof, all risk of loss and damage with respect to the Equipment shall be the responsibility of Assignee.

(b) As between Assignor and Assignee, all revenues and expenses with respect to the Equipment which are earned or incurred prior to the date hereof shall be for the account of the Assignor. All revenues and expenses with respect to the Equipment which are earned or incurred on or after the date hereof shall be for the account of the Assignee.

7. Indemnification. Assignee will reimburse, indemnify and hold harmless Assignor, its corporate parent and other corporate affiliates and its and their officers, employees and agents from and against all liabilities, losses, expenses, damages and claims arising out of or in connection with the assignment of Assignor's rights or duties under the Sublease Agreement, or arising out of or in connection with the lease, sublease or use of the Equipment

by Assignee under the Sublease Agreement or this Agreement, including but not limited to liabilities, losses, expenses, damages and claims resulting from injury to or death of any person (including without limitation the officers, employees or agents of Assignor, Assignee, Sublessor or third parties) or damage to any property (including without limitation lading or property of Assignor, Assignee, Sublessor or third parties).

8. Choice of Law. It is the intention of the parties that the laws of the Commonwealth of Virginia (without reference to conflicts of laws principles) shall govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and duties of the parties hereunder.

9. Notices. Any notices or other communications required or permitted under this Agreement shall be sufficiently given if delivered personally or sent by certified or registered mail, postage prepaid, or transmitted via telecopier, as follows:

| Assignor  | Assignee   |
|---|--|
| TCS Leasing, Inc.<br>c/o Norfolk Southern Corporation<br>110 Franklin Road, S.E.<br>Roanoke, Virginia 24042<br>Attention: Assistant Treasurer<br>Telecopier: 703-981-4167 | Triple Crown Services Company<br>6920 Pointe Inverness Way<br>Suite 300<br>Fort Wayne, Indiana 46804<br>Attention: President<br>Telecopier: (219) 434-3711 |

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

TCS LEASING, INC.

By: William F. Ray  
Its: VICE PRESIDENT

TRIPLE CROWN SERVICES COMPANY,  
a general partnership

By: David H. Cushman  
Its: VICE PRESIDENT

COMMONWEALTH OF VIRGINIA) )  
CITY OF NORFOLK ) ss:

On this 30<sup>th</sup> day of March, 1993, before me personally appeared William G. Raming, to me personally known, who being by me duly sworn, says that he is a Vice President of TCS Leasing, Inc., that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument by him on this date was the free act and deed of said corporation.

Doris R. Whitson  
Notary Public

My Commission expires: AUGUST 31, 1994

STATE OF INDIANA ) )  
COUNTY OF ALLEN ) ss:

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of MARCH, 1993, by DANIEL H. CUSHMAN, who stated that he is a duly qualified agent of Triple Crown Services Company, a partnership organized under the laws of Delaware, that the foregoing instrument was signed by him as agent on behalf of said partnership by authority of its general partners, and he acknowledged that the execution of the foregoing instrument by him on this date was the free act and deed of said partnership.

Doris W. Calogovic  
Notary Public

My Commission expires: March 10, 1997

SUBLEASE AGREEMENT

This Sublease Agreement is made this 4<sup>th</sup> day of October, 1989, by and between MISSOURI PACIFIC TRUCK LINES, INC., a ~~Texas~~ corporation (hereinafter "Sublessor") and TRIPLE CROWN SERVICES, INC., an Oklahoma corporation (hereinafter "Sublessee"), WITNESSETH:

Delaware

RECITALS:

By Equipment Leasing Agreement dated January 10, 1988, and the Lease Supplements thereto, (hereinafter the "Basic Lease"), Sublessor is leasing one hundred and seventy-five (175) Thrall Mark V Trailers bearing reporting numbers NERZ 418001-418175, one hundred (100) Railroader Rail Bogies bearing reporting numbers NETX 87001-87100, and four (4) Mark V Adapterailers bearing reporting numbers NEAX 000001-000004 from NEMLC Leasing Corporation (hereinafter "Lessor").

Sublessee desires to sublease the one hundred and seventy-five (175) Thrall Mark V Trailers, the one hundred (100) Railroader Rail Bogies and the three (3) Mark V Adapterailers set forth on Exhibit A attached hereto and made a part hereof (hereinafter collectively the "Equipment" and individually "Item of Equipment") for the movement of commodities generally transported with such equipment.

Sublessor is willing, subject to the consent of Lessor, to sublease the Equipment to Sublessee on the following terms and conditions.

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

Section 1. SUBLEASE OF EQUIPMENT.

Sublessor, for and in consideration of the covenants and payments hereinafter mentioned, hereby agrees to sublease the Equipment to Sublessee during the term of this Agreement.

Section 2. INSPECTION, DELIVERY AND ACCEPTANCE OF EQUIPMENT.

On or prior to the execution date of this Agreement, Sublessor, at its sole expense, will make the Equipment available to Sublessee for inspection at Sublessor's facility at Chicago, Illinois; St. Louis, Missouri; or other mutually agreeable locations, and Sublessee and Sublessor will agree upon a mutually convenient time for said inspection. Forthwith upon Sublessor's making the Equipment available, Sublessee will cause its authorized representative to inspect each Item of Equipment to determine if said Item of Equipment is in "Operable Condition" as that term is hereinafter defined. Said inspection will include, but need not be limited to, a determination of the tire tread depths for each Thrall Mark V Trailer for purposes of calculating any compensation adjustment pursuant to Section 16.

For purposes of this Agreement, "Operable Condition" will mean that (a) an Item of Equipment is in a condition that permits immediate assembly into intermodal trains and operation over rail and highway in Sublessee's intermodal transportation service in compliance with minimum applicable federal or state regulatory standards for rail and highway usage; (b) all titles, registrations, registration plates, permits, and licenses applicable to and necessary for operation of the Equipment are in effect and properly on the Equipment; (c) all necessary modifications to the Equipment's landing gear are completed by the manufacturer of the Equipment; and (d) all necessary modifications to the Nu Way control panel are completed by the manufacturer of the Equipment. The determination of whether or not an Item of the Equipment meets or fails to meet the foregoing definition will be made by Sublessee at its sole discretion.

Upon completion of its inspection of Equipment, Sublessee shall notify Sublessor of each Item of Equipment determined by Sublessee not to be in Operable Condition. At its sole expense, within sixty (60) days after the execution date of this Agreement, Sublessor may place such Item or Items of Equipment in Operable Condition and provide Sublessee detailed records of repairs performed on such Item of Equipment to place it in Operable Condition. Upon placement of such Item or Items of Equipment in Operable Condition, Sublessee shall execute and deliver to Sublessor a Certificate of Acceptance (in a form substantially as that set forth in Appendix B, attached hereto and made a part hereof) for each such Item or Items of Equipment. If Sublessor fails to place any such Item of Equipment in Operable Condition to Sublessee's full satisfaction, such Item of Equipment shall not be considered leased to

Sublessee, Sublessee shall not take possession of such Item of Equipment, and Sublessee shall not be required to pay rental charges on such Item of Equipment.

Unless Sublessee previously gave Sublessor notice of its determination that an Item of Equipment is not in Operable Condition, promptly upon execution of this Agreement, Sublessee shall execute and deliver to Sublessor a Certificate of Acceptance stating that an Item or Items of Equipment was or were inspected, is or are in Operable Condition, and that delivery of such Item or Items of Equipment is accepted by Sublessee. Such Certificate of Acceptance shall be conclusive evidence that the Item or Items of Equipment covered thereby is or are delivered to and accepted by Sublessee, is or are subleased hereunder, and is or are subject to all terms, provisions, and conditions of this Agreement.

Section 3. TERM.

The term of this Agreement as to each Item of Equipment shall commence on the date such Item of Equipment is delivered to and accepted by Sublessee and shall remain in effect for a period of two (2) years from the first day of the month following the date on which the last Item of Equipment is delivered to and accepted by Sublessee unless sooner terminated or renewed as hereinafter provided.

Section 4. RENTAL.

For the use of the Equipment, Sublessee shall pay to Sublessor rental at the rate (which includes applicable sales and use taxes) specified below:

| <u>Item of Equipment</u> | <u>Rental Rate</u>           |
|--------------------------|------------------------------|
| Thrall Mark V Trailers   | \$11.00 per day<br>per unit. |
| Railroader Rail Bogies   | \$6.00 per day<br>per unit.  |
| Mark V Adapterailers     | \$18.00 per day<br>per unit. |

Rental on each Item of Equipment shall commence on the date that such Item of Equipment is delivered to and accepted by Sublessee, and shall continue until such Item of Equipment is either (1) purchased by Sublessee pursuant to the provisions of Section 14, (2) disposed of upon Sublessee's payment of the amounts specified in Section 8, or

(3) returned to Sublessor as provided in Section 16, whichever occurs first.

Rental is payable on a calendar month basis and is due on the last day of each calendar month of the term hereof.

All payments provided for in this Agreement to be made to Sublessor shall be made to Sublessor at 210 N. 13th Street, St. Louis, Missouri, 63103, or at such other place as the Sublessor shall specify in writing.

This Sublease is a net lease, and Sublessee shall not be entitled to any abatement of rent, reduction thereof or set-off against rent, including, but not limited to abatements, reductions or set-offs due or alleged to be due to, or by reason of, any past, present or future claims of Sublessee against Lessor or Sublessor under or with respect to the Basic Lease or this Sublease or otherwise, or against any manufacturer or against any person or entity having or claiming to have a beneficial interest in any Items of Equipment; nor, except as otherwise expressly provided herein, shall this Sublease terminate or the respective obligations of Lessor or Sublessor or Sublessee be otherwise affected, by reason of any defect or alleged defect in or damage or alleged damage to or loss or loss of possession or loss of use of or destruction of all or any of the Items of Equipment from whatsoever cause, the prohibition of, or other restriction against Sublessee's use of all or any of the units, the interference with such use by any private person or entity, the invalidity, illegality or unenforceability or lack of due authorization of this Sublease, or lack of right, power or authority of Sublessor to enter into and/or perform this Sublease, or by reason of any failure by Sublessor to perform any of its obligation herein contained, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by Sublessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Sublease.

**Section 5. MAINTENANCE AND REPAIR OF EQUIPMENT.**

It is understood and agreed that all maintenance and repair of the Equipment during the term of this Agreement will be performed by Sublessee, at its sole cost and expense, in compliance with such maintenance and repair standards and procedures as are set forth in the manufacturer's manuals pertaining to the Equipment, and as other-

wise may be required to keep the Equipment in Operable Condition and to enforce warranty claims against each vendor and manufacturer of each Item of Equipment, and in compliance with all requirements of law applicable to the maintenance and condition of the Equipment.

Any parts installed or replacements made upon any Item of Equipment shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in Lessor. Sublessee shall not modify an Item of Equipment without the prior written consent and approval of Lessor and Sublessor.

**Section 6. USE OF EQUIPMENT/COMPLIANCE WITH LAWS.**

Sublessee agrees that the Equipment will be used and operated solely in the conduct of its business and in compliance with any and all insurance policy terms, conditions and provisions and with all statutes, laws, ordinances, rules and regulations of any Federal, state or local governmental body, agency or authority applicable to the use and operation of the Equipment, including, without limitation, the rules of the United States Department of Transportation, 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. Subject to the provisions of Section 2 above, Sublessee shall procure and maintain in effect during the term of this Agreement all licenses, registrations, certificates, permits, approvals and consents required by Federal, state or local laws or by any governmental body, agency or authority in connection with its use and operation of each Item of Equipment, including, in the case of any Item of Equipment subject to motor vehicle titling and registration laws, all titles, registrations, registration plates, permits, licenses, and all renewals thereof in the name of Lessor as owner. Sublessor agrees that the Equipment may be used by other than Sublessee under interchange agreements or trip leases or the like; provided however, that Sublessee shall at all times be and remain primarily liable to Sublessor hereunder notwithstanding any such usage under interchange agreements or trip leases and Sublessee will, as between Sublessor and Sublessee, be liable for any failure of any user of the Equipment to comply with the terms of this Agreement. Sublessor and Sublessee agree that the Equipment shall be used predominantly in the continental United States; PROVIDED, however, that should the Equipment move such that retitling becomes required, Sublessee will notify Sublessor and cooperate to ensure correct retitling. Sublessee shall use and operate the Equipment or cause it to be used and operated only by personnel authorized by Sublessee, and

Sublessee shall use every reasonable precaution to prevent loss or damage to each Item of Equipment from fire and other hazards.

Prior to delivery of the Equipment to Sublessee, the load limit, if any, of each Item of Equipment will be marked clearly and appropriately on each Item of Equipment. Sublessee will not load the Equipment or permit the Equipment to be loaded in excess of the load limit for which the Equipment was designed and will reimburse, indemnify, and hold harmless Sublessor for any damages resulting from loading in excess of the load limit so marked.

**Section 7. IDENTIFICATION MARKS/INSPECTION.**

Sublessee shall carefully preserve Lessor's and Sublessor's markings on the Equipment subleased hereunder, and shall maintain the identity thereof. If, during the term of this Agreement, any such identification marking shall at any time be defaced or destroyed, Sublessee shall immediately cause such defaced or destroyed identification marking to be restored or replaced. Sublessee shall not allow the name of any Person to be placed upon any Item of Equipment as a designation which might be interpreted as indicating a claim of ownership thereto or a security interest therein by any Person other than Lessor or any Assignee; PROVIDED, however, that Sublessee may place its corporate name and/or logo on the Equipment.

Upon the request of Lessor or Sublessor, Sublessee shall make the Equipment available to Lessor or Sublessor for inspection and shall also make Sublessee's records pertaining to the Equipment or administration of this Agreement available to Sublessor for inspection.

**Section 8. LOSS, DAMAGE OR DESTRUCTION.**

(a) Risk of Loss, Damage or Destruction. Sublessee hereby assumes all risk of loss, damage, theft, taking, destruction, confiscation, requisition or commandeering, partial or complete, of or to each Item of Equipment, however caused or occasioned, such risk to be borne by Sublessee with respect to each Item of Equipment from the date of execution of a Certificate of Acceptance for said Item of Equipment, and continuing until such Item of Equipment has been returned to Sublessor in accordance with the provisions of Section 16 hereof or has been purchased by Sublessee in accordance with the provisions of Section 14 (b) hereof. Except as hereinafter expressly provided, Sublessee agrees that no occurrence specified in the preceding sentence shall impair, in whole or in part, any obligation of Sublessee under this Sublease, including, without limitation, the obligation to pay rental.

(b) In the event any Item of Equipment shall be or become worn out, lost, stolen, destroyed or irreparably damaged, or otherwise rendered permanently unfit for use from any cause whatsoever, or if any Item of Equipment is condemned, confiscated, seized, or requisitioned, in whole or in part, (such occurrences being hereinafter called an "Event of Loss") during the term of this Agreement, Sublessee shall promptly (after it has knowledge of such Event of Loss) and fully inform Sublessor in regard thereto. Sublessee shall, on the earlier of the next succeeding rental payment date in respect of such Item of Equipment or the expiration of the term of this Agreement, pay to Sublessor a sum equal to the Casualty Loss Value of such Item of Equipment as of the rental payment date next succeeding the Event of Loss.

For purposes of this section, the term "Casualty Loss Value" shall be deemed to be the amount specified in Appendix C, attached hereto and made a part hereof, which corresponds to the rental payment date next succeeding the Event of Loss.

Upon making such payment in respect of any Item of Equipment, as well as any other amounts due and payable with respect to such Item of Equipment, rental for such Item of Equipment shall cease as of the date of such payment, the term of this Agreement as to such Item of Equipment shall terminate, and Sublessee shall dispose of such Item of Equipment in accordance with Section 16(b)(B) of the Basic Lease.

Except as hereinabove in this section provided, Sublessee shall not be released from its obligations hereunder in the event any Item of Equipment suffers an Event of Loss while in Sublessee's possession.

#### Section 9. INSURANCE.

Sublessee shall, during the term of this Agreement, maintain insurance coverage for the Equipment as required pursuant to Section 17 of the Basic Lease. Sublessee may self-insure against such risks as are required to be insured against hereunder pursuant to a formal plan of self-insurance, and Sublessee shall certify that such self-insurance is being maintained in accordance herewith and the details of same. Should such self-insurance be discontinued, Sublessee shall notify Sublessor immediately of such fact and procure promptly the insurance coverages required hereunder.

If policies of insurance are secured to comply with this section, Sublessee shall endorse Sublessor as an

additional insured thereunder. Copies of such policies of insurance or certificates thereof shall be delivered to Sublessor. Any proceeds of such insurance shall be applied in reduction of the Casualty Loss Value to be paid by Sublessee.

Section 10. TAXES.

Except as hereinafter specifically provided, Sublessee timely will pay, or will promptly reimburse Sublessor if payment is made by it, all federal, state, or local property, sales, use, or other license, tax, duty, levy (excluding any federal, state, or local income taxes) levied or imposed upon, measured by, or exacted because of the use or lease of the Equipment by Sublessee (collectively "Impositions"). At all times during the term of this Agreement, Sublessee will keep the Equipment free and clear of all Impositions that might in any way affect or impair the title of Lessor to or Lessor's and Sublessor's interest in the Equipment or result in a lien upon the Equipment. Sublessee promptly will pay or reimburse Sublessor for any interest or penalty payable by Sublessor as a result of any delay in paying any Impositions that are the responsibility of Sublessee under this Section. If, during the term of this Agreement, Sublessee becomes liable for the payment or reimbursement of any Impositions pursuant to this Section, notwithstanding the termination of this Agreement, said liability will continue until all Impositions and any interest or penalty thereon are paid or reimbursed by Sublessee.

Sublessee will not be required to pay any Imposition or any interest or penalty thereon that accrued prior to delivery of the Equipment to Sublessee or after return of the Equipment to Sublessor. Nothing in this Section will be construed to diminish any right of Sublessee to contest any Imposition in appropriate judicial or administrative proceedings, and unless required by law, Sublessee will not be required by this Agreement to pay any Imposition so long as Sublessee is contesting in good faith the validity thereof by appropriate legal proceeding. If Sublessee is contesting in good faith the validity of any Imposition and if it is judicially determined that said Imposition is valid and binding or if said proceeding is discontinued, Sublessee forthwith will pay said Imposition together with all costs, interest, and penalties attached hereto.

If Lessor shall lose by disallowance, recapture or otherwise, any portion of the tax benefits referred to in Section 19 of the Basic Lease as the result of any act committed by or on behalf of Sublessee or any third party having control over the Equipment with Sublessee's knowledge

or consent or Sublessee's or such third party's failure to take any act, Sublessee agrees to pay Sublessor the sum which Sublessor is required to pay Lessor pursuant to Section 19 of the Basic Lease; PROVIDED, however, that Sublessee shall be under no obligation to indemnify Sublessor with respect to any Item of Equipment for which Sublessee has paid to Sublessor the Casualty Loss Value set forth in Section 8 hereof or for which no Certificate of Acceptance was executed.

**Section 11. INDEMNIFICATION.**

Sublessee agrees to defend, indemnify and hold Lessor and Sublessor harmless from and against any and all obligations, fees, liabilities, losses, damages, penalties, claims, demands, actions, suits, judgments, costs and expenses, including legal expenses, of every kind and nature whatsoever, and regardless of the cause thereof arising out of or in connection with or resulting from the condition, use, loss of use, maintenance or operation of the Equipment during the term of this Agreement, excepting, however, any such liability, loss, damage, or cost caused by (i) the sole negligence of Sublessor, its parent corporation or corporate affiliates, its or their officers, agents or employees, or (ii) Sublessor's default under or breach of the Basic Lease. The provisions of this Section and the obligations of Sublessee hereunder shall survive and continue in full force and effect notwithstanding the expiration or earlier termination of this Agreement, in whole or in part.

**Section 12. LOSS OR DAMAGE TO LADING AND  
DAMAGE TO EQUIPMENT CAUSED BY LADING.**

Sublessor shall not be liable for any loss of, or damage to, commodities or any part thereof, loaded or shipped in the Equipment, however such loss or damage shall be caused, or shall result, and Sublessee agrees to assume financial responsibilities for, to indemnify Sublessor against and to save Sublessor harmless from any such loss or damage to commodities, or claim therefor, or for any damage caused to the Equipment by such commodities.

**Section 13. DEFAULT.**

If (a) Sublessee shall fail to carry out and perform any of its obligations under this Agreement within twenty (20) days after Sublessor shall have demanded in writing performance thereof or (b) a petition in bankruptcy or for reorganization or for a trustee or receiver is filed by or against Sublessee and all of the obligations of Sublessee under this Agreement shall not have been duly assumed by the trustee or receiver within thirty (30) days after the

appointment, if any, or sixty (60) days after such proceedings shall have been commenced whichever shall be earlier, Sublessor may take possession of the Equipment and any accessions thereto wherever they may be found and at the election of Sublessor, or its assignee as the case may be, declare the Agreement terminated. The exercise of said right to terminate this Agreement shall not impair any other rights of Sublessor under this Agreement or any rights of action against Sublessee for recovery of damages, including the balance of the rental for the full term hereof.

If (a) Sublessor shall fail to carry out and perform any of its obligations under this Agreement within (20) days after Sublessee shall have demanded in writing performance thereof or (b) as a result of or in connection with any action of or failure to act by Sublessor, its parent corporation or corporate affiliates, or its or their officers, agents, or employees, Sublessee's use of Equipment or any Item of Equipment is prohibited, restricted, or otherwise interfered with and such action or failure to act continues for twenty (20) days after Sublessee shall have demanded in writing termination thereof, Sublessee shall have the right to declare this Agreement terminated, notwithstanding any waiver by Sublessee of any prior breach of or default under this Agreement. Upon Sublessee's declaration of termination of this Agreement, rental for Equipment shall cease and Equipment shall be returned to Sublessor in accordance with the provisions of Section 16 thereof.

#### Section 14. RENEWAL AND PURCHASE OPTIONS.

(a) Renewal Option. So long as Sublessee shall not be in default under this Agreement, and this Agreement shall not have been earlier terminated, Sublessee shall be entitled, at its option, to renew this Agreement with respect to all, but not less than all, of the Equipment for an additional term of two (2) years by giving Sublessor written notice to such effect at least ninety (90) days prior to the expiration of the initial term.

(b) Purchase Option. So long as Sublessee shall not be in default under this Agreement, and this Agreement shall not have been earlier terminated, Sublessee shall be entitled at any time during the term of this Agreement after March 1, 1990, at its option, upon ninety (90) days prior written notice to Sublessor, to purchase all, but not less than all, of the Equipment (less any Items of Equipment for which the Sublessee has paid the Casualty Loss Value) by paying to Sublessor the purchase price to be determined by mutual agreement of Sublessor and Sublessee. In the event that Sublessor and Sublessee are unable to reach agreement

on the purchase price within forty-five (45) days of Sublessor's receipt of Sublessee's notice, Sublessee's notice shall be considered null and void and this Agreement shall continue in effect until the expiration or termination of its term as herein provided. Sublessee's purchase of the Equipment, if any, shall be on an "as-is, where-is" basis, without representations by or recourse to, Lessor or Sublessor.

**Section 15. WARRANTIES.**

Neither Lessor nor Sublessor guaranty uninterrupted operation of the Equipment or the suitability of the Equipment for the purposes for which subleased to the Sublessee, and shall not be liable to Sublessee for any delays or loss resulting from failure of the Equipment during the term hereof.

LESSOR AND SUBLESSOR, NOT BEING THE MANUFACTURER OR VENDOR OF THE EQUIPMENT, MAKE NO REPRESENTATION OR WARRANTY, EITHER EXPRESSED OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN OR CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY, DURABILITY, SUITABILITY, OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE EQUIPMENT, OR THE CONFORMITY OF THE EQUIPMENT PROVISIONS AND SPECIFICATIONS OF ANY PURCHASE ORDER OR ORDERS RELATING THERETO, AND LESSOR AND SUBLESSOR HEREBY DISCLAIM ANY SUCH REPRESENTATION OR WARRANTY (WHICH DISCLAIMER SUBLESSEE HEREBY ACKNOWLEDGES). WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, LESSOR AND SUBLESSOR SHALL NOT BE LIABLE OR RESPONSIBLE FOR ANY DEFECTS, EITHER PATENT OR LATENT (WHETHER OR NOT DISCOVERABLE BY SUBLESSEE), IN THE EQUIPMENT, OR FOR ANY DIRECT OR INDIRECT DAMAGE TO PERSONS OR PROPERTY RESULTING THEREFROM.

**Section 16. RETURN OF EQUIPMENT.**

Upon the expiration or earlier termination of this Agreement with respect to each Item of Equipment (and provided that Sublessee has not exercised its purchase option under Section 14 hereof), Sublessee will, at its sole expense, surrender and deliver possession of each Item of Equipment (except any Item of Equipment for which Sublessee has paid the Casualty Loss Value) to Sublessor at Chicago, Illinois; St. Louis, Missouri; or any other point as may be agreed between the parties hereto. At the time of such return to Sublessor, each Item of Equipment (and each part or component thereof) shall (i) be in Operable Condition, (ii) be free and clear of all liens, other than those created under the Basic Lease, and (iii) free of Sublessee's corporate name and logo.

Further, the Thrall Mark V Trailers shall be returned with complete sets of tires. Upon return of a Thrall Mark V Trailer, each tire will be comparable in quality to the original tire upon delivery of said Item of Equipment to Sublessee, less normal wear and tear, as determined by a joint inspection at the time said Item of Equipment is returned to Sublessor. The total tire tread depths determined at the time of inspection and delivery of said Item of Equipment to Sublessee, as noted on the Certificate of Acceptance, and upon return of said Item of Equipment to Sublessor will be used to determine any compensation adjustment. For each one-thirtysecond ( $1/32$ ) of an inch the aggregate tread depth of the tires upon return exceeds the aggregate tread depth at time of inspection and delivery to Sublessee, less normal wear and tear, Sublessor will pay Sublessee Five Dollars (\$5.00). For each one-thirtysecond ( $1/32$ ) of an inch the aggregate tread depth of the tires at time of inspection and delivery to Sublessee exceeds the aggregate tread depth upon return, less normal wear and tear, Sublessee will pay Sublessor Five Dollars (\$5.00). For purposes of this calculation, normal wear and tear will be considered to be a decrease in tread depth of one-thirtysecond ( $1/32$ ) of an inch per each six (6) month period or fraction thereof during which each such Thrall Mark V Trailer is subleased by Sublessee hereunder.

Section 17. ARBITRATION.

Any claim, dispute, question, or controversy (Disputed Matter) between Sublessor and Sublessee arising out of or relating to this Agreement or any breach of or default under this Agreement that cannot be settled by the parties themselves will be submitted for arbitration to a disinterested, competent person or a panel of three (3) disinterested, competent persons familiar with the general subject matter of this Agreement. The party desiring arbitration of a Disputed Matter will submit to the other party a written notice of demand for arbitration setting forth with specificity the Disputed Matter. If the parties agree upon a single arbitrator within twenty (20) days after the date of said demand for arbitration, the matter will be submitted to a single arbitrator. If the parties cannot agree upon a single arbitrator within twenty (20) days after the date of said demand for arbitration, the matter will be submitted to a panel of arbitrators, to be named as follows: the party demanding arbitration will name one (1) member of said panel within forty (40) days after the date of said demand for arbitration, the other party will name one (1) member of said panel within sixty (60) days after the date of said demand for arbitration, and one (1) member of said panel will be chosen by the previously chosen members of said panel within eighty (80) days after the date

of said demand for arbitration. If the responding party does not timely name one (1) member of said panel, the party demanding arbitration may name said member. If the first and second arbitrators so named cannot select a third arbitrator within one hundred (100) days after the date of said demand for arbitration, either party may file, within one hundred ten (110) days after the date of said demand for arbitration, a motion or application with the Chief Judge or Acting Chief Judge of the United States District Court for the District of Nebraska for appointment of the third arbitrator.

Upon selection of the arbitration panel of either one or three members, said panel will inquire into and determine the Disputed Matter, as disclosed in the demand for arbitration and will give both parties reasonable notice of the time and place (of which the panel will be the judge) where the panel will take such evidence as may be deemed reasonable or as either party may submit, without requiring witnesses to be sworn, and may hear arguments of counsel or others. If any arbitrator declines or fails to act, the party (or parties in the case of a single arbitrator) by whom the arbitrator was chosen or the judge (in the case of an arbitrator selected through application to the United States District Court) will appoint a substitute arbitrator. After considering the evidence and hearing the testimony and arguments submitted by each party, the panel will state its decision or award, in writing, within two hundred (200) days after the demand for arbitration, said decision or award, when delivered to both parties, will be final and binding, and each party will be bound conclusively thereby as to the Disputed Matter submitted to arbitration.

Judgment may be entered upon said decision or award in any court of competent jurisdiction. In any judicial proceeding to enforce this Section, the only issues to be determined will be the existence of an agreement to arbitrate and the failure of one party to comply with said agreement, and those issues will be determined summarily by the court without a jury. All other issues will be decided by the arbitrator or panel, the decision of which will be final and binding. There will be no appeal of an order compelling arbitration except as part of an appeal concerning confirmation of the decision or award of the arbitrator or panel.

The non-privileged documents, books, and papers of both parties relevant to the Disputed Matter submitted to arbitration will be open to examination of the other party and the arbitrator or arbitrators. Privileged books and papers of both parties, except legal memoranda or communications between an attorney and client, relevant to the Dis-

puted Matter submitted to arbitration, will be open to in camera examination by the arbitrator(s), provided the arbitrator(s) sign a confidentiality agreement with the disclosing party.

Each party to the arbitration will pay the compensation, costs, fees and expenses of its own witnesses, exhibits and counsel arising from the arbitration. The compensation, costs and expenses of the arbitrator(s), if any, will be borne equally by Sublessor and Sublessee.

**Section 18. ASSIGNMENT AND SUBLEASE.**

Except as otherwise provided herein, Sublessee agrees to make no transfer or assignment of this Agreement, or of the Equipment or any Item of Equipment, by operation of law or otherwise, without Sublessor's prior written consent.

**Section 19. SUCCESSORS AND ASSIGNS.**

Subject to the provisions of Section 18 hereof, this Agreement shall be binding upon an inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

**Section 20. MISCELLANEOUS.**

(a) Sublessee acknowledges receipt of a copy of the Basic Lease, and Sublessee agrees to take no action which will constitute a default under the Basic Lease.

(b) So long as Sublessee shall not be in default under this Agreement, it shall be entitled to possession of the Equipment and the use thereof; PROVIDED, HOWEVER, that this Agreement shall be subordinate to the rights and remedies of Lessor under the Basic Lease. Sublessor agrees to take no action which will constitute a default under the Basic Lease.

(c) Sublessee acknowledges and agrees that by the execution hereof it does not obtain and by its payments and performance hereunder it does not and will not have or obtain any title to the Equipment or any Item of Equipment at any time subject to this Agreement nor any property right or interest legal or equitable therein, except solely as Sublessee hereunder and subject to all of the terms hereof, unless Sublessee exercises the option to purchase provided above in Section 14.

If the Basic Lease expires or terminates, for any reason, during the term of this Agreement, Sublessor will

notify Sublessee in writing of said termination. As soon as reasonably practicable after receipt of said notice, Sublessee will return the Equipment to Sublessor, and this Agreement will terminate.

(d) Sublessee shall keep the Equipment free from any encumbrances or liens which may be a cloud upon or otherwise affect title to the Equipment.

(e) Sublessor will not be responsible for any tariff, duty, customs, switching, demurrage or other charges made by any governmental authority, administrative agency, railroad or other entity arising from the use of the Equipment by Sublessee, and Sublessee agrees to reimburse Sublessor for any such charges.

(f) This Agreement may not be amended or modified except by written agreement signed by the parties.

(g) No waiver of any provision of this Agreement shall be effective unless in writing signed by the parties against whom enforcement of such waiver is sought and, unless otherwise expressly so provided, such waiver shall be limited only to the specific situation for which it was given.

(h) All notices hereunder shall be in writing and shall be deemed given when delivered personally or when deposited in the United States Mail, postage prepaid, certified or registered, addressed to the parties as follows.

If to Sublessor: Mr. Jerry Habraken  
Assistant Vice - President  
Intermodal and Refrigerated Services  
1416 Dodge Street  
Omaha, NE 68179

If to Lessor: NEMLC Leasing Corporation  
28 State Street  
Boston, MA 02109  
Attn: Senior Vice President-  
Administration

If to Sublessee: Controller  
Triple Crown Services, Inc.  
1315 Directors Row, Suite 2B  
P.O. Box 12608  
Fort Wayne, Indiana 46864

(i) Sublessor and Sublessee agree that this Agreement shall be recorded with the Interstate Commerce Commission, at the expense of Sublessee.

(j) This Agreement, including all documents attached hereto or incorporated by reference herein, constitutes the entire agreement of the parties with respect to the subject matter hereof and supercedes all other understandings oral or written with respect to the same.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the date and year first above written.

ATTEST:

C. W. Saylor  
Asst. Secretary

MISSOURI PACIFIC TRUCK LINES, INC.,

By D. Walsh  
Title Chairman of the Board

ATTEST:

Small W. Edwards  
Secretary

TRIPLE CROWN SERVICES, INC.,

By Thomas P. ...  
Title VICE PRESIDENT

EXHIBIT A

DESCRIPTION OF EQUIPMENT

One hundred seventy-five (175) Thrall Mark V Trailers bearing reporting numbers:

NERZ 418001 - NERZ 418175

One Hundred (100) Railroader Rail Bogies bearing reporting numbers:

NETX 87001-NETX 87100

Three (3) Mark V Adapterailers bearing reporting numbers:

NEAX 000001-000003

CERTIFICATE OF ACCEPTANCE  
EQUIPMENT LEASE

TO: MISSOURI PACIFIC TRUCK LINES, INC.

I, duly appointed inspector and authorized representative of \_\_\_\_\_ ("Sublessee"), for the purposes of the Agreement dated as of \_\_\_\_\_, 19\_\_\_\_, between the Sublessee and MISSOURI PACIFIC TRUCK LINES, INC. ("Sublessor") do hereby certify that I have inspected, received, approved and accepted delivery, on behalf of the Sublessee, of the following items of equipment ("Equipment"):

TYPE OF EQUIPMENT:

NUMBERED:

PLACE ACCEPTED:

DATE ACCEPTED:

---

Inspector and Authorized  
Representative

---

Sublessee

APPENDIX C

Sublessee: Triple Crown Services, Inc.  
 Sublessor: Missouri Pacific Truck Lines, Inc.  
 Date of Lease: September \_\_, 1989  
 Equipment: 175 Thrall Mark V Trailers  
 Acquisition Date: January 1988  
 Original Purchase Price: \$25,700.00

| DATE   | VALUATION<br>% | VALUATION<br>\$ |
|--------|----------------|-----------------|
| -----  | -----          | -----           |
| Jan-88 | 100%           | \$25,700        |
| Feb-88 | 99%            | 25,443          |
| Mar-88 | 98%            | 25,186          |
| Apr-88 | 97%            | 24,929          |
| May-88 | 96%            | 24,672          |
| Jun-88 | 95%            | 24,415          |
| Jul-88 | 94%            | 24,158          |
| Aug-88 | 93%            | 23,901          |
| Sep-88 | 92%            | 23,644          |
| Oct-88 | 91%            | 23,387          |
| Nov-88 | 90%            | 23,130          |
| Dec-88 | 89%            | 22,873          |
| Jan-89 | 88%            | 22,616          |
| Feb-89 | 87%            | 22,359          |
| Mar-89 | 86%            | 22,102          |
| Apr-89 | 85%            | 21,845          |
| May-89 | 84%            | 21,588          |
| Jun-89 | 83%            | 21,331          |
| Jul-89 | 82%            | 21,074          |
| Aug-89 | 81%            | 20,817          |
| Sep-89 | 80%            | 20,560          |
| Oct-89 | 79%            | 20,303          |
| Nov-89 | 78%            | 20,046          |
| Dec-89 | 77%            | 19,789          |
| Jan-90 | 76%            | 19,532          |
| Feb-90 | 75%            | 19,275          |
| Mar-90 | 74%            | 19,018          |
| Apr-90 | 73%            | 18,761          |
| May-90 | 72%            | 18,504          |
| Jun-90 | 71%            | 18,247          |
| Jul-90 | 70%            | 17,990          |
| Aug-90 | 69%            | 17,733          |
| Sep-90 | 68%            | 17,476          |
| Oct-90 | 67%            | 17,219          |
| Nov-90 | 66%            | 16,962          |
| Dec-90 | 65%            | 16,705          |

APPENDIX C

Sublessee: Triple Crown Services, Inc.  
 Sublessor: Missouri Pacific Truck Lines, Inc.  
 Date of Lease: September \_\_, 1989  
 Equipment: 175 Thrall Mark V Trailers  
 Acquisition Date: January 1988  
 Original Purchase Price: \$25,700.00

| <u>DATE</u><br>***** | <u>VALUATION</u><br>%<br>***** | <u>VALUATION</u><br>\$<br>***** |
|----------------------|--------------------------------|---------------------------------|
| Jan-91               | 64%                            | 16,448                          |
| Feb-91               | 63%                            | 16,191                          |
| Mar-91               | 62%                            | 15,934                          |
| Apr-91               | 61%                            | 15,677                          |
| May-91               | 60%                            | 15,420                          |
| Jun-91               | 59%                            | 15,163                          |
| Jul-91               | 58%                            | 14,906                          |
| Aug-91               | 57%                            | 14,649                          |
| Sep-91               | 56%                            | 14,392                          |
| Oct-91               | 55%                            | 14,135                          |
| Nov-91               | 54%                            | 13,878                          |
| Dec-91               | 53%                            | 13,621                          |
| Jan-92               | 52%                            | 13,364                          |
| Feb-92               | 51%                            | 13,107                          |
| Mar-92               | 50%                            | 12,850                          |
| Apr-92               | 49%                            | 12,593                          |
| May-92               | 48%                            | 12,336                          |
| Jun-92               | 47%                            | 12,079                          |
| Jul-92               | 46%                            | 11,822                          |
| Aug-92               | 45%                            | 11,565                          |
| Sep-92               | 44%                            | 11,308                          |
| Oct-92               | 43%                            | 11,051                          |
| Nov-92               | 42%                            | 10,794                          |
| Dec-92               | 41%                            | 10,537                          |
| Jan-93               | 40%                            | 10,280                          |
| Feb-93               | 39%                            | 10,023                          |
| Mar-93               | 38%                            | 9,766                           |
| Apr-93               | 37%                            | 9,509                           |
| May-93               | 36%                            | 9,252                           |
| Jun-93               | 35%                            | 8,995                           |
| Jul-93               | 34%                            | 8,738                           |
| Aug-93               | 33%                            | 8,481                           |
| Sep-93               | 32%                            | 8,224                           |
| Oct-93               | 31%                            | 7,967                           |
| Nov-93               | 30%                            | 7,710                           |

AMENDMENT TO SUBLEASE AGREEMENT *EMC/MK*

UNION PACIFIC MOTOR FREIGHT COMPANY (formerl

This AMENDMENT TO SUBLEASE AGREEMENT is made as of this 3rd day of September, 1991, by and between MISSOURI PACIFIC TRUCK LINES, INC., a Delaware corporation (Sublessor), and TRIPLE CROWN SERVICES, INC., an Oklahoma corporation (Sublessee), WITNESSETH:

## RECITALS:

By Sublease Agreement dated as of October 4, 1989, Sublessee is subleasing from Sublessor one hundred seventy-five (175) Thrall Mark V Trailers, one hundred (100) RoadRailer® Rail Bogies, and three (3) Mark V Adapterailers set forth in Exhibit A to the Sublease Agreement (collectively, Equipment and individually, Item of Equipment).

Sublessor and Sublessee wish to amend the Sublease Agreement, subject to the consent of NEMLC Leasing Corporation (Lessor), on the following terms and conditions.

## AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

A. Section 3 of the Sublease Agreement is amended to read as follows:

"The term of this Agreement shall commence on November 1, 1989, and shall remain in effect until October 31, 1991, unless sooner terminated or renewed as hereinafter provided."

B. Section 4 of the Sublease Agreement is amended as follows:

1. The introductory clause to the first paragraph is amended to read as follows:

"For the use of the Equipment during the initial two (2) year term of this Agreement, Sublessee shall pay to Sublessor rental at the rate (which includes applicable sales and use taxes) specified below:"; and

2. A new sentence is added at the end of the first paragraph to read as follows:

"For the use of the Equipment during the renewal term or terms of this Agreement, Sublessee shall pay to Sublessor rental at the

rate (which includes applicable sales and use taxes) specified below:

| <u>Item of Equipment</u> | <u>Rental Rate</u>           |
|--------------------------|------------------------------|
| Thrall Mark V Trailers   | \$8.75 per day per unit;     |
| RoadRailer® Rail Bogies  | \$5.00 per day per unit; and |
| Mark V Adapterailers     | \$15.00 per day per unit."   |

C. Paragraph (a) of Section 14 of the Sublease Agreement is amended to read as follows:

"(a) Renewal Option. So long as Sublessee shall not be in default under this Agreement, and this Agreement shall not have been earlier terminated, Sublessee shall be entitled, at its option, to renew this Agreement with respect to all, but not less than all, of the Equipment for two (2) additional terms of one (1) year each, commencing on November 1, 1991, and November 1, 1992, by giving Sublessor written notice to such effect at least ninety (90) days prior to the expiration of the initial or prior renewal term."

D. The second paragraph of Section 16 of the Sublease Agreement is amended to read as follows:

"Further, the Thrall Mark V Trailers shall be returned with complete sets of tires. Upon return of a Thrall Mark V Trailer, each tire must be comparable in quality to the original tire upon delivery of said Item of Equipment to Sublessee, less normal wear and tear, as determined by a joint inspection at the time said Item of Equipment is returned to Sublessor. Tires must meet the governmental or other regulatory requirements for safe highway use of Equipment in effect at the time of return."

E. This Amendment is supplemental to the Sublease Agreement, and nothing in this Amendment will be construed as amending or modifying the Sublease Agreement except as specifically set forth herein.

IN WITNESS THEREOF, Sublessor and Sublessee have caused this Amendment to be fully executed as of the date and year set forth above.

Attest:

UNION PACIFIC MOTOR FREIGHT COMPANY, INC.  
(as Sublessor)

A. W. Saylor  
Assistant Secretary

By: R. M. Chapman  
Name and Title  
Vice President and general manager

Attest:

TRIPLE CROWN SERVICES, INC.  
(as Sublessee)

Regina M. Martin  
Assistant Secretary

By: M. K. Rose  
Name and Title  
Vice President - TRANSPORTATION

RENEWAL RIDER

UNION PACIFIC MOTOR FREIGHT COMPANY and TRIPLE CROWN SERVICES, INC., or their predecessors in interest, have heretofore entered into an agreement dated October 4, 1989, bearing agreement number C.D. 56064-2 (hereinafter "Basic Agreement") covering the sublease of one hundred seventy-five (175) Thrall Mark V Trailers, one hundred (100) RoadRailer<sup>®</sup> Rail Bogies, and three (3) Mark V Adapterailers.

The parties hereto now mutually agree that the Basic Agreement, including any supplement or amendment thereto, is hereby adopted by the parties hereto as their agreement for a term beginning November 1, 1991, and extending to and including October 31, 1992.

All the terms and conditions of the Basic Agreement, as heretofore supplemented and/or amended, shall have the same force and effect and be as binding upon the parties hereto during said term as if the same were repeated herein.

Executed in duplicate this 10<sup>th</sup> day of October, 1991.

TRIPLE CROWN SERVICES, INC.

UNION PACIFIC MOTOR FREIGHT COMPANY

By *Walter E. Row*  
Title *Vice President*

By *R. M. Chapman*  
Title *Vice President and General Manager*

SECOND AMENDMENT TO SUBLEASE AGREEMENT

This SECOND AMENDMENT TO SUBLEASE AGREEMENT is made as of this 31st day of October, 1992, by and between UNION PACIFIC MOTOR FREIGHT COMPANY (formerly MISSOURI PACIFIC TRUCK LINES, INC.), a Delaware corporation (Sublessor), and TRIPLE CROWN SERVICES, INC., an Oklahoma corporation (Sublessee), WITNESSETH:

RECITALS:

By Sublease Agreement dated as of October 4, 1989, as amended by Amendment to Sublease Agreement, dated September 3, 1991 (First Amendment), and subject to the Renewal Rider, dated October 10, 1991, Sublessee is subleasing from Sublessor one hundred seventy-five (175) Thrall Mark V Trailers, one hundred (100) RoadRailer® Rail Bogies, and three (3) Mark V Adapterailers set forth in Exhibit A to the Sublease Agreement (collectively, Equipment and individually, Item of Equipment).

Sublessor and Sublessee wish to amend the Sublease Agreement, subject to the consent of NEMLC Leasing Corporation (Lessor), on the following terms and conditions.

AGREEMENT: General Electric Capital Corporation, successor in interest to

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

A. Section 3 of the Sublease Agreement is amended to read as follows:

"The term of this Agreement shall commence on November 1, 1989, and shall remain in effect until October 31, 1996, unless sooner terminated or renewed as hereinafter provided. Upon at least sixty (60) days' written notice to Sublessor, Sublessee may terminate this Agreement effective October 31 of any year during the term of this Agreement."

B. Section 4 of the Sublease Agreement is amended as follows:

1. In the new sentence added at the end of the first paragraph by the First Amendment, add "initial" before "renewal"; and

2. A new sentence is added at the end of the first paragraph to read as follows:

"For the use of the Equipment during the 1992-1996 renewal term of this Agreement, Sublessee shall pay to Sublessor rental at the rate (which includes applicable sales and use taxes) specified below:

| <u>Item of Equipment</u> | <u>Rental Rate per Unit per Day</u> |                              |                              |                              |
|--------------------------|-------------------------------------|------------------------------|------------------------------|------------------------------|
|                          | <u>11/1/92-<br/>10/31/93</u>        | <u>11/1/93-<br/>10/31/94</u> | <u>11/1/94-<br/>10/31/95</u> | <u>11/1/95-<br/>10/31/96</u> |
| Thrall Mark V Trailers   | \$ 8.00                             | \$ 7.75                      | \$ 7.25                      | \$ 6.75                      |
| RoadRailer® Rail Bogies  | \$ 4.50                             | \$ 4.00                      | \$ 3.50                      | \$ 3.00                      |
| Mark V Adapterailers     | \$12.00                             | \$10.00                      | \$10.00                      | \$10.00."                    |

C. A new sentence is added at the end of the first paragraph of Section 16 of the Sublease Agreement to read as follows:

"Beginning October 31, 1992, and at any time thereafter during the term of this Agreement, upon thirty (30) days' written notice to Sublessor, Sublessee, at its sole expense, may surrender and deliver any or all Mark V Adapterailer units. Surrender and return of Mark V Adapterailer units will be subject to the requirements for location and condition of surrender and delivery of Equipment stated in this paragraph."

D. This Second Amendment is supplemental to the Sublease Agreement, and nothing in this Second Amendment will be construed as amending or modifying the Sublease Agreement except as specifically set forth herein or in the First Amendment.

IN WITNESS THEREOF, Sublessor and Sublessee have caused this Amendment to be fully executed as of the date and year set forth above.

Attest:

UNION PACIFIC MOTOR FREIGHT  
COMPANY, INC. (as Sublessor)

S.F. Rugg

By: R.M. Chapman  
Name

Title: Vice President & General Manager

Attest:

TRIPLE CROWN SERVICES, INC.  
(as Sublessee)

[Signature]

By: Timothy D. Minnich  
Name

Title: VICE PRESIDENT, FINANCE