

ALVORD AND ALVORD  
ATTORNEYS AT LAW  
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SUITE 200  
WASHINGTON, D.C.

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ELLSWORTH C. ALVORD (1964)

20006-2973

OF COUNSEL  
URBAN A. LESTER

(202) 393-2266

FAX (202) 393-2156

December 1, 1993

0100067029

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

RECORDATION NO. 15752-A FILED 1993

DEC 1 5 1993 -12 50 PM

INTERSTATE COMMERCE COMMISSION

Dear Mr. Strickland:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11303(a) are two duly executed copies of an Assignment and Assumption Agreement, dated as of November 30, 1993, a secondary document as defined in the Commission's Rules for the Recordation of Documents under 49 C.F.R. Section 1177.

The enclosed document relates to the Agency Agreement previously filed with the Commission on July 27, 1988 under Recordation Number 15750. The Assignment and Assumption Agreement also refers to an Intercreditor Agreement and a Railcar Maintenance Agreement, neither of which has been separately filed with the Commission.

The names and addresses of the parties to the enclosed document are:

Assignor: EMCOB, Inc.  
96 South George Street  
York, Pennsylvania 17401

Assignee: Interail, Inc.  
One Foxfield Square, Suite 200  
St. Charles, Illinois 60174

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

seventy-five (75) boxcars CP 204614 - CP 204688, inclusive (formerly CPAA 204614 - CPAA 204688).

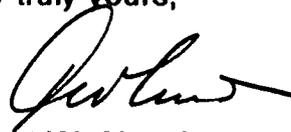
*[Handwritten signatures]*

Mr. Sidney L. Strickland, Jr.  
December 1, 1993  
Page 2

Also enclosed is a check in the amount of \$18 payable to the order of the Interstate Commerce Commission covering the required recordation fee.

Kindly return one stamped copy of the enclosed document to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert W. Alvord", with a long horizontal flourish extending to the right.

Robert W. Alvord

RWA/bg  
Enclosures

Interstate Commerce Commission  
Washington, D.C. 20423

12/15/93

OFFICE OF THE SECRETARY

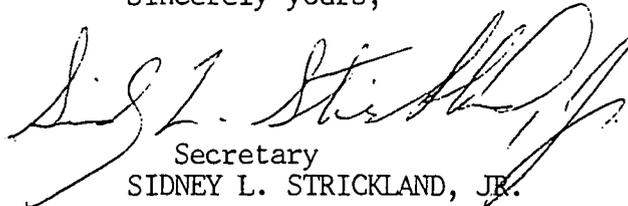
Robert W. Alvord  
Alvord & Alvord

918 16th St N.W. Suite 200  
Washington, DC. 20006

Dear **sir**:

The enclosed document(s) was recorded pursuant to the provisions  
of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303,  
on **12/15/93** at **12:50pm**, and assigned  
recordation number(s). **15750-A**

Sincerely yours,



Secretary  
SIDNEY L. STRICKLAND, JR.

Enclosure(s)

2/16/94

DEC 15 1993 -12 50 PM

INTERSTATE COMMERCE COMMISSION  
ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION AGREEMENT dated as of NOVEMBER 30, 1993 between EMCOB, Inc., a Delaware corporation with an office at 96 South George Street, York, Pennsylvania, 17401 ("EMCOB") and Interail, Inc., a Kansas corporation with an office at One Foxfield Square, Suite 200, St. Charles, Illinois 60174 (the "Assignee").

## RECITALS

EMCOB is a party to an, Intercreditor Agreement, entered into as of the first day of December, 1987, among Wilmington Trust Company, a Delaware state Banking Association, as Disbursing Agent, Chrysler Rail Transportation Corporation, a Delaware corporation, UTC Equipment Corporation, a Maryland corporation, Signet Leasing and Financial Corporation, a Maryland corporation, Bamerilease, Inc., a California corporation, The Life Insurance company of Virginia, a Virginia corporation, Manufacturers Hanover Leasing Corporation, a New York corporation, EMCOB, The Maryland and Pennsylvania Railroad Company, a Maryland and Pennsylvania corporation ("The M&P"), Emons Industries, Inc., a New York corporation and Emons Marketing Services, Inc., a Delaware corporation, a copy of which is attached hereto as Exhibit A (the "Intercreditor Agreement").

The M&P entered into a Security Agreement with Wilmington Trust Company, dated as of the first day of December, 1987 (the "Security Agreement"), pursuant to which M&P granted to Wilmington Trust Company for the benefit of the Car Owners, as such term is defined in the Intercreditor Agreement, a collateral assignment of all right, title and interest of The M&P in and to its lease of 622 boxcars to Canadian and Pacific Limited.

EMCOB is a party to an Agency Agreement entered into as of the first day of December, 1987 by and between EMCOB and The M&P, a copy of which is attached hereto as Exhibit B (the "Agency Agreement").

EMCOB is a party to Railcar Management Agreement dated as of December 1, 1987 between EMCOB, and Emons Marketing Services, Inc., a copy of which is attached hereto as Exhibit C (the "Railcar Management Agreement"; the Intercreditor Agreement, the Agency Agreement and the Railcar Management Agreement are hereinafter collectively referred to as the "Agreements").

The railcars subject to the Agreements are owned by EMCOB pursuant to a Conditional Sale Agreement dated as of

December 1, 1981 between EMCOB and Jefferson-Pilot Life Insurance Company (formerly Jefferson Standard Life Insurance Company) and are to be sold to the Assignee, pursuant to a Purchase and Sale Agreement, dated the date hereof (the "Purchase Agreement").

In accordance with the Purchase Agreement, EMCOB desires to assign to the Assignee, and the Assignee is willing to assume, all of EMCOB's right, title and interest in, to and under the Agreements and EMCOB's beneficial interest under the Security Agreement, effective as of the date of execution of this Agreement and subject to the terms and conditions set forth below.

---

The parties hereto agree as follows:

1. Assignment. Effective as of the date hereof, EMCOB hereby sells, conveys, transfers and assigns to Assignee, as an absolute assignment and not as collateral, all of EMCOB's right, title and interest in, to and under the Agreements and its beneficial interest under the Security Agreement. It is understood that until the date hereof, (i) EMCOB shall have all the rights granted to it in and shall be subject to all the obligations imposed upon it by the Agreements accruing prior to the date hereof and (ii) the Assignee shall have no obligations or liabilities under or relating to the Agreements accruing prior to the date hereof.

2. Assumption. Assignee hereby assumes and each and every one of the duties and obligations of EMCOB with respect to, under or in connection with the Agreements and EMCOB's beneficial interest under the Security Agreement accruing from and after the date hereof; provided, however, that the Assignee shall not be deemed to have assumed any obligations or liabilities relating to or resulting from events, conditions, acts or omissions prior to the date hereof.

3. Power of Attorney. In furtherance of this Agreement, Assignor hereby constitutes and appoints Assignee, and its successors and assigns, the true and lawful attorneys of Assignor, with full power of substitution, in the name of Assignor but on behalf and for the benefit of and at the expense of Assignee, to collect for the account of Assignee all items sold, transferred or assigned to Assignee pursuant hereto; to institute and prosecute, in the name of Assignor or otherwise, but at the expense of Assignee, all proceedings that Assignee may deem proper in order to collect, assert or enforce any claim, right or title of any kind in or to the items sold, transferred or assigned; to defend and compromise at the expense of Assignee any and all actions, suits or proceedings as to Assignee's

interest (but only to the extent of Assignee's interest) in any of the property acquired by Assignee; and to do all such acts and things in relation thereto at the expense of Assignee as Assignee shall deem advisable. Assignor hereby acknowledges that this appointment is coupled with an interest and is irrevocable by Assignor in any manner or for any reason.

4. Binding upon Successors. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties including, without limitation, those arising from merger, consolidations, sale of assets or otherwise.

5. Governing Law. This Agreement shall be construed according to the laws of Illinois applicable to contracts made and performed in Illinois notwithstanding the situs of the Cars or the locations of the parties hereto.

6. Counterparts. This Agreement may be executed in counterparts, all of which together shall constitute one and the same agreement.

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

INTERAIL, INC.

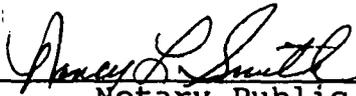
By: \_\_\_\_\_  
Name:  
Title:

EMCOB, INC.

By: *Robert Grossman*  
Name:  
Title: *President*

STATE OF PA )  
 ) ss.:  
COUNTY OF York )

On this 30th day of November, 1993, before me personally appeared Robert Grossman, to me personally known, who being by me duly sworn, say that he is the President of EMCOB, Inc., the foregoing instrument was signed on behalf of said corporation, and he acknowledged the execution of the said instrument was his free act and deed.

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

Ny commission expires:

NOTARIAL SEAL  
NANCY L. SMITH, Notary Public  
York, York County, PA  
My Commission Expires Feb. 5, 1996

STATE OF )  
 ) ss.:  
COUNTY OF )

On this \_\_\_ day of \_\_\_\_\_, 1993, before me personally appeared \_\_\_\_\_, to me personally known, who being by me duly sworn, say that he is the \_\_\_\_\_ of Interail, Inc. the foregoing instrument was signed on behalf of said corporation, and he acknowledged the execution of the said instrument was his free act and deed.

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

Ny commission expires:

## ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION AGREEMENT dated as of NOVEMBER  
30, 1993 between EMCOB, Inc., a Delaware corporation with an  
office at 1 West Market Street, York, Pennsylvania 17401  
("EMCOB") and Interail, Inc., a Kansas corporation with an office  
at One Foxfield Square, Suite 200, St. Charles, Illinois  
60174 (the "Assignee").

### RECITALS

EMCOB is a party to an, Intercreditor Agreement,  
entered into as of the first day of December, 1987, among  
Wilmington Trust Company, a Delaware state Banking Association,  
as Disbursing Agent, Chrysler Rail Transportation Corporation, a  
Delaware corporation, UTC Equipment Corporation, a Maryland  
corporation, Signet Leasing and Financial Corporation, a Maryland  
corporation, Bamerilease, Inc., a California corporation, The  
Life Insurance company of Virginia, a Virginia corporation,  
Manufacturers Hanover Leasing Corporation, a New York  
corporation, EMCOB, The Maryland and Pennsylvania Railroad  
Company, a Maryland and Pennsylvania corporation ("The M&P"),  
Emons Industries, Inc., a New York corporation and Emons  
Marketing Services, Inc., a Delaware corporation, a copy of which  
is attached hereto as Exhibit A (the "Intercreditor Agreement").

The M&P entered into a Security Agreement with  
Wilmington Trust Company, dated as of the first day of December,  
1987 (the "Security Agreement"), pursuant to which M&P granted to  
Wilmington Trust Company for the benefit of the Car Owners, as  
such term is defined in the Intercreditor Agreement, a collateral  
assignment of all right, title and interest of The M&P in and to  
its lease of 622 boxcars to Canadian and Pacific Limited.

EMCOB is a party to an Agency Agreement entered into as  
of the first day of December, 1987 by and between EMCOB and The  
M&P, a copy of which is attached hereto as Exhibit B (the "Agency  
Agreement").

EMCOB is a party to Railcar Management Agreement dated  
as of December 1, 1987 between EMCOB, and Emons Marketing  
Services, Inc., a copy of which is attached hereto as Exhibit C  
(the "Railcar Management Agreement"; the Intercreditor Agreement,  
the Agency Agreement and the Railcar Management Agreement are  
hereinafter collectively referred to as the "Agreements").

The railcars subject to the Agreements are owned by  
EMCOB pursuant to a Conditional Sale Agreement dated as of

December 1, 1981 between EMCOB and Jefferson-Pilot Life Insurance Company (formerly Jefferson Standard Life Insurance Company) and are to be sold to the Assignee, pursuant to a Purchase and Sale Agreement, dated the date hereof (the "Purchase Agreement").

In accordance with the Purchase Agreement, EMCOB desires to assign to the Assignee, and the Assignee is willing to assume, all of EMCOB's right, title and interest in, to and under the Agreements and EMCOB's beneficial interest under the Security Agreement, effective as of the date of execution of this Agreement and subject to the terms and conditions set forth below.

---

The parties hereto agree as follows:

1. Assignment. Effective as of the date hereof, EMCOB hereby sells, conveys, transfers and assigns to Assignee, as an absolute assignment and not as collateral, all of EMCOB's right, title and interest in, to and under the Agreements and its beneficial interest under the Security Agreement. It is understood that until the date hereof, (i) EMCOB shall have all the rights granted to it in and shall be subject to all the obligations imposed upon it by the Agreements accruing prior to the date hereof and (ii) the Assignee shall have no obligations or liabilities under or relating to the Agreements accruing prior to the date hereof.

2. Assumption. Assignee hereby assumes and each and every one of the duties and obligations of EMCOB with respect to, under or in connection with the Agreements and EMCOB's beneficial interest under the Security Agreement accruing from and after the date hereof; provided, however, that the Assignee shall not be deemed to have assumed any obligations or liabilities relating to or resulting from events, conditions, acts or omissions prior to the date hereof.

3. Power of Attorney. In furtherance of this Agreement, Assignor hereby constitutes and appoints Assignee, and its successors and assigns, the true and lawful attorneys of Assignor, with full power of substitution, in the name of Assignor but on behalf and for the benefit of and at the expense of Assignee, to collect for the account of Assignee all items sold, transferred or assigned to Assignee pursuant hereto; to institute and prosecute, in the name of Assignor or otherwise, but at the expense of Assignee, all proceedings that Assignee may deem proper in order to collect, assert or enforce any claim, right or title of any kind in or to the items sold, transferred or assigned; to defend and compromise at the expense of Assignee any and all actions, suits or proceedings as to Assignee's

interest (but only to the extent of Assignee's interest) in any of the property acquired by Assignee; and to do all such acts and things in relation thereto at the expense of Assignee as Assignee shall deem advisable. Assignor hereby acknowledges that this appointment is coupled with an interest and is irrevocable by Assignor in any manner or for any reason.

4. Binding upon Successors. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties including, without limitation, those arising from merger, consolidations, sale of assets or otherwise.

5. Governing Law. This Agreement shall be construed according to the laws of Illinois applicable to contracts made and performed in Illinois notwithstanding the situs of the Cars or the locations of the parties hereto.

6. Counterparts. This Agreement may be executed in counterparts, all of which together shall constitute one and the same agreement.

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

INTERAIL, INC.

By:   
Name: RICHARD E MEYERS  
Title: VICE PRESIDENT - SALES

EMCOB, INC.

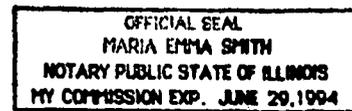
By: \_\_\_\_\_  
Name:  
Title:

STATE OF                    )  
                                  ) ss. :  
COUNTY OF                )

On this 30<sup>th</sup> day of November, 1993, before me personally appeared Richard E. Wilgen to me personally known, who being by me duly sworn, say that he is the Vice President - Sales of Interail, Inc., the foregoing instrument was signed on behalf of said corporation, and he acknowledged the execution of the said instrument was his free act and deed.

Maria Emma Smith  
Notary Public

My commission expires:  
June 29, 1994



INTERCREDITOR AGREEMENT

Agreement entered into as of the 1st day of December, 1987, among WILMINGTON TRUST COMPANY, a Delaware state banking association with an office at Rodney Square North, Wilmington, Delaware 19890 ("WTC"), as Disbursing Agent hereunder ("Disbursing Agent"), CHRYSLER RAIL TRANSPORTATION CORPORATION, a Delaware corporation with an office at 3800 North Wilke Road, Suite 300, Arlington Heights, Illinois 60004, ("Chrysler"), UTC EQUIPMENT CORPORATION, a Maryland corporation with an office at 7 St. Paul Street, Baltimore, Maryland 21202 ("UTC"); SIGNET LEASING AND FINANCIAL CORPORATION, a MARYLAND corporation, with an office at 7 St. Paul Street, Baltimore, Maryland 21202 ("Signet"), BAMERILEASE, INC., a California corporation with an office at Two Embarcadero Center, Dept. 5820, San Francisco, California 94111 ("BI"), BAMERILEASE CAPITAL CORPORATION, a California corporation with an office at Two Embarcadero Center, Dept. 5820, San Francisco, California 94111 ("BCC"), THE LIFE INSURANCE COMPANY OF VIRGINIA, a Virginia corporation with an office at 10800 Midlothian Tpk., Suite 217, Richmond, Virginia 23235 ("Life of Virginia"), MANUFACTURERS HANOVER LEASING CORPORATION, a New York corporation with an office at 270 Park Avenue, New York, New York, 10017 ("MHL"), and EMCOB, INC., a Delaware corporation with an office at 1 West Market Street, York, Pennsylvania 17401 ("EMCOB" and, together with Chrysler, UTC, Signet, BI, BCC, Life of Virginia, and MHL, the "Car Owners"), THE MARYLAND AND PENNSYLVANIA RAILROAD COMPANY, a Maryland and Pennsylvania corporation with an office at One West Market Street, York, Pennsylvania 17401 (the "M&P") and EMONS INDUSTRIES, INC., a New York corporation with an office at One West Market Street, York, Pennsylvania 17401 ("Emons Industries") and EMONS MARKETING SERVICES, INC., a Delaware corporation with an office at 1 West Market Street, York, Pennsylvania 17401 ("Emons Marketing").

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Pursuant to a Lease Agreement (the "CP Lease") dated as of the date hereof, between the M&P, as lessor, and Canadian Pacific Limited ("CP"), as lessee, the M&P currently leases to CP six hundred twenty-two (622) boxcars.

Pursuant to the Lease Agreements dated as of the date hereof described on Schedule A attached hereto, between the several Car Owners referred to on Schedule A and the M&P, as lessee (collectively, the "Master Leases"), the Car Owners referred to on Schedule A have leased to the M&P a total of one hundred eighty-nine (189) boxcars with the understanding that those cars will be subleased pursuant to the CP Lease.

Pursuant to the Agency Agreements between the several Car Owners referred to on Schedule B dated as of the date hereof and

attached hereto, as principals, and the M&P, as agent, (collectively, the "Agency Agreements" and, together with the "Master Leases" the "M&P Car Agreements") the Car Owners referred to on Schedule B attached hereto have granted M&P the right to grant to CP a leasehold interest pursuant to the CP Lease in the four hundred thirty-three (433) boxcars owned by such Car Owners.

Chrysler, UTC, Signet, BI, BCC, Life of Virginia, and MHL have entered into Management Agreements with Emons Industries (collectively, the "Industries Management Agreements"), and Chrysler and EMCOB have entered into Management Agreements with Emons Marketing (the "Marketing and Management Agreements" and together with the Industries Management Agreements, the "Management Agreements"), in each case the Car Owner has instructed the M&P to pay to Emons Industries or Emons Marketing, as the case may be, as Manager, all rent due under the M&P Car Agreements to which such Car Owner is a party, so long as no Event of Default by the Manager has occurred and is continuing thereunder.

Pursuant to a Security Agreement dated as of the date hereof, the M&P has granted to the Disbursing Agent, for the benefit of the Car Owners, a collateral assignment of all right, title and interest of the M&P in and to the CP Lease and the rent due and payable from time to time thereunder as security for the several obligations of the M&P to the Car Owners under the various M&P Car Agreements.

The Car Owners wish, on the terms and conditions set forth herein, to provide, among other things, for the manner of exercise of the rights which they will jointly hold in the CP Lease.

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NOW, THEREFORE, the parties hereto agree:

(1) Definitions. In addition to the words and terms defined elsewhere in this Agreement, the following terms shall have the following meanings when used herein:

"Trust Funds" shall mean any funds received by the Disbursing Agent, at any time or from time to time, pursuant to Section 2 of this Agreement.

"Net Allocated Portion" as to each Car Owner shall mean the Gross Allocated Portion of any Trust Funds which may be from time to time held by the Disbursing Agent less in the case of each Car Owner an amount equal to the due and payable (but unpaid) Total Expenses, if any, under the Management Agreement to which such Car Owner is a party.

"Mileage Rate" and "Hourly Rate" shall mean, respectively, the mileage and hourly car hire rates

then in effect and applicable to the boxcars subject to the CP Lease, (as published in Appendix R to Circular OT-10 of the Official Railway Equipment Register, as of December 1, 1987).

"Mileage Rate Pro-Ration Factor" with respect to any Car Owner shall mean a fraction:

(i) the numerator of which shall be the product derived by multiplying the number of boxcars which such Car Owner owns or holds under lease and which are then subject to the CP Lease ("such Car Owner's Boxcars") by the average Mileage Rate then applicable to such Car Owner's Boxcars, and

(ii) the denominator of which shall be the product derived by multiplying the total number of boxcars then subject to the CP Lease by the average Mileage Rate of all boxcars then subject to the CP Lease.

"Hourly Rate Pro-Ration Factor" with respect to any Car Owner shall mean a fraction:

(i) the numerator of which shall be the product derived by multiplying the number of such Car Owner's Boxcars by the average Hourly Rate of such Car Owner's Boxcars; and

(ii) the denominator of which shall be the product derived by multiplying the total number of boxcars then subject to the CP Lease by the average Hourly Rate of all boxcars then subject to the CP Lease.

The "Pro-Rated Hourly Car Hire Amount" payable at any time to any Car Owner shall be determined by multiplying:

(i) the total amount of Trust Funds which are then held by the Disbursing Agent plus the Aggregate Domestic Allocation Amount by (ii) the Hourly Rate Pro-Ration Factor then applicable to such Car Owner by (iii) seventy-four (74%) percent.

The "Pro-Rated Mileage Amount" payable at any time to any Car Owner shall be determined by multiplying:

(i) the total amount of Trust Funds which are then held by the Disbursing Agent plus the Aggregate Domestic Allocation Amount by (ii) the Mileage Pro-ration Factor then applicable to such Car Owner by (iii) twenty-six (26%) percent.

The term "Gross Allocated Portion" as to each Car Owner shall mean a portion of any Trust Funds held by the Disbursing Agent which represent rental or mileage fees equal to the sum of the Pro-Rated Mileage Amount thereof and the Pro-Rated Hourly Car Hire Amount minus the Domestic Allocation Amount applicable to such Car Owner.

The term "Secured Obligation", when used with reference to any Car Owner, shall mean any obligation of the M&P to pay money to such Car Owner pursuant to the M&P Car Agreement to which such Car Owner is a party.

The term "Total Expenses" shall have the meaning ascribed to it in the Management Agreements.

The "Domestic Allocation Amount" with respect to each Car Owner shall be equal to the sum of (i) \$36.50 (U.S.) multiplied by the number of Plate B boxcars (see Schedule C) of such Car Owner that are then subject to the CP Lease and (ii) \$66.00 (U.S.) multiplied by the number of Plate C boxcars (see Schedule D) of such owner that are then subject to the CP Lease. After the thirty-sixth monthly payment received from CP, under the CP Lease, the Domestic Allocation Amount shall be equal to zero.

The "Aggregate Domestic Allocation Amount" shall be equal to the total Domestic Allocation Amount for all Car Owners subject to this Agreement.

(2) Appointment of Disbursing Agent and Payment of Trust Funds. (a) The Car Owners appoint WTC to serve as disbursing agent hereunder, and WTC accepts such appointment.

(b) Upon the occurrence and during the continuance of any Event of Default (as defined in each of the M&P Car Agreements), unless such Event of Default shall have been waived by the Car Owner that is a party to the M&P Car Agreement under which such Event of Default has occurred, such Car Owner shall have the right to direct CP to pay to the Disbursing Agent all rents payable to the M&P pursuant to the CP Lease.

(3) Disbursement of Trust Funds. (a) Promptly after receiving any Trust Funds which represent rental or mileage fees, the Disbursing Agent shall distribute such Trust Funds by disbursing

(i) to each Car Owner a portion of such Trust Funds equal to such Car Owner's Net Allocated Portion; and

(ii) to Emons Industries or Emons Marketing, as the case may be, as manager under the respective Management Agreements, a portion of such Trust Funds

equal to the due and payable (but unpaid) Total Expenses under the Management Agreements.

(b) Promptly after receiving any Trust Funds which represent a settlement payment with respect to a lost, stolen or destroyed car pursuant to Interchange Rules of the Association of American Railroads or any other payment with respect to a lost, stolen or destroyed car, the Disbursing Agent shall pay such amount to the Car Owner which owns such destroyed boxcar less, the amount, if any, payable to Emons Industries or Emons Marketing, as the case may be, pursuant to the Management Agreement to which such Car Owner is a party.

(c) All funds paid by the Disbursing Agent to any Car Owner shall be applied to the obligations of the M&P to such Car Owner or shall be applied as otherwise provided by law.

(4) Reliance. The Disbursing Agent may rely upon any written notice, instruction or other advice or communication received by it from any Car Owner pursuant to this Agreement and need not question the validity of such notice, instruction or other advice or communication or the qualifications of the party giving the same, and the Disbursing Agent shall not have any liability to the parties hereto for any action taken or omitted in good faith reliance on any such written notice, instruction or other advice or communication, in the absence of gross negligence or willful misconduct of Disbursing Agent. Moreover, where relevant, any such notice, instruction or other advice or communication shall contain complete instructions as to any action to be taken and the Disbursing Agent shall, to the extent appropriate in accordance with this Agreement, comply with such instructions. Notwithstanding anything to the contrary provided herein, in the event that the Disbursing Agent shall for any reason be uncertain as to his duties or rights hereunder, or shall receive instructions from any of the parties hereto with respect to any Trust Funds which, in its opinion, are in conflict with applicable law or with any of the provisions of this Agreement, it may refrain from taking any action other than to keep safe the Trust Funds until it shall be directed otherwise by joint written instructions of the parties hereto or by final unappealable order of a court of competent jurisdiction.

(5) Limitations on Duties. The Disbursing Agent shall have no duties or responsibilities except those expressly set forth herein and shall have no liability to the parties hereto for any action taken or omitted in good faith which does not constitute gross negligence or willful misconduct. The Disbursing Agent may consult with counsel and shall have no liability to any party hereto with respect to any action taken or omitted in good faith on advice of such counsel. This Agreement sets forth the entire understanding of the parties hereto. The Disbursing Agent shall not be bound by any amendment of this Agreement unless in writing and signed by the other parties hereto and, if the Disbursing Agent's duties hereunder are

affected, unless it shall have given prior written consent thereto.

(6) (a) The parties hereto (other than M&P, Emons Industries, and Emons Marketing) shall be jointly liable for, and hereby agree to indemnify the Disbursing Agent and its successors, assigns, agents and servants, from and against any and all liabilities, obligations, losses, damages, taxes, claims, actions, suits, costs, expenses and disbursements, (including legal fees and expenses) of any kind and nature whatsoever (collectively, "Expenses") which may be imposed on, incurred by or asserted at any time against the Disbursing Agent (whether or not indemnified against by other parties) in any way relating to or arising out of this Agreement or any agreement contemplated hereby, except for any Expenses relating to or arising out of the gross negligence or willful misconduct of the Disbursing Agent. The indemnities contained in this Section 6(a) shall survive the termination of this Agreement. The Disbursing Agent shall have a lien on the Trust Funds for any compensation and indemnity due hereunder.

(b) Disbursing Agent shall not be required to take any action or refrain from taking any action under this Agreement unless Disbursing Agent shall have been indemnified by the parties hereto, in a manner and form satisfactory to Disbursing Agent, against any liability, cost or expense (including legal fees and expenses) which may be incurred in connection therewith. Disbursing Agent shall not be required to take any action nor shall any other provision of this Agreement be deemed to impose a duty on Disbursing Agent to take any action, if Disbursing Agent shall have reasonably determined or shall have been advised by counsel that such action is likely to result in liability on the part of Disbursing Agent or is contrary to the terms hereof or of any document contemplated hereby to which Disbursing Agent is a party, or is otherwise contrary to law.

(7) Notices. Any notice, instruction or other advice or communication required or permitted to be given hereunder shall be in writing and shall be mailed by registered or certified mail, return receipt requested, or delivered against receipt to the party to which it is to be given at the address set forth in the first paragraph of this Agreement, (or to such other address as the party in question shall have furnished in writing in accordance with the provisions hereof). Any notice, direction or other advice or communication given by registered or certified mail shall be deemed given at the time of mailing hereof.

(8) Expenses. The Car Owners shall promptly pay the fees of the Disbursing Agent and reimburse the Disbursing Agent for all reasonable expenses which it incurs in connection with the performance of its duties hereunder.

(9) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

(10) Termination. This Agreement shall terminate with respect to each Car Owner on either (i) the date upon which any Car Owner sells all of the Cars subject to this Agreement; or (2) upon written mutual consent of all parties hereto.

(11) Counterparts. This Agreement may be executed in counterparts, all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective representatives thereunto duly authorized, as of the date first above written.

EMONS INDUSTRIES, INC.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

THE MARYLAND AND PENNSYLVANIA  
RAILROAD COMPANY

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

EMONS MARKETING SERVICES, INC.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

UTC EQUIPMENT CORPORATION

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

SIGNATURES CONTINUED

**SIGNET LEASING AND FINANCIAL  
CORPORATION**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**BAMERILEASE, INC.**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**BAMERILEASE CAPITAL CORPORATION**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**THE LIFE INSURANCE COMPANY OF  
VIRGINIA**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**MANUFACTURERS HANOVER LEASING  
COMPANY**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**(SIGNATURES FOLLOW)**

EMCOB, INC.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

CHRYSLER RAIL TRANSPORTATION  
CORPORATION

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

WILMINGTON TRUST COMPANY, as  
Disbursing Agent

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Schedule A

DESCRIPTION OF LEASE AGREEMENTS BETWEEN CAR OWNERS AND MPA

(1) Lease Agreement between UTC Equipment Corporation and the Maryland and Pennsylvania Railroad Company for one hundred (100) cars.

(2) Lease Agreement between Signet Leasing and Financial Corporation and the Maryland and Pennsylvania Railroad Company for forty-nine (49) cars.

(3) Lease Agreement between Manufacturers Hanover Leasing Corporation and the Maryland and Pennsylvania Railroad Company for forty (40) cars.

Schedule B

DESCRIPTION OF AGENCY AGREEMENTS BETWEEN CAR OWNERS AND MPA

(1) Agency Agreement between Chrysler Rail Transportation Corporation and the Maryland and Pennsylvania Railroad Company for three hundred five (305) cars.

(2) Agency Agreement between Bamerilease, Inc. and the Maryland and Pennsylvania Railroad Company for one (1) car.

(3) Agency Agreement between Bamerilease Capital Corporation and the Maryland and Pennsylvania Railroad Company for three (3) cars.

(4) Agency Agreement between the Life Insurance Company of Virginia and the Maryland and Pennsylvania Railroad Company for forty-nine (49) cars.

(5) Agency Agreement between Emcob, Inc. and the Maryland and Pennsylvania Railroad Company for seventy-five (75) cars.

Schedule C

NUMBER OF PLATE B BOXCARS BY CAR OWNER

Chrysler -----	145 Cars
Signet-----	49 Cars
UTC-----	100 Cars
-----	
	294 Cars

244  
324  
622

Schedule D

NUMBER OF PLATE C BOXCARS BY CAR OWNER

BI-----	1 Car
BCC-----	3 Cars
Chrysler-----	160 Cars
Emcob-----	75 Cars
Life of Virginia-----	49 Cars
MHL-----	40 Cars
-----	
	328 Cars

AGENCY AGREEMENT

AGREEMENT entered into as of the first day of December 1987, by and between EMCOB, INC., a Delaware corporation with office at 1 West Market Street, York, Pennsylvania 17401, (hereinafter referred to as "Owner") and THE MARYLAND AND PENNSYLVANIA RAILROAD COMPANY, a Maryland and Pennsylvania corporation whose address is 1 West Market Street, York, Pennsylvania 17401 (hereinafter sometimes referred to as the "M&P").

W I T N E S S E T H:

Pursuant to a Lease Agreement (the "CP Lease") dated as of December 1, 1987, between Canadian Pacific Limited ("CP") and the M&P, the M&P has agreed to lease to CP six hundred twenty-two (622) boxcars for a term which commences on the date of CP's acceptance of such boxcars and will terminate on December 31, 1997, subject to CP's right to extend such term for an additional seven (7) years.

The Owner owns or holds under lease seventy-five (75) 50 foot 70 ton boxcars (the "Cars") with identifying marks as listed on Exhibit A hereto, as such Exhibit may from time to time be amended (hereinafter referred to as the "Cars"), and desires to grant to the M&P, in its capacity as agent hereunder and on the terms and conditions set forth herein, the right to enter into a lease with CP, in the name of the M&P as agent hereunder, granting CP a leasehold interest in the Cars.

NOW, THEREFORE, in consideration of the premises, the parties hereto agree:

1. Appointment of Agent. Owner hereby (i) appoints the M&P as its agent; (ii) ratifies in all respects the execution by the M&P of the CP Lease and grants to the M&P, in its capacity as agent, the authority to subject the Cars to such Lease; (iii) acknowledges and consents to the leasehold interest in the Cars granted to CP in the CP Lease and (iv) agrees that it will not interfere with the terms of the CP Lease. The M&P accepts the appointment as agent hereunder. In its capacity as agent hereunder, the M&P is sometimes hereinafter referred to as the "Agent". The Agent shall have the authority to deal with CP in all matters relating to the CP Lease, and to deal with other third parties in all matters relating to the Cars, in its own name, without disclosing its status as Agent or the identity of Owner as principal; provided, however, that Agent shall have the right in its discretion to disclose its status, as Agent and the identity of the Owner.

2. Payments. Agent hereby covenants and agrees to pay, or cause to be paid to the Owner and its successors and assigns, within ten (10) business days after receipt by Agent of any Gross Rental Revenues (as such term is

defined below), an amount equal to (i) the Owner's Gross Allocated Portion (as such term is defined below) thereof minus (ii) the aggregate cost of any expenses relating to the Cars paid and payable by Agent pursuant to this Agreement or the CP Lease. "Gross Rental Revenues" shall constitute all rentals paid by CP under the CP Lease, but shall not include any amounts received by Agent by way of settlement for damage to or destruction of any Car (which amounts shall be paid over to Owner without reduction in accordance with Section 6 below). "Gross Allocated Portion" when used herein shall have the meaning ascribed to it in the Intercreditor Agreement dated as of the date described on Exhibit B attached hereto.

3. Term of this Agreement. The term of this Agreement as to each Car shall begin as of the date hereof and shall terminate on the date of any termination of the CP Lease with respect to such Car.

4. Maintenance, Taxes and Insurance:

(a) Except as otherwise provided herein, Owner will pay all costs, expenses, fees and charges incurred in connection with the use and operation of each Car during its lease term and any extension thereof, including but not limited to taxes, repairs, maintenance and servicing, unless such expense (i) was occasioned by the negligence of Agent; or (ii) was previously paid by CP in accordance with the CP Lease.

(b) Owner (or the Manager referred to in Section 19 on behalf of Owner) shall be responsible for the filing and payment of all taxes, assessments and other governmental charges of whatsoever kind or character which may be accrued, levied, assessed or imposed during the lease term and which relate to the operation and use of any Car.

5. Identification Marks. The Owner will permit each Car to continue to be numbered with the names or initials or other insignia customarily used by CP on railroad equipment used by it of the same or similar type for convenience of identification of CP's rights to use the Cars as permitted under the CP Lease.

6. Risk of Loss; Waiver and Indemnity; Insurance.

(a) In the event that any Car shall be or become worn out, lost, stolen, destroyed, or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (any such occurrence being hereinafter called a "Casualty Occurrence") during the term of this Agreement, the Agent shall promptly notify Owner with respect thereto. Agent shall pay to Owner, promptly after receipt by Agent, an amount equal to any amounts received by Agent by way of settlement for damage to or destruction of any Car. Effective as of the date of any Casualty Occurrence, this Agreement shall terminate with respect to any Car affected by such Casualty

Occurrence. Owner shall not be required to replace any Car which is the subject of a Casualty Occurrence.

7. Return of Cars. On termination of this Agreement, Agent will return possession of the Cars to the Owner at the location at which, and in the condition in which, CP returns the Cars to Agent in accordance with Section 11 of the CP Lease.

8. Assignment - Use and Possession. Except as expressly provided herein, Agent will not assign, transfer, encumber or otherwise dispose of its rights under this Agreement, or lease the Cars (other than pursuant to the CP Lease) or place any of the Cars in assigned service without the consent of the Owner in writing first obtained. Agent will not permit any encumbrances or liens, based upon any action or liability of Agent, to be entered or levied upon any of the Cars.

9. Defaults; Remedies. If during the Term of this Agreement one or more of the following events ("Events of Default") shall occur:

(a) Default shall be made in the payment when due of any amounts herein provided and such default shall continue for a period of three (3) business days; or

(b) Agent shall attempt to remove, sell, transfer, encumber or lease (except as expressly permitted under this Agreement) any Car; or

(c) A proceeding shall have been instituted in a court having jurisdiction in the premises, seeking a decree or order (i) for relief in respect of Agent in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect or (ii) for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of Agent or for any substantial part of its property, or (iii) for the winding up or liquidation of the affairs of Agent; and in any such case either (I) any such proceeding shall remain undismissed or unstayed and in effect for a period of 60 consecutive days or (II) such court shall enter a decree or order granting the relief sought in such proceeding; or

(d) Agent shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, shall consent to the entry of an order for relief in an involuntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of Agent or for any substantial part of its property or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action in furtherance of any of the foregoing; or

(e) Agent shall have knowledge that there has occurred and is continuing any condition, event, act or omission which it reasonably believes constitutes, or with notice or lapse of time would constitute, an Event of Default under the CP Lease and shall fail within five (5) business days of learning thereof to notify Owner of such condition, event, act or omission;

then, in any such case, Owner at its option may:

A. Proceed by appropriate court action or actions either at law or in equity to enforce performance by Agent of the applicable duties and obligations of Agent under this Agreement; or

B. By notice in writing to Agent, terminate this Agreement, whereupon all right of Agent hereunder shall absolutely cease and terminate as though this Agreement had never been made.

10. Indemnities. Owner agrees to indemnify Agent and hold it harmless from any loss, expense or liability which Agent may suffer or incur from any charge, claim, proceedings, suit or other event which in any manner or from any cause arises in connection with the use, possession, or operation of the Cars while subject to this Agreement, excepting only any such loss, expense or liability which arises solely from Agent's gross negligence or willful misconduct or which arises as a result of the operation of the Cars on Agent's lines and Agent shall indemnify Owner for such loss, expense or liability. The indemnities and assumptions of liability herein contained shall survive the termination of this Lease. Each party shall, upon learning of same, give the other prompt notice of any claim or liability hereby indemnified against. Agent independently agrees that it shall not take any steps that would create any claim, lien, security interest or encumbrance with respect to any Car (other than the leasehold interest created by the CP Lease) and, should any arise solely from the action of Agent, it shall promptly discharge the same, nor will the Agent, without the prior consent of Owner, sell, assign, transfer or sublet the Cars except pursuant to the CP Lease.

11. Assignment of Revenues.

Pursuant to the terms of a Security Agreement in substantially the form attached hereto as Exhibit C, the Agent has granted the Disbursing Agent (as such term is defined in the Intercreditor Agreement) and to the extent provided for therein, a security interest in all of the Agent's right, title, and interest, if any, in and to the CP Lease and in and to rent to become due and payable from time to time under the CP Lease, as collateral security for the payment and performance of all obligations and duties of Agent to Owner arising under or by virtue of this Agreement.

12. Amendment of this Agreement. Agent will not take any action to amend, modify or cancel the CP Lease in any respect without the prior written consent of Owner.

13. Delay or Partial Exercise. No failure or delay on the part of Owner in exercising any right, power or privilege hereunder shall operate as a waiver thereof or of any other right, power or privilege of Owner hereunder, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege, provided, however, that the Agent shall not be liable to Owner for any consequential or incidental damages suffered by Owner as a result of any such delay on the part of Owner. The rights and remedies of Owner hereunder are cumulative and not exclusive of any rights or remedies which it may otherwise have.

14. Elections, Notices.

(a) Agent shall not make any election under the CP Lease or give CP notice of substitution of a Car, earlier termination or an event of default without obtaining Owner's prior consent thereto. Any notice required hereunder, if given in writing, shall be sent by registered or certified mail, postage prepaid, return receipt requested, or by courier service; to that address set forth beneath the appropriate party's signature. Either party may change such address by written notice to the other.

(b) Within three (3) business days of its receipt of written instruction to do so from Owner, the Agent shall take appropriate action (i) to exercise any option, make any election, or grant any consent which the lessor has the power to exercise, make or grant under the CP Lease, or (ii) to enforce any rights possessed by the lessor under the CP Lease.

(c) In the event that any proceeding is instituted by the Agent to enforce the lessor's rights under the CP Lease, such proceedings shall be conducted at Owner's expense by counsel satisfactory to Owner and in accordance in all respects with the reasonable instructions of Owner.

(d) Agent shall have no obligation to institute or maintain any proceeding to enforce its rights under the CP Lease, if the Agent has previously assigned to Owner, by means of a valid, binding, and enforceable assignment, all the lessor's rights to institute and maintain such proceeding.

15. Arbitration. Should any arbitration arise under the CP Lease, the Agent shall promptly advise Owner thereof and shall follow any reasonable instructions received from Owner in regard thereto. Agent agrees it shall undertake no settlement or appoint any arbiter thereunder without Owner's prior consent. Agent shall not be liable for any damage or liability sustained or incurred by Owner relating to its failure to promptly appoint

an arbiter or otherwise comply with or instruct the Agent to so comply with the terms of the arbitration provisions contained in the CP Lease.

16. Compliance with Laws and Regulations. This Agreement is subject to all federal, state and other laws, rules, regulations, and ordinances which may now or hereafter affect, change or modify the terms or conditions hereof or render unlawful the performance of any of its provisions. Owner shall comply with all governmental law, regulations and requirements and with the Code of Rules of the Association of American Railroads with respect to the use, maintenance and operation of such Cars subject to this Agreement, and will file and record the same with the Interstate Commerce Commission in accordance with Section 11303 of the Interstate Commerce Act.

17. Prior Understandings. Prior understandings and agreements between the parties with respect to the Cars are merged herein, and all rights of the parties in respect of such Cars shall be governed by this Agreement.

18. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States Certified mails, first class, postage prepaid, or sent by courier service, addressed to the address set forth with respect to such party in the first paragraph of this Agreement or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

19. Assignments by Lessor; Payments to Manager. Owner shall have the right to assign this Agreement, and all its interests herein, to any entity without the prior consent of Agent. Owner has appointed Emons Marketing Services, Inc. (the "Manager") as its Manager with respect to the Cars. Payments due Owner hereunder shall be made to Manager; provided, however, that the Agent shall make payments hereunder directly to Owner (i) upon the Agent's receipt of written notice from Owner that (a) an Event of Default by Manager has occurred and is continuing under the Management Agreement dated as of December 1, 1987, between Owner and Manager (the "Management Agreement") or (b) the Management Agreement has for any reason terminated with respect to the Cars; or (ii) automatically, without notice or other action by Owner, upon the Agent's receipt of notice of any kind of any filing after the date hereof of a petition under any bankruptcy, insolvency or moratorium law by or against Manager. The parties hereto acknowledge that, for purposes of the Management Agreement, this Agreement shall constitute an Affiliate Usage Agreement (as such term is defined in the Management Agreement).

20. Severability, Effect and Modifications of this Agreement. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall be, as to such

jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.

21. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the parties have duly executed this Lease the day and year first above written.

ATTEST:

BY: Joseph A. White  
TITLE: Secretary  
DATE: 5/17/88

EMCOB, INC.

BY: Lawrence P. Sugar  
TITLE: V.P. - Finance  
DATE: May 17, 1988

ATTEST:

BY: Joseph A. White  
TITLE: Secretary  
DATE: 5/17/88

THE MARYLAND AND PENNSYLVANIA RAILROAD COMPANY

BY: Thom E. Meyer  
TITLE: VICE PRESIDENT  
DATE: MAY 17, 1988

STATE OF Pennsylvania )  
 ) ss.:  
COUNTY OF York )

On the 17 day of May, 1988 before me personally appeared Lawrence D. Sugar, to me personally known, who being by me duly sworn, says that he is the V.P. - Finance of Emcob, Inc., Owner in the foregoing Agency Agreement, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Annmarie Wileczek  
Notary Public

ANNMARIE WILECZEK, Notary Public  
York, York County, Pennsylvania  
My Comm. Expires April 15, 1990

COMMONWEALTH OF PENNSYLVANIA )  
 ) ss.:  
COUNTY OF YORK )

On the 17 day of May, 1988 before me personally appeared Richard E. Meyer, to me personally known, who being by me duly sworn, says that he is the Vice President of the Maryland and Pennsylvania Railroad Company, Agent in the foregoing Agency Agreement, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Annmarie Wileczek  
Notary Public

ANNMARIE WILECZEK, Notary Public  
York, York County, Pennsylvania  
My Comm. Expires April 15, 1990

**EXHIBIT A**

**REPORTING MARKS - Seventy-five (75) cars currently bearing the  
marks CPAA-204614 through CPAA-204688**

RAILCAR MANAGEMENT AGREEMENT

Agreement dated as of December 1, 1987 between EMCOB, INC., a Delaware corporation (the "Owner") and EMONS MARKETING SERVICES, INC., a Delaware corporation (the "Manager").

-----

The Owner owns the railroad freight cars described in Exhibit A attached hereto (the "Cars");

The Owner has entered into an Agency Agreement (the "Existing Usage Agreement") dated as of December 1, 1987 with The Maryland and Pennsylvania Railroad Company (the "M&P") relating to the use of the Cars in a Lease dated as of December 1, 1987 between the M&P, as lessor, and Canadian Pacific Limited, as lessee (the "Existing Affiliate Usage Agreement").

The Manager is engaged in the business of managing, leasing and remarketing railroad freight cars, and the Owner desires to retain Manager as its agent for the purpose of managing, leasing and remarketing the Cars on the Owner's behalf.

-----

In consideration of the mutual promises made herein, the Owner and Manager, intending to be legally bound, agree as follows:

1. Certain Definitions. The following terms shall have the following meanings when used herein:

"AAR" shall mean the Association of American Railroads.

An "Affiliate" of a person or entity shall mean any other person or entity that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person or entity. For purposes of this definition, a person or entity shall be conclusively presumed to control another person or entity that is a corporation if (i) in the case of a corporation which is required to file reports pursuant to Section 13 or 15 of the Securities and Exchange Act of 1934, such person or entity is the beneficial owner

of in excess of twenty (20%) per cent of the securities of such corporation having ordinary voting power for the election of directors and (ii) in the case of a corporation which is not required to file such reports, such person is the beneficial owner of at least a majority of the securities of such corporation having ordinary voting power for the election of directors.

"Affiliate Usage Agreement" shall mean any Usage Agreement relating to the Cars to which an Affiliate of Manager (as a lessee of the Cars from Owner or as agent for Owner with respect to the Cars) and one or more unaffiliated third-parties are party (including the Existing Affiliate Usage Agreement).

"Agency Period" shall mean the period commencing on the date hereof and terminating on the Expiration Date, unless earlier terminated with respect to any Car pursuant to Section 12 below.

"Discretionary Maintenance Activity" shall mean any Maintenance Activity other than a Running Repair.

"DOT" shall mean the United States Department of Transportation.

"Expiration Date" shall mean December 31, 1997 provided, however, that, in the case of any Car which as of December 31, 1997 is subject to a Usage Agreement, the Expiration Date with respect to such Car shall be the date upon which such Usage Agreement, including all renewals and extensions thereof, terminates as to such Car.

"Existing Usage Agreement" shall have the meaning ascribed to it in the recitals to this Agreement.

"Gross Revenues" for any period shall mean all revenues in the form of rents, car hire payments of any kind or any similar payments in respect of the Cars received during such period (unreduced by any expenses or costs) collected by Manager from any source in connection with the ownership, use, lease and/or operation of the Cars including collection of any such amount due pursuant to the Existing Usage Agreement; provided, however, that "Gross Revenues" shall not include (i) any amount paid as a rebate, reclaim or an incentive load fee and (ii) any insurance proceeds or other payments received upon the damage or destruction of any Car or for reimbursement or payment for any Losses from liabilities arising from use or ownership of any Car.

"ICC" shall mean the Interstate Commerce Commission.

"Lease Preparation Activity" shall mean any addition, repair (including painting), alteration, modification or improvement performed with respect to a Car specifically and exclusively for the purpose of preparing or making eligible such Car for a new Usage Agreement.

"Losses" shall mean and include claims, actions, judgments, settlements, damages, expenses (including reasonable attorney's fees), losses or liabilities.

"Maintenance Activity" shall mean any addition, repair (including painting), alteration, modification or improvement (including, without limitation, any Running Repair performed or to be performed with respect to a Car but excluding all Lease Preparation Activities).

"Maximum Cumulative Disbursement Amount" shall mean \$2,000.

"Maximum Individual Disbursement Amount" shall mean \$1,250.

"Monthly Distribution Amount" shall mean, in the case of any month during the Agency Period, an amount equal to the Gross Revenues received during such month less the fees payable to Manager pursuant to Sections 8, 14 and 16 below and the sum of all Operating Expenses actually paid by Manager during such month.

"Monthly Distribution Deadline" shall mean the date either: (i) in the case of any distribution by mail, twenty-five (25) days after the end of such month or (ii) in the case of any distribution by wire transfer, thirty (30) days after the end of such month.

"Monthly Management Fee" shall have the meaning ascribed to it in subsection (a) of Section 8 below.

"Net Earnings" for any period shall mean the Gross Revenues less Total Expenses for such period.

"Operating Expenses" for any period shall mean all direct expenses and costs paid (either directly by Manager or offset against revenues) or settled during such period as a result of the ownership, management,

use, lease and/or operation of all Cars including but not limited to (i) fees of lawyers retained with Owner's consent and incurred in connection with repossessing Cars or enforcing any rights or other contractual arrangements in connection with the operation of the Cars; (ii) charges, assessments, or levies imposed upon or against the Cars of whatever kind or nature as are levied by a railroad, government or governmental agency (other than any taxes imposed upon or measured by the income of Owner or Manager) or are incurred on a basis arising out of the operation of the Cars; (iii) sales and/or use taxes based upon revenues of the Cars; (iv) Losses from liabilities arising from the use or ownership of the Cars (including Losses referred to in Section 10 hereof) except to the extent any such Losses are caused by the negligence, bad faith, recklessness or willful misconduct of Manager; (v) ad valorem, gross receipts and other property taxes which are levied against or in respect of the Cars; (vi) to the extent either authorized herein or consented to by Owner, expenses arising in connection with the transportation, lease preparation, storage, restencilling, maintenance or repair of the Cars; (vii) to the extent either authorized herein or consented to by Owner, the costs of alterations, modifications, improvements or additions to the Cars; and (viii) insurance charges; provided, however, that Operating Expenses shall not include expenses of Manager such as (i) any allocation of internal overhead costs of Manager attributable to the administrative, accounting and clerical services incidental to the Manager's duties hereunder (including, without limitation, costs arising in connection with registration of the Cars, preparation of normal usage documentation, and the inspection and monitoring of the Cars in accordance with the requirements of this Agreement) and (ii) salary, travel and entertainment expenses incurred by Manager in maintaining or increasing usage rates under Usage Agreements in force at any time or in connection with the management and remarketing of the Cars.

"Running Repairs" shall mean any repairs performed with respect to the Cars (i) by persons other than Manager and Affiliates of Manager and (ii) without prior specific authorization by Manager (other than general authorization by operation of the Interchange Rules of the Mechanical Division of the Association of American Railroads). It is understood that neither Owner nor Manager will have the ability to approve Running Repairs in advance.

"Total Expenses" for any period shall mean the sum of (i) all Operating Expenses for such period, and (ii) all compensation attributable to the Cars due and payable to Manager under Sections 8, 14 and 16 below not theretofore paid.

"Usage Agreement" shall mean any lease, assigned service agreement, usage agreement, load agreement or similar agreement relating to revenue producing use of some or all Cars including, unless otherwise indicated, any Existing Usage Agreement but not including any Affiliate Usage Agreement.

"Usage Proposal" shall mean a written proposal setting forth in reasonable detail information regarding a proposed Usage Agreement for some or all Cars (including, without limitation, information regarding the proposed use for the Cars, estimated cost of any required Lease Preparation Activities and transportation, and Manager's best good faith estimate of the projected utilization and revenues of the Cars including mileage and type of service).

## 2. Engagement of Manager.

Subject to the terms and conditions set forth herein, Owner engages Manager during the Agency Period as an independent contractor to manage and remarket the Cars on Owner's behalf, to collect amounts due to or on behalf of Owner with respect to the Cars and to disburse funds on behalf of Owner in payment of the costs and expenses of Owner relating to the Cars, and Manager accepts such engagement and agrees to perform its duties in accordance with the terms and conditions hereof. Manager acknowledges that Manager shall have no property interest in any funds generated by, or in connection with, the operation of the Cars (subject to Manager's right to deduct amounts payable to Manager hereunder).

## 3. Duties of Manager.

In consideration of the compensation to be paid to Manager hereunder, and subject to all the terms and conditions of this Agreement (including, without limitation, Owner's payment and expense reimbursement obligations set forth in Section 7 below and any rights granted to Owner herein) Manager shall during the Agency Period:

(a) Use reasonable efforts in keeping with industry practice to cause (i) the Cars to be maintained and repaired, when necessary, to meet DOT and AAR requirements for

railcars in interchange service, and (ii) any alterations, modifications, improvements or additions to the Cars necessary to comply with applicable laws or regulations to be performed;

(b) Use its best efforts (i) to continue the Existing Usage Agreement(s) and any related Affiliate Usage Agreements in effect and (ii) otherwise to keep the Cars in Usage Agreements;

(c) Perform, on behalf of Owner, all of Owner's responsibilities under any Usage Agreement, except to the extent such responsibilities are expressly reserved by Owner or assumed by some other party with Owner's consent;

(d) Arrange for any Cars not subject to a Usage Agreement to be stored as economically as possible, until such Cars can be placed in use under a Usage Agreement;

(e) Periodically inspect such number of Cars as Manager, in its reasonable discretion, deems necessary or prudent in order to determine whether the Cars are being properly used and repaired, and conduct, at Owner's expense and upon Owner's written instructions, such other inspections as may from time to time be requested by Owner, and report to Owner in writing in reasonable detail of the results of such inspections;

(f) Register the Cars, identify itself as agent, and file all required initial and ongoing reports with the AAR, ICC, DOT or any other regulatory authority having jurisdiction over the Cars or any Usage Agreement in order to ensure that the Cars will at all times be entitled to generate the maximum possible revenue subject to the provisions of any Usage Agreement;

(g) Manage the Cars, in conformity with all applicable rules and regulations of the AAR, ICC, DOT or any other regulatory authority having jurisdiction over the Cars, Manager or such Affiliate of Manager, as the case may be;

(h) Use its best efforts, subject to Section 4(c) below, to collect all rental payments, car hire, mileage allowances and any other revenue due Owner with respect to the Cars, identifying itself as agent for that purpose, and account for and remit all sums due to Owner as hereinafter provided and enforce Owner's rights and remedies under each Usage Agreement (and any Affiliate Usage Agreement);

(i) Use its best efforts to arrange, maintain and pay for, at Owner's expense, the insurance required by subsection (d) of Section 10 below and such other insurance (including insurance with respect to physical damage to the Cars) as Owner may request;

(j) Pay in Owner's name and behalf all personal property taxes, sales and use taxes, and other taxes, charges, assessments, or levies imposed upon or against the Cars of whatever kind or nature;

(k) Monitor the usage of the Cars, report to Owner any default by a user under any Usage Agreement (and Affiliate Usage Agreement, if applicable) promptly after Manager learns of such default, and use its best efforts to maximize the revenues resulting from such Usage Agreement (and Affiliate Usage Agreement, if applicable) ;

(l) Maintain or cause to be maintained records relating to the management of the Cars (including, without limitation, repairs, maintenance and registration of the Cars) and revenues and expenses attributable to the Cars and make such records available for inspection by Owner or any of Owner's representatives during reasonable business hours, upon two days' prior written or telephonic notice of the date of inspection and provide copies of all such records in Manager's possession to Owner, at Owner's expense (except as otherwise provided in Section 16 below), as soon as practicable but in no event later than two weeks after a request therefor by Owner;

(m) Cause the Cars to be moved to required destination points, as provided in any Usage Agreement (or Affiliate Usage Agreement, if applicable), at the lowest possible transportation cost to Owner, consistent with the operating needs of any party (other than Owner and other than Manager or any Affiliate of Manager) under any such Usage Agreement (or Affiliate Usage Agreement, if applicable);

(n) Upon the termination or expiration of any Usage Agreement with respect to any Car, arrange for the transportation, gathering, storage and remarking of such Car to the extent required and to the extent consented to by Owner (which consent shall not be unreasonably withheld or delayed). Following the termination of any Usage Agreement, Manager will use its best efforts to secure alternative Usage Agreements for the Cars which will maximize the economic return to Owner.

(o) Upon the consent of Owner (except to the extent permitted without Owner's consent pursuant to subsection (d) of Section 6 below), paint the Cars such colors

and with such design as Manager may from time to time approve and place or cause to be placed such reporting marks or such other marks, legends, or placards on the Cars as shall be appropriate or necessary to comply with any regulation imposed by the AAR, ICC or DOT or as shall be necessary to achieve maximum utilization of the Cars. It is anticipated that so long as the Cars are in service under the Existing Usage Agreement (or the Existing Affiliate Usage Agreement), the Cars shall bear the reporting marks of the respective users named in the Existing Usage Agreements, and when the Cars are subject to a Usage Agreement with any user other than the users named in the Existing Usage Agreements (or any Affiliate Usage Agreement existing on the date hereof), they may carry such other user's marks. Upon its receipt of necessary documents in suitable form for recordation, Manager will cause such identification of the lessee or assignee of the Cars to be recorded as may be required in accordance with Section 11303 of the Interstate Commerce Act or such other governmental regulations as may be applicable in the United States and will deliver to Owner copies of any documents evidencing such recordation not later than five days after Manager's receipt of such documents. It is understood that when marks are first placed on the Cars, and when the marks are changed at any time, Manager shall give prompt written notice to Owner, or Owner's designee, of the marks then placed on the Cars. Upon Owner's request and at Owner's expense, Manager shall cause the Cars to be stencilled with an appropriate legend to reflect the Owner's interest therein.

(p) Use its best efforts, subject to Section 4(c) below, to collect all sums due from any railroad or other party (other than an insurer under a policy not arranged by Manager) as the result of damage to, or loss or total destruction of, a Car during the Agency Period and to cause the same to be paid to Owner as provided below.

(q) Furnish such factual information as is reasonably obtainable by Manager for use by Owner in connection with the preparation of Owner's Federal, state and local tax returns and such other similar information reasonably requested by Owner.

(r) Perform for Owner such other services incidental to the foregoing as may from time to time be requested by Owner and necessary in connection with the leasing, utilization and operation of the Cars.

(s) Use due diligence to insure that no Car is accepted on to the tracks of Manager or any Affiliate of Manager with any damage the repair of which would be the responsibility of a delivering road under Rule 95B of the

Interchange Rules of the AAR unless a "defect card" authorizing the repair of such damage at the expense of the damaging railroad accompanies such Car.

(t) Disclose in all negotiations relating to the Cars the agency status of Manager hereunder.

4. Authority and Powers of Manager.

(a) Manager now manages, and in the future will manage, railroad freight cars which it owns and railroad freight cars owned by others. It is recognized and agreed that Manager's obligations and rights with respect to Owner and the owners of other cars managed by Manager are several obligations and rights. The parties hereto expressly recognize and acknowledge that this Agreement is not intended to create a partnership, joint venture or other entity among Owner, other owners of cars and/or Manager. Manager shall not take any action or engage in any course of dealing which would suggest or create an inference that there is any understanding or agreement between the Owner and other owners of cars managed by Manager to create a partnership or similar entity or that such owners are acting as an entity, and Manager shall use its best efforts to assure that no silence or failure to act on its part creates or sustains any such suggestion or inference.

(b) Except as otherwise provided herein, Manager shall have the authority that is necessary to perform its duties under Section 3 hereof without the need for obtaining Owner's further consent.

(c) Manager shall have the authority (i) to enforce or defend any claim resulting from the deployment or recovery of or damage to the Cars, (ii) upon the prior written consent of Owner, to contest any taxes with respect to the Cars, and (iii) except as otherwise provided below, to treat the reasonable expenses thereof as Operating Expenses. Whenever Manager takes any action or makes any payment at Owner's sole expense pursuant to this Agreement, Manager may, subject to the proviso below, retain such attorneys as it deems necessary, in connection with such action or payment and the cost of such attorney's services shall be at the sole expense of the Owner; provided, however, that prior written notice of Manager's intention to retain any such attorneys shall be given to Owner and Owner's consent to the retention of counsel and to the identity of such counsel shall be required prior to such retention.

5. Remarketing of Cars.

(a) Remarketing Authority. Manager shall not have the authority, without the consent of Owner, to (i) execute on Owner's behalf any Usage Agreement relating to the Cars or otherwise make a commitment to subject the Cars to a Usage Agreement, (ii) extend, modify, amend or supplement any Usage Agreement (or Affiliate Usage Agreement if applicable), (iii) grant any consent, waiver, authorization or approval under any Usage Agreement or Affiliate Usage Agreement, if applicable (other than, in either case, any consent, waiver, authorization, or approval which is cancellable without cost by Owner on thirty-day's notice and which Manager believes to be in the interest of maintaining or improving the utilization of the Cars, if written notice of the granting thereof is given by Manager to Owner promptly after the granting thereof) or (iv) terminate or withdraw Cars from any Usage Agreement or Affiliate Usage Agreement, if applicable.

(b) Usage Proposals. Manager shall use its best efforts to identify potential Usage Agreements for which the Cars, or some of the Cars, may be eligible, and from time to time during the Agency Period may submit to Owner Usage Proposals for Owner's consideration. Owner shall have the right, in its discretion, to accept or decline any Usage Proposal (subject to any terms or conditions specified therein). Owner acknowledges that a failure by Owner to respond promptly to any Usage Proposal could result in the loss of the opportunity for Owner and others to participate in such proposal. Accordingly Owner agrees that in the event that Owner fails to respond to a Usage Proposal within seven (7) business days of Owner's receipt of such proposal, Manager shall have the right at its option to deem such proposal rejected by Owner.

(c) Confidentiality. Owner acknowledges that any Usage Proposal may contain confidential proprietary information of Manager, and Owner agrees that it shall not knowingly, without the prior written consent of Manager, disclose any such information to others (except governmental authorities, internal or external auditors and the like) or, except as contemplated in this Agreement, use any such information for its own benefit in dealing with third parties, competitors of Manager or customers of Manager.

6. Additions, Repairs, Alterations, Modifications and Improvements; Destruction

(a) Notice of Damage or Destruction. In the event a Car is either

(i) damaged to an extent requiring repairs costing (excluding any related transportation costs) in excess of the Maximum Individual Disbursement Amount or

(ii) destroyed,

Manager shall notify Owner in writing of the occurrence of such event within fifteen days of the date on which Manager determined that such Car was destroyed or so damaged (which determination shall be made by Manager with reasonable promptness after Manager has obtained the facts necessary for it to make such determination).

(b) Claims Regarding Damage or Destruction.

Manager shall not have the authority to settle on Owner's behalf any claim against any third party relating to a damaged or destroyed Car (other than, in the case of any destroyed Car, any settlement with respect to such destruction which provides for the payment of the depreciated value of such Car in accordance with AAR rules or any successor rules then in effect) without Owner's written consent and shall comply with any reasonable written instructions of Owner with respect to any such claim.

(c) Repairs by Affiliates. Manager shall have the authority at its discretion to cause any Maintenance Activity or Lease Preparation Activity required or permitted to be performed in accordance with this Agreement to be performed at repair shops owned or controlled by Manager or any Affiliate of Manager so long as the costs incurred at such shops, taken as a whole and taking into consideration any related transportation costs and potential loss of revenues while Cars await such Maintenance Activity or Lease Preparation Activity, are equal to or less than the costs that would have been incurred at the most economical, responsible non-affiliated repair shop located in the geographical area of the Car requiring the repair.

(d) Manager's Authority Regarding Maintenance Activities and Lease Preparation Activities. Manager shall not have the authority, without the prior written consent of Owner, to authorize the performance of any Lease Preparation Activity or any Discretionary Maintenance Activity with respect to any Car unless (in the case only of a Discretionary Maintenance Activity) either

(i)(x) the cost of such Discretionary Maintenance Activity does not exceed the Maximum Individual Disbursement Amount and (y) the cost of such Discretionary Maintenance Activity (together with the

aggregate cost of all other Maintenance Activities with respect to such Car, if any, which, to Manager's knowledge, have previously been performed during the Measuring Period in which such Discretionary Maintenance Activity is to be performed and any other Maintenance Activities with respect to such Car which Manager knows at such time will be required to be performed or are otherwise scheduled to be performed on such Car during the remainder of such Measuring Period) would not exceed the Maximum Cumulative Disbursement Amount; provided, however, that, for purposes of this clause (y) only, any Lease Preparation Activity approved by Owner shall not be considered a Discretionary Maintenance Activity; or

(ii) Owner has contractually obligated itself to perform such Discretionary Maintenance Activity by the terms of any Usage Agreement (including, for this purpose, the Existing Usage Agreements) relating to the Cars.

In the case of any Discretionary Maintenance Activity authorized by Manager without Owner's consent pursuant to clause (ii) above, Manager shall give Owner prompt written notice of Manager's authorization thereof. In the case of any request by Manager for Owner's consent to the performance of a Discretionary Maintenance Activity, if Manager has not received instructions to the contrary from Owner within seven (7) business days after the receipt by Owner of a written request (including a telexed or telecopied request) for such consent (specifying in reasonable detail the nature of the proposed repair and the estimated cost thereof), Owner shall be deemed to have consented to the performance thereof. It is understood that, if at any time, Owner declines to grant its consent to the performance of a Discretionary Maintenance Activity, any costs which may have been incurred in moving the Car to a repair facility and in obtaining an estimate of the cost of the proposed Discretionary Maintenance Activity shall be treated as an Operating Expense.

(e) Owner's Inspection Rights. Nothing herein shall be construed as limiting or restricting the right of Owner to conduct, at its own expense, inspections of the Cars, or to cause its agent or representative to conduct such inspections on its behalf, so long as (i) the manner and frequency of such inspections do not unreasonably interfere with the operations of any user of the Cars, and (ii) prior notice of any proposed inspection is given to Manager by Owner.

7. Payment of Costs and Expenses.

(a) Payment and Priority of Expenses. Manager shall apply Gross Revenues to the payment of Total Expenses (including, without limitation, to the reimbursement of Manager for any Operating Expenses previously paid by Manager). In the event that the Gross Revenues are insufficient to pay Total Expenses, Manager shall apply Gross Revenues to all such expenses in the following priorities: (i) any applicable taxes included in Operating Expenses; (ii) management fees provided for under Section 8; and (iii) miscellaneous Operating Expenses. Gross Revenues and/or Operating Expenses attributable to any period which are received or disbursed by Manager after the close of such period shall be included in subsequent distributions and accounted for as Gross Revenues or Operating Expenses of that subsequent period.

(b) Payment of Operating Deficits. In the event that Gross Revenues for any Quarterly Period are insufficient to pay Total Expenses for such period, Owner shall pay to Manager, within fifteen (15) days of a request by Manager therefor, the amount (an "Operating Deficit"), if any, by which Total Expenses for such period exceeded Gross Revenues for such period.

(c) Payment for Certain Property Damage. Subject to the limitations on Manager's authority set forth in Section 6 above and unless such responsibilities have been expressly assumed by another party, the cost of repairs for damage to any Car is the sole responsibility of Owner. Any payments, including, without limitation, insurance benefits or railroad or lessee indemnity or settlement payments, received to cover the damage to or loss or destruction of such Car shall be solely for the account and benefit of Owner (and shall not be included within the term "Gross Revenues"). Except in the case of payments applied in accordance with this Agreement to repair damage to a Car and all such payments shall be remitted to Owner promptly after receipt by Manager and in no event later than ten days after Manager's receipt thereof.

8. Compensation.

As compensation for its services hereunder Manager shall be entitled to deduct from Gross Revenues on a monthly basis an amount (the "Monthly Management Fee") determined by multiplying the Gross Revenues actually collected by Manager during such month from the operation of the Cars by ten (10%) percent.

9. Distributions to Owner.

As soon as practicable after the end of each month during the Agency Period but in no event later than the date thirty days after the end of such month, Manager shall distribute to Owner the Monthly Distribution Amount.

10. Indemnification.

(a) Owner shall indemnify and hold Manager harmless from and against any and all Losses incurred by or asserted against Manager (either alone or jointly or severally) as a result of the use, operation, possession, control, maintenance, repair or storage of the Cars during the Agency Period; provided, however, that Owner shall not be required to defend, indemnify or hold Manager harmless from any Losses caused by or arising from negligence, bad faith, recklessness, or willful misconduct of Manager.

(b) Manager shall indemnify and hold Owner harmless from and against any and all Losses incurred by or asserted against Owner (either alone or jointly or severally) as a result of the use, operation, possession, control, maintenance, repair or storage of the Cars; but only if such Losses were caused by or arose from negligence, bad faith, recklessness, or willful misconduct of Manager.

(c) As promptly as practicable after receipt by a party of notice of the commencement of any action, suit or proceeding or the assertion of any claim with respect to which the other party (the "indemnifying party") is or may be required to indemnify the former party (the "indemnified party") hereunder, the indemnified party shall give written notice thereof to the indemnifying party, whereupon the indemnifying party shall undertake the defense and satisfaction thereof. The indemnified party shall give the indemnifying party such cooperation as the indemnifying party may reasonably request, and the indemnifying party shall have the right to defend and settle any such action, suit, proceeding or claim either in its name or the names of the indemnified party (so long as the indemnified party shall be indemnified and held harmless as provided herein). The indemnified party shall have the right, at its expense, to participate in the defense of any such action, suit, proceeding or claim. If the indemnifying party fails to take timely action to defend any such action, suit, proceeding or claim, the indemnified party shall have the right to defend and settle the same as the indemnified party may deem appropriate at the indemnifying party's cost and expense.

(d) Owner shall maintain during the Agency Period (or shall instruct Manager to use its best efforts to arrange at Owner's expense) liability insurance in an amount not less than

that provided on Exhibit B hereto insuring against liability for death, bodily injury and property damage resulting from the ownership, maintenance, use or operation of the Cars. All such insurance shall (i) name Owner and Manager as insureds, (ii) be with companies rated not less than B-V as of October 1, 1986 by A.M. Best Company (or in the case of any rating subsequent to October 1, 1986 is rated the substantial equivalent at such time of a B-V rating as of October 1, 1986) and (iii) provide that such insurance may not be altered or cancelled without ten (10) days prior written notice to Manager and Owner.

11. Default.

The occurrence and continuance of any of the following events shall be an Event of Default under this Agreement:

(i) The failure by Manager to pay to Owner any Monthly Distribution Amount within ten (10) business days of the Monthly Distribution Deadline.

(ii) The breach by either party of any other term, covenant, or condition of this Agreement, if (i) in the case of any such breach which is susceptible to cure within a thirty-day period, such breach is not cured within thirty (30) days after receipt of written notification of such breach, (ii) in the case of any curable breach which is not susceptible to cure within a thirty-day period and so long as such party is making all reasonable efforts to cure such breach, such breach is not cured within sixty (60) days after receipt of written notification of such breach, and (iii) in the case of any breach not susceptible to cure, due restitution is not made promptly (and in no event later than five days) after receipt of written notification of such breach.

(iii) The filing of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law, or any other law or laws for the relief of, or relating to, debtors by Owner, Manager or any Affiliate of Manager directly involved in the management, use or leasing of any of the Cars.

(iv) The filing of any involuntary petition under any bankruptcy, reorganization, insolvency or moratorium law against Owner, Manager or any Affiliate of Manager directly involved in the management, use or leasing of any of the Cars that is not dismissed within sixty (60) days thereafter, or the appointment of any receiver or trustee to take possession of the properties of such party unless such petition or appointment is set aside or withdrawn or ceases to be in effect within sixty (60) days from the date of such filing or appointment.

12. Remedies; Termination; Expiration; Sales Subject to this Agreement.

(a) Remedies upon Event of Default. Upon the occurrence of any Event of Default, and in addition to any other remedies provided under applicable law, the other party may, at its option, (i) terminate this Agreement, and (ii) proceed by any lawful means to enforce performance of this Agreement. In the event of the default by either party in the payment when due of any amount payable hereunder, interest shall accrue on such amount at the rate of ten (10%) per annum from the date on which such amount was due hereunder until the date such amount is paid.

(b) Termination upon Loss. The Agency Period shall terminate with respect to any Car (i) on the date of the loss or destruction of such Car or (ii) in the case of any Car which at any time during the Agency Period requires any Discretionary Maintenance Activity the cost of which is in excess of the Maximum Individual Disbursement Amount, if Owner has expressly declined to grant its consent to the performance of such addition, repair, modification or improvement, on the date Owner expressly declined to grant such consent.

(c) Consequences of Termination. After any termination by Owner of this Agreement pursuant to subsections (a) or (b) above (i) Manager shall pay to Owner all Gross Revenues then held by Manager or, when received, amounts due to Manager after deduction of any accrued fees payable under this Section and Section 8 and reimbursement of any Operating Expenses previously paid by Manager in accordance with this Agreement; (ii) Manager shall deliver to Owner all records (or copies thereof) relating to the Cars and, at the request of Owner, shall provide any reasonable assistance and cooperation necessary for the change in registration of the Cars and (iii) Owner shall have the right to instruct, and to cause Manager to instruct, any user of the Cars under any Usage Agreement (or Affiliate Usage Agreement, if applicable) to pay all future Gross Revenues and other sums directly to Owner. If at any time Gross Revenues and other sums are paid directly to Owner (except as otherwise provided below), Owner shall be required to pay promptly upon notice from Manager all Operating Expenses relating to the Cars (and to reimburse Manager for Operating Expenses previously paid by it and not previously reimbursed), and Manager shall have the right to receive the compensation provided for in this Section and Section 8 above with respect to Gross Revenues attributable to periods prior to termination. Notwithstanding any termination of the Agency Period, whether upon the expiration of the term of this Agreement or otherwise, Manager shall, unless Owner instructs otherwise, continue to collect all rental payments, and other sums

(including insurance benefits or railroad indemnity payments payable in connection with any damage to or loss or total destruction of a Car), and to pay or arrange for payment of all expenses, taxes and other charges on Cars, in each case only to the extent due for or with respect to periods prior to such termination of this Agreement. Unless Manager or another person has otherwise agreed, upon termination of this Agreement Owner at its own expense shall (i) cause the marks on the Cars to be changed, if necessary; (ii) take control of the Cars; (iii) arrange for removal of the Cars from the railroad tracks where the Cars are located, if necessary; (iv) arrange for the transportation of such Cars to a location designated by Owner; and (v) assume responsibility for any and all repair, storage and transportation charges with regard to the Cars required to be paid by Owner hereunder. Upon Owner's request and at Owner's expense, Manager shall in good faith cooperate with and assist Owner in the performance by Owner of its responsibilities arising upon termination of this Agreement.

13. Rights After Termination or Expiration Date.

After the Expiration Date or the date of any termination of this Agreement, Manager shall pay to Owner, forthwith upon Manager's receipt thereof, (a) all Gross Revenues and other sums relating to the Cars due through such termination or Expiration Date less reimbursement of Operating Expenses previously paid by Manager and the payment of accrued management fees, and (b) all Gross Revenues and other sums relating to the Cars which are attributable to, and which were collected by Manager during, periods subsequent to such expiration or termination, less reimbursement of any unreimbursed Operating Expenses.

14. Reports.

Not later than forty-five (45) days after the end of each month, Manager will distribute to Owner a true and complete unaudited report showing for such month in reasonable detail the Gross Revenues, Total Expenses, any Operating Deficit, the fees paid or payable to Manager, the Operating Expenses attributable to such month including the computation and the allocation of any property taxes. Such reports shall also show the amount of funds, if any, for such month distributed for the benefit of Owner pursuant to Section 9. Not later than forty-five (45) days after the end of each calendar quarter, Manager shall distribute to Owner a report showing, in reasonable detail, any amounts past due by the user under any Usage Agreement and the period of time which each such amount has been past due and describing all actions taken or proposed to be taken by Manager in respect thereof.

15. Notices.

Except as otherwise provided herein, any notice required or permitted hereunder shall be in writing and shall be valid, sufficient and deemed given if delivered personally or dispatched in any post office of the United States by registered or certified mail postage prepaid or sent by any express mail service receipt of which can be verified addressed to the other party as follows:

If to Manager: Emons Marketing Services, Inc.  
One West Market Street  
York, Pennsylvania 17401  
Attention: Controller

If to Owner: Emcob, Inc.  
c/o Emons Industries, Inc.  
One West Market Street  
York, Pennsylvania 17401  
Attention: Controller

cc: Jefferson-Pilot Life Insurance Company  
~~c/o Jefferson Pilot Investment, Inc.~~ *R2*  
101 N. Elm Street  
Greensboro, N.C. 27401

and any party may change such address by notice given to the other party in the manner set forth above.

16. Brokerage Right.

(a) In the case of any sale of a Car (i) arranged by Manager or (ii) to any user which is, or during the ninety (90) day period prior to such sale was, a party to a Usage Agreement relating to such Car, Manager shall have the right to receive a brokerage fee in the amount of ten percent (10%) of the net proceeds of such sale.

(b) In the case of any Car which either (i) has been destroyed (assuming Owner continues to own such Car after the destruction thereof and the payment of all settlement payments resulting from such destruction) or (ii) requires any Discretionary Maintenance Activity the cost of which would exceed the Maximum Individual Disbursement Amount and Owner has declined to grant its consent thereto, Manager shall, for a period of ninety (90) days from either (x) the date Manager learned of such destruction (and such Car was available for sale) or (y) the date Owner declined to consent to the performance of such Discretionary Maintenance Activity, have the exclusive right to arrange for the sale of such Car (including, if appropriate, the sale of such Car for scrap) and

to receive a brokerage fee for any such sale in the amount of ten percent (10%) of the net proceeds of such sale.

17. Miscellaneous.

(a) Counterparts. This Agreement may be executed in two counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same instrument.

(b) Headings. Titles and headings of the Sections and Subsections of this Agreement are for the convenience of reference only and do not form a part of this Agreement and shall not in any way affect the interpretation hereof.

(c) Amendment. No explanation or information by either of the parties hereto shall alter or affect the meaning or interpretation of this Agreement and no modification or amendment to this Agreement shall be valid unless in writing and executed by both parties hereto.

(d) Successor and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto; provided, however, that neither Manager nor Owner shall have the right to assign its rights or obligations under this Agreement to any person or entity without the prior written consent of the other.

(e) Force Majeure. Neither party hereto shall be deemed to be in breach or in violation of this Agreement so long as either is prevented from performing any of its obligations hereunder for any reason beyond its reasonable control including and without limitation acts of God, riots, strikes, fires, storms, public disturbances, or any regulation, ruling, order or determination by any Federal, State or local government, or any department or agency thereof (other than adoption of any deregulation proposal pending on the date hereof or any substantially similar proposal).

(f) Parties' Intentions. Each party hereto represents to the other that it has been duly incorporated and is in good standing in the jurisdiction of its incorporation and that the execution and delivery of this Agreement has been duly authorized as an act of such corporation, and each party covenants and agrees that it will not take any action during the Agency Period which would be inconsistent with the terms of this Agreement.

(g) Manager's Standard of Care. In the performance of its duties hereunder, Manager shall use a degree of care and diligence not less than that which it uses in the management, maintenance and operation of railroad freight cars owned by it and in no event less than that which a reasonably prudent manager would use under the circumstances.

(h) Waiver. The waiver of any breach of any term or condition hereof shall not be deemed a waiver of any other or subsequent breach, whether of like or different nature, and shall not be valid unless set forth in writing.

(i) Severability. If any term or provision of this Agreement or the performance thereof shall to any extent be invalid or unenforceable, such invalidity or unenforceability shall not affect or render invalid or unenforceable any other provision of this Agreement, and this Agreement shall be valid and enforced to the fullest extent permitted by law.

(j) Expenses. The prevailing party in any action or proceeding brought to enforce the terms hereof shall be entitled to recover from the losing party the reasonable costs and expenses incurred by the prevailing party in such action or proceeding.

(k) Governing Law. This Agreement shall be governed by the internal laws of the State of New York without giving effect to principles of conflicts of law.

(l) Days; Years. Unless otherwise specifically provided herein, all references herein to days or years shall mean, respectively, calendar days or calendar years. If the day upon which any covenant or obligation herein is required to be performed or paid falls on a Saturday, Sunday or other day upon which banking institutions are authorized or required to close in New York, Pennsylvania or the state of Owner's principal office, the performance of such covenant or the payment of such obligation shall be deemed timely performed or paid if performed or paid on the next business day thereafter.

(m) Survival. All rights and obligations of the parties hereto accruing on or prior to any termination of this Agreement shall survive such termination.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year set forth below.

EMONS MARKETING SERVICES, INC.

By: \_\_\_\_\_

EMCOB, INC.

By: \_\_\_\_\_

5362E

**EXHIBIT A**

**REPORTING MARKS - Seventy-five (75) cars currently bearing the  
marks CPAA-204614 through CPAA-204688**