

GENERAL ELECTRIC CAPITAL CORPORATION

Capital Funding, Inc.  
5400 LBJ Freeway, Ste. 525  
Dallas, Texas 75240

December 28, 2000

RECORDATION NO. 23309 FILED

JAN 4 '01 11:05 AM

<sup>TS</sup>  
SURFACE TRANSPORTATION BOARD

Vernon A. Williams, Secretary  
Surface Transportation Board  
Washington, D.C. 20423

Dear Secretary:

I have enclosed an original and one copy of the document described below, to be recorded pursuant to Section 11301 of Title 49 of the U.S. Code.

This document is a Railcar and Locomotive Mortgage and Security Agreement, a primary document dated December 28, 2000.

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

Mortgagor:

THE LOUISIANA AND NORTH WEST RAILROAD COMPANY  
210 West Main Street  
Homer, LA 71040

Mortgagee:

GENERAL ELECTRIC CAPITAL CORPORATION  
Capital Funding, Inc.  
5400 LBJ Freeway, Ste. 525  
Dallas, Texas 75240  
Attn: Pamela A. Wozniak, Risk Analyst

A description of the equipment covered by the document is attached hereto at Exhibit "A". Included in the property covered by the aforesaid mortgage are railcars, locomotives and other rolling stock intended for use related to interstate commerce, or interests therein, owned by Mortgagor at the date of said mortgage or thereafter acquired by it or its successors as owners of the lines of railway covered by the mortgage.

A fee of \$26.00 is enclosed. Please return the original and any extra copies not needed by the Board for recordation to General Electric Capital Corporation at the above address.

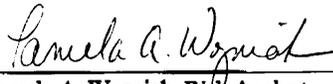
Vernon A. Williams, Secretary  
December 28, 2000  
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A short summary of the document to appear in the index follows:

RAILCAR AND LOCOMOTIVE MORTGAGE AND SECURITY AGREEMENT  
between THE LOUISIANA AND NORTH WEST RAILROAD COMPANY, 210 West Main  
Street, Homer, Louisiana 71040, as mortgagor, and GENERAL ELECTRIC CAPITAL  
CORPORATION, 5400 LBJ Freeway, Ste. 525 Dallas, Texas 75240, as mortgagee, dated  
December 28, 2000, and covering eight (8) locomotives and thirty-one (31) railcars.

Very truly yours,

GENERAL ELECTRIC CAPITAL CORPORATION

By:   
Pamela A. Wozniak, Risk Analyst

## EXHIBIT "A"

## EQUIPMENT DESCRIPTION

## Railcars

<u>Description</u>	<u>AAR Mechanical Designation</u>	<u>Identifying Marks</u>	<u>Series Number</u>	<u>No. of Cars</u>
Boxcar - 50 ft.	XM	LNW	12002-12004	3
Boxcar - 50 ft.	XM	LNW	12006-12008	3
Boxcar - 50 ft.	XM	LNW	13001-13012	12
Boxcar - 50 ft.	XM	LNW	13014-13026	13

## Locomotives

<u>Builder</u>	<u>Model</u>	<u>Identifying Marks</u>	<u>Number</u>	<u>Horsepower</u>
EMD - GM	GP7R - D	LNW	50	1500
EMD - GM	GP9R	LNW	51	1500
EMD - GM	GP7	LNW	52	1500
EMD - GM	GP7	LNW	53	1500
EMD - GM	GP35	LNW	54	2500
EMD - GM	GP11 - 2	LNW	55	1850
EMD - GM	GP40 - 1	LNW	56	3000
EMD - GM	GP40 - 1	LNW	57	3000

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RAILCAR AND LOCOMOTIVE MORTGAGE AND SECURITY AGREEMENT

by and between

THE LOUISIANA AND NORTH WEST RAILROAD COMPANY  
as Borrower

and

GENERAL ELECTRIC CAPITAL CORPORATION  
as Lender

Dated as of December 28, 2000

Covering

Thirty-One Railcars

and

Eight Locomotives

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Filed and recorded with the Surface Transportation Board pursuant to Section 11301 of Title 49,  
U.S.C., December \_\_, 2000, at \_\_\_\_\_.m., under Recordation No. \_\_\_\_\_.

RECORDATION NO. 23309 FILED

JAN 4 '01 11-05 AM

SURFACE TRANSPORTATION BOARD

## RAILCAR AND LOCOMOTIVE MORTGAGE AND SECURITY AGREEMENT

THIS RAILCAR AND LOCOMOTIVE MORTGAGE AND SECURITY AGREEMENT ("Mortgage") dated as of December 28, 2000, made by and between THE LOUISIANA AND NORTH WEST RAILROAD COMPANY, a Louisiana corporation, with an office at 210 West Main Street, Homer, Louisiana 71040 ("Borrower"), and GENERAL ELECTRIC CAPITAL CORPORATION, a New York corporation, with an office at 5400 LBJ Freeway, Suite 525, Dallas, Texas 75240 ("Lender").

PRELIMINARY STATEMENT: Lender, on or about the date hereof, has extended credit to Borrower pursuant to the terms of that certain Credit Agreement dated as of December 28, 2000, by and among Borrower, the Persons named therein as Credit Parties and Lender (including all annexes, exhibits and schedules thereto, and as from time to time amended, restated, supplemented or otherwise modified, the "Credit Agreement"). It is a condition precedent to the making of the Loan contemplated by the Credit Agreement that Borrower shall have granted the security interest contemplated by this Mortgage. All capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Credit Agreement or Annex A thereto.

NOW, THEREFORE, in consideration of the premises and in order to induce Lender to make the loan contemplated by the Credit Agreement, the parties hereby agree as follows:

### 1. SECURITY

1.1 Collateral. Borrower hereby grants, conveys, pledges, mortgages, assigns, transfers and sets over to Lender, and does hereby grant Lender a continuing, first priority security interest in and to, and chattel mortgage lien on, all of Borrower's right, title and interest in and to the following collateral (the "Collateral"), to have and to hold all and every part of the Collateral unto Lender, its successors and assigns, for its and their own use and benefit forever:

(a) all of the railcars and locomotives identified on Schedule 1, attached hereto and incorporated herein by this reference (individually and collectively, "Rolling Stock");

(b) all improvements, additions, modifications, accessions, equipment, appurtenances and parts appertaining or attached to the Rolling Stock, whether now owned or hereafter acquired, and all substitutions and replacements of the Rolling Stock described above (the Rolling Stock and the equipment described in this subsection (b) herein being hereinafter collectively called the "Equipment Collateral");

(c) all proceeds, rentals, casualty value payments or proceeds, settlement payments and requisition compensation from the sale, loss or other disposition of the Equipment Collateral;

(d) all rights, claims and causes of action, if any, that Borrower may have now or in the future against any seller of any of the Rolling Stock under a purchase agreement relating thereto or against any manufacturer or re-builder of the Equipment Collateral (or any component thereof) or any

other party, by contract or otherwise, in respect of any defect in the Equipment Collateral or any part thereof;

(e) any agreement now or hereafter entered into for leasing, use or hire of the Rolling Stock to any third party, including, without limitation, any lease, and replacements thereof, between Borrower, as lessor, and a third party, as lessee, with respect to any or all of the Rolling Stock (hereinafter a "Lease"), together with all of Borrower's right, title, interest, claims and demand in, to and under said agreements, including all extensions, renewals and replacements thereof, together with all rights, powers, privileges, options, and other benefits of Borrower, including, without limitation, the right to receive all notices, give consents, exercise any election or option, declare defaults and demand payments with respect thereto;

(f) all rent, issues, income, profits, damages and other moneys from time to time payable to or receivable by Borrower in respect of the Equipment Collateral;

(g) all proceeds (cash and non-cash) thereof; and

(h) all books and records relating to any of the foregoing.

1.2 Lender as Agent. Borrower hereby appoints Lender, its successors and assigns, the true and lawful attorney of Borrower, irrevocably and with full power of substitution, in the name of Borrower or otherwise, (a) to demand, receive, compromise, sue for, and give acquittance for, any and all rents, profits, moneys and claims for money due and to become due with respect to the Collateral or otherwise arising out of this Section 1; (b) to endorse any checks or other instruments or orders in connection therewith; and (c) following the occurrence of any condition or event which with the giving of notice or lapse of time or both, would, unless cured or waived, become an Event of Default hereunder (hereinafter, a "Default") or an Event of Default and during the continuance thereof, to make all waivers and agreements and to file any claims or take any actions or institute any proceedings with respect thereto that Lender may deem reasonably necessary or advisable.

Anything herein contained to the contrary notwithstanding, neither Lender nor its nominee or assignee shall have any obligation or liability by reason of or arising out of this Section 1 to make any inquiry as to the nature or sufficiency of, to present or file any claim with respect to, or to take any action to collect or enforce the payment of, any amount to which it may be entitled at any time or times by virtue of this Section 1.

1.3 Perfecting Interest in Collateral. Borrower shall, from time to time and at its sole cost and expense, promptly execute, acknowledge, witness, deliver, file and/or record, or procure the execution, acknowledgement, witnessing, delivery, filing and/or recording of, such documents or instruments, and shall take or cause to be taken such other actions, as Lender may reasonably request for the perfection against Borrower and all third parties of the security interest created by this Section 1, of the rights and powers herein granted to Lender and for the continuation and protection thereof and promptly give to Lender evidence satisfactory to Lender of such delivery and filing and/or recording. Without limiting the generality of the foregoing, Borrower shall from time to time and at any time execute, acknowledge, witness and deliver such financing and continuation statements, notices and additional security agreements, make such notations on its records and take such other action as Lender may

reasonably request for the purpose of so perfecting, maintaining and protecting such security interest of Lender, and shall cause this Mortgage and each such financing and continuation statement, notice and additional security agreement to be filed or recorded in such manner and in such places as may be required by applicable law and as Lender may reasonably request for such purpose. Borrower hereby authorizes Lender to effect any filing or recording which Lender has requested pursuant to this Section 1.3 without the signature of Borrower to the extent permitted by applicable law. The costs and expenses of Lender with respect to such actions shall be payable by Borrower on demand with interest thereon at the Default Rate as provided in the Credit Agreement, from the date incurred until paid in full.

1.4 Disclaimer by Lender. Lender makes no representations or warranties with respect to the Collateral or any part thereof. Lender shall not be chargeable with any obligations or liabilities of Borrower with respect to the Collateral. Lender shall have no liability or obligation arising out of any claims, known or unknown, with respect to the Collateral.

1.5 Release of Collateral. Upon the indefeasible payment in full of all sums due under the Credit Agreement and other Loan Documents and discharge of all of Borrower's Obligations (as that term is defined below), Lender shall release, at Borrower's sole cost and expense, any and all security delivered pursuant to this Mortgage, the Credit Agreement and the other Loan Documents.

## 2. SECURITY FOR OBLIGATIONS

This Mortgage secures the payment and performance of (i) all present and future obligations of Borrower to Lender under the Credit Agreement and the other Loan Documents and any replacements, renewals, extensions, amendments, restatements and other modifications thereof or thereto, and (ii) any other obligations of Borrower to Lender, whether monetary, nonmonetary, direct, indirect, acquired, joint, several, joint and several, liquidated, unliquidated, contractual, noncontractual, existing, future, contingent or otherwise, and any replacements, renewals, extensions and other modifications of any of the above, together with any interest, fees, expenses and other charges thereon, and any amounts expended by or on behalf of Lender for the protection and preservation of the security interest granted herein by Borrower to Lender (all such obligations being the "Obligations").

## 3. USE AND MAINTENANCE

### 3.1 Maintenance.

(a) During the term hereof: Borrower shall use, and cause each lessee and permitted sublessee of any of the Rolling Stock to use, the Rolling Stock in the manner for which it was designed and intended so as to subject it only to reasonable wear and tear from proper use alone excepted. The Rolling Stock shall not be used in any manner that is in violation of, or more hazardous than permitted by, the insurance maintained under Section 4.1. Borrower agrees that it will not, and will cause each lessee and permitted sublessee not, to discriminate against any Rolling Stock (as compared to other similar equipment owned or leased by it) with respect to its use, operation or maintenance in contemplation of the expiration or termination of any Lease.

(b) At its own expense, Borrower shall maintain, service, repair, overhaul and keep, or cause each lessee and permitted sublessee of any of the Rolling Stock to maintain, service, repair, overhaul and keep, all of the Rolling Stock and the component parts thereof in good operating condition and repair suitable for the commercial use as originally designed and intended (i) in accordance with prudent Class III railroad industry maintenance practices and the maintenance practices used by it, any lessee or any permitted sublessee (as the case may be) of any of the Rolling Stock in respect of equipment owned or leased by it, by any lessee or by any permitted sublessee (as the case may be) similar in nature to the Rolling Stock, (ii) in compliance with all applicable laws, and (iii) eligible for railroad interchange in the hands of Borrower or any lessee and permitted sublessee of any of the Rolling Stock in accordance with the interchange rules of the United States Department of Transportation, the Federal Railroad Administration, the Surface Transportation Board (“STB”) and the Association of American Railroads, to the extent applicable. Borrower shall perform, or cause each lessee and permitted sublessee of any of the Rolling Stock to perform, all inspections of the Rolling Stock and maintain all records, logs and other materials required to be maintained in respect of the Rolling Stock by the United States Department of Transportation or any other Governmental Authority or regulatory body having jurisdiction over it, any lessee or any permitted sublessee (as the case may be) of the Rolling Stock.

(c) Borrower shall not make, nor permit any lessee or any permitted sublessee of any of the Rolling Stock to take any additions, improvements, modifications or alterations to any Rolling Stock unless consented to in writing by Lender and the same are readily removable without causing material damage to such Rolling Stock or otherwise adversely affecting the value or utility of such Rolling Stock.

3.2 Use and Possession in Railroad Operations. So long as no Default or Event of Default shall have occurred, Borrower, any lessee or permitted sublessee of any of the Rolling Stock shall be entitled to the possession of the Rolling Stock and to the use thereof upon the lines of railroad owned or operated by it, by any rail carrier, any lessee, by any permitted sublessee or any affiliates thereof, or upon lines of railroad over which it, any rail carrier, such lessee, such permitted sublessee or any affiliate thereof has trackage or other operating rights or over which their railroad equipment is regularly operated pursuant to a written contract or agreement, or upon connecting and other carriers’ trackage in the usual interchange of traffic or pursuant to run-through or pooling arrangements, but only upon and subject to all the terms and conditions of this Mortgage. Notwithstanding the foregoing or any other provision hereof to the contrary, Borrower shall neither assign nor permit or suffer the assignment of any Rolling Stock to service (including run-through services), nor locate or permit or suffer the location of any Rolling Stock, outside the continental United States of America or Mexico.

3.3 Marking of Rolling Stock. Borrower shall, at its sole cost and expense, cause the Rolling Stock to be kept numbered with the identifying road numbers set forth in Schedule 1 attached hereto, and to keep and maintain marked, plainly, distinctly, permanently and conspicuously by a plate or stencil printed in contrasting colors upon each side of all Rolling Stock in letters not less than one inch in height the words “Ownership Subject to a Security Agreement Filed with the Surface Transportation Board” or other appropriate markings approved to in writing by Lender, with appropriate changes thereof and additions thereto as from time to time may be required by applicable law in order to protect Lender’s security interest in the Equipment Collateral, including, but not limited to, the Rolling Stock and its rights under this Mortgage. Borrower shall, at its sole cost and expense, cause any such markings that may be removed, defaced, obliterated or destroyed to be promptly replaced and shall not

change, or permit the numbers of the Rolling Stock to be changed unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with Lender and filed, recorded and deposited by Borrower in all public offices where this Mortgage shall have been filed, recorded and deposited and (ii) Borrower shall have furnished Lender an opinion of counsel to the effect that such changes have not impaired the Lender's duly perfected, first priority security interest in, and lien on, the Collateral.

3.4 Prohibition against Certain Designations. Borrower will not allow the name of any person or entity other than Borrower to be placed on any of the Rolling Stock as a designation that might be interpreted as a claim of ownership.

3.5 Registration of Equipment Collateral. Borrower shall, at its sole cost and expense, register or cause to be registered the Rolling Stock and any substitute or replacement equipment in accordance with any and all applicable federal, state, and local registration requirements of the Association of American Railroads, the United States Department of Transportation and the STB.

3.6 Rules, Laws and Regulations. Borrower shall comply, and will cause each lessee and any permitted sublessee of any of the Equipment Collateral to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment Collateral), with all applicable laws, including all interchange rules of the Association of American Railroads and all rules and regulations of the United States Department of Transportation, the Federal Railroad Administration and the STB or any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment Collateral. In case any equipment or appliance is required to be altered, added, replaced or modified on any Rolling Stock in order to comply with such applicable laws, at its own expense, Borrower agrees to make, or cause any lessee or any permitted sublessee (as the case may be) of the Rolling Stock to make, such alterations, additions, replacements or modifications and title thereto shall be immediately vested in Borrower, free and clear of any liens or encumbrances other than the lien of Lender; provided, however, that Borrower, any lessee or any permitted sublessee (as the case may be) may, in good faith, contest the validity or application of any such law in any reasonable manner which does not, in the sole opinion of Lender, adversely affect the Collateral or any of its rights hereunder.

#### 4. INSURANCE AND CASUALTY

4.1 Insurance. Borrower, at its sole cost and expense, will carry and maintain, or shall cause any lessee or any permitted sublessee of any of the Rolling Stock, at its own cost and expense, independently or in conjunction with Borrower, to carry and maintain:

(i) all risks property insurance with respect to each item of Rolling Stock in an amount equal to the fair market value of such item of Rolling Stock (hereinafter, its "Casualty Value"), with a deductible not in excess of \$5,000 per occurrence;

(ii) commercial general public liability insurance with respect to third party personal, bodily injury including death, property damage, liability (including contractual liability and cross liability), in each case with deductibles not in excess of \$50,000 per occurrence and in such amounts of not less than \$1,000,000 per occurrence; and

(iii) insurance required under the Workers' Compensation Act for employee injury or death or occupational disease, and Workers' Compensation Insurance as required by law.

Each policy of insurance shall:

(a) be issued by one or more recognized, financially sound and responsible insurance companies approved by Lender, which are qualified or authorized by the applicable laws of the states in which Borrower does business to assume the risks covered by such policy, and rated "B+" or higher by A.M. Best Company Best's Insurance Guide and Key Ratings;

(b) with respect to the property insurance, have attached thereto standard non-contributing, non-reporting mortgagee clauses in favor of and entitling Lender without contribution to collect any and all proceeds payable under such insurance;

(c) provide that Lender shall be given at least thirty (30) days' prior written notice of the effective date of cancellation or material change in coverage;

(d) provide that insurance as to the interest of Lender shall not be invalidated by any actions, inactions, breaches of warranty or conditions, or negligence of Borrower, the lessee or any permitted sublessee of any of the Rolling Stock or any other person or entity with respect to each such policy and that any loss otherwise payable thereunder shall be payable notwithstanding any such actions, inactions, breaches or negligence of Borrower, any lessee or any permitted sublessee of any of the Rolling Stock or any other person or entity that might, absent such provision, result in a forfeiture of all or a part of such insurance payment, which insurance shall provide the insurer's waiver of its right of subrogation, set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability against Borrower and provide that there is no recourse against Lender or any assignee for payment of premium, commissions, direct calls, assessments or advances;

(e) be in amounts not less than and insure against such risks so as to be no less protective than the insurance, if any, maintained by Borrower, any lessee or any permitted sublessee of any of the Rolling Stock with respect to similar equipment which it owns or leases;

(f) be consistent with prudent railroad industry practice and otherwise be in form and content satisfactory to Lender; and

(g) insure against such further risks as Lender may specify from time to time.

Borrower shall furnish Lender with certificates or other evidence satisfactory to it of the maintenance of the insurances so required.

Borrower shall immediately notify Lender of any cancellation, alteration or non-renewal of any of such insurance policies. Borrower shall promptly pay, or cause to be paid, all premiums when due on such insurance and, not less than thirty (30) days prior to the expiration date of each such policy or policies, Borrower shall deliver, or cause to be delivered, to Lender a renewal policy or policies marked "premium paid" or accompanied by other evidence of payment satisfactory to Lender. No policy of insurance shall be written such that the proceeds thereof will produce less than the minimum coverage required by this Section 4.1 by reason of co-insurance provisions or otherwise. Lender shall not, because of accepting, rejecting, approving or obtaining insurance, incur any liability for (1) the

existence, non-existence, form or legal sufficiency thereof, (2) the solvency of any insurer, or (3) the payment of losses.

If Borrower fails to maintain the insurance required by this Section 4.1, Lender may procure such insurance (but is not obligated to do so) and the cost of such insurance shall be deemed an Obligation hereunder secured hereby and will be payable to Lender on demand with interest at the Default Rate from the date incurred until paid in full. Borrower agrees that the proceeds of all such insurance, if any loss should occur, shall be applied to the payment of any or all of the Obligations hereby secured or to the cost, in whole or in part, of the repair, restoration and replacement of the property damaged or destroyed (without obligation to see that the funds are so applied), as Lender may elect or direct in its sole discretion. Lender shall have the right, in Borrower's name, any lessee's or any permitted sublessee's name or in its own name, to file claims under any insurance policies, to receive, receipt and give acquittance for any payments that may be made thereunder, and to execute any and all endorsements, receipts, releases, assignments, reassignments or other documents as may be necessary to effect the collection, compromise or settlement of any claims under any such insurance policies.

4.2 Duty of Borrower to Notify Lender of a Casualty Occurrence, Modification Termination or Abatement. In the event (a)(i) of the loss or theft of any Rolling Stock, (ii) of the actual or constructive total loss of any Rolling Stock, (iii) of the destruction of any Rolling Stock or damage thereto to such extent as shall make repair thereof uneconomical or shall render the Rolling Stock permanently unfit for normal use for any reason whatsoever, (iv) any Rolling Stock shall be worn out, (v) title to or use of any Rolling Stock shall be requisitioned or taken by any Governmental Authority under the power of eminent domain or otherwise, (vi) any Rolling Stock shall have been returned permanently to Borrower pursuant to a material breach of a warranty of Borrower, or (vii) the use of any Rolling Stock in the normal course of interstate rail transportation shall have been prohibited as a result of any rule, regulation, order or other action by a United States Governmental Authority or regulatory body for a continuous period (any such occurrence being hereinafter called a "Casualty Occurrence"), or (b) a termination of a Lease as it relates to an item of Rolling Stock (hereinafter, a "Modification Termination") or (c) any rent abatement provided for in a Lease (hereinafter, an "Abatement") occurs, Borrower shall promptly, and in any event within thirty (30) days after the occurrence thereof, notify Lender of such Casualty Occurrence, Modification Termination or Abatement (as the case may be) and shall pay to Lender, in accordance with the terms of Section 4.3 hereof, the Casualty Value thereof.

4.3 Sum Payable As a Result of a Casualty Occurrence, a Modification Termination or an Abatement. Borrower shall pay to Lender, on the Payment Date (as defined below), a sum equal to the Casualty Value of such Rolling Stock sustaining a Casualty Occurrence, a Modification Termination or an Abatement (as the case may be). Notwithstanding the foregoing, so long as any Rolling Stock continues to be leased to a lessee pursuant to a Lease, (a) Borrower shall, pending its payment to Lender of said Casualty Value, continue to pay to Lender, at the times in the amounts specified in Credit Agreement and the other Loan Documents, all installment payments due from time to time thereunder; and (b) Borrower shall not be obligated to pay the Casualty Value for any Rolling Stock sustaining a Casualty Occurrence, if, on or before the due date therefor, Borrower replaces such Rolling Stock and obtains the prior written consent of Lender (which consent may be withheld in Lender's sole discretion, and be subject to the satisfaction of various conditions thereto established by

Lender pertaining to the value of and title to the Rolling Stock and such other matters as Lender may then deem appropriate).

For purposes hereof, the term "Payment Date" means (i) with respect to a Casualty Occurrence taking place while any Lease is in effect, the date on which the next scheduled payment date under the Credit Agreement following the happening of such event; (ii) with respect to a Casualty Occurrence taking place after any Lease has been terminated, on the next scheduled payment date under the Credit Agreement following the happening of such event; (iii) with respect to the sale of any Rolling Stock, the date on which said Rolling Stock is sold and title conveyed to the purchaser thereof; (iv) with respect to an Abatement, the date upon which such Abatement shall become effective in accordance with any Lease; and (v) with respect to a Modification Termination, the date upon which such Modification Termination shall become effective in accordance with any Lease.

## 5. REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to Lender the following:

5.1 Organization and Qualification. Borrower is a corporation duly organized, validly existing and in good standing under the laws of Louisiana. Borrower has duly qualified and is authorized to do business and is in good standing as a foreign corporation in Arkansas and in all other states and jurisdictions where the character of its properties or the nature of its activities make such qualification necessary or in which the failure of Borrower to be so qualified would have a material adverse effect on the financial condition, business or properties of Borrower.

5.2 Corporate Names. During the preceding seven (7) years, Borrower has not been known as or used any corporate, fictitious or trade names. Borrower has not, during the preceding seven (7) years, been the surviving corporation of a merger or consolidation or acquired all or substantially all of the assets of any person or entity.

5.3 Corporate Power and Authority. Borrower has the full right and corporate power and is duly authorized and empowered to enter into, execute, deliver and perform this Mortgage, the Credit Agreement and each of the other Loan Documents. The execution, delivery and performance of this Mortgage, the Credit Agreement and each of the other Loan Documents have been duly authorized by all necessary corporate action and do not and will not (i) require any consent or approval of the shareholders of Borrower; (ii) contravene Borrower's charter, articles of incorporation or bylaws; (iii) violate, or cause Borrower to be in default under, any provision of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award in effect having applicability to Borrower; (iv) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other agreement, lease or instrument to which Borrower is a party or by which it or its properties may be bound or affected; or (v) result in, or require, the creation or imposition of any lien (other than those created hereunder in favor of Lender) upon or with respect to any of the properties now owned or hereafter acquired by Borrower.

5.4 Legally Enforceable Agreement. This Mortgage is, and each of the other Loan Documents when delivered will be, a legal, valid and binding obligation of Borrower enforceable

against it in accordance with its terms, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency and other similar laws affecting creditors' rights generally or by principles of equity pertaining to the availability of equitable remedies.

5.5 Regulatory Approvals. No authorization, approval or other action by, and no notice to or filing with, any Governmental Authority or regulatory body is required either (i) for the grant by Borrower of the security interest granted hereby or for the execution, delivery or performance of this Mortgage and the other Loan Documents by Borrower or (ii) for the perfection of or the exercise by Lender of its rights and remedies hereunder.

5.6 Security Interest. This Mortgage creates a valid and perfected first priority security interest in the Collateral, securing the payment of the Obligations, and all filings and other actions necessary or desirable to perfect and protect such security interest have been duly taken.

## 6. AFFIRMATIVE COVENANTS

Borrower covenants and agrees that so long as any of the Obligations remains outstanding, Borrower shall:

6.1 Valid Existence. Maintain at all times its valid corporate existence in the State of Louisiana and shall qualify or register to do business as a foreign corporation in Arkansas and in each other jurisdiction in which the character of the property owned by it or in which the transaction of its business makes such qualification necessary.

6.2 Payment Taxes and Claims. Pay or discharge when due, or cause each lessee and any permitted sublessee of any of the Rolling Stock to pay or discharge when due, all taxes, assessments and all claims which might become a lien on the Collateral as the same become due prior to the date on which Borrower, such lessee or such permitted sublessee (as the case may be) is contesting in good faith, by appropriate and diligent legal proceedings and with respect to which Borrower, such lessee or such permitted sublessee (as the case may be) has established adequate reserves in accordance with generally accepted accounting principles, consistently applied.

6.3 Visits and Inspections. Permit, and cause each lessee and any permitted sublessee of any of the Rolling Stock to permit, representatives (whether or not officers or employees) of Lender, from time to time, as often as may be reasonably requested to (a) visit and inspect the Collateral wherever the same may be located from such books, logs and records related thereto, (b) make extracts from such books, logs and records, and (c) discuss with its principal officers and its independent agents any questions that Lender may have with respect to the same.

6.4 Encumbrances. Immediately pay or discharge any and all sums claimed by any party from, through or under Borrower which, if unpaid, might become a lien on or with respect to the Collateral or any unit thereof, and will promptly discharge any such lien or other lien which arises, attaches to, or affects the Collateral, except for any such claims or liens which Borrower is contesting in good faith by appropriate legal proceedings so long as Borrower's participation in such proceedings shall operate to prevent the collection of such claim or enforcement of such lien or any material risk

thereof or of any seizure, forfeiture or other loss of possession or rights in any of the Collateral and Borrower has given Lender such additional collateral as Lender demands as security for the Obligations, taking into account the circumstances affecting the Collateral that is subject to such claim or lien. Borrower shall also cause any lessee or any permitted sublessee (as the case may be) of any Rolling Stock to do the same.

6.5 Repossession of Rolling Stock. Immediately upon the request of Lender, exercise any rights it may have to repossess the Rolling Stock covered by any Lease, pursuant to the Section 1168 of Title 11 of the United States Code or any related or successor statute, if applicable.

6.6 Compliance with AAR Regulations, etc. Comply, and cause each lessee and any permitted sublessee of any of the Rolling Stock to comply, with the rules and regulations of the Association of American Railroads and any successor organization thereof, the United States Department of Transportation, the Federal Railroad Administration and the STB as they relate to or affect the Equipment Collateral.

6.7 Preservation of Licenses. Preserve and maintain all of its other franchises, licenses, rights and privileges, the absence of which would have a Material Adverse Effect on the financial condition or business operations of Borrower or on the value of the use of Borrower's assets.

6.8 Books and Records.

(a) keep and maintain accurate books and records in accordance with generally accepted accounting principles, consistently applied,

(b) unless Lender shall otherwise consent in writing, keep and maintain all such books and records only at the address of Borrower listed above and only in appropriate containers in safe places, and

(c) so long as Lender has given Borrower twenty-four (24) hours advance notice thereof, permit any person or entity designated by Lender to enter its premises and examine, audit and inspect the books and records at any reasonable time and from time to time without notice.

6.9 Taxes. Pay all taxes and assessments in connection with the issuance or delivery of the Credit Agreement and the execution and delivery of this Mortgage and the other Loan Documents and the transactions contemplated thereby and will save Lender harmless, without limitation as to time, against any and all liabilities with respect to all such amounts. Borrower will also pay all other taxes and assessments that may be levied on the Credit Agreement or any of the other Loan Documents or interest thereon, except any income tax imposed under the laws of the United States of America or other Governmental Authority or regulatory body, and will save Lender harmless, without respect to all such amounts. The obligations of Borrower under this Section 6.9 shall survive the payment or prepayment of the Note and the other Obligations.

6.10 Notices. Promptly deliver to Lender all reports, notices, documents and other information provided to it by any lessee under any Lease or by any permitted sublessee (as the case may be) and any default under a Lease.

6.11 Additional Materials. From time to time and promptly upon request of Lender, deliver to Lender such data, certificates, reports, statements, documents or further information regarding this Mortgage, the Collateral of any of the other Loan Documents, any Lease, any lessee under a Lease or any permitted sublessee, in each case in form and substance and certified in a manner satisfactory to Lender.

6.12 Duty of Borrower to Furnish Information. On or before the last day of December, 2001 and on or before the last day of each December thereafter, Borrower will furnish, or will cause any lessee or permitted sublessee (as the case may be) to furnish, to Lender an accurate statement, as of the preceding December 31 (a) showing the location of all Rolling Stock (to the extent such information is available from any lessee or any permitted sublessee); (b) whether such Rolling Stock is under lease and sublease and if so, to whom; (c) the amount, description or numbers of all Rolling Stock that may have suffered a Casualty Occurrence during the twelve (12) months ending on such December 31 or are then undergoing repairs (other than running repairs) or are then withdrawn from use pending such repairs; and such other information regarding the condition and state of repair of the Rolling Stock as Lender may reasonably request; and (d) stating that, in the case of all Rolling Stock repainted or repaired during the period covered by such statement, the numbers and markings required by Section 3.3 shall have been preserved or replaced. Lender shall have the right, by its respective agents, to inspect the Rolling Stock, and Borrower's and, if applicable, any lessee's records with respect thereto, at such reasonable times as Lender may request during the term hereof.

6.13 Governmental Regulation Generally. Borrower shall promptly notify Lender in the event if Borrower receives any notice, claim or demand from any Governmental Authority or regulatory body which alleges that Borrower is in violation of any of the terms of, or has failed to comply with, any applicable order issued pursuant to any applicable law, rule or regulation which might in any way affect Borrower's title to, or use and operation of, the Collateral or any of Lender's rights hereunder or under any of the other Loan Documents or which might otherwise affect in any material way the operation of Borrower's business.

6.14 Notice of Name Change. Borrower agrees that it will not change its name without first giving Lender not less than thirty (30) days prior written notice of such change.

6.15 Financial Statements. Borrower shall furnish to Lender financial statements of Borrower as provided in the Credit Agreement.

## 7. **NEGATIVE COVENANTS**

Borrower shall not, without the prior written consent of Lender, directly or indirectly:

7.1 Sale of Collateral. Sell, lease (other than to a lessee under a Lease), sublease, or otherwise transfer or dispose of any of the Collateral. Any consent of Lender to the disposition of the Collateral may be conditioned on a specified use of the proceeds of disposition.

7.2 Lease Assignment. Assign any of its rights under any Lease to any person or entity other than Lender or permit any lessee (other than as provided by the terms of the applicable Lease) or any permitted sublessee (as applicable) to assign its obligations to any other person or entity.

7.3 Lease Amendment. Agree to amend, supplement or modify any provision of any Lease.

7.4 Merger or Acquisition. Alter or amend its capital structure, dissolve, merge or consolidate with or into any other person or entity, or acquire any interest in, or a substantial portion of, the assets or obligations of any other person or entity.

7.5 Line of Business. Enter into any lines or areas of business substantially different from the business activities in which it is presently engaged.

## 8. REMEDIES

8.1 Acceleration. Upon the occurrence of an Event of Default (whether or not declared to be such by Lender), and in every such event and at any time thereafter, Lender may declare the Obligations to be immediately due and payable, both as to principal and interest, without presentment, demand, protest, or any notice of any kind, all of which are hereby expressly waived by Borrower, anything contained herein or in any of the other Loan Documents to the contrary notwithstanding.

8.2 Additional Rights and Remedies. Upon the occurrence of an Event of Default (whether or not declared to be such by Lender), and in every such event and at any time thereafter, Lender shall have all of the rights and remedies of a secured party under 49 U.S.C. § 11301 and, to the extent applicable, the UCC as in effect from time to time and may at Borrower's sole cost and expense, in addition to all other rights and remedies provided hereunder or under the other Loan Documents or as shall exist at law or in equity from time to time, without notice to Borrower:

(a) institute legal proceedings to recover judgment for all amounts then due and owing hereunder or under the Credit Agreement or any other of the other Loan Documents, and to collect the same;

(b) institute legal proceedings for the foreclosure and sale, under the judgment or decree of any court of competent jurisdiction, of the Collateral;

(c) institute legal proceedings for the appointment of a receiver or receivers pending foreclosure and sale of the Collateral under the order of a court of competent jurisdiction or under other legal process;

(d) personally, or by agents or attorneys, enter into and upon any premises wherein the Collateral or any part thereof, may then be located, and take possession of all or any part thereof with or without process of law and without being responsible for loss or damage, or render it unusable, and, without being responsible for loss or damage, hold, store and keep idle, or operate, lease or otherwise use or permit the use of the same or any part thereof for such time and upon such terms as Lender may determine, in a commercially reasonable manner;

(e) personally, or by agents or attorneys, sell or dispose of all or any part of the same, free from any and all claims of Borrower or of any other party claiming by, through or under Borrower at law, in equity or otherwise, at one or more public or private sales, in such place or places, at such time or times and upon such terms as Lender may determine, in a commercially reasonable manner with or without any previous demand on or notice to Borrower or advertisement of any such sale or other disposal, except that Lender shall provide Borrower with the notice required by Section 9.4; and for the aforesaid purposes, all other notices of sale, advertisement and demand and any right or equity of redemption otherwise required by, or available to Borrower under, applicable law are hereby waived by Borrower to the fullest extent permitted by applicable law; the power of sale hereunder shall not be exhausted by one or more sales, and Lender may from time to time adjourn any sale to be made hereunder;

(f) demand, collect, and retain all rents, earnings and all other sums due and to become due from any party whomsoever, accounting only for net earnings arising after charging against all receipts from the use and hire of or sale of the Collateral, all costs and expenses of, and damages or losses by reason of, such use and hire or sale;

(g) if and to the extent the Event of Default results from a breach by Borrower of any representation, warranty or covenant of Borrower contained herein, institute legal proceedings against Borrower to enforce performance of the applicable covenant of Borrower or to recover damages for the breach of any such representation, warranty or covenant;

(h) remove from Borrower's places of business all books, records, ledger sheets, correspondence, invoices and documents, relating to or evidencing any of the Collateral;

(i) make such use of Borrower's places of business as may be reasonably necessary to administer, control and collect the Collateral;

(j) require Borrower to assemble the Collateral and make it available to Lender, at a place designated by Lender; and

(k) offset and apply to all or any part of the Obligations all monies, securities and other funds on deposit with Lender or constituting proceeds of the Collateral, both now or at any time hereafter in the possession of, in transit to or from, under the control or custody of, Lender.

8.3 Power of Attorney. Borrower hereby appoints Lender as its attorney-in-fact to accomplish any of the rights and remedies set forth in Section 8.2, in the name of Borrower, Lender, or Lender's designees as Lender may from time to time elect, said appointment being coupled with an interest and being irrevocable. Borrower hereby ratifies and approves all acts of Lender as its attorney-in-fact and will not hold Lender liable for any acts of commission or omission nor for any error of judgment or mistake of fact or law.

8.4 Sale Notice, Expenses and Proceeds. Any written notice of the sale, disposition or other intended action by Lender with respect to the Collateral that is sent by regular mail, postage prepaid, to Borrower at the address set forth in Section 12, or such other address of Borrower that may from time

to time be shown on Lender's records, at least five (5) days prior to such sale, disposition or other action, shall constitute reasonable notice to Borrower. Borrower shall pay on demand all costs and expenses, including, without limitation, attorneys' fees and expenses, incurred by or on behalf of Lender in preparing for sale or other disposition, selling, managing, collecting or otherwise disposing of, the Collateral. All of such costs and expenses (the "Liquidation Costs") together with interest thereon from the date incurred until paid in full at the Default Rate, shall be paid by Borrower to Lender on demand and shall constitute and become a part of the Obligations. Any proceeds of sale or other disposition of the Collateral will be applied by Lender to the payment of the Liquidation Costs, and any balance of such proceeds will be applied by Lender to the payment of the balance of the Obligations in such order and manner of application as Lender may from time to time in its sole discretion determine. After such application of the proceeds, any surplus shall be paid to Borrower or to any other party entitled thereto, and Borrower shall be and remain liable to Lender in the event any deficiency remains.

8.5 Right to Purchase Collateral. At any sale pursuant to this Section 8, Lender or its agent may, to the extent permitted by applicable law, bid for and, if Lender is the highest bidder, purchase the Collateral offered for sale, may credit the unpaid balance of the Obligations against the purchase price and, upon compliance in full with the terms of such sale, may hold, retain and dispose of such property without further accountability therefor to Borrower or any other party.

8.6 Waiver by Borrower. To the fullest extent that it may lawfully so agree, Borrower shall not at any time insist upon, claim, plead, or take any benefit or advantage of, any appraisal, valuation, stay, extension, moratorium, redemption or any similar law now or hereafter in force in order to prevent, delay or hinder the enforcement of this Mortgage or the absolute sale of any part or all of the Collateral or the possession thereof by any purchaser at any sale pursuant to this Article. Borrower, for itself and all who may claim by, through or under it, as far as it or they now or hereafter lawfully may so do, hereby waives the benefit of all such laws and all right to have the Collateral marshalled upon any foreclosure hereof, and agrees that any court having jurisdiction to foreclose under this Mortgage may order the sale of the Collateral as any entirety or in lots.

8.7 Disclosures. Lender may disclose to, and exchange and discuss with, any other person or entity (Lender and each such other person or entity being hereby irrevocably authorized to do so) any information concerning Borrower (whether received by Lender or such person or entity in connection with or pursuant to this Mortgage or otherwise) for the purpose of protecting, preserving, exercising or enforcing any rights hereunder or under any of the other Loan Documents, or consulting with respect to any such rights or any rights of Borrower, and Lender may disclose to any person or entity any such information as may be required by applicable law or in accordance with Lender's normal procedures.

8.8 Cumulative Rights. Each right, power and remedy herein specifically granted to Lender or otherwise available to it shall be cumulative, and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or otherwise. Each right, power and remedy, whether specifically granted herein or otherwise existing, may be exercised, at any time and from time to time, as often and in such order as may be deemed expedient by Lender in its sole and complete discretion. The exercise or commencement of exercise of any right, power or remedy shall not be construed as a waiver of the right to exercise, at the same time or thereafter, the same or any other right, power or remedy. No delay or omission by Lender in exercising any such

right or power, or in pursuing any such remedy, shall impair any such right, power or remedy or be construed to be a waiver of any default on the part of Borrower or an acquiescence therein. No waiver by Lender of any breach or default of or by Borrower under this Mortgage shall be deemed to be a waiver of any other or similar, previous or subsequent breach or default.

## 9. RETURN OF ROLLING STOCK UPON DEFAULT

9.1 Borrower's Duty to Return. If, following the occurrence of an Event of Default, Lender requests Borrower to assemble and return all Rolling Stock to it, Borrower shall forthwith deliver, or cause any lessee or any permitted sublessee (as the case may be) to deliver, possession of the Rolling Stock to Lender. For the purpose of delivering possession of the Rolling Stock to Lender as above required, Borrower shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Rolling Stock has been interchanged to return the Rolling Stock so interchanged) place such Rolling Stock upon such storage tracks in the continental United States of America as Lender may designate, or, in the absence of such designation, as Borrower may select;

(b) permit Lender to store such Rolling Stock on such tracks at the risk of Borrower until such Rolling Stock has been sold, leased or otherwise disposed of by Lender and during such period of storage, Borrower shall continue to maintain all insurance required by Section 4.1 and shall otherwise satisfy its obligations under Section 1 hereof; provided, further, that Borrower shall be and continue to remain liable for the costs of storing and insuring the Rolling Stock, notwithstanding the removal thereof from Borrower's storage tracks at the end of period of storage, until such Rolling Stock is disposed of by Lender; and

(c) cause any or all of the Rolling Stock to be moved to such interchange point or points in the continental United States of America as shall be designated by Lender upon any sale, lease or other disposal of such Rolling Stock.

9.2 Specific Performance. The assembling, delivery, storage and transporting of the Rolling Stock as provided herein shall be at the expense and risk of Borrower and are of the essence of this Mortgage, and upon application to any court of equity having jurisdiction in the premises Lender shall be entitled to a decree against Borrower requiring specific performance of the covenants of Borrower so to assemble, deliver, store and transport the Rolling Stock. During any storage period, Borrower will permit Lender or any person or entity designated by it, including the authorized representative or representatives of any prospective purchaser of any such Rolling Stock, to inspect the same.

9.3 Lender Appointed Borrower's Agent. Without in any way limiting the obligation of Borrower under the foregoing provisions of this Section 9, Borrower hereby irrevocably appoints Lender as the agent and attorney of Borrower, with full power and authority (which power is coupled with an interest), at any time while Borrower is obligated to deliver possession of any Rolling Stock to Lender, to demand and take possession of such Rolling Stock in the name and on behalf of Borrower from whosoever shall be at the time in possession of such Rolling Stock.

## 10. OTHER RIGHTS AND OBLIGATIONS

10.1 Borrower Remains Liable. Anything herein to the contrary notwithstanding, (a) Borrower shall remain liable under the contracts and agreements included in the Collateral to the extent set forth therein to perform all of its duties and obligations thereunder to the same extent as if this Mortgage had not been executed, (b) the exercise by Lender of any of the rights hereunder shall not release Borrower from any of its duties or obligations under the contracts and agreements included in the Collateral, and (c) Lender shall not have any obligation or liability under the contracts and agreements included in the Collateral by reason of this Mortgage, nor shall Lender be obligated to perform any of the obligations or duties of Borrower thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

10.2 Lender May Perform. If Borrower fails to perform (i) any agreement contained herein or in any Lease or (ii) any obligation Borrower may perform for a lessee under a Lease, Lender may itself perform, or cause performance thereof (but Lender shall have no obligation to perform or cause performance thereof), and the expenses of Lender incurred in connection therewith shall be payable by Borrower under Section 12.5.

10.3 Lender's Duties. The power conferred on Lender hereunder are solely to protect its interest in the Collateral and shall not impose any duty upon it to exercise any such powers. Except for the safe custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, Lender shall have no duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral.

## 11. CONTINUING SECURITY INTEREST; TRANSFER OF NOTE

This Mortgage shall create a continuing security interest in the Collateral and shall (i) remain in full force and effect until payment in full of the Obligations, (ii) be binding upon Borrower, its successors and assigns and (iii) inure to the benefit of Lender and its successors, transferees and assigns. Without limiting the generality of the foregoing clause (iii), Lender may assign or otherwise transfer all or some of the Loan Documents held by it to any other person or entity, and such other person or entity shall thereupon become vested with all the benefits in respect thereof granted to Lender herein or otherwise. Upon the payment in full of the Obligations, the security interest granted hereby shall terminate and all rights to the Collateral shall revert to Borrower. Upon any such termination, Lender will, at Borrower's expense, execute and deliver to Borrower such documents as Borrower shall reasonably request to evidence such termination.

## 12. MISCELLANEOUS

12.1 Indemnity for Misrepresentations or Breaches of Covenants. Borrower hereby further covenants and agrees with Lender that in any suit, proceeding or action brought or taken by Lender under any Loan Document, Borrower will save, indemnify and keep Lender harmless from and against

all losses, damages, liabilities and expenses (including legal fees and expenses) suffered by Lender as a result of any misrepresentation or any breach by Borrower of any of its obligations hereunder.

12.2 Liability of Lender. Borrower hereby agrees that Lender shall not be chargeable for any negligence, mistake, act or omission of any accountant, examiner, agency or attorney contracted for by Lender in making examinations or investigations, or otherwise in perfecting, maintaining, protecting or realizing upon any security for the Obligations.

12.3 Notices. All notices and other communications under this Mortgage and the other Loan Documents, shall (a) be in writing (which shall include communications by facsimile), (b) be (i) sent by certified mail, postage prepaid, return-receipt requested, (ii) sent by prepaid facsimile, or (iii) delivered by hand, and (c) be given at the following respective addresses and/or facsimile numbers:

(i) if to Borrower, at:

The Louisiana and North West Railroad Company  
210 West Main Street  
Homer, LA 71040  
Facsimile No.: (318) 927-2031  
Telephone No.: (318) 927-2549

(ii) if to Lender, at:

General Electric Capital Corporation  
Capital Funding, Inc.  
5400 LBJ Freeway, Suite 525  
Dallas, TX 75240  
Attention: Pamela A. Wozniak, Risk Manager  
Telecopier No.: (972) 419-3289  
Telephone No.: (972) 419-3254

with a copy to:

Husch & Eppenberger, LLC  
1200 Main Street, Suite 1700  
Kansas City, MO 64105  
Attention: Christopher J. Rockers, Esq.  
Telecopier No.: (816) 421-0596  
Telephone No.: (816) 421-4800

and

General Electric Capital Corporation  
401 Merritt Seven, 2<sup>nd</sup> Floor  
Norwalk, CT 06856  
Attention: Counsel/Capital Funding, Inc.  
Telecopier No.: (203) 229-1991  
Telephone No.: (203) 229-1923

or at such other address, or facsimile number as Lender or Borrower may hereafter specify for the purpose in a notice to the other specifically captioned "Notice of Change of Address". Such notices and communications shall be effective or deemed delivered or furnished (i) if given by mail, on the third (3rd) Business Day after such communication is deposited in the U.S. mail, addressed as above provided, (ii) if given by facsimile, when such communication is transmitted to the appropriate number and the appropriate answer-back is received or receipt is otherwise acknowledged, and (iii) if given by hand delivery, when left at the address of the addressee addressed as above provided.

12.4 Expenses.

Borrower will, on demand:

(a) pay or reimburse Lender for all reasonable out-of-pocket costs and expenses, including legal fees and disbursements and fees and disbursements of other experts, incurred by Lender in connection with (i) the preparation, execution and delivery of this Mortgage, the other Loan Documents, and any amendment, modification or waiver hereof or thereof hereunder, (ii) the protection, preservation, exercise or enforcement of any of its rights under this Mortgage, under the Credit Agreement, the other Loan Documents or any other document issued pursuant thereto or in connection therewith, and (iii) the defense of any claim referred to in clause (b)(i) below; and

(b) pay, and indemnify and hold Lender harmless from and against (i) any losses in connection with any claim in any way arising out of, related to or connected with, this Mortgage, the Credit Agreement, the other Loan Documents or any Lease, including, without limitation, any losses suffered by reason of any defense, setoff, counterclaim or recoupment by any lessee or its successors under any Lease and (ii) all transfer, documentary stamp and similar taxes, and recording and filing fees, payable in respect to this Mortgage and the other Loan Documents. Borrower's obligations under this Section 12.4 shall survive the repayment in full of the Obligations.

12.5 Waivers; Amendments. Any term, covenant, agreement or condition of this Mortgage or any of the other Loan Documents may be amended or waived, and any departure therefrom may be consented to, if, but only if, such amendment, waiver or consent is in writing and is signed by Lender and, in the case of each amendment, is signed by Borrower. Unless otherwise specified in such waiver or consent, a waiver or consent given hereunder shall be effective only in the specific instance and for the specific purpose for which given.

12.6 Binding Agreement; Assignment. All the provisions of this Mortgage shall be binding upon and inure to the benefit of the parties hereto and their respective successor and assigns, except

that Borrower may not assign or transfer any of its rights or obligations under this Mortgage, and no such assignment or transfer of any such obligation shall relieve Borrower therefrom unless Lender shall have consented to such release in a writing specifically referring to the obligation from which Borrower is to be released.

12.7 Severability of Provisions. Any provision of this Mortgage or any of the other Loan Documents which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or thereof or affecting the validity or enforceability of such provision in any other jurisdiction. To the extent permitted by applicable law, Borrower hereby waives any provision of law which renders any provision hereof or thereof prohibited or unenforceable in any respect.

12.8 Number; Gender. Whenever used herein, the singular number shall include the plural, the plural shall include the singular, and the use of the masculine, feminine or neuter gender shall include all genders.

12.9 Headings. The headings in this Mortgage are for convenience only and shall not limit or otherwise affect any of the terms hereof.

12.10 Counterparts. This Agreement and each of the other Loan Documents may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and shall be binding upon all parties, their successors and assigns.

12.11 Survival of Mortgage. All covenants, agreements, representations and warranties made by Borrower herein and in the other Loan Documents and in any other certificates, instruments or documents delivered pursuant hereto shall survive the making by Lender of the Loan contemplated by the Credit Agreement and the execution and delivery of the Term Note, and shall continue in full force and effect so long as any of the Obligations are outstanding and unpaid.

12.12 Entire Agreement. This Mortgage and the other Loan Documents embody the entire agreement between the parties hereto and supersede all prior agreements, representations and understandings, if any, relating to the subject matter hereof.

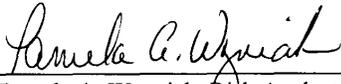
12.13 Governing Law; Terms. This Mortgage shall be governed by and construed in accordance with the internal substantive laws of the State of New York.

IN WITNESS WHEREOF, Borrower and Lender have caused this Mortgage to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

THE LOUISIANA AND NORTH WEST RAILROAD  
COMPANY

By:   
Name: Robert N. Iwamoto, Jr.  
Title: Secretary/Treasurer

GENERAL ELECTRIC CAPITAL CORPORATION

By:   
Pamela A. Wozniak, Risk Analyst

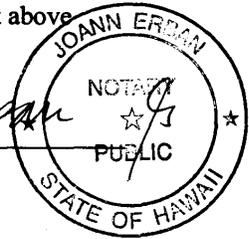


STATE OF Hawaii )  
 ) ss.  
COUNTY OF Honolulu )

On this 28<sup>th</sup> day of December, 2000, before me personally appeared ROBERT N. IWAMOTO, JR., to me personally known, who, being by me duly sworn did say that he/~~she~~ is the Secretary/Treasurer, of THE LOUISIANA AND NORTH WEST RAILROAD COMPANY, and that [~~the seal affixed to the foregoing instrument is the corporate seal of said corporation~~] [the corporation has no corporate seal], and that said instrument was signed [~~and sealed~~] on behalf of said corporation by authority of its Board of Directors, and said Secretary/Treasurer acknowledged the instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, the foregoing has been executed the day and year first above written.

Notary Public



My commission expires: 20 Sep 04

**SCHEDULE 1**

**COLLATERAL DESCRIPTION**

**Railcars**

<u>Description</u>	<u>AAR Mechanical Designation</u>	<u>Identifying Marks</u>	<u>Series Number</u>	<u>No. of Cars</u>
Boxcar – 50 ft.	XM	LNW	12002-12004	3
Boxcar – 50 ft.	XM	LNW	12006-12008	3
Boxcar – 50 ft.	XM	LNW	13001-13012	12
Boxcar – 50 ft.	XM	LNW	13014-13026	13

**Locomotives**

<u>Builder</u>	<u>Model</u>	<u>Identifying Marks</u>	<u>Number</u>	<u>Horsepower</u>
EMD – GM	GP7R – D	LNW	50	1500
EMD – GM	GP9R	LNW	51	1500
EMD – GM	GP7	LNW	52	1500
EMD – GM	GP7	LNW	53	1500
EMD – GM	GP35	LNW	54	2500
EMD – GM	GP11 – 2	LNW	55	1850
EMD – GM	GP40 – 1	LNW	56	3000
EMD – GM	GP40 – 1	LNW	57	3000