Joseph
Transportation

Joseph Transportation Services, Inc.
a subsidiary of Joseph Transportation

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April 16, 2003

RECORDATION NO. 22585-D FILED

APR 17 '03 2-38 PM

SURFACE TRANSPORTATION BOARD

Mr. Vernon Williams
Recordations Unit
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20006-0001

Dear Mr. Williams:

Please find enclosed, one (1) original and one (1) copy of the Amendment No. 3 to Railroad Equipment Lease dated as of January 24, 2003 between the following parties:

Lessee: The David J. Joseph Company
300 Pike Street
Cincinnati, OH 45202

Lessor: Joseph Leasing Ltd.
300 Pike Street
Cincinnati, OH 45202

Please see Exhibit A attached to Amendment No. 3 hereto for the equipment, two hundred thirty-eight (238) railcars, involved in this transaction.

This filing is to appear in the index as follows: Amendment No. 3 to Railroad Equipment Lease dated January 24, 2003 related to two hundred thirty-eight (238) railcars bearing reporting marks JTIX 9000-9027, inclusive; DJJX 9701-9804, non-inclusive; JTIX 9050; and DJJX 19000-19192, non-inclusive.

Please file this agreement as a secondary document under the Recordation Number 22585-C as it relates to documents previously filed with the Surface Transportation Board under Recordation Numbers 22585 through 22585-B. Our Check No. 20961 in the amount of $30.00, dated 2/13/03 (copy attached), for the filing fees for this document, was inadvertently sent directly to you from our accounting department on or around that date. Please return the stamped original filing to my attention.

Should you have any questions or need further information, please do not hesitate to contact me at (513) 929-4500 ext. 4425.

Sincerely,

Joseph Transportation Services, Inc.

Linda M. Baughman

Linda M. Baughman
Director, Contract Administration

Enclosures

Corporate Offices: 300 Pike Street, Cincinnati, OH 45202-4222
Mail Address: P.O. Box 1077, Cincinnati, OH 45201-1077
513-929-4500 FAX 513-345-4375

CERTIFICATE

The undersigned, Linda M. Baughman, a notary public in and for the County of Hamilton, State of Ohio, hereby certifies that the copy of the document attached hereto has been compared with the original and that the undersigned has found the copy to be complete and identical in all respects to the original document.

Linda M. Baughman
Notary Public

NOTARY PUBLIC STATE OF OHIO

LINDA M. BAUGHMAN
Notary Public, State of Ohio
My Commission Expires
July 22, 2007

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RECORDATION NO. 22585-D FILED

APR 17 '03 2-38 PM

SURFACE TRANSPORTATION BOARD

AMENDMENT NO. 3
TO
RAILROAD EQUIPMENT LEASE

This Amendment No. 3 to the Railroad Equipment Lease ("Amendment No. 3"), is entered into this 24th day of January, 2003, by and between **JOSEPH LEASING LTD.** ("Lessor"), and **THE DAVID J. JOSEPH COMPANY** (f/k/a **JOSEPH TRANSPORTATION, INC.**) ("Lessee"), amending that certain Railroad Equipment Lease dated March 29, 2001, as amended June 7, 2000 and March 20, 2002, respectively (hereinafter referred to as the "Lease").

WHEREAS, the parties desire to amend certain provisions of the Lease. All terms defined in the Lease, unless otherwise defined herein, shall have the meanings defined in the Lease as when used in this Amendment No. 3.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Lease is amended to reflect the addition of one hundred twenty-three (123), Thrall-built, [redacted] railcars to the existing one hundred fifteen (115) railcar Lease effective November 1, 2002 (the "Effective Date"), by deleting Exhibit A to the Lease and replacing it with Exhibit A attached hereto.

2. The Lease is further amended by extending the Term for one (1) additional year, expiring December 31, 2004. The Base Rental for all Units subject to this Amendment No. 3, shall be [redacted] per Unit, per month, payable monthly in advance.

3. The Lease is further amended by deleting Section 2 in its entirety and replacing it with a new Section 2, to allow for rent abatement in the event of an AAR Mandated Repair as defined in Section 4 of this Amendment No. 3 as follows:

> **2. <u>BASE RENTAL</u>.** Lessee agrees to pay to Lessor the amount of rent specified in Exhibit B attached hereto (the "Base Rental") in advance on the first day of each calendar month during the Term, without demand or setoff. The Lessee shall also pay, as additional rent, all such other sums of money as shall become due and payable by Lessee to Lessor under this Lease (the Base Rental and any additional rent due hereunder are sometimes hereinafter referred to as "Gross Rental"). If the Commencement Date is not the first day of the month, a prorated monthly installment shall be paid at the then current rate for the fractional month during which the Commencement Date occurs. Such installment or installments so prorated shall be paid in arrears. All past due installments of Gross Rental shall bear interest from date due until paid at two percent (2%) per annum over the prime interest rate for domestic commercial loans as published from time to time in **<u>The Wall Street Journal</u>**. Except as provided in Section 4 hereof, Lessee shall not be entitled to any abatement of Gross Rental, reduction thereof or setoff against Gross Rental, including, but not limited to, abatements,

reductions or setoffs due to or by reason of, any past, present or future claims of Lessee against Lessor under this Lease or otherwise. It is the intention of the parties hereto that Gross Rental and all other amounts payable by the Lessee hereunder are absolute, irrevocable and unconditional and shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease.

4. The Lease is further amended by deleting Sections 4 and 5 and replacing them with new Sections 4 and 5 as follows:

4. <u>MAINTENANCE AND REPAIRS.</u> Lessee, at its sole expense, shall (i) keep and maintain the Units leased hereunder in good working order, condition and repair, and free from any and all liens and claims; (ii) install parts on, and make all necessary repairs and replacements to the Units using only new manufacturer made, reconditioned, or secondhand parts which comply with the requirements of the Interchange Rules of the Association of American Railroads (the "AAR") and that conform to the construction of the Units; and (iii) provide all labor, materials, lubricants, parts and other supplies or items consumed by or required, in connection with the use of the Units. In addition to repairs and maintenance otherwise required pursuant to this Section 4, Lessee shall, at its sole expense, repair, replace, clean, oil, test, stencil and otherwise maintain the Units as required by, and in conformance with, the Interchange Rules of the AAR, the Federal Railroad Administration (the "FRA") Railroad Freight Car Safety Standards, and the Safety Appliance and Power Brake Laws, as the same may be amended from time to time, provided that Lessee shall not be responsible for any repairs or modifications to the truck bolsters of the Units which may be mandated by the AAR (the "AAR Mandated Repairs"). In the event of such AAR Mandated Repairs and only in the event of such AAR Mandated Repairs, Lessor shall be responsible for freight, if any, to and from the shop of Lessor's choosing and Lessor shall provide rent abatement from the day any Unit is removed from Lessee's service until the day Lessee is notified that the Unit is ready to be released from the shop to be placed back into Lessee's service. Notwithstanding the previous sentence, Lessor, at its sole option, may substitute the same, or similar, equipment for the Units removed from Lessee's service during any AAR Mandated Repairs.

Except as otherwise provided herein, Lessee shall not make alterations or modifications in any Unit without the prior written consent of Lessor thereto. Any and all additions to any Unit, and any and all parts installed on or replacements made to any Unit shall be considered accessions to such Unit and, without cost or expense to the Lessor, there shall immediately be vested in the Lessor the same interest in such accessions as the interest of the Lessor in such Unit.

5. **DISCLAIMER OF WARRANTIES.** EXCEPT AS PROVIDED IN SECTION 4 ABOVE, LESSOR, NOT BEING THE MANUFACTURER OF THE UNITS, NOR THE MANUFACTURER'S AGENT, HEREBY EXPRESSLY DISCLAIMS AND MAKES TO LESSEE NO WARRANTY OR REPRESENTATION, EXPRESSED OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO: THE FITNESS FOR USE, DESIGN OR CONDITION OF THE UNITS; THE QUALITY OR CAPACITY OF THE UNITS; THE WORKMANSHIP IN THE UNITS; THAT THE UNITS WILL SATISFY THE REQUIREMENT OF ANY LAW, RULE, SPECIFICATION OR CONTRACT PERTAINING THERETO; AND ANY GUARANTEE OR WARRANTY AGAINST PATENT INFRINGEMENT OR LATENT DEFECTS, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN LESSOR AND LESSEE, ARE TO BE BORNE BY LESSEE. LESSOR IS NOT RESPONSIBLE OR LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGE TO OR LOSSES RESULTING FROM THE INSTALLATION, OPERATION OR USE OF THE UNITS OR ANY UNIT. Lessor hereby acknowledges that any manufacturer's and/or seller's warranties are for the benefit of Lessor and Lessee. Lessee's acceptance of delivery of the Units shall be conclusive evidence as between Lessor and Lessee, that each Unit described in any Lessee's certificate sent pursuant to Section 3 above and confirming such acceptance, is in all of the foregoing respects satisfactory to the Lessee and the Lessee will not assert any claim of any nature whatsoever against Lessor based on all or any one of the foregoing matters.

5. The Lease is further amended by deleting Exhibit F, Casualty Settlement Value, to the Lease and replacing it with a new Exhibit F attached hereto.

6. All other terms and conditions of the Lease remain unchanged and in full force and effect.

THE REMAINDER OF THIS PAGE PURPOSELY LEFT BLANK

IN WITNESS WHEREOF, the parties have caused this Amendment No. 3 to be executed as of the day and year first above written, but shall be effective as of the Effective Date defined above.

LESSOR

Signed and acknowledged
in the presence of:

Linda M. Baughman

JOSEPH LEASING LTD.

BY: _____

NAME: Paul G. Jantsch

TITLE: Committee Member

DATE: January 24, 2003

LESSEE

Signed and acknowledged
in the presence of:

Linda M. Baughman

THE DAVID J. JOSEPH COMPANY
(f/k/a Joseph Transportation, Inc.)

BY: _____

NAME: James H. Goetz

TITLE: Exec. V.P. & Chief Financial Officer

DATE: January 24, 2003

STATE OF OHIO)
) **SS:**
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this 24th day of January, 2003, by Paul G. Jantsch, a Committee Member of Joseph Leasing Ltd., an Ohio limited liability company, on behalf of the company.

Linda M. Baughman
Notary Public

LINDA M. BAUGHMAN
Notary Public, State of Ohio
My Commission Expires
July 22, 2007

STATE OF OHIO)
) **SS:**
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this 24th day of January, 2003, by James H. Goetz, the EVP & CFO of The David J. Joseph Company (f/k/a Joseph Transportation Inc.), a Delaware corporation, on behalf of the corporation.

Linda M. Baughman
Notary Public

LINDA M. BAUGHMAN
Notary Public, State of Ohio
My Commission Expires
July 22, 2007

EXHIBIT A
DESCRIPTION OF UNITS

Two hundred thirty-eight (238), [redacted] railcars bearing reporting marks:

Twenty-eight (28) 1999 [redacted] Units bearing reporting marks:
JTIX 9000-9027, inclusive

Ninety-five (95) 1999 [redacted] Units bearing reporting marks:
DJJX 9701-9704
DJJX 9707-9715
DJJX 9718-9746
DJJX 9748-9774
DJJX 9776-9782
DJJX 9784-9788
DJJX 9790-9796
DJJX 9799-9804
JTIX 9050

One hundred fifteen (115), 1999 [redacted] Units bearing reporting marks:
DJJX 19000
DJJX 19002-19020
DJJX 19022-19031
DJJX 19033-19040
DJJX 19042, DJJX 19044
DJJX 19047-19048
DJJX 19050-19052
DJJX 19054-19057
DJJX 19060-19064
DJJX 19067- DJJX 19070
DJJX 19072-19073
DJJX 19075-19078
DJJX 19080-19083
DJJX 19085-19089
DJJX 19092-19098
DJJX 19100-19101
DJJX 19103, DJJX 19106, DJJX 19108, DJJX 19110
DJJX 19113-19115
DJJX 19117-19125
DJJX 19127-19129
DJJX 19171
DJJX 19178-19192

EXHIBIT F
CASUALTY SETTLEMENT VALUE

The Casualty Settlement Value for the equipment covered under this Lease shall be the Depreciated Value of the Unit calculated in accordance with the Association of American Railroads Interchange Rule 107 or Lessor's net book value for the month in which the casualty occurred, whichever is higher.