

**OSTER****Researching Services**

12897 Colonial Drive • Mt. Airy, MD 21771

Phone: 301-253-6040

Fax: 301-253-6040

maryannoster@adelphia.net

RECORDATION NO. 27083 FILED

JUL 24 '07 -8 1.2 AM

SURFACE TRANSPORTATION BOARD

July 23, 2007

Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423

Dear Sir:

Enclosed for recording with the Surface Transportation Board is a Security Agreement and Promissory Note dated 7/13/07 including the following parties and railroad equipment:

**Lender:** Zions Credit Corporation  
P. O. Box 26536  
Salt Lake City, UT 84126

**Debtor:** Santa Fe Southern Railway, Inc.  
410 S. Guadalupe Street  
Santa Fe, NM 87501

**Equipment:** 1, Used GP7 Locomotive  
#701

Please record this agreement as a primary document. The filing fee of \$35 is enclosed.  
Thank you.

Summary: Security Agreement and Promissory Note 7/13/07 between Zions Credit Corporation as Lender and Santa Fe Southern Railway, Inc. as Debtor including 1, GP-7 Locomotive, #701.

Sincerely,



Mary Ann Oster  
Research Consultant

JUL 24 '07 -8 12 AM

Note No: 0012158

**SURFACE TRANSPORTATION BOARD CORPORATE RESOLUTION**

**BE IT RESOLVED** that any one (1) of the following named officer(s), employee(s), or agent(s) of Santa Fe Southern Railway, Inc. (Corporation), whose actual signatures are shown below:

<u>Print Name</u>	<u>Position</u>	<u>Actual Signature</u>
<u>KARL R ZIEBARTH</u>	<u>CHAIRMAN OF THE BOARD</u>	X 
<u>CAROL W. RAYMOND</u>	<u>PRESIDENT &amp; GENERAL MANAGER</u>	X 
_____	_____	X _____
_____	_____	X _____

acting for and on behalf of the Corporation is hereby authorized, directed, resolved and empowered:

**Borrow/Lease.** To enter into a Master Finance Lease(s), together with Equipment Schedule(s), Security Agreement & Promissory Note(s) with Zions Credit Corporation (ZCC) for such Equipment or other items of property and upon such terms and conditions as the officers(s), employee(s), or agent(s) may in their discretion deem necessary or advisable.

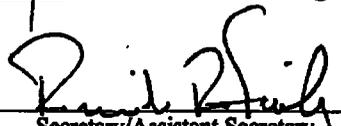
**Execute.** To make, execute, acknowledge, seal, and deliver any and all leases, notes, agreements, equipment schedules, guarantees, interim rent agreements, contracts, and documents of whatever kind or character present or future and any supplements or modifications thereto, that in their judgment may be necessary or which may reasonably be required by ZCC or in connection with any such transaction.

**BE IT FURTHER RESOLVED**, that ZCC is authorized to act upon this resolution, and that the authority hereby granted shall apply with equal force and shall remain in full force and effect to the successors in office or position of the authorized signers herein named. That the Corporation will notify ZCC in writing prior to any (a) change in the name of the Corporation, (b) change in the assumed business name(s) of the Corporation, (c) change in the management of the Corporation, (d) change in the authorized signer(s), (e) conversion of the Corporation to a new or different type of business entity, or (f) change in any other aspect of the Corporation that directly or indirectly relates to any agreements between the Corporation and ZCC. No change in the name of the Corporation will take effect until after ZCC has been notified.

**SECRETARY'S CERTIFICATION**

I, the undersigned Secretary or Assistant Secretary of Santa Fe Southern Railway, Inc., HEREBY CERTIFY that the Corporation is organized and existing under and by virtue of the laws of the State of NM with its principal office at 410 S Guadalupe St. Santa Fe NM 87501-2616. I FURTHER CERTIFY that the officer, employee, or agent named above is duly elected, appointed, or employed by or for the Corporation as the case may be, and occupies the position set opposite the name; that the foregoing Resolutions now stand of record on the books of the Corporation; and that the Resolutions are in full force and effect and have not been modified or revoked in any manner whatsoever.

IN TESTIMONY WHEREOF, I have hereto set my hand this 17 day of JULY, 2007 and attest that the signature(s) set opposite the name(s) listed above are their genuine signature(s).

  
 Secretary/Assistant Secretary  
RICHARD R. FINLAY

I hereby certify that this is a true and correct copy of the original Name:  
 By Michelle Bousfield

**SANTA FE SOUTHERN RAILWAY, INC.**

**UNANIMOUS CONSENT OF BOARD OF DIRECTORS**

**JULY 16, 2007**

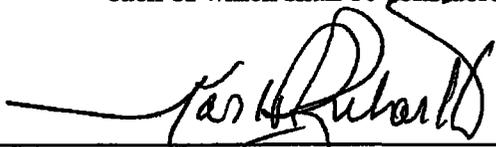
The undersigned, constituting all of the members of the Board of Directors of Santa Fe Southern Railway, Inc., a New Mexico corporation (the "Company"), consent to the adoption of the following resolutions, acting without a meeting in accordance with Article III, Section 8, of the By-laws of the Company:

**RESOLVED**, that a loan of \$115,000.00 from Zions Credit Corporation to finance the previously approved purchase of locomotive unit # 701 from Titan Rail, Inc. is hereby approved and authorized, said loan to be repaid over 60 months at an interest rate of 9.25%; and

**RESOLVED**, that a security interest in said locomotive is hereby granted to Zions Credit Corporation to secure the repayment of the loan; and

**RESOLVED**, that Carol M. Raymond, President, or any Vice-President, is authorized to execute all documents and pledges required to evidence the loan and the grant of security interest, and to take other such actions as may be required to complete the transaction; and

**RESOLVED**, that this Consent may be executed in one or more counterparts, each of which shall be considered an original.

  
Karl R. Ziebarth

  
Carol M. Raymond  
J.

  
Richard R. Finlay

Robert Sarr

Theron T. Chapman, Jr.

I hereby certify that this is a true and correct copy of the original.

By Michelle Barfield

Note No: 0012158  
Note Date: July 13, 2007  
Schedule No: 0012158001

### SECURITY AGREEMENT AND PROMISSORY NOTE

This Security Agreement and Promissory Note (this "Agreement") is entered into between Santa Fe Southern Railway, Inc. (hereinafter referred to as "Borrower") and Zions Credit Corporation (hereinafter referred to as "Lender").

1. **PROMISE TO PAY, TERMS AND PLACE OF PAYMENT.** Borrower promises to pay to the order of Lender the sum of \$2,401.19 per month commencing August 20, 2007, and on the 20<sup>th</sup> day of each consecutive month thereafter for a period of 60 months, maturing July 20, 2012. Interest shall accrue on the basis of a 360-day year. 0 payments of \$2,401.19 are payable at the time of execution of this Agreement (representing the first and last 0 months payments). In addition, Borrower shall make a payment of \$0.00 on the date the final installment described above is due. All payments shall be made to P. O. Box 26536, Salt Lake City, Utah 84126-0536 or at such other locations Lender may designate. Total amount financed hereunder is \$115,000.00.
2. **GRANT OF SECURITY INTEREST; DESCRIPTION OF COLLATERAL.** Borrower grants to Lender a security interest in the property described below, together with all presently owned and hereafter acquired attachments, accessories, accessions, and additions thereto and replacements and proceeds thereof, including any amounts payable under any insurance policy or eminent domain proceedings (all hereinafter collectively referred to as the "Collateral").
3. **OBLIGATIONS SECURED.** Each item of Collateral shall secure not only the specific obligation referred to in Section 1, but also all other present and future obligations of Borrower to Lender of every kind and nature whatsoever.
4. **USE AND LOCATION OF COLLATERAL.** Borrower warrants and agrees with Lender that the Collateral will be used exclusively for business, commercial or agricultural purposes.

Collateral description and location:

Used EMD GP7 Switcher Locomotive S/N 53-K-82  
410 S Guadalupe St, Santa Fe NM 87501

5. **LATE CHARGES.** Any installment not paid when due shall bear a late charge equal to 5% of the amount of the installment.
6. **LOCATION OF COLLATERAL.** Borrower and Lender agree that the Collateral shall remain personal property of the Borrower and shall not become part of or attached to any real estate. Borrower agrees to keep the Collateral at the location set forth in section 4, and will notify Lender promptly in writing of any change in the location of the Collateral within such State, but will not remove the Collateral from such State without the prior written consent of Lender.
7. **BORROWER'S WARRANTIES AND REPRESENTATIONS.** Borrower warrants and represents:
  - (a) Borrower is justly indebted to Lender for the full amount of the foregoing indebtedness;
  - (b) That, except for the security interest granted hereby, the Collateral is free from and will be kept free from all liens, claims, security interests and encumbrances;
  - (c) That no financing statement covering the Collateral or any proceeds thereof is on file in favor of anyone other than Lender.
  - (d) That all information supplied and statements made by Borrower in any financial, credit or accounting statement or application for credit submitted by or on behalf of Borrower prior to, contemporaneously with or subsequent to the execution of this Agreement with respect to this transaction are and shall be true, correct, valid and genuine; and
  - (e) That Borrower has full authority to enter into this agreement and in so doing it is not violating its charter or by-laws, any law or regulation or agreement with third parties, and it has taken all such action as may be necessary or appropriate to make this Agreement binding upon it.
8. **BORROWER'S AGREEMENTS.** Borrower agrees:
  - (a) To defend Lender, the Collateral, Borrower's interest in the Collateral and Lender's security interest in the collateral at Borrower's own cost and expense, including attorneys' fees, in any action, proceeding, or claim affecting the Collateral;
  - (b) To pay reasonable attorneys' fees and other expenses incurred by Lender in enforcing its rights under this Agreement;
  - (c) To pay promptly all taxes, assessments, license fees and other public or private charges when levied or assessed against the Collateral or this Agreement, and this obligation shall survive the termination of this Agreement;

- (d) That, if a certificate of title be required or permitted by law, Borrower shall obtain such certificate with respect to the Collateral showing the security interest of Lender thereon and in any event do everything necessary or expedient to preserve or perfect the security interest of Lender;
  - (e) That Borrower will not misuse, fail to keep in good repair or, without the prior written consent of Lender and notwithstanding Lender's claim to proceeds, sell, rent, lend, encumber or transfer any of the Collateral;
  - (f) That Lender may enter upon Borrower's premises or wherever the Collateral may be located at any reasonable time to inspect the Collateral and Borrower's books and records pertaining to the Collateral and Borrower shall assist Lender in making such inspection;
  - (g) That the security interest granted by Borrower to Lender shall continue effective irrespective of the payment of the amount in section 1, so long as there are any obligations of any kind, including obligations under guaranties or assignments, owed by Borrower to Lender, provided, however, upon any assignment of this Security Agreement and Promissory Note the assignee thereof shall thereafter be deemed, for the purpose of this section, the Lender under this Agreement; and
  - (h) At request of Lender, to execute any documents or do any other act necessary to effectuate the purposes and provisions of this Agreement.
9. **INSURANCE AND RISK OF LOSS.** All risk of loss of, damage to or destruction of the Collateral (including theft thereof) shall at all times be on Borrower. Borrower will forthwith procure and maintain public liability insurance, fire insurance, property damage, and physical damage insurance with extended or combined additional coverage on the Collateral for the full insurable value thereof for the life of this Agreement plus such other insurance as Lender may specify, and promptly deliver each policy or certificates evidencing the existence of such insurance to Lender with a standard long form endorsement attached showing loss payable to Lender or its assigns as respective interests may appear. Lender's acceptance of policies in lesser amounts or risks shall not be a waiver of Borrower's foregoing obligation. If any item of Collateral is damaged, but not beyond repair, Borrower at its own cost and expense shall repair such Collateral so that it will be in the same or better condition as it was before the damage occurred. In the event any item of Collateral is replaced for any reason it must be with the prior written consent of Lender. All such items replacing any original item of Collateral shall become immediately subject to the lien of this Agreement as if Borrower owned the items at the time of executing this Agreement. Borrower agrees to execute any documents or UCC financing statements which Lender may require in order to perfect the security interest in the replacement Collateral. Borrower hereby irrevocably authorizes Lender to make, settle and adjust claims under any insurance policies and to endorse Borrower's name on any check or other items of payment for the proceeds thereof.
10. **EVENTS OF DEFAULT; ACCELERATION.** The following are Events of Default under this Agreement:
- (a) Any of Borrower's obligations to Lender under this Agreement or any other agreement with Lender or with any of Lender's affiliates are not paid promptly when due;
  - (b) Borrower breaches any warranty or provision hereof, or of any note or of any other instrument or agreement delivered by Borrower to Lender in connection with this or any other transaction;
  - (c) Borrower dies, becomes insolvent or ceases to do business as a going concern, or the merger, consolidation, acquisition, liquidation, termination or dissolution of Borrower or if Borrower shall sell or turn over the management or operation of all or any substantial portion of its property, assets, or business to any other person, corporation, partnership, or other business association;
  - (d) Borrower shall make any representation herein or in any other documents or material delivered to Lender which shall prove to be incorrect in any material respect at the time made;
  - (e) Any of the Collateral is lost or destroyed;
  - (f) A petition in bankruptcy or for arrangement or reorganization is filed by or against Borrower or Borrower admits its inability to pay its debts as they mature;
  - (g) Any property of Borrower is attached or a receiver is appointed for Borrower, or a judgment is obtained against Borrower the execution of which is not effectively stayed within thirty (30) days;
  - (h) Lender in good faith believes the prospect of payment or performance is impaired or in good faith believes the Collateral is insecure; and
  - (i) Any guarantor, surety, or endorser for Borrower of this Agreement defaults in any obligation or liability to Lender or any guaranty obtained in connection with this transaction is terminated or breached or there is an occurrence of any one or more of the events described in (a), (b), (c), (f), or (g) above with respect to any such guarantor.

Upon the occurrence of an Event of Default, the indebtedness herein described and all other debts then owing by Borrower to Lender under this or any other present or future agreement shall, at the election of Lender, become immediately due and payable. From and after an Event of Default, interest shall accrue at a rate per annum equal to 21%.

11. **PREPAYMENT.** Borrower may prepay in full, but not in part, the unpaid principal balance together with all accrued unpaid interest and any and all other sums due hereunder. The payoff amount will be calculated by Lender using simple interest and shall include a fee of 2% the first year and 1% thereafter.
12. **LENDER'S REMEDIES AFTER DEFAULT; CONSENT TO ENTER PREMISES.** Upon the occurrence of an Event of Default and at any time thereafter, LENDER SHALL HAVE ALL THE RIGHTS AND REMEDIES OF A LENDER UNDER THE UNIFORM COMMERCIAL CODE AND ANY OTHER APPLICABLE LAWS, in equity, and under this Agreement and any other agreement related hereto or to the Collateral, INCLUDING THE RIGHT TO ANY DEFICIENCY remaining after any disposition of the Collateral for which deficiency Borrower shall remain fully liable. LENDER, BY ITSELF OR ITS AGENT, MAY WITHOUT NOTICE TO BORROWER AND WITHOUT JUDICIAL PROCESS OF ANY KIND ENTER INTO ANY PREMISES OR UPON ANY LAND where the Collateral may be located and disassemble, render unusable and/or repossess all or any item of the Collateral, disconnecting and separating all Collateral from any other property. Borrower expressly waives all further rights to possession of the Collateral after an Event of Default and all claims for injuries suffered through loss caused by such entering and/or repossession. Lender may require Borrower to assemble the Collateral and return it to Lender at a place to be designated by Lender which is reasonably convenient to both parties. Lender will give Borrower reasonable notice of the time and place of a public sale of the Collateral or of the time after which any private sale or any other intended disposition of the Collateral is to be made. Unless otherwise provided by law, the requirement of reasonable notice shall be met if such notice is mailed, postage prepaid, to the address of Borrower shown herein at least five days before the time of the sale or disposition. Expenses of retaking, holding, preparing for sale, selling and other costs of disposition including reasonable attorney's fees and other legal fees shall be the responsibility of Borrower and shall be included as part of the obligation of Borrower under this Agreement. Borrower grants to Lender a security interest in and right of setoff against all of Borrower's accounts (whether checking, savings, or some other account) with Lender or with any affiliate bank of Lender ("Bank") to the extent permitted by applicable law. This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. Borrower authorizes, to the extent permitted by applicable law, (a) Lender to charge or setoff all or any sums owing on the Agreement against any and all such accounts, and (b) Bank, at Lender's request, to administratively freeze all such accounts to allow Lender to protect Lender's charge and setoff rights provided in this paragraph. The rights and remedies provided Lender are cumulative and may be exercised in such order or combination as Lender may elect.
13. **WAIVER OF DEFAULTS; AGREEMENT INCLUSIVE.** Lender may in its sole discretion waive any Event of Default. Any such waiver in a particular instance of any particular default, which waiver must be in writing signed by Lender to be effective, shall not be a waiver of other defaults or the same kind of default at another time. This Agreement, together with any and related note, instrument or agreement, and any written instruments or documents that are referred to in or part of this Agreement, is the final expression of the understanding of Borrower and Lender concerning the subject matter of this Agreement and may not be altered or amended except with the written consent of the parties and may not be contradicted by evidence of any alleged prior or contemporaneous oral agreement.
14. **FINANCING STATEMENTS.** If permitted by law, Borrower authorizes Lender to file such financing statements with respect to the Collateral which Lender may determine are reasonably necessary to perfect Lender's interest in the Collateral. Borrower hereby appoints Lender as Borrower's attorney-in-fact to execute on Borrower's behalf any such financing statements.
15. **ASSIGNMENT.** Lender may assign this Agreement and any indebtedness secured hereby and upon such assignment or transfer the assignee or holder shall be entitled to all rights, powers, privileges and remedies of Lender to the extent assigned or transferred. The obligations of Borrower shall not be subject, as against any such assignee or transferee, to any defense, set-off or counterclaim available to the Borrower against Lender and any such defense, set-off or counterclaim may be asserted only against Lender. Any assignee from Lender shall have the same right of off-set as is available to Lender.
16. **ARBITRATION DISCLOSURES.**
  - (a) **ARBITRATION IS FINAL AND BINDING ON THE PARTIES AND SUBJECT TO ONLY VERY LIMITED REVIEW BY A COURT.**
  - (b) **IN ARBITRATION THE PARTIES ARE WAIVING THEIR RIGHT TO LITIGATE IN COURT, INCLUDING THEIR RIGHT TO A JURY TRIAL.**
  - (c) **DISCOVERY IN ARBITRATION IS MORE LIMITED THAN DISCOVERY IN COURT.**
  - (d) **ARBITRATORS ARE NOT REQUIRED TO INCLUDE FACTUAL FINDINGS OR LEGAL REASONING IN THEIR AWARDS. THE RIGHT TO APPEAL OR TO SEEK MODIFICATION OF ARBITRATORS' RULINGS IS VERY LIMITED.**
  - (e) **A PANEL OF ARBITRATORS MIGHT INCLUDE AN ARBITRATOR WHO IS OR WAS AFFILIATED WITH THE BANKING OR LEASING INDUSTRY.**
  - (f) **ARBITRATION WILL APPLY TO ALL DISPUTES BETWEEN THE PARTIES, NOT JUST THOSE CONCERNING THIS AGREEMENT.**
  - (g) **IF YOU HAVE QUESTIONS ABOUT ARBITRATION, CONSULT YOUR ATTORNEY OR THE AMERICAN ARBITRATION ASSOCIATION.**

(i) Any claim or controversy ("Dispute") between or among the parties and their employees, agents, affiliates, and assigns, including, but not limited to, Disputes arising out of or relating to this agreement, this arbitration provision ("arbitration clause"), or any related agreements or instruments relating hereto or delivered in connection herewith ("Related Agreements"), and including, but not limited to, a Dispute based on or arising from an alleged tort shall at the request of any party be resolved by binding arbitration in accordance with the applicable arbitration rules of the American Arbitration Association (the "Administrator"). The provisions of this arbitration clause shall survive any termination amendment, or expiration of this agreement or Related Agreements. The provisions of this arbitration clause shall supersede any prior arbitration agreement between or among the parties.

(ii) The arbitration proceedings shall be conducted in a city mutually agreed by the parties. Absent such an agreement arbitration will be conducted in Salt Lake City, UT or such other place as may be determined by the Administrator. The Administrator and the arbitrator(s) shall have the authority to the extent practicable to take any action to require the arbitration proceeding to be completed and the arbitrator(s)' award issued within 150 days of the filing of the Dispute with the Administrator. The arbitrator(s) shall have the authority to impose sanctions on any party that fails to comply with time periods imposed by the Administrator or the arbitrator(s), including the sanction of summarily dismissing any Dispute or defense with prejudice. The arbitrator(s) shall have the authority to resolve any Dispute regarding the terms of this agreement, this arbitration clause, or Related Agreements, including any claim or controversy regarding the arbitrability of any Dispute. All limitations periods applicable to any Dispute or defense, whether by statute or agreement, shall apply to any arbitration proceeding hereunder and the arbitrator(s) shall have the authority to decide whether any Dispute or defense is barred by a limitations period and, if so, to summarily enter an award dismissing any Dispute or defense on that basis. The doctrines of compulsory counterclaim, res judicata, and collateral estoppel shall apply to any arbitration proceeding hereunder so that a party must state as a counterclaim in the arbitration proceeding any claim or controversy which arises out of the transaction or occurrence that is the subject matter of the Dispute. The arbitrator(s) may in the arbitrator(s)' discretion and at the request of any party: (1) consolidate in a single arbitration proceeding any other claim arising out of the same transaction involving another party to that transaction that is bound by an arbitration clause with Lender, such as borrowers, guarantors, sureties, and owners of collateral, and (2) consolidate or administer multiple arbitration claims or controversies as a class action in accordance with the provisions of Rule 23 of the Federal Rules of Civil Procedure.

(iii) The arbitrator(s) shall be selected in accordance with the rules of the Administrator from panels maintained by the Administrator. A single arbitrator shall have expertise in the subject matter of the Dispute. Where three arbitrators conduct an arbitration proceeding, the Dispute shall be decided by a majority vote of the three arbitrators, at least one of whom must have expertise in the subject matter of the Dispute and at least one of whom must be a practicing attorney. The arbitrator(s) shall award to the prevailing party recovery of all costs and fees (including attorneys' fees and costs, arbitration administration fees and costs, and arbitrator(s)' fees). The arbitrator(s), either during the pendency of the arbitration proceeding or as part of the arbitration award, also may grant provisional or ancillary remedies including but not limited to an award of injunctive relief, foreclosure, sequestration, attachment replevin, garnishment, or the appointment of a receiver.

(iv) Judgment upon an arbitration award may be entered in any court having jurisdiction, subject to the following limitation: the arbitration award is binding upon the parties only if the amount does not exceed Four Million Dollars (\$4,000,000); if the award exceeds that limit, any party may demand the right to a court trial. Such a demand must be filed with the Administrator within 30 days following the date of the arbitration award; if such a demand is not made within that time period, the amount of the arbitration award shall be binding. The computation of the total amount of an arbitration award shall include amounts awarded for attorneys' fees and costs, arbitration administration fees and costs, and arbitrator(s) fees.

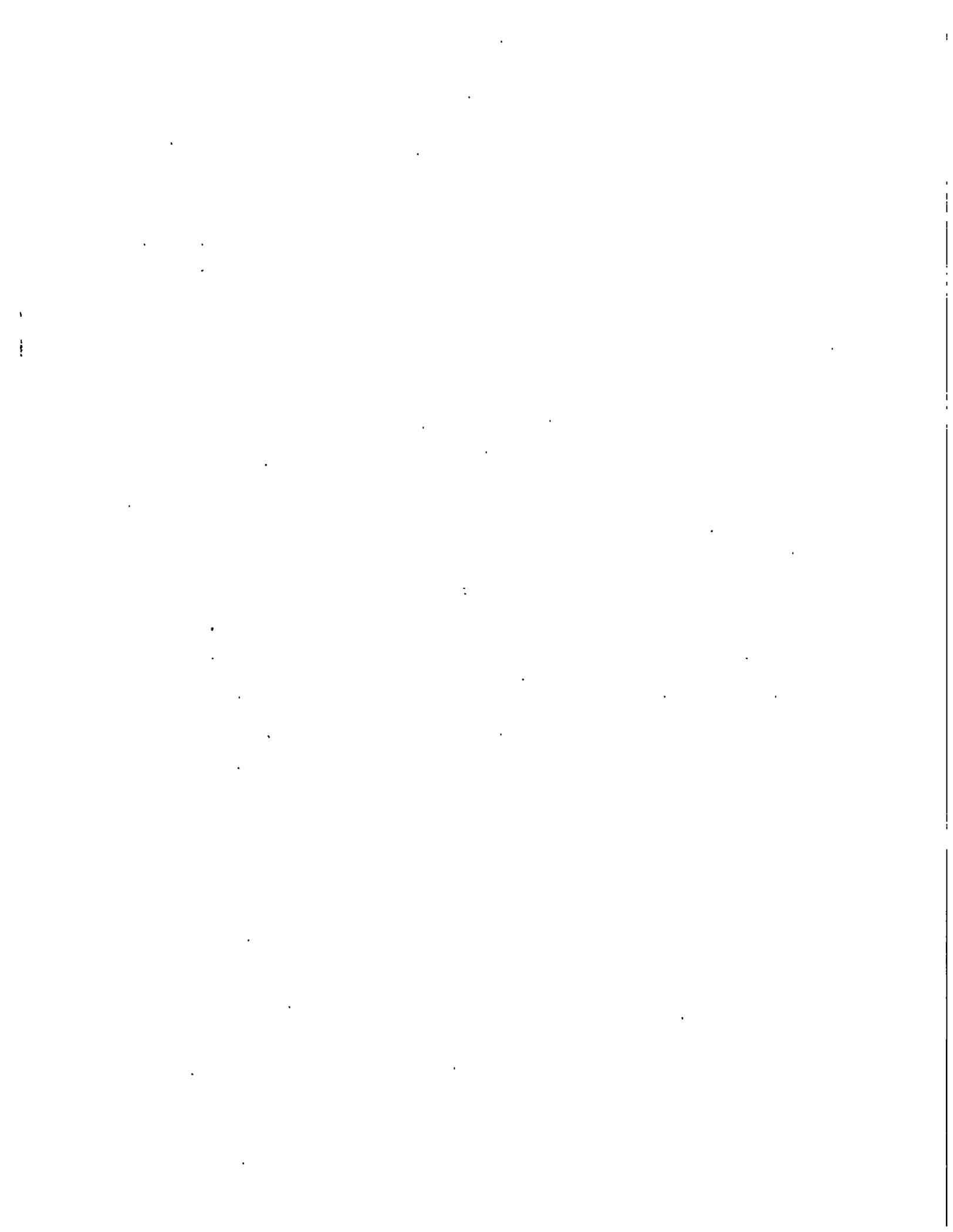
(v) No provision of this arbitration clause, nor the exercise of any rights hereunder, shall limit the right of any party to: (1) judicially or nonjudicially foreclose against any real or personal property collateral or other security; (2) exercise self-help remedies, including but not limited to repossession and setoff rights, or (3) obtain from a court having jurisdiction thereover any provisional or ancillary remedies including but not limited to injunctive relief, foreclosure, sequestration, attachment, replevin, garnishment, or the appointment of a receiver. Such rights can be exercised at any time, before or after initiation of an arbitration proceeding, except to the extent such action is contrary to the arbitration award. The exercise of such rights shall not constitute a waiver of the right to submit any Dispute to arbitration and any claim or controversy related to the exercise of such rights shall be a Dispute to be resolved under the provisions of this arbitration clause. Any party may initiate arbitration with the Administrator. If any party desires to arbitrate a Dispute asserted against such party to a complaint, counterclaim, cross-claim, or third-party complaint thereto, or in an answer or other reply to any such pleading, such party must make an appropriate motion to the trial court seeking to compel arbitration, which motion must be filed with the court within 45 days of service of the pleading, or amendment thereto, setting forth such Dispute. If arbitration is compelled after commencement of litigation of a Dispute, the party obtaining an order compelling arbitration shall commence arbitration and pay the Administrator's filing fees and costs within 45 days of entry of such order. Failure to do so shall constitute an agreement to proceed with litigation and waiver of the right to arbitrate.

(vi) Notwithstanding the applicability of any other law to this agreement, the arbitration clause, or Related Agreements between or among the parties, the Federal Arbitration Act 9 U.S.C. § 1 et seq, shall apply to the construction and interpretation of this arbitration clause. If any provision of this arbitration clause should be determined to be unenforceable, all other provisions of this arbitration clause shall remain in full force and effect.

17. STATEMENTS. Borrower shall furnish Lender within ninety (90) days after the end of each fiscal year of Borrower, a balance sheet and profit and loss statement as of the end of such fiscal year and within sixty (60) days after the end of each quarter, a balance sheet and profit and loss statement as of the end of each quarter, all prepared in accordance with generally accepted accounting principles and such other information respecting the financial condition and operations of Borrower as Lender may from time to time reasonably request.







Note No: 0012158  
Note Date: July 13, 2007  
Schedule No: 0012158001

**SECURITY AGREEMENT AND PROMISSORY NOTE**

This Security Agreement and Promissory Note (this "Agreement") is entered into between Santa Fe Southern Railway, Inc. (hereinafter referred to as "Borrower") and Zions Credit Corporation (hereinafter referred to as "Lender").

1. **PROMISE TO PAY, TERMS AND PLACE OF PAYMENT.** Borrower promises to pay to the order of Lender the sum of \$2,401.19 per month commencing August 20, 2007, and on the 20<sup>th</sup> day of each consecutive month thereafter for a period of 60 months, maturing July 20, 2012. Interest shall accrue on the basis of a 360-day year.  $\emptyset$  payments of \$2,401.19 are payable at the time of execution of this Agreement (representing the first and last 0 months payments). In addition, Borrower shall make a payment of \$00 on the date the final installment described above is due. All payments shall be made to P. O. Box 26536, Salt Lake City, Utah 84126-0536 or at such other locations Lender may designate. Total amount financed hereunder is \$115,000.00.
2. **GRANT OF SECURITY INTEREST; DESCRIPTION OF COLLATERAL.** Borrower grants to Lender a security interest in the property described below, together with all presently owned and hereafter acquired attachments, accessories, accessions, and additions thereto and replacements and proceeds thereof, including any amounts payable under any insurance policy or eminent domain proceedings (all hereinafter collectively referred to as the "Collateral").
3. **OBLIGATIONS SECURED.** Each item of Collateral shall secure not only the specific obligation referred to in Section 1, but also all other present and future obligations of Borrower to Lender of every kind and nature whatsoever.
4. **USE AND LOCATION OF COLLATERAL.** Borrower warrants and agrees with Lender that the Collateral will be used exclusively for business, commercial or agricultural purposes.

Collateral description and location:

**Used EMD GP7 Switcher Locomotive S/N 53-K-82  
410 S Guadalupe St, Santa Fe NM 87501**

5. **LATE CHARGES.** Any installment not paid when due shall bear a late charge equal to 5% of the amount of the installment.
6. **LOCATION OF COLLATERAL.** Borrower and Lender agree that the Collateral shall remain personal property of the Borrower and shall not become part of or attached to any real estate. Borrower agrees to keep the Collateral at the location set forth in section 4, and will notify Lender promptly in writing of any change in the location of the Collateral within such State, but will not remove the Collateral from such State without the prior written consent of Lender.
7. **BORROWER'S WARRANTIES AND REPRESENTATIONS.** Borrower warrants and represents:
  - (a) Borrower is justly indebted to Lender for the full amount of the foregoing indebtedness;
  - (b) That, except for the security interest granted hereby, the Collateral is free from and will be kept free from all liens, claims, security interests and encumbrances;
  - (c) That no financing statement covering the Collateral or any proceeds thereof is on file in favor of anyone other than Lender.
  - (d) That all information supplied and statements made by Borrower in any financial, credit or accounting statement or application for credit submitted by or on behalf of Borrower prior to, contemporaneously with or subsequent to the execution of this Agreement with respect to this transaction are and shall be true, correct, valid and genuine; and
  - (e) That Borrower has full authority to enter into this agreement and in so doing it is not violating its charter or by-laws, any law or regulation or agreement with third parties, and it has taken all such action as may be necessary or appropriate to make this Agreement binding upon it.
8. **BORROWER'S AGREEMENTS.** Borrower agrees:
  - (a) To defend Lender, the Collateral, Borrower's interest in the Collateral and Lender's security interest in the collateral at Borrower's own cost and expense, including attorneys' fees, in any action, proceeding, or claim affecting the Collateral;
  - (b) To pay reasonable attorneys' fees and other expenses incurred by Lender in enforcing its rights under this Agreement;
  - (c) To pay promptly all taxes, assessments, license fees and other public or private charges when levied or assessed against the Collateral or this Agreement, and this obligation shall survive the termination of this Agreement;

- (d) That, if a certificate of title be required or permitted by law, Borrower shall obtain such certificate with respect to the Collateral showing the security interest of Lender thereon and in any event do everything necessary or expedient to preserve or perfect the security interest of Lender;
  - (e) That Borrower will not misuse, fail to keep in good repair or, without the prior written consent of Lender and notwithstanding Lender's claim to proceeds, sell, rent, lend, encumber or transfer any of the Collateral;
  - (f) That Lender may enter upon Borrower's premises or wherever the Collateral may be located at any reasonable time to inspect the Collateral and Borrower's books and records pertaining to the Collateral and Borrower shall assist Lender in making such inspection;
  - (g) That the security interest granted by Borrower to Lender shall continue effective irrespective of the payment of the amount in section 1, so long as there are any obligations of any kind, including obligations under guaranties or assignments, owed by Borrower to Lender, provided, however, upon any assignment of this Security Agreement and Promissory Note the assignee thereof shall thereafter be deemed, for the purpose of this section, the Lender under this Agreement; and
  - (h) At request of Lender, to execute any documents or do any other act necessary to effectuate the purposes and provisions of this Agreement.
9. **INSURANCE AND RISK OF LOSS.** All risk of loss of, damage to or destruction of the Collateral (including theft thereof) shall at all times be on Borrower. Borrower will forthwith procure and maintain public liability insurance, fire insurance, property damage, and physical damage insurance with extended or combined additional coverage on the Collateral for the full insurable value thereof for the life of this Agreement plus such other insurance as Lender may specify, and promptly deliver each policy or certificates evidencing the existence of such insurance to Lender with a standard long form endorsement attached showing loss payable to Lender or its assigns as respective interests may appear. Lender's acceptance of policies in lesser amounts or risks shall not be a waiver of Borrower's foregoing obligation. If any item of Collateral is damaged, but not beyond repair, Borrower at its own cost and expense shall repair such Collateral so that it will be in the same or better condition as it was before the damage occurred. In the event any item of Collateral is replaced for any reason it must be with the prior written consent of Lender. All such items replacing any original item of Collateral shall become immediately subject to the lien of this Agreement as if Borrower owned the items at the time of executing this Agreement. Borrower agrees to execute any documents or UCC financing statements which Lender may require in order to perfect the security interest in the replacement Collateral. Borrower hereby irrevocably authorizes Lender to make, settle and adjust claims under any insurance policies and to endorse Borrower's name on any check or other items of payment for the proceeds thereof.
10. **EVENTS OF DEFAULT; ACCELERATION.** The following are Events of Default under this Agreement:
- (a) Any of Borrower's obligations to Lender under this Agreement or any other agreement with Lender or with any of Lender's affiliates are not paid promptly when due;
  - (b) Borrower breaches any warranty or provision hereof, or of any note or of any other instrument or agreement delivered by Borrower to Lender in connection with this or any other transaction;
  - (c) Borrower dies, becomes insolvent or ceases to do business as a going concern, or the merger, consolidation, acquisition, liquidation, termination or dissolution of Borrower or if Borrower shall sell or turn over the management or operation of all or any substantial portion of its property, assets, or business to any other person, corporation, partnership, or other business association;
  - (d) Borrower shall make any representation herein or in any other documents or material delivered to Lender which shall prove to be incorrect in any material respect at the time made;
  - (e) Any of the Collateral is lost or destroyed;
  - (f) A petition in bankruptcy or for arrangement or reorganization is filed by or against Borrower or Borrower admits its inability to pay its debts as they mature;
  - (g) Any property of Borrower is attached or a receiver is appointed for Borrower, or a judgment is obtained against Borrower the execution of which is not effectively stayed within thirty (30) days;
  - (h) Lender in good faith believes the prospect of payment or performance is impaired or in good faith believes the Collateral is insecure; and
  - (i) Any guarantor, surety, or endorser for Borrower of this Agreement defaults in any obligation or liability to Lender or any guaranty obtained in connection with this transaction is terminated or breached or there is an occurrence of any one or more of the events described in (a), (b), (c), (f), or (g) above with respect to any such guarantor.

Upon the occurrence of an Event of Default, the indebtedness herein described and all other debts then owing by Borrower to Lender under this or any other present or future agreement shall, at the election of Lender, become immediately due and payable. From and after an Event of Default, interest shall accrue at a rate per annum equal to 21%.

11. **PREPAYMENT.** Borrower may prepay in full, but not in part, the unpaid principal balance together with all accrued unpaid interest and any and all other sums due hereunder. The payoff amount will be calculated by Lender using simple interest and shall include a fee of 2% the first year and 1% thereafter.
12. **LENDER'S REMEDIES AFTER DEFAULT; CONSENT TO ENTER PREMISES.** Upon the occurrence of an Event of Default and at any time thereafter, LENDER SHALL HAVE ALL THE RIGHTS AND REMEDIES OF A LENDER UNDER THE UNIFORM COMMERCIAL CODE AND ANY OTHER APPLICABLE LAWS, in equity, and under this Agreement and any other agreement related hereto or to the Collateral, INCLUDING THE RIGHT TO ANY DEFICIENCY remaining after any disposition of the Collateral for which deficiency Borrower shall remain fully liable. LENDER, BY ITSELF OR ITS AGENT, MAY WITHOUT NOTICE TO BORROWER AND WITHOUT JUDICIAL PROCESS OF ANY KIND ENTER INTO ANY PREMISES OR UPON ANY LAND where the Collateral may be located and disassemble, render unusable and/or repossess all or any item of the Collateral, disconnecting and separating all Collateral from any other property. Borrower expressly waives all further rights to possession of the Collateral after an Event of Default and all claims for injuries suffered through loss caused by such entering and/or repossession. Lender may require Borrower to assemble the Collateral and return it to Lender at a place to be designated by Lender which is reasonably convenient to both parties. Lender will give Borrower reasonable notice of the time and place of a public sale of the Collateral or of the time after which any private sale or any other intended disposition of the Collateral is to be made. Unless otherwise provided by law, the requirement of reasonable notice shall be met if such notice is mailed, postage prepaid, to the address of Borrower shown herein at least five days before the time of the sale or disposition. Expenses of retaking, holding, preparing for sale, selling and other costs of disposition including reasonable attorney's fees and other legal fees shall be the responsibility of Borrower and shall be included as part of the obligation of Borrower under this Agreement. Borrower grants to Lender a security interest in and right of setoff against all of Borrower's accounts (whether checking, savings, or some other account) with Lender or with any affiliate bank of Lender ("Bank") to the extent permitted by applicable law. This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. Borrower authorizes, to the extent permitted by applicable law, (a) Lender to charge or setoff all or any sums owing on the Agreement against any and all such accounts, and (b) Bank, at Lender's request, to administratively freeze all such accounts to allow Lender to protect Lender's charge and setoff rights provided in this paragraph. The rights and remedies provided Lender are cumulative and may be exercised in such order or combination as Lender may elect.
13. **WAIVER OF DEFAULTS; AGREEMENT INCLUSIVE.** Lender may in its sole discretion waive any Event of Default. Any such waiver in a particular instance of any particular default, which waiver must be in writing signed by Lender to be effective, shall not be a waiver of other defaults or the same kind of default at another time. This Agreement, together with any and related note, instrument or agreement, and any written instruments or documents that are referred to in or part of this Agreement, is the final expression of the understanding of Borrower and Lender concerning the subject matter of this Agreement and may not be altered or amended except with the written consent of the parties and may not be contradicted by evidence of any alleged prior or contemporaneous oral agreement.
14. **FINANCING STATEMENTS.** If permitted by law, Borrower authorizes Lender to file such financing statements with respect to the Collateral which Lender may determine are reasonably necessary to perfect Lender's interest in the Collateral. Borrower hereby appoints Lender as Borrower's attorney-in-fact to execute on Borrower's behalf any such financing statements.
15. **ASSIGNMENT.** Lender may assign this Agreement and any indebtedness secured hereby and upon such assignment or transfer the assignee or holder shall be entitled to all rights, powers, privileges and remedies of Lender to the extent assigned or transferred. The obligations of Borrower shall not be subject, as against any such assignee or transferee, to any defense, set-off or counterclaim available to the Borrower against Lender and any such defense, set-off or counterclaim may be asserted only against Lender. Any assignee from Lender shall have the same right of off-set as is available to Lender.
16. **ARBITRATION DISCLOSURES.**
  - (a) **ARBITRATION IS FINAL AND BINDING ON THE PARTIES AND SUBJECT TO ONLY VERY LIMITED REVIEW BY A COURT.**
  - (b) **IN ARBITRATION THE PARTIES ARE WAIVING THEIR RIGHT TO LITIGATE IN COURT, INCLUDING THEIR RIGHT TO A JURY TRIAL.**
  - (c) **DISCOVERY IN ARBITRATION IS MORE LIMITED THAN DISCOVERY IN COURT.**
  - (d) **ARBITRATORS ARE NOT REQUIRED TO INCLUDE FACTUAL FINDINGS OR LEGAL REASONING IN THEIR AWARDS. THE RIGHT TO APPEAL OR TO SEEK MODIFICATION OF ARBITRATORS' RULINGS IS VERY LIMITED.**
  - (e) **A PANEL OF ARBITRATORS MIGHT INCLUDE AN ARBITRATOR WHO IS OR WAS AFFILIATED WITH THE BANKING OR LEASING INDUSTRY.**
  - (f) **ARBITRATION WILL APPLY TO ALL DISPUTES BETWEEN THE PARTIES, NOT JUST THOSE CONCERNING THIS AGREEMENT.**
  - (g) **IF YOU HAVE QUESTIONS ABOUT ARBITRATION, CONSULT YOUR ATTORNEY OR THE AMERICAN ARBITRATION ASSOCIATION.**

(i) Any claim or controversy ("Dispute") between or among the parties and their employees, agents, affiliates, and assigns, including, but not limited to, Disputes arising out of or relating to this agreement, this arbitration provision ("arbitration clause"), or any related agreements or instruments relating hereto or delivered in connection herewith ("Related Agreements"), and including, but not limited to, a Dispute based on or arising from an alleged tort shall at the request of any party be resolved by binding arbitration in accordance with the applicable arbitration rules of the American Arbitration Association (the "Administrator"). The provisions of this arbitration clause shall survive any termination, amendment, or expiration of this agreement or Related Agreements. The provisions of this arbitration clause shall supersede any prior arbitration agreement between or among the parties.

(ii) The arbitration proceedings shall be conducted in a city mutually agreed by the parties. Absent such an agreement, arbitration will be conducted in Salt Lake City, UT or such other place as may be determined by the Administrator. The Administrator and the arbitrator(s) shall have the authority to the extent practicable to take any action to require the arbitration proceeding to be completed and the arbitrator(s)' award issued within 150 days of the filing of the Dispute with the Administrator. The arbitrator(s) shall have the authority to impose sanctions on any party that fails to comply with time periods imposed by the Administrator or the arbitrator(s), including the sanction of summarily dismissing any Dispute or defense with prejudice. The arbitrator(s) shall have the authority to resolve any Dispute regarding the terms of this agreement, this arbitration clause, or Related Agreements, including any claim or controversy regarding the arbitrability of any Dispute. All limitations periods applicable to any Dispute or defense, whether by statute or agreement, shall apply to any arbitration proceeding hereunder and the arbitrator(s) shall have the authority to decide whether any Dispute or defense is barred by a limitations period and, if so, to summarily enter an award dismissing any Dispute or defense on that basis. The doctrines of compulsory counterclaim, res judicata, and collateral estoppel shall apply to any arbitration proceeding hereunder so that a party must state as a counterclaim in the arbitration proceeding any claim or controversy which arises out of the transaction or occurrence that is the subject matter of the Dispute. The arbitrator(s) may in the arbitrator(s)' discretion and at the request of any party: (1) consolidate in a single arbitration proceeding any other claim arising out of the same transaction involving another party to that transaction that is bound by an arbitration clause with Lender, such as borrowers, guarantors, sureties, and owners of collateral, and (2) consolidate or administer multiple arbitration claims or controversies as a class action in accordance with the provisions of Rule 23 of the Federal Rules of Civil Procedure.

(iii) The arbitrator(s) shall be selected in accordance with the rules of the Administrator from panels maintained by the Administrator. A single arbitrator shall have expertise in the subject matter of the Dispute. Where three arbitrators conduct an arbitration proceeding, the Dispute shall be decided by a majority vote of the three arbitrators, at least one of whom must have expertise in the subject matter of the Dispute and at least one of whom must be a practicing attorney. The arbitrator(s) shall award to the prevailing party recovery of all costs and fees (including attorneys' fees and costs, arbitration administration fees and costs, and arbitrator(s)' fees). The arbitrator(s), either during the pendency of the arbitration proceeding or as part of the arbitration award, also may grant provisional or ancillary remedies including but not limited to an award of injunctive relief, foreclosure, sequestration, attachment, replevin, garnishment, or the appointment of a receiver.

(iv) Judgment upon an arbitration award may be entered in any court having jurisdiction, subject to the following limitation: the arbitration award is binding upon the parties only if the amount does not exceed Four Million Dollars (\$4,000,000); if the award exceeds that limit, any party may demand the right to a court trial. Such a demand must be filed with the Administrator within 30 days following the date of the arbitration award; if such a demand is not made within that time period, the amount of the arbitration award shall be binding. The computation of the total amount of an arbitration award shall include amounts awarded for attorneys' fees and costs, arbitration administration fees and costs, and arbitrator(s) fees.

(v) No provision of this arbitration clause, nor the exercise of any rights hereunder, shall limit the right of any party to: (1) judicially or nonjudicially foreclose against any real or personal property collateral or other security; (2) exercise self-help remedies, including but not limited to repossession and setoff rights, or (3) obtain from a court having jurisdiction thereover any provisional or ancillary remedies including but not limited to injunctive relief, foreclosure, sequestration, attachment, replevin, garnishment, or the appointment of a receiver. Such rights can be exercised at any time, before or after initiation of an arbitration proceeding, except to the extent such action is contrary to the arbitration award. The exercise of such rights shall not constitute a waiver of the right to submit any Dispute to arbitration and any claim or controversy related to the exercise of such rights shall be a Dispute to be resolved under the provisions of this arbitration clause. Any party may initiate arbitration with the Administrator. If any party desires to arbitrate a Dispute asserted against such party to a complaint, counterclaim, cross-claim, or third-party complaint thereto, or in an answer or other reply to any such pleading, such party must make an appropriate motion to the trial court seeking to compel arbitration, which motion must be filed with the court within 45 days of service of the pleading, or amendment thereto, setting forth such Dispute. If arbitration is compelled after commencement of litigation of a Dispute, the party obtaining an order compelling arbitration shall commence arbitration and pay the Administrator's filing fees and costs within 45 days of entry of such order. Failure to do so shall constitute an agreement to proceed with litigation and waiver of the right to arbitrate.

(vi) Notwithstanding the applicability of any other law to this agreement, the arbitration clause, or Related Agreements between or among the parties, the Federal Arbitration Act 9 U.S.C. § 1 et seq, shall apply to the construction and interpretation of this arbitration clause. If any provision of this arbitration clause should be determined to be unenforceable, all other provisions of this arbitration clause shall remain in full force and effect.

17. **STATEMENTS.** Borrower shall furnish Lender within ninety (90) days after the end of each fiscal year of Borrower, a balance sheet and profit and loss statement as of the end of such fiscal year and within sixty (60) days after the end of each quarter, a balance sheet and profit and loss statement as of the end of each quarter, all prepared in accordance with generally accepted accounting principles and such other information respecting the financial condition and operations of Borrower as Lender may from time to time reasonably request.

18. **ADDITIONAL FEES.** Borrower agrees to pay Lender's reasonable fees, costs and expenses for the preparation of all documents, filing, and recording fees and an origination fee, which fees shall be disclosed to Borrower prior to the execution of this Agreement. Borrower further agrees to pay all costs incurred by Lender in enforcing or protecting Lender's rights under this Agreement including but not limited to all reasonable attorney's fees (whether or not legal proceedings are instituted), court costs, costs and expenses of obtaining abstracts and title reports, title insurance, appraisals, foreclosure reports, and the costs of preserving, recovering, storing, or selling any of the Collateral. All such additional fees shall be additional indebtedness secured hereby.
19. **MISCELLANEOUS.** Lender may fill in any blanks including but not limited to serial numbers and the date of the first payment. Any provisions hereof contrary to, prohibited by or invalid under applicable laws or regulations shall be inapplicable and deemed omitted herefrom, but shall not invalidate the remaining provisions hereof. **BORROWER ACKNOWLEDGES RECEIPT OF A TRUE COPY OF THIS AGREEMENT.** If Borrower is a corporation, this Security Agreement is executed pursuant to authority of its Board of Directors. "Borrower" and "Lender" as used in this Agreement include the heirs, executors or administrations, successors or assigns to those parties. If more than one Borrower executes this Agreement, their obligations under this Agreement shall be joint and several. **BORROWER WAIVES ALL RIGHTS TO TRIAL BY JURY IN ANY LITIGATIONS ARISING HEREFROM OR IN RELATION HERETO.** This Agreement may not be altered, modified or terminated in any manner except by a writing duly signed by the parties hereto. This Agreement shall be governed by and interpreted in accordance with the laws of the state of Utah except as may be provided in section 16.
20. **ADDITIONAL TERMS:** None.

By execution hereof, the signer hereby certifies that he/she has read this Agreement, including the reverse side of all pages, and that he/she is duly authorized to execute this Agreement on behalf of the Borrower.

      *K. A. R.*        
 Witness

      502982923        
 Signer's Driver's License No.

Santa Fe Southern Railway, Inc.  
 Borrower

By:       *Conce J. Raymond*        
 Title:       *President / General Mgr.*      

Print Name: \_\_\_\_\_  
 Address:       410 S Guadalupe St  
 Santa Fe, NM 87501-2616        
 Date: \_\_\_\_\_

State of: <u>      New Mexico      </u> )	) ss	Residing at: <u>      <i>Estevan D. Montoya</i> Notary Public Santa Fe, New Mexico      </u>
County of: <u>      San Miguel      </u> )		My commission Expires: <u>      June 21, 2011      </u>
Subscribed and sworn before me this <u>      18      </u> day of <u>      July      </u> , 2007.		

ZIONS CREDIT CORPORATION  
 Lender

By:       *Norman Weldon*        
 Title:       Vice President        
 Address:       310 S. Main, Ste 1300, Salt Lake City, UT 84101        
 Date:       July 20, 2007      

Notary Stamp

Rev (10/20/06)

I hereby certify that this is a true and correct copy of the original.  
 By       Michelle Bousfield

Note No: 0012158  
Note Date: July 13, 2007  
Schedule No: 0012158001

**DELIVERY AND ACCEPTANCE**

The Items of Equipment described in the above referenced Security Agreement and Promissory Note, have been received by us as of the date below. We certify that all Items of Equipment (1) have been fully completed by the vendor or manufacturer, (2) have been installed at the location identified in the Security Agreement and Promissory Note, (3) have been examined and/or tested and are in good order and operating condition, and (4) are in all respects satisfactory and acceptable to us as delivered.

You are hereby irrevocably authorized and directed to deliver and apply the proceeds of this Loan to the following in the amounts specified below:

Name: The Titan Companies  
Address: One East Merchants Drive  
Oswego, IL 60545  
Amount: \$115,000.00

Santa Fe Southern Railway, Inc.

Borrower

By:  
Title:

Carol J. Raymond  
President

Date Equipment Delivered:

7/17/07

(Please fill in the date the equipment was received.)

Date Equipment Accepted:

7/17/07

(Please fill in the date the equipment is accepted for purposes on this note.)

I hereby certify that this is a true  
and correct copy of the original.

By Michelle Busfield