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CORTLAND COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
and  
NEW YORK, SUSQUEHANNA & WESTERN RAILWAY CORPORATION

LEASE AGREEMENT

Dated as of April 15, 1982

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(This Table of Contents is not a part of the Lease Agreement and is for convenience of reference only)

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THIS LEASE AGREEMENT, dated as of April 27, 1982, is by and between CORTLAND COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation duly organized and existing under the laws of the State of New York having its office at 50 Main Street, Cortland, New York 13045 (the "Agency") and NEW YORK, SUSQUEHANNA & WESTERN RAILWAY CORPORATION, a business corporation duly organized and existing under the laws of the State of New Jersey, having an office for the transaction of business at One Railroad Avenue, Cooperstown, New York (the "Company").

W I T N E S S E T H :

WHEREAS, the Cortland County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, (the "Enabling Act"), and Chapter 77 of the 1974 Laws of New York, as amended, constituting Section 902 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of, among others, railroad facilities for the purpose of promoting, attracting and developing economically sound commerce and industry on order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, by resolution adopted on March 15, 1982 (the "Initial Resolution"), the Agency indicated its intent: (i) to acquire the facility described in the following paragraph (the "Facility") and (ii) to lease (with an obligation to purchase) the Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the Project consists of the following (all of which are collectively hereinafter referred to as the "Project"): the acquisition of approximately 29 miles of railroad line now or formerly owned by the Consolidated Railroad Corporation and located in Cortland County, New York; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended, and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the "SEQR Act"), the Agency in the Initial Resolution determined that the acquisition of the Facility, and the leasing thereof to the Company, will not have a

significant effect on the "environment" (as said quoted term is defined in the SEQR Act) and therefore does not require the preparation of environmental impact statement; and

WHEREAS, the Company has conveyed the Facility to the Agency; and

WHEREAS, the Agency proposes to lease the Facility to the Company, and the Company desires to rent the Facility from the Agency, upon the terms and conditions hereinafter set forth in this Agreement;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows (but, with respect to the Agency, solely to the extent permitted by Section 12.11 hereof), to wit:

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ARTICLE I

DEFINITIONS

The following words and terms as used in this Lease Agreement shall have the following meanings unless the context or use indicates another or different meaning or intent:

"Accountant" means a firm of independent certified public accountants of recognized standing, selected by the Company and reasonably acceptable to the Agency.

"Act" means Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended from time to time, together with Chapter 77 of the Laws of 1974 of the State of New York, as amended from time to time.

"Agency" means (i) Cortland County Industrial Development Agency and its successors and assigns and (ii) any public benefit corporation or political subdivision or other entity (as provided in Section 9.3 hereof) resulting from or surviving any consolidation or merger to which the Agency or its successors may be a party.

"Agency Line" means the 2.8 mile of railroad acquired by the Agency from the trustees of the Lehigh Valley Railroad Company located in the City of Cortland and the Town of Cortlandville in Cortland County, New York, commencing at the ConRail main line east of Pendleton Street in the City of Cortland and running westerly across Pendleton Street, Main Street, Owego Street, Delaware Avenue, Tompkins Street (Rte 13), Homer Street (Rte 281) and terminating at McLean Road in the Town of Cortlandville.

"Agreement" means this Lease Agreement, dated as of April 15, 1982, by and between the Agency and the Company, as the same may be amended or supplemented from time to time.

"Authorized Representative" means, in the case of the Agency, the chairman, vice chairman, secretary or assistant secretary of the Agency; in the case of the Company, its president or any vice-president; and, in the case of both, such additional persons as, at the time, are designated to act on behalf of the Agency or the Company, as the case may be, by written certificate furnished to the Agency or the Company, as the case may be, containing the specimen signature of each such person and signed on behalf of (i) the Agency by the chairman, vice chairman, secretary or assistant secretary of the Agency or (ii) the Company by the president or any vice president of the Company.

"Company" means (i) New York, Susquehanna & Western Railway Corporation, a business corporation duly organized and existing under the laws of the State of New Jersey, and its successors and assigns as the lessee hereunder, and (ii) any surviving, resulting or transferee Person as provided in Section 8.4 hereof.

"Conrail" means Consolidated Rail Corporation.



"Event of Default" shall have the meaning specified in Section 10.1 hereof.

"Facility" means the Land and the Improvements; and shall also include the Agency Line, except that the Company shall not have the right to purchase the Agency Line pursuant to Section 11.3 hereof nor the right to sell same pursuant to Section 9.1 hereof.

"Fiscal Year" means the twelve (12) month period beginning on January 1 in any year or such other fiscal year as the Company may select from time to time.

"Guarantor" means Delaware Otsego Corporation.

"Guaranty" means the agreement, dated as of April 15, 1982, from the Guarantor to the Agency by which the Guarantor guarantees to the Agency the full and prompt payment, when due, of all sums payable by the Company under this Lease Agreement and the full and prompt performance of all obligations of the Company to the Agency hereunder.

"Improvements" means all those buildings, improvements, structures and other related facilities (including all track, bridges, signals, switches and related railroad transportation equipment) affixed or attached to the Land, all as they may exist from time to time.

"Independent Counsel" means an attorney or attorneys or firm or firms of attorneys duly admitted to practice law before the highest court of the State of New York and not a full time employee of the Agency or the Company.

"Independent Engineer" means an architect or engineer or architectural or engineering firm registered and qualified to practice the profession of engineering under the laws of the State of New York and not a full time employee of the Agency or the Company.

"Initial Resolution" shall have the meaning set forth in the second recital of this Agreement.

"Land" means the interest in real estate leased pursuant to this Agreement and more particularly described in Exhibit A attached hereto, with such additions thereto and substitutions therefor as may exist from time to time in accordance with the provisions of this Agreement.

"Lease Term" means the duration of the leasehold estate created in this Agreement as specified in Section 5.2 hereof.

"Lien" means any interest in Property securing an obligation owed to a Person, whether such interest is based on the common law, statute or contract, and including but not limited to the security interest arising from a mortgage, encumbrance, pledge, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term "Lien" includes reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other similar title exceptions and encumbrances, including but not limited to mechanics'.

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materialmen's, warehousemen's and carriers' liens and other similar encumbrances affecting real property. For the purposes of this Agreement, a Person shall be deemed to be the owner of any Property which it has acquired or holds subject to a conditional sale agreement or other arrangement pursuant to which title to the Property has been retained by or vested in some other Person for security purposes.

"Local Taxing Entities" shall mean, collectively, Cortland County and each other Taxing Entity in which the Facility, or any portion thereof, is located, including, without limitation, any city, school district, town, village or other political unit wherein the Facility or a portion thereof is located.

"Mortgages" means, collectively, the Original Mortgage and the Refunding Mortgage.

"Net Proceeds" means so much of the gross proceeds with respect to which that term is used as remain after payment of all expenses, costs and taxes (including attorneys' fees) incurred in obtaining such gross proceeds.

"Net Worth" means, at any date, the Tangible Assets of a Person which (after deducting depreciation, obsolescence, amortization, and any valuation or other reserves on account of upward revaluation of assets and without reduction for any unamortized debt discount or expense) would be shown, in accordance with generally accepted accounting principles, on its balance sheet, minus liabilities (other than capital stock and surplus but including all reserves for contingencies and other potential liabilities) which would be shown, in accordance with generally accepted accounting principles, on such balance sheet.

"Original Mortgage" means the purchase money mortgage from the Company to Conrail to finance the purchase of the Facility by the Company from Conrail.

"Permitted Encumbrances" means (i) the Liens, if any, described in Exhibit A attached hereto, (ii) this Agreement and the Mortgages, (iii) utility, access and other easements and rights of way, restrictions and exceptions that do not, in the opinion of Independent Counsel, materially impair the utility or the value of the Property affected thereby for the purposes for which it is intended, (iv) mechanics', materialmen's, warehousemen's, carriers' and other similar Liens to the extent permitted by Section 8.9(b) hereof, and (v) Liens for taxes and assessments, whether general or special, at the time not delinquent.

"Person" means an individual, partnership, corporation, association, joint venture, trust or unincorporated organization, and a government or any governmental agency, public benefit corporation or political subdivision.

"Property" means any interest of any kind in any property or asset, whether real, personal or mixed, or tangible or intangible.

"Refunding Mortgage" means the mortgage which the parties hereto expect will be executed in the future by the Company (and, if the conditions of Section 9.4 hereof are satisfied, the Agency) to the Federal Rail Administration or any institutional lender for the purpose of reimbursing the cost of acquiring the Facility from Conrail, including the cost of refunding the Original Mortgage.

"Reserved Rights" means (i) the rights of the Agency hereunder pursuant to Sections 2.2(f), 3.1, 4.1, 6.1, 6.3, 6.4, 6.5, 6.7, 7.1, 7.2, 8.2, 8.3, 8.4, 8.6, 8.7, 8.8, 8.12, 9.2 and 9.4 hereof, (ii) the monies due or to become due to the Agency for its own account pursuant to Sections 2.2(f), 3.1, 4.1, 5.3(b), 5.3(c), 6.7, 8.2, 8.8, 8.12, 10.4 and 11.2(a) (i) hereof, (iii) the monies due to the Local Taxing Entities as payments in lieu of taxes pursuant to Section 6.8 hereof and (iv) the right to enforce the foregoing pursuant to Article X hereof.

"Tangible Assets" means total assets except (i) that portion of deferred assets and prepaid expenses (other than prepaid insurance, prepaid rent and prepaid taxes) which do not mature or, in accordance with generally accepted accounting principles, are not amortizable within one year from the date of calculation, and (ii) trademarks, trade names, good will, and other similar intangibles.

"Taxing Entities" shall mean, collectively, all municipalities (i) in which the Syracuse-Binghamton-Utica railroad line, or any portion thereof, is located, including, without limitation, any county, school district, town, village or other political unit wherein said Syracuse-Binghamton-Utica railroad line or a portion thereof, is located, which (ii) received real property tax payments from said Syracuse-Binghamton-Utica railroad line prior to the execution of this Agreement.

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ARTICLE II  
REPRESENTATIONS AND COVENANTS

Section 2.1 Representations and Covenants of the Agency.

The Agency makes the following representations and covenants as the basis for the undertakings on the Company's part herein contained:

(a) The Agency is duly established under the provisions of the Act and has the power to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. Based upon the representations of the Company as to the utilization of the Facility, the Facility will constitute a "project", as such quoted term is defined in the Act. By proper corporate action, the officers of the Agency have been duly authorized to execute and deliver this Agreement.

(b) The Agency will acquire the Facility and will lease the Facility to the Company pursuant to this Agreement, all for the purpose of promoting the industry, health, welfare, convenience and prosperity of the inhabitants of the State of New York and improving their standard of living.

(c) By the Initial Resolution, the Agency determined that, based upon the review by the Agency of the materials submitted and the representations made by the Company relating to the Facility, the acquisition of the Facility, and the leasing thereof by the Agency to the Company, will not have a "significant effect on the environment" within the meaning ascribed to such quoted phrase in Article 8 of the Environmental Conservation Law of the State of New York and the regulations of the New York State Department of Environmental Conservation promulgated thereunder.

Section 2.2 Representations and Covenants of the Company.

The Company makes the following representations and covenants as the basis for the undertakings on the Agency's part herein contained:

(a) The Company is a business corporation duly organized and existing under the laws of the State of New Jersey, is in good standing under its certificate of incorporation and the laws of the State of New Jersey, is duly authorized to do business in the State of New York, has power to enter into this Agreement and to carry out its obligations hereunder and by proper corporate action has been duly authorized to execute and deliver this Agreement.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any corporate restriction or any

agreement or instrument to which the Company is a party or by which the Company is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any Lien of any nature upon any of the Property of the Company under the terms of any such instrument or agreement.

(c) The acquisition of the Facility by the Agency and the leasing thereof by the Agency to the Company (i) will induce the Company to maintain and operate the Facility in Cortland County, New York, thereby retaining employment opportunities and promoting the welfare of the inhabitants thereof and (ii) will not result in the removal of a plant, facility or other commercial activity of the Company or any other occupant of the Facility from one area of the State of New York to another area of the State of New York or result in the abandonment of one or more plants or facilities of the Company or any other occupant of the Facility located within the State of New York.

(d) The Facility is and will continue to be a "project", as such quoted term is defined in the Act, and, so long as the Agency retains title to the Facility, the Company will not take any action, fail to take any action or allow any action to be taken, which would cause the Facility not to constitute a "project" (as such quoted term is defined in the Act).

(e) To the best of the Company's actual knowledge, the acquisition of the Facility will not have a "significant effect on the environment" (as said quoted term is defined in Article 8 of the Environmental Conservation Law of the State of New York).

(f) The Facility will comply with all presently applicable building, zoning, environmental, planning and subdivision laws, ordinances, rules and regulations of governmental authorities having jurisdiction over the Facility, and the Company shall defend, indemnify and save the Agency and its members, officers, agents, servants and employees harmless from any liability or expenses resulting from any failure by the Company to comply with the provisions of this subsection (f).

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ARTICLE III

ACQUISITION OF THE FACILITY

Section 3.1. Agreement to Convey to the Agency.

The Company has conveyed, or has caused to be conveyed, or will convey, or will cause to be conveyed, to the Agency title to the Facility. The Company agrees that the title to the Facility shall be good and marketable and free and clear of all Liens except for Permitted Encumbrances and will be sufficient for the purposes intended by this Agreement and the Company agrees that it will defend, indemnify and hold the Agency and its members, officers, agents, servants and employees harmless from any expense or liability arising out of a defect in title affecting the Facility and will pay all reasonable expenses incurred by the Agency in defending any action respecting title to the Facility.

ARTICLE IV

ACQUISITION OF THE FACILITY; ISSUANCE OF THE BONDS

Section 4.1. Acquisition of the Facility

The Company shall give or cause to be given all notices and comply or cause compliance with all laws, ordinances, municipal rules and regulations and requirements of all governmental agencies and public authorities applying to or affecting the acquisition of the Facility, and the Company will defend and save the Agency and its officers, members, agents, servants and employees harmless from all fines and penalties due to failure to comply therewith. All permits and licenses necessary for the acquisition of the Facility shall be procured promptly by the Company.

Section 4.2. Costs of Acquisition to be Paid by the Company

The Company agrees, for the benefit of the Agency, to pay in full all costs of acquiring the Facility. Title to all portions of the Facility acquired at the Company's cost shall immediately upon such acquisition vest in the Agency. The Company shall execute, deliver and record or file such instruments as the Agency may request in order to perfect or protect its title to such portions of the Facility. No payment pursuant to the provisions of this Section 4.2 shall entitle the Company to any reimbursement for any such expenditure from the Agency or entitle the Company to any diminution or abatement of any other amounts payable by the Company under this Agreement.

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ARTICLE V

DEMISING CLAUSES AND RENTAL PROVISIONS

Section 5.1 Demise of the Facility.

The Agency hereby demises and leases the Facility to the Company, and the Company hereby rents and leases the Facility from the Agency, upon the terms and conditions of this Agreement.

Section 5.2 Duration of the Lease Term; Quiet Enjoyment.

(a) The Agency shall deliver to the Company sole and exclusive possession of the Facility (subject to the provisions of Sections 8.3 and 10.2 hereof), and the leasehold estate created hereby shall commence, on the date which is fifteen days subsequent to the date that the New York State Commissioner of Transportation submits an analysis of the financial and operational feasibility of the Facility, along with any recommendations for modification for improving the Facility's viability, to the Agency, the governor of the State of New York, the New York State Commissioner of Commerce, the temporary president of the New York State Senate, the speaker of the New York State Assembly and the chief legislative body of Cortland County, New York; provided that the Company shall have temporary possession of the Facility on the date of execution and delivery of this Agreement and the obligations of the Company to indemnify, defend and hold harmless the Issuer and its members, officers, agents, servants and employees as provided in Section 8.2 hereof and to provide insurance as provided in Sections 6.4 and 6.5 hereof shall arise on such date.

(b) Except as provided in Section 10.2 hereof, the leasehold estate created hereby shall terminate at 11:59 p.m. on April 15, 1997 or on such earlier date as may be permitted by Section 11.1 hereof.

(c) The Agency shall take no action, other than pursuant to Article X of this Agreement, to prevent the Company from having quiet and peaceable possession and enjoyment of the Facility during the Lease Term and will, at the request of the Company and at the Company's cost, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Facility.

Section 5.3 Rents and Other Amounts Payable.

(a) The Company shall pay rent for the Facility leased hereunder as follows: So long as the leasehold estate created hereby shall not be terminated, the Company shall pay, directly to the Agency, on the date of execution and delivery of this Agreement and on the first day of January in each calendar year thereafter during the Lease Term, an amount equal to the sum of Five Hundred Dollars (\$500) per year.



(b) In addition to the amounts payable pursuant to Section 5.3(a) hereof, the Company shall pay to the Agency as additional rent, within thirty (30) days of the receipt of demand therefor, an amount equal to the sum of the expenses of the Agency and the members, officers, agents, servants and employees thereof incurred (i) by reason of the Agency's ownership or leasing of the Facility and/or (ii) in connection with the carrying out of the Agency's duties and obligations under this Agreement or the Refunding Mortgage, the payment of which is not otherwise provided for under this Agreement or the Refunding Mortgage.

(c) The above-mentioned payments shall be made, without any further notice, in immediately available funds and in lawful money of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts. In the event the Company shall fail to timely make any payment required in this Section 5.3, the Company shall pay the same together with interest thereon at the rate of twelve percent (12%) per annum from the date on which such payment was due until the date on which such payment is made.

Section 5.4 Obligations of the Company Hereunder Unconditional:

(a) The obligations of the Company to make the payments required by this Agreement and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be a general obligation of the Company and shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment, counterclaim or abatement that the Company may otherwise have against the Agency. The Company will not (i) suspend, discontinue or abate any payment required by this Agreement or (ii) fail to observe any of its other covenants or agreements in this Agreement or (iii), except as provided in Section 11.1 or Section 7.1 hereof, terminate this Agreement for any cause whatsoever including, without limiting the generality of the foregoing, failure of the Company to occupy or to use the Facility as contemplated in this Agreement or otherwise, any defect in the title, design, operation, merchantability, fitness or condition of the Facility or in the suitability of the Facility for the Company's purposes or needs, failure of consideration, destruction of or damage to the Facility, commercial frustration of purpose, or the taking by Condemnation of title to or the use of all or any part of the Facility, any change in the tax or other laws of (or administrative rulings of or administrative actions by) the United States of America or the State of New York or any political subdivision of either, or any failure of the Agency to perform and observe any agreement, whether expressed or implied, or any duty, liability or obligation arising out of or in connection with this Agreement.

(b) Nothing contained in this Section 5.5 shall be construed to release the Agency from the performance of any of the agreements on its part contained in this Agreement, and in the event the Agency should fail to perform any such agreement, the Company may institute

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such action against the Agency as the Company may deem necessary to compel performance (subject to the provisions of Section 12.11 hereof) or recover damages for non-performance; provided, however, that the Company shall look solely to the Agency's estate and interest in the Facility for the satisfaction of any right or remedy of the Company for the collection of a judgment (or other judicial process) requiring the payment of money by the Agency in the event of any liability on the part of the Agency, and no other property or assets of the Agency shall be subject to levy, execution, attachment or other enforcement procedure for the satisfaction of the Company's remedies under or with respect to this Agreement, the relationship of the Agency and the Company hereunder, or the Company's use and occupancy of the Facility, or any other liability of the Agency to the Company.

Section 5.5. Grant of Security Interest.

The Company hereby grants to the Agency a security interest in all of the Company's right, title, and interest in the Facility as security for the payment of the rentals and all other obligations of the Company hereunder.

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ARTICLE VI

MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

Section 6.1 Maintenance, Use and Modifications of the Facility by the Company.

(a) During the Lease Term, the Company will (i) periodically inspect the Facility with reasonable care, (ii) remedy any defects or dangerous conditions which the Company may discover on or with respect to the Facility through such inspections, (iii) maintain the Facility free of defects or dangerous conditions and keep the Facility in reasonably safe condition, (iv) make all necessary repairs and replacements to the Facility (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen) as are necessary to maintain the Facility free from defects and dangerous conditions and in reasonable safe condition and within at least the minimum operating and safety standards mandated by appropriate state and federal regulatory agencies, and (iii) operate the Facility in a sound and economic manner and in accordance with all federal and state safety standards.

(b) The Company agrees to use the Facility only in connection with the furnishing of railroad services or otherwise in conformance with all zoning ordinances, laws, rules and regulations that would be applicable to the Facility. The Company covenants not to use the Facility for any other purpose without the prior written consent of the Agency.

(c) With the prior written consent of the Agency, which consent shall not be unreasonably delayed or withheld (but may, with respect to any addition or improvement, be subject to such reasonable conditions as the Agency may deem appropriate, including, without limitation, requirements (i) that the provisions of Article 8 of the Environmental Conservation Law be satisfied with respect to such addition or improvement and (ii) that the Agency be furnished with an agreement by the Company satisfactory to the Agency regarding the addition or improvement), the Company from time to time may make any additions, modifications or improvements to the Facility or any part thereof which it may deem desirable for its business purposes, provided such actions do not affect the integrity of the Facility. All such additions, modifications or improvements, so made by the Company shall be done in a reasonable and workmanlike manner and shall become a part of the Facility. The Company agrees to deliver to the Agency all documents which may be necessary or appropriate to convey to the Agency title to, or other satisfactory interest in, such Property.

(d) The Agency shall not be under any obligation to renew, repair or replace any inadequate, obsolete, worn out, unsuitable,

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undesirable or unnecessary portions of the Facility.

Section 6.2 Installation of Additional Equipment.

(a) The Company from time to time may install additional machinery, equipment or other personal property in the Facility (which may be attached or affixed to the Facility), and such machinery, equipment or other personal property shall not become, or be deemed to become, a part of the Facility. Unless an Event of Default has occurred and is continuing, the Company from time to time may remove or permit the removal of such machinery, equipment or other personal property from the Facility; provided that any such removal of such machinery, equipment or other personal property shall not adversely affect the integrity of the Facility or impair the overall operating efficiency of the Facility for the purposes for which it is intended and provided further that, if any damage is occasioned to the Facility by such removal, the Company shall promptly repair such damage at its own expense.

(b) The Agency shall not be responsible for any loss or damage to any machinery, equipment or other personal property installed pursuant to the provisions of this Section 6.2.

Section 6.3 Taxes, Assessments and Utility Charges.

(a) The Company shall pay, as the same respectively become due, (i) all taxes and governmental charges of any kind whatsoever which may at any time be lawfully assessed or levied against or with respect to (A) the Facility, (B) any machinery, equipment or other property installed or brought by the Company therein or thereon, (C) the employees of the Company located at or assigned to the Facility and (D) the income or revenues of the Agency from the Facility, including, without limiting the generality of the foregoing, any sales or use taxes imposed with respect to the Facility or any part or component thereof, or the rental of the Facility or any part thereof, (ii) all utility and other charges, including "service charges", incurred or imposed for or with respect to the operation, maintenance, use, occupancy, upkeep and improvement of the Facility, (iii) all assessments and charges of any kind whatsoever lawfully made by any governmental body for public improvements, provided that, with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Company shall be obligated under this Agreement to pay only such installments as are required to be paid during the Lease Term, and (iv) all moneys due as payments in lieu of taxes pursuant to Section 6.8 hereof.

(b) The Company may in good faith actively contest any such taxes, assessments and other charges, provided that the Company shall have first notified the Agency in writing of such contest. In the event of any such contest, the Company may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom provided adequate book reserves in accordance with generally accepted accounting

principles (in opinion of the Company's Accountant) have been established with respect thereto. If the Agency shall so request, such taxes, assessments or other charges shall be paid promptly or secured by posting a bond in form and substance satisfactory to the Agency.

(c) The Company shall defend, indemnify and save the Agency and its members, officers, agents, servants and employees harmless from any liability or expenses resulting from any failure by the Company to comply with the provisions of this Section 6.3.

Section 6.4 Insurance Required.

At all times throughout the Lease Term, the Company shall, at its expense, maintain insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type paying, as the same become due and payable, all premiums in respect thereto, such insurance to include at a minimum the following coverages:

(a) Federal Employer's Liability Act insurance, and each other form of insurance which the Agency or the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Facility.

(b) Insurance protecting the Company and the Agency against loss or losses from liabilities imposed by law or assumed in any written contract (including the contractual liability assumed by the Company pursuant to this Agreement, including Section 8.2 hereof) and arising from personal injury and death or damage to the Property of others caused by any accident or occurrence, with limits of not less than TEN MILLION DOLLARS (\$10,000,000) per accident or occurrence on account of personal injury, including death resulting therefrom, and damage to the Property of others, excluding liability imposed upon the Company by any applicable worker's compensation law.

(c) During the Lease Term, any contractor or subcontractor engaged in the repairs of the Facility or in the construction or installation of any improvements to the Facility shall be required to carry general comprehensive liability insurance with limits acceptable to the Company and containing coverages for premises operations, contractors protective, owner's protective and completed operations (products liability), with the X,C and U exclusions removed and containing coverage for all owned, non-owned and hired vehicles with non-ownership protection for contractor's or subcontractor's employees.

Section 6.5 Additional Provisions Respecting Insurance.

(a) All insurance required by Section 6.4 hereof shall be procured and maintained under valid and enforceable policies issued by financially sound and generally recognized responsible insurance companies selected by the Company and reasonably acceptable to the

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Agency and authorized to write such insurance in the State of New York. Such insurance may be written with deductible amounts approved in writing by the Agency. All policies evidencing such insurance shall provide for (i) payment of the losses to the Company and the Agency as their respective interests may appear, and (ii) at least thirty (30) days prior written notice of the cancellation thereof (or any reduction in policy limits or material change in coverage thereof) to the Company and the Agency.

(b) All such policies of insurance, or a certificate or certificates of the insurers that such insurance is in force and effect, shall be deposited with the Agency on or before the Closing Date. The Company shall deliver to the Agency on or before the first business day of each calendar year thereafter a certificate dated not earlier than the immediately preceding November 1 reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance in the amounts and of the types required by Sections 6.4 and 6.5 hereof. At least thirty (30) days prior to the expiration of any such policy, the Company shall furnish to the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agreement.

(c) Nothing in this Agreement shall prevent the Company from taking out insurance of the kind and in the amounts provided for under Section 6.4 hereof under a blanket insurance policy or policies which cover other properties owned or operated by the Company as well as the Facility.

Section 6.6 Application of Net Proceeds of Insurance.

The Net Proceeds of the insurance carried pursuant to the provisions of Section 6.4 hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

Section 6.7 Right of the Agency to Pay Taxes, Insurance Premiums and Other Charges.

If the Company fails (i) to pay any tax, assessment or other governmental charge required to be paid by Section 6.3 hereof or (ii) to maintain any insurance required to be maintained by Section 6.4 hereof, the Agency may pay (but shall not be obligated to pay) such tax, assessment or other governmental charge or the premium for such insurance. No such payment by the Agency shall affect or impair any rights of the Agency hereunder arising in consequence of such failure by the Company. The Company shall reimburse the Agency upon demand, for any amount so paid by the Agency pursuant to this Section 6.7, together with interest thereon from the date of payment by the Agency at the rate of twelve percent (12%) per annum from the date on which such payment was due until the date on which such payment is made.

Section 6.8 Payments in Lieu of Taxes.

(a) It is recognized that under the provisions of the Act, the Agency is required to pay no taxes or assessments (except for special assessments and special ad valorem levies) upon any of the Property acquired by it or under its jurisdiction or control or supervision or upon its activities. The Company and the Agency agree, however, that the Company, or any subsequent lessee under this Agreement, shall, during the Lease Term and any extended period required pursuant to Subsection (e) of this Section 6.8, make annual payments in lieu of taxes as additional rent under this Agreement, said payments in lieu of taxes to be paid in the amounts hereinafter provided to the Local Taxing Entities as hereinafter provided.

(b) On January 15 of the year succeeding each calendar year in which the number of railroad cars originating and terminating on the Syracuse-Binghamton-Utica railroad line exceeds seven thousand (7,000) cars, the Company will pay into a special trust fund for the benefit of all Taxing Entities (including Taxing Entities located outside Cortland County, New York), an amount equal to twenty percent (20%) of the average revenue per car (excluding shipper's surcharge) multiplied by the number of cars in excess of 7,000, minus any annual repayment required at such time by the New York State Department of Transportation as a condition of any operating subsidy (if any). On January 30 of any calendar year in which the Company shall make any payment into such special trust fund, the Company shall distribute the moneys in such special trust fund among the Taxing Entities in the same proportion as each Taxing Entity's tax payments received prior to the execution of this Agreement bears to the total tax payments received by all Taxing Entities prior to the execution of this Agreement.

(c) Upon repayment of the principal and interest due on the Refunding Mortgage, the Company shall make annual payments in lieu of taxes to the respective Local Taxing Entities in such amount as would result from taxes levied on the Facility by the respective Local Taxing Entities if the Facility were privately owned by the Company and not owned by or deemed under the jurisdiction or control or supervision of the Agency, but with appropriate reductions similar to the tax exemptions and credits, if any, which would be afforded to the Company if it were the owner of the Facility. It is agreed that the Company (i) shall cause the Facility to be valued for purposes of determining the amounts due hereunder as if owned by the Company as aforesaid by the appropriate officer or officers of any of the respective Local Taxing Entities as may from time to time be charged with responsibility for making such valuations; (ii) shall cause to be appropriately applied to the valuation or valuations so determined the respective tax rate or rates of such Local Taxing Entities that would be applicable to the Facility if so privately owned and not owned by or deemed under the jurisdiction or control or supervision of the Agency; (iii) shall cause the respective appropriate officer or officers of such Local Taxing Entities charged with the duty of levying and collecting such taxes to submit to the Company, when the

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respective levies are made for purposes of such taxes upon property privately owned as aforesaid, a statement specifying the amount and due date or dates of such taxes which the respective Local Taxing Entities would receive if such property were so privately owned by the Company and not owned by or deemed under the jurisdiction or control or supervision of the Agency; and (iv) shall file with the appropriate officer or officers any required accounts or tax returns. The Company shall pay to the respective Local Taxing Entities when due all such payments in lieu of real property taxes with respect to the Facility required by this Agreement to be paid to the respective Taxing Entities, subject in each case to the Company's right (x) to obtain exemptions and credits, if any, which would be afforded to a private owner of the Facility, (y) to contest valuations of the Facility made for the purpose of determining such payments therefrom and (z) to seek to obtain a refund of any such payments made. The amounts due as payments in lieu of taxes in any calendar year pursuant to this subsection (c) shall be paid to each Local Taxing Entity within the period that such Local Taxing Entity allows payment of taxes levied in such calendar year without penalty.

(d). In the event the Company should fail to make any such payment in lieu of taxes, the amount or amounts so in default shall continue as an obligation of the Company until fully paid and the Company agrees to pay the same, together with interest thereon at the same rate per annum as if such amounts were delinquent taxes.

(e) In the event that the Company shall purchase the Facility pursuant to Article XI of this Agreement, and such purchase shall not immediately obligate the Company to make pro-rata tax payments pursuant to legislation similar to subdivision one of Section 520 of the Real Property Tax Law, as added by Chapter 635 of the 1978 Laws of New York, then, notwithstanding any other provision of this Agreement, the obligations of the Company pursuant to this Section 5.4 shall remain in full force and effect until the first tax year in which the Company shall appear on the tax rolls of the various taxing entities having jurisdiction over the Facility as the legal owner of record of the Facility.



ARTICLE VII

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 7.1 Damage or Destruction.

(a) If the Facility shall be damaged or destroyed (in whole or in part) at any time during the Lease Term:

(i) the Agency shall have no obligation to replace, repair, rebuild or restore the Facility;

(ii) there shall be no abatement or reduction in the amounts payable by the Company under this Agreement (whether or not the Facility is replaced, repaired, rebuilt or restored);

(iii) the Company shall promptly give notice thereof to the Agency; and

(iv) except as otherwise provided in subsection (b) of this Section 7.1, the Company shall promptly replace, repair, rebuild or restore the Facility to substantially the same condition and value as an operating entity as existed prior to such damage or destruction, with such changes, alterations and modifications as may be desired by the Company, provided that such changes, alterations or modifications do not so change the nature of the Facility that it does not constitute a "project" (as such quoted term is defined in the Act).

Except as otherwise provided in subsection (b) or (c) of this Section 7.1, the Company shall apply to the replacement, repair, rebuilding or restoration of the Facility so much as may be necessary of any Net Proceeds of insurance resulting from claims for such losses.

In the event such Net Proceeds are not sufficient to pay in full the costs of such replacement, repair, rebuilding or restoration, the Company shall nonetheless complete the work thereof and pay from its own monies that portion of the costs thereof in excess of such Net Proceeds.

All such replacements, repairs, rebuilding or restoration made pursuant to this Section 7.1, whether or not requiring the expenditure of the Company's own money, shall automatically become a part of the Facility as if the same were specifically described herein.

(b) The Company shall not be obligated to replace, repair, rebuild or restore the Facility, and the Net Proceeds of the insurance shall not be applied as provided in subsection (a) of this Section 7.1, if the Company shall exercise its option to terminate this Agreement pursuant to Section 11.1 hereof.

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(c) Unless an Event of Default shall have occurred and be continuing, the Company may adjust all claims under any policies of insurance covering damage or destruction of the Facility; provided, however, that no such claim with respect to an insured event as to which the Agency may be or is alleged to be liable may be adjusted without the prior written consent of the Agency.

Section 7.2 Condemnation.

(a) If at any time during the Lease Term the whole or any part of title to, or the use of, the Facility shall be taken by Condemnation, the Agency shall have no obligation to restore or replace the Facility and there shall be no abatement or reduction in the amounts payable by the Company under this Agreement (whether or not the Facility is restored or replaced).

Except as otherwise provided in subsection (b) of this Section 7.2, the Company shall promptly:

(i) if necessary to maintain the Facility as an operating railroad, restore the Facility (including the purchase of necessary land to replace any Land taken by Condemnation) to substantially the same condition and value as an operating entity as existed prior to such Condemnation; or

(ii) if necessary to maintain the Facility as an operating railroad, acquire, by construction or otherwise, facilities of substantially the same nature and value as an operating entity as the Facility (hereinafter referred to in this Section 7.2 as "Substitute Facilities"), which Substitute Facilities shall constitute a "project," as such quoted term is defined in the Act; and

(iii) in any event, give prompt notice of such Condemnation and its plans to restore the Facility or acquire Substitute Facilities to the Agency.

The Net Proceeds of any award in any Condemnation proceeding shall be paid to the Company and, if required, applied to the payment of the costs of such restoration of the Facility or the acquisition of Substitute Facilities. In the event such Net Proceeds of any Condemnation award are not sufficient to pay in full the costs of such restoration of the Facility or such acquisition of Substitute Facilities, the Company shall nonetheless restore the Facility or acquire Substitute Facilities and shall pay from its own monies that portion of the costs thereof in excess of such Net Proceeds.

The Facility, as so restored, or the Substitute Facilities, whether or not requiring the expenditure of the Company's own monies, shall automatically become part of the Facility as if the same were specifically described herein.

(b) The Company shall not be obligated to restore the Facility or acquire Substitute Facilities, and the Net Proceeds of any

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Condemnation award shall not be applied as provided in Section 7.2(a), if the Company shall exercise its option to terminate this Agreement pursuant to Section 11.1 hereof.

(c) The Agency shall cooperate fully with the Company in the handling and conduct of any Condemnation Proceeding with respect to the Facility. In no event shall the Agency voluntarily settle, or consent to the settlement of, any Condemnation proceeding with respect to the Facility without the written consent of the Company.

Section 7.3 Condemnation of Company-Owned Property.

The Company shall be entitled to the proceeds of any Condemnation award or portion thereof made for damage to or taking of any Property which, at the time of such damage or taking, is not part of the Facility and which is owned by the Company.

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ARTICLE VIII

SPECIAL COVENANTS

Section 8.1 No Warranty of Condition or Suitability by the Agency; Acceptance "As Is".

THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS, OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE FACILITY, OR THAT THE FACILITY IS OR WILL BE SUITABLE FOR THE COMPANY'S PURPOSES OR NEEDS, OR THAT THE FACILITY IS OR WILL BE SUITABLE FOR USE IN CONNECTION WITH THE PROVISION OF RAILROAD SERVICES, OR REGARDING THE EXISTENCE OR NON-EXISTENCE OF ANY DEFECTS OR DANGEROUS CONDITIONS EXISTING ON OR WITH RESPECT TO THE FACILITY. THE COMPANY DOES AND SHALL ACCEPT TITLE TO THE FACILITY "AS IS" WITHOUT RECOURSE OF ANY NATURE AGAINST THE AGENCY FOR ANY CONDITION NOW OR HEREAFTER EXISTING. NO WARRANTIES OF FITNESS FOR PARTICULAR PURPOSE OR MERCHANTABILITY ARE MADE. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE AGENCY SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

Section 8.2 Hold Harmless Provisions.

(a) The Company hereby releases the Agency and its members, officers, agents, servants and employees from, agrees that the Agency and its members, officers, agents, servants and employees shall not be liable for and agrees to indemnify, defend and hold the Agency and its members, officers, agents, servants and employees harmless from and against any and all (i) liability for loss or damage to Property or injury to or death of any and all persons that may be occasioned, directly or indirectly, by any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any Person or Property on, in or about the Facility and/or (ii) liability arising from the provision of railroad services, or the failure to provide same and/or (iii) liability arising from or expense incurred by the Agency's acquiring, owning and leasing of the Facility, including without limiting the generality of the foregoing, (A) any sales or use taxes which are or may be payable with respect to goods supplied or services rendered with respect to the Facility, (B) all liabilities and/or expenses arising as a result of the Mortgages and (C) all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities or expenses of the Agency are not incurred or do not result from the intentional or willful wrongdoing of the Agency or any of its members, officers, agents, servants or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency, or any of its members, officers, agents, servants or employees, and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability.

(b) In the event of any claim against the Agency or its officers, members, agents, servants or employees by any employee of the Company or any contractor of the Company or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Company or such contractor under worker's compensation, disability benefits or other employee benefit acts.

(c) To effectuate the provisions of this Section 8.2, the Company shall provide for and insure, in the liability policies required in Section 6.4(b) hereof, its liabilities assumed pursuant to this Section 8.2.

(d) Notwithstanding any other provision of this Agreement, the obligations of the Company pursuant to this Section 8.2 shall remain in full force and effect after the termination of this Agreement.

Section 8.3 Right to Inspect the Facility.

The Agency and its duly authorized agents shall have the right at all reasonable times to inspect the Facility.

Section 8.4 Company to Maintain its Corporate Existence; Conditions Under Which Exceptions Permitted.

The Company agrees that, during the Lease Term, it will maintain its corporate existence, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not consolidate with or merge into another corporation or permit one or more corporations to consolidate with or merge into it; provided that if no Event of Default specified in Section 10.1 hereof shall have occurred and be continuing, the Company may consolidate with or merge into another domestic corporation organized and existing under the laws of one of the states of the United States of America, or permit one or more such domestic corporations to consolidate with or merge into it, or sell or otherwise transfer to another such domestic corporation all or substantially all of its assets as an entirety and thereafter dissolve, provided (i) that the surviving, resulting, or transferee corporation, as the case may be, is incorporated under the laws of the State of New York or qualifies to do business in the State of New York, (ii) that such corporation assumes in writing all of the obligations of and restrictions on the Company under this Agreement and any other agreement securing the Company's performance of its obligations hereunder, (iii) that neither the validity nor the enforceability of the Guaranty shall be adversely affected thereby, (iv) that immediately after the consummation of the transaction, and after giving effect thereto, the surviving, resulting or transferee corporation, as the case may be, has a Net Worth at least equal to the Net Worth of the Company on the date of execution of this Agreement, and (v) that as of the date of such consolidation, merger, sale or transfer, the Agency shall be furnished with the following, in form and substance satisfactory to the Agency: (a) an opinion of Independent Counsel opining as to compliance with items (i),

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(ii) and (iii) of this Section 8.4, (b) an opinion of an Accountant opining as to the compliance with item (iv) of this Section 8.4 and (c) a certificate, dated the effective date of such consolidation, merger, sale or transfer, signed by the chief executive officer and the chief financial officer of the Company and of the surviving, resulting or transferee corporation, as the case may be, to the effect that immediately after the consummation of the transaction, and after giving effect thereto, no Event of Default exists under this Agreement and no event exists which, with notice or lapse of time or both, would become such an Event of Default.

Section 8.5. Qualification in the State of New York.

Throughout the Lease Term, the Company shall continue to be duly authorized to do business in the State of New York.

Section 8.6 Agreement to Provide Information.

The Company shall, whenever requested by the Agency, provide and certify or cause to be provided and certified such information concerning the Company, its finances, and other topics as the Agency from time to time reasonably considers necessary or appropriate.

Section 8.7 Books of Record and Account; Financial Statements.

(a) The Company shall maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all business and affairs of the Company.

(b) Within one hundred fifty (150) days after the close of each Fiscal Year of the Company during the Lease Term, the Company will furnish to the Agency consolidated profit and loss statements and a consolidated balance sheet of the Company for the immediately preceding Fiscal Year of the Company, all in reasonable detail and certified to by an Accountant.

(c) At the times that the Company furnishes to the Agency the statements required by subsection (b) of this Section 8.7, the Company shall furnish to the Agency a certificate of an Authorized Representative of the Company stating that no Event of Default hereunder has occurred and is continuing or, if any Event of Default does exist, specifying the nature and period of existence thereof and what action the Company has taken or proposes to take with respect thereto.

Section 8.8 Compliance with Orders, Ordinances, Etc.

(a) The Company will, throughout the Lease Term, promptly comply with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all federal, state, county, municipal and other governments, departments, commissions, boards, companies or associations insuring the premises, courts,

authorities, officials and officers, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility or any part thereof, or to any use, manner of use or condition of the Facility or any part thereof.

(b) Notwithstanding the provisions of subsection (a) of this Section 8.8, the Company may in good faith actively contest the validity or the applicability of any requirement of the nature referred to in such subsection (a), provided the Company shall have first notified the Agency of such contest. In such event, the Company may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom provided that adequate book reserves in accordance with generally accepted accounting principles (in the opinion of the Company's Accountant) have been established with respect thereto.

(c) Notwithstanding the provisions of Section 8.8(b) hereof, if, because of a violation, enumerated in Section 8.8(a) hereof, either the Agency or any of the members, officers, agents, servants or employees of the Agency shall actually be threatened with a fine or imprisonment, then the Company shall immediately remedy such violation and provide legal protection to the Agency and its members, officers, agents, servants and employees sufficient to remove the threat of such fine or imprisonment.

Section 8.9 Discharge of Liens and Encumbrances.

(a) The Company shall not permit or create or suffer to be permitted or created any Lien, except for Permitted Encumbrances, upon the Facility or any part thereof.

(b) Notwithstanding the provisions of subsection (a) of this Section 8.9, the Company may in good faith contest any such Lien, provided the Company shall have first notified the Agency of such proposed contest. In such event, the Company may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, provided that adequate book reserves in accordance with generally accepted accounting principles (in the opinion of the Company's Accountant) have been established with respect thereto.

Section 8.10 Identification of Equipment.

All Equipment which is or may become the property of the Agency pursuant to the provisions of this Agreement shall be properly identified by the Company by such appropriate records, including computerized records, as may be approved by the Agency. In this regard all improvements, machinery, equipment and other Property of whatever nature affixed or attached to the Land shall be deemed presumptively to be owned by the Agency, rather than the Company, unless the same were installed by the Company and title thereto was retained by the Company as provided in Section 6.2 of this Agreement and such improvements, machinery, equipment and other Property were properly identified by such appropriate records as were approved by the Agency.

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Section 8.11 Depreciation Deductions and Investment Tax Credit.

The parties agree that, as between them, the Company shall be entitled to all depreciation deductions with respect to any depreciable property in the Facility pursuant to Section 167 of the Code and to any investment credit pursuant to Section 38 of the Code with respect to any portion of the Facility which constitutes "Section 38 Property." The Agency shall have no obligation to furnish any reports or tax returns pursuant to the provisions of this Section 8.11, but upon written request of the Company will endeavor to file with the appropriate officer or officers any reports or tax returns furnished to the Agency by the Company for the purpose of such filing.

Section 8.12 Compliance with Mortgages.

The Company agrees to perform, satisfy and discharge each and every obligation, covenant and duty of the Company and the Agency under the Mortgages, and hereby agrees to indemnify, defend and hold the Agency and its members, officers, agents, servants and employees harmless from any liability or expenses resulting from the failure by the Company to comply with the provisions of this Section 8.12.



ARTICLE IX

RELEASE OF CERTAIN LAND; ASSIGNMENTS AND SUBLEASING;  
MORTGAGE AND PLEDGE AND ASSIGNMENT OF INTERESTS

Section 9.1 Restriction on Sale of the Facility; Release of Certain Land.

(a) Except as otherwise specifically provided in this Article IX and in Article X hereof, the Agency shall not sell, convey, transfer, encumber or otherwise dispose of the Facility or any part thereof or any of its rights under this Agreement without the prior written consent of the Company.

(b) The Agency and the Company from time to time may release from the provisions of this Agreement and the leasehold estate created hereby any part of, or interest in, the Land which is not necessary, desirable or useful for the Facility. In such event, the Agency, at the Company's sole cost and expense, shall execute and deliver any and all instruments necessary or appropriate to so release such part of, or interest in, the Land and convey such title thereto or interest therein to the Company or such other Person as the Company may designate.

(c) As a condition to executing and delivering any documents in connection with any such conveyance, the Company shall provide the Agency with (i) a copy of the instrument proposed to convey such title or interest in such land, (ii) an instrument survey of the land proposed to be conveyed, (iii) a certificate of an Authorized Representative of the Company stating that no Event of Default under this Agreement has occurred and is continuing and that such land or interest therein is not necessary, desirable or useful for the Facility, (iv) a certificate of an Independent Engineer stating that, in the opinion of such Engineer, the proposed transfer will not materially impair the efficient operation of the Facility or the means of ingress thereto or egress therefrom and that such land or interest therein is not necessary, desirable or useful for the Facility and (v) a certificate from the mortgagees under the Mortgages consenting to such conveyance.

(d) No conveyance of any Land or interest therein effected under the provisions of this Section 9.1 shall entitle the Company to any abatement or diminution of the rents payable under Section 5.3 hereof.

Section 9.2 Assignment and Subleasing.

(a) This Agreement may be assigned in whole or in part and the Facility may be subleased as a whole or in part by the Company, but only with the prior written consent of the Agency (which consent may not be unreasonably withheld or delayed but may be subject to such reasonable conditions as the Agency may deem appropriate) and provided that:

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(1) No assignment (other than pursuant to Section 8.4 hereof) or sublease shall relieve the Company from primary liability for any of its obligations hereunder;

(2) The assignee or sublessee shall assume the obligations of the Company hereunder to the extent of the interest assigned or subleased;

(3) The Company shall, within ten (10) days prior to execution of such assignment or sublease, furnish or cause to be furnished to the Agency a true and complete copy of each such assignment or sublease, as the case may be, and the instrument of assumption;

(4) The Facility shall continue to constitute a "project", as such quoted term is defined in the Act; and

(5) Neither the validity nor the enforceability of the Guaranty shall be adversely affected thereby.

(b) As of the purported effective date of any assignment or sublease pursuant to subsection (a) of this Section 9.3, the Company at its sole cost shall furnish the Agency with an opinion, in form and substance satisfactory to the Agency, of Independent Counsel opining as to compliance with items (1), (2) and (5) of subsection (a) of this Section 9.3.

(c) No assignment or sublease entered into pursuant to this Section 9.3 may be modified or amended without the prior written consent of the Agency (which consent may not be unreasonably withheld or delayed but may be subject to such reasonable conditions as the Agency may deem appropriate).

#### Section 9.3 Merger of Agency.

(a) Nothing contained in this Agreement shall prevent the consolidation of the Agency with, or merger of the Agency into, or transfer of title to the Facility as an entirety to, any other political subdivision or public benefit corporation or other entity which has the legal authority to own and lease the Facility (including but not limited to a subsidiary of the Agency), provided that:

(1) the Facility shall remain exempt from payment of real property taxes to the extent set forth in Section 874 of the Act, as amended from time to time, and

(2) upon any such consolidation, merger or transfer, the due and punctual performance and observance of all the agreements and conditions of this Agreement to be kept and performed by the Agency shall be expressly assumed in writing by the political subdivision or public benefit corporation or other entity resulting from such consolidation or surviving such merger or to which the Facility shall be transferred.

(b) Within thirty (30) days after the consummation of any such consolidation, merger or transfer of title, the Agency shall give notice thereof in reasonable detail to the Company. The Agency promptly shall furnish such additional information with respect to any such transaction as the Company reasonably may request.

Section 9.4 Joined by Agency in Refunding Mortgage.

If the Company shall desire and obtain a commitment for the Refunding Mortgage and if the Company desires to subject the fee interest of the Agency in the Facility, or any part or parts thereof, to such Refunding Mortgage, then the Company shall give the Agency at least thirty (30) days prior written notice thereof and of the date proposed for the closing thereof, and the Agency agrees that it shall, prior to the closing of such Refunding Mortgage, execute, acknowledge and deliver such Refunding Mortgage, provided that such Refunding Mortgage shall contain provisions substantially as follows:

"Section \_\_\_\_ Joinder by Agency

Further to secure the payment of the Indebtedness, but without assuming any obligation to pay the same, the Agency hereby mortgages to the Mortgagee (to the extent of the Agency's right, title and interest therein) the following:

(Insert description of mortgaged property)

EXCEPTING THEREFROM, the Reserved Rights, as defined in that certain lease agreement, dated as of April 15, 1982, (the "Lease Agreement") by and between the Agency and the Mortgagor.

Section \_\_\_\_ Exculpation of Agency.

Notwithstanding anything in this Mortgage to the contrary, the Mortgagee agrees that (a) no action shall be brought against the Agency for payment of the Indebtedness or for the performance of any of the terms, covenants or conditions herein, except as provided in this Section \_\_\_\_, and (b) in any action to foreclose this Mortgage or otherwise, the Agency shall not be liable for any deficiency between the total amount due and payable hereon and the proceeds of the foreclosure sale, and no deficiency or other money judgment will be sought against the Agency in such foreclosure action or otherwise; provided, however, that nothing in this Section \_\_\_\_ shall impair the validity of the Indebtedness or in any way effect or impair the lien of this Mortgage or the right of the Mortgagee to foreclose this Mortgage following default in the performance of any of the covenants contained in this Mortgage.

Section \_\_\_\_ No Recourse; Special Obligation of Agency.

(a) All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Mortgage and in the other

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documents and instruments connected therewith, and in any documents supplemental thereto, (collectively, the "Documents") shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency and not of any member, officer, agent, servant or employee of the Agency in his individual capacity, and no recourse under or upon any obligation, covenant or agreement in the Documents contained or otherwise based upon or in respect of the Documents, or for any claim based thereon or otherwise in respect thereof, shall be had against any past, present or future member, officer, agent, servant or employee, as such, of the Agency or of any successor public benefit corporation or political subdivision, or other successor entity or any person executing the Documents on behalf of the Agency, either directly or through the Agency or any successor public benefit corporation or political subdivision, other successor entity or any person so executing the Documents, it being expressly understood that the Documents are solely corporate obligations, and that no such personal liability whatever shall attach to, or is or shall be incurred by, any such member, officer, agent, servant or employee of the Agency or of any successor public benefit corporation or political subdivision, other successor entity or any person so executing the Documents because of the creation of the indebtedness thereby authorized, or under or by reason of the obligations, covenants or agreements contained in the Documents or implied therefrom; and that any and all such personal liability of, and any and all such rights and claims against, every such member, officer, agent, servant or employee because of the creation of the indebtedness hereby authorized, or under or by reason of the obligations, covenants or agreements contained in the Documents or implied therefrom, are, to the extent permitted by law, expressly waived and released as a condition of, and as a consideration for, the execution of the Documents.

(b) The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or Cortland County, New York, and neither the State of New York nor Cortland County, New York shall be liable thereon, and further such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute special obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Facility (except for revenues derived by the Agency with respect to the Reserved Rights).

(c) Notwithstanding any provision of this Agreement to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (i) the Agency shall have been requested to do so in writing by the Company and (ii) if compliance with such request is reasonably expected to result in the incurrence by the Agency (or any member, officer, agent, servant or employee of the Agency) in any liability, fees, expenses or other costs, the Agency shall have received from the Company security or indemnity satisfactory to the Agency for protection against all such liability, however remote, and for the reimbursement of all such fees, expenses and other costs."

Section 9.5 Leasehold Mortgages.

(a) Without the prior consent of the Agency, the Company shall have the right to mortgage its interest in this Agreement and the leasehold estate created hereby under one or more mortgages, deeds of trust or similar instruments constituting a lien on the Company's interest in this Agreement and the leasehold estate created hereby (any such mortgages, deeds of trust or similar instruments being collectively referred to as a "Leasehold Mortgage"), and to assign its interest in this Agreement, or any part thereof, as collateral security for such Leasehold Mortgages, upon the following conditions:

(1) That all rights acquired under such Leasehold Mortgage shall be subject to each and all of the covenants, conditions and restrictions set forth in this Agreement, and to all the right, title and interest of the Agency herein, none of which covenants, conditions or restrictions is or shall be waived by the Agency by reason of the rights given to the Company under this subsection (a) of this Section 9.5; and

(2) That no Leasehold Mortgage shall extend beyond the expiration date of the Lease Term set forth in Section 5.2 hereof.

(b) If the Company shall mortgage its interest in this Agreement or any part hereof pursuant to a Leasehold Mortgage and if the holder of record of such Leasehold Mortgage (hereinafter referred to as the "Leasehold Mortgage Holder") shall, within thirty (30) days of its execution, send to the Agency a true and complete copy of such Leasehold Mortgage together with a written notice specifying the name and address of such Leasehold Mortgage Holder and the pertinent recording date with respect to such Leasehold Mortgage, then the Agency agrees that, so long as such Leasehold Mortgage shall remain unsatisfied of record or until written notice of the satisfaction of such Leasehold Mortgage is given to the Agency by such Leasehold Mortgage Holder, the following provisions shall apply:

(1) There shall be no cancellation, surrender or modification of this Agreement by joint action of the Agency and the Company without the prior consent in writing of the Leasehold Mortgage Holder;

(2) The Agency shall, upon giving the Company any notice of default hereunder, simultaneously give a copy of such notice to such Leasehold Mortgage Holder. The Leasehold Mortgage Holder shall have the same period after receipt of such notice to remedy or cause to be remedied the defaults complained of as the Company would have hereunder, and the Agency shall accept performance by or at the instigation of such Leasehold Mortgage Holder as if the same had been done by the Company; and

(3) Anything herein contained notwithstanding, while such Leasehold Mortgage remains unsatisfied of record, or until

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written notice of satisfaction thereof is given to the Agency by the Leasehold Mortgage Holder, if any Event of Default hereunder shall occur which, pursuant to any provision of this Agreement, entitles the Agency to terminate this Agreement, and if before the expiration of twenty (20) days from the date of giving of notice of termination hereof to such Leasehold Mortgage Holder, such Leasehold Mortgage Holder shall have notified the Agency of its desire to nullify such notice and shall have paid to the Agency all rent and additional rent and other payments herein provided for and then in default, and shall have complied or shall commence the work of complying with all of the other requirements of this Agreement, if any are then in default, and shall prosecute the same to completion with reasonable diligence, then in such event the Agency shall not be entitled to terminate this Agreement and any notice of termination therefore given shall be void and of not effect.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.1 Events of Default Defined.

(a) The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean, whenever it is used in this Agreement, any one or more of the following events:

(1) The failure by the Company to observe and perform any covenant, condition or agreement hereunder on its part to be observed or performed for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, given to the Company by the Agency; provided, however, that if the default is of such a nature that it cannot be remedied within a period of thirty (30) days, the Company shall not be in default if it shall promptly commence and thereafter prosecute the curing of the default with due diligence;

(2) The dissolution or liquidation of the Company; or the filing by the Company of a request or petition for liquidation, reorganization, adjustment of debts, arrangement, adjudication as a bankrupt or other similar relief under the bankruptcy, insolvency or similar laws of the United States or any state or territory thereof or any foreign jurisdiction; or the institution by the Company of any formal or informal proceeding for the dissolution or liquidation of, settlement of claims against or winding up of the affairs of the Company; or the failure by the Company within sixty (60) days to lift or stay any execution, garnishment or attachment of such consequence as may impair its ability to carry on its operations at the Facility; or the failure by the Company within sixty (60) days to lift or otherwise discharge the filing against the Company of a request or a petition for liquidation, reorganization, adjustment of debts, arrangement, adjudication as a bankrupt or other similar laws of the United States or any state or territory thereof or any foreign jurisdiction; or the failure by the Company within sixty (60) days to lift or otherwise discharge the institution against the Company of any formal or informal proceeding for the dissolution or liquidation of, settlement of claims against, or winding up of the affairs of the Company; or the commission by the Company of any act of bankruptcy; or the Company shall make a general assignment of assets for the benefit of its creditors; or the entry by the Company into an agreement of composition with its creditors; or the approval by a court of competent jurisdiction of a petition applicable to the Company in any proceeding for its reorganization instituted under the provisions of any state or federal bankruptcy or similar law; or appointment by final order, judgment or decree of a court of competent jurisdiction of a trustee or receiver of the Company;

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or a trustee, receiver or agent (however named) is appointed or authorized to take charge of the whole or a substantial portion of the Properties of the Company for the purpose of enforcing a lien against such property or for the purpose of general administration of such Property for the benefit of creditors; or the failure by the Company to generally pay its debts as such debts become due; provided, however, that the term "dissolution or liquidation of the Company" as used in this subsection shall not be construed to include any transaction permitted by Section 8.4 hereof; and

(3) The occurrence of an Event of Default under the Guaranty.

(b) Notwithstanding the provisions of Section 10.1(a), if by reason of force majeure either party hereto shall be unable in whole or in part to carry out its obligations under this Agreement and if such party shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after the occurrence of the event or cause relied upon, the obligations under this Agreement of the party giving such notice, so far as they are affected by such force majeure, shall be suspended during the continuance of the inability, which shall include a reasonable time for the removal of the effect thereof, and the suspension of such obligations for such period pursuant to this subsection (b) shall not be deemed an Event of Default under this Section 10.1. Notwithstanding anything to the contrary in this subsection (b), an event of force majeure shall not excuse, delay or in any way diminish the obligations of the Company to make the payments required by Sections 5.3 and 6.3 hereof, to obtain and continue in full force and effect the insurance required by Section 6.4 hereof, to provide the indemnity required by Section 8.2 hereof and to comply with the provisions of Sections 8.2 and 8.8 hereof. The term "force majeure" as used herein shall include, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, orders of any kind of the government of the United States of America or of the State of New York or any of their departments, agencies, governmental subdivisions or officials, or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, transmission pipes or canals, shortages of labor and materials or delays of carriers, shortage of energy, partial or entire failure of utilities, or any other cause or event not reasonably within the control of the party claiming such inability and not due to its fault. The party claiming such inability shall remove the cause for the same with all reasonable promptness; provided that it is agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the party having difficulty, and the party having difficulty shall not be required to settle any strike, lockout or other industrial disturbances by acceding to the demands of the opposing party or parties.



Section 10.2 Remedies on Default.

(a) Whenever any Event of Default shall have occurred and be continuing, the Agency may, to the extent permitted by law, take any one or more of the following remedial steps:

(1) Declare, by written notice to the Company, to be immediately due and payable, whereupon the same shall become immediately due and payable, all amounts payable pursuant to this Agreement.

(2) By notice to the Company, require the Company to terminate this Agreement and to purchase the Facility pursuant to Article XI hereof and, if such purchase is not completed within sixty (60) days of such notice, then terminate on ten (10) days additional written notice to the Company, the Lease Term and all rights of the Company under this Agreement and, without being liable for any prosecution or damages therefor, exclude the Company from possession of the Facility and use its best efforts to lease or sell the Facility to another Person for the account of the Company, holding the Company liable for the amount, if any, by which the aggregate of the rents and other amounts payable by the Company hereunder exceeds the aggregate of the rents and other amounts received from such other Person under the new lease or sale agreement.

(3) Take any other action at law or in equity which may appear necessary or desirable to collect the payments then due or thereafter to become due hereunder, to secure possession of the Facility, and to enforce the obligations, agreements or covenants of the Company under this Agreement.

(b) In the event the Facility is leased or sold to another Person pursuant to Section 10.2(a)(2) hereof, the Agency may (but shall be under no obligation to) make such repairs or alterations in or to the Facility as it may deem necessary or desirable for the implementation of such lease or sale, and, notwithstanding the fact that this Agreement may have been terminated pursuant to Section 10.2(a)(2) hereof, the Company shall be liable for and agrees to pay the costs of such repairs or alterations and the expenses incidental to the effecting of such lease or sale, together with interest thereon at the rate of twelve percent (12%) per annum.

(c) No action taken pursuant to this Section 10.2 (including repossession of the Facility) shall relieve the Company from its obligation to make all payments required by Sections 5.3 and 8.2 hereof.

Section 10.3 Remedies Cumulative.

No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy, but each and every such

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ARTICLE XI

EARLY TERMINATION OF AGREEMENT;  
OPTIONS IN FAVOR OF COMPANY

Section 11.1 Early Termination of Agreement.

At any time during the Lease Term, the Company shall have the option to terminate this Agreement upon filing, with the Agency, a certificate signed by an Authorized Representative of the Company stating the Company's intention to do so pursuant to this Section 11.1 and upon compliance with the requirements set forth in Section 11.2 hereof.

Section 11.2 Conditions to Early Termination of Agreement.

In the event the Company exercises its option to terminate this Agreement in accordance with Section 11.1 hereof, the Company shall comply with the requirements set forth in the following three subsections:

(a) The following payments shall be made:

(i) To the Agency: an amount certified by the Agency as sufficient to pay all unpaid fees and expenses of the Agency and its officers, members, agents, servants and employees incurred under this Agreement and the Mortgages; and

(ii) To the appropriate Person: an amount sufficient to pay all other fees, expenses or charges, if any, due and payable or to become due and payable under this Agreement and the Mortgages and not otherwise paid or provided for.

(b) The Company shall assume in writing all liability under the Mortgages and, if requested by the Agency, shall obtain from the mortgagees under the Mortgages written confirmation of the absence of further obligations of the Agency under such Mortgages.

(c) The certificate required to be filed pursuant to Section 11.1 shall specify the date upon which the payments pursuant to subdivision (a) of this Section 11.2 shall be made, which date shall be not less than thirty (30) nor more than sixty (60) days from the date such certificate is filed with the Agency.

Section 11.3 Obligation to Sell and Purchase the Facility.

Contemporaneously with the termination of the Lease Term in accordance with Section 5.2 or Section 11.1 hereof, the Agency shall sell and the Company shall purchase all the Agency's right, title and interest in and to the Facility for the purchase price of One Dollar (\$1.00) plus payment of all sums due and payable to the Agency pursuant to this Agreement and the Mortgages.

Section 11.4 Conveyance on Purchase of the Facility.

ARTICLE XI

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OPTIONS IN FAVOR OF COMPANY

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(i) To the Agency: an amount certified by the Agency as sufficient to pay all unpaid fees and expenses of the Agency and its officers, members, agents, servants and employees incurred under this Agreement and the Mortgages; and

(ii) To the appropriate Person: an amount sufficient to pay all other fees, expenses or charges, if any, due and payable or to become due and payable under this Agreement and not otherwise paid or provided for.

(b) The Company shall assume in writing all liability under the Mortgages and, if requested by the Agency, shall obtain from the mortgagees under the Mortgages written confirmation of the absence of further obligations of the Agency under such Mortgages.

(c) The certificate required to be filed pursuant to Section 11.1 shall specify the date upon which the payments pursuant to subdivision (a) of this Section 11.2 shall be made, which date shall be not less than thirty (30) nor more than sixty (60) days from the date such certificate is filed with the Agency.

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Section 11.4 Conveyance on Purchase of the Facility.

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At the closing of any purchase of the Facility pursuant to Section 11.3 hereof, the Agency shall, upon receipt of the purchase price, deliver to the Company all necessary documents to convey to the Company all the Agency's right, title and interest in and to the Property being purchased, as such Property then exists.

ARTICLE XII

MISCELLANEOUS

Section 12.1 Surrender of the Facility.

Except as otherwise expressly provided in this Agreement, at the termination of the Lease Term, the Company shall surrender possession of the Facility peaceably and promptly to the Agency in as good condition as at the commencement of the Lease Term, loss by fire or other casualty covered by insurance, Condemnation and ordinary wear, tear and obsolescence only excepted.

Section 12.2 Notices.

All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when delivered and, if delivered by mail, shall be sent by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

To the Agency:

Cortland County Industrial  
Development Agency  
50 Main Street  
Cortland, New York 13045

To the Company:

New York, Susquehanna & Western Railway Corporation  
One Railroad Avenue  
Cooperstown, New York

The Agency and the Company may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

Section 12.3 Binding Effect.

This Agreement shall inure to the benefit of and shall be binding upon the Agency, the Company and their respective successors and assigns.

Section 12.4 Severability.

In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

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Section 12.5 Amendments, Changes and Modifications.

This Agreement may not be amended, changed, modified, altered or terminated except by written instrument executed and delivered by the parties hereto.

Section 12.6 Execution of Counterparts.

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.7 Applicable Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

Section 12.8 Recording and Filing.

This Agreement (or a memorandum thereof) shall be recorded or filed, as the case may be, by the Agency, at the cost of the Company, in the Office of the Clerk of Cortland County, New York, and/or in such other office or offices as may at the time be provided by law as the proper place or places for the recordation or filing thereof.

Section 12.9 Survival of Obligations

The obligations of the Company to make the payments required by Section 5.3(b) hereof and to provide the indemnity required by Section 8.2 hereof shall survive any termination or expiration of this Agreement, and all such payments after such termination and payment shall be made upon demand of the Person to whom such payment is due.

Section 12.10 Table of Contents and Section Headings not Controlling.

The table of contents and the headings of the several Sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning or be taken as an interpretation of any provision of this Agreement.

Section 12.11 No Recourse; Special Obligation.

(a) All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Agreement and in the other documents and instruments connected therewith, and in any documents supplemental thereto, (collectively, the "Documents") shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency and not of any member, officer, agent, servant or employee of the Agency in his individual capacity, and no recourse under or upon any obligation, covenant or agreement in the Documents contained or otherwise based upon or in respect of the Documents, or for any claim based thereon or otherwise in respect

thereof, shall be had against any past, present or future member, officer, agent, servant or employee, as such, of the Agency or of any successor public benefit corporation or political subdivision or other successor entity or any person executing the Documents on behalf of the Agency, either directly or through the Agency or any successor public benefit corporation or political subdivision or other successor entity or any person so executing the Documents, it being expressly understood that the Documents are solely corporate obligations, and that no such personal liability whatever shall attach to, or is or shall be incurred by, any such member, officer, agent, servant or employee of the Agency or of any successor public benefit corporation or political subdivision or other successor entity or any person so executing the Documents because of the creation of the indebtedness thereby authorized, or under or by reason of the obligations, covenants or agreements contained in the Documents or implied therefrom; and that any and all such personal liability of, and any and all such rights and claims against, every such member, officer, agent, servant or employee because of the creation of the indebtedness hereby authorized, or under or by reason of the obligations, covenants or agreements contained in the Documents or implied therefrom, are, to the extent permitted by law, expressly waived and released as a condition of, and as a consideration for, the execution of the Documents.

(b) The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or Cortland County, New York, and neither the State of New York nor Cortland County, New York shall be liable thereon, and further such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute special obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Facility (except for revenues derived by the Agency with respect to the Reserved Rights).

(c) Notwithstanding any provision of this Agreement to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (i) the Agency shall have been requested to do so in writing by the Company and (ii) if compliance with such request is reasonably expected to result in the incurrence by the Agency (or any member, officer, agent, servant or employee of the Agency) in any liability, fees, expenses or other costs, the Agency shall have received from the Company security or indemnity satisfactory to the Agency for protection against all such liability, however remote, and for the reimbursement of all such fees, expenses and other costs.

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IN WITNESS WHEREOF, the Agency and the Company have caused this Lease Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

CORTLAND COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY



By: [Signature]  
Its Chairman

[Signature]  
Secretary

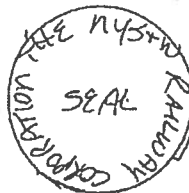
NEW YORK, SUSQUEHANNA & WESTERN  
RAILWAY CORPORATION

By: [Signature]  
Its President

(SEAL)

ATTEST:

Lawrence C. Malachi  
ant. Secretary





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STATE OF NEW YORK )  
 )  
COUNTY OF Cortland ) ss.:

On this 29<sup>th</sup> day of April, 1982, before me personally came Gerald M. Duffey, to me known, who being by me duly sworn, did depose and say that he resides at Cortland, New York; that he is the Chairman of the CORTLAND COUNTY INDUSTRIAL DEVELOPMENT AGENCY, the public benefit corporation of the State of New York described in and which executed the within Lease Agreement; that he knows the seal of said public benefit corporation; that the seal affixed to said Lease Agreement is the seal of such public benefit corporation; that it was so affixed by authority of the members of such public benefit corporation; and that he signed his name thereto by like authority.

[Signature]  
Notary Public

my commission expires

3-30-83

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STATE OF NEW YORK )  
COUNTY OF OTsego ) SS.:

On this 27th day of April, 1982, before me personally came Walter R. Rely, to me personally known, who being by me duly sworn, did depose and say that he resides at 122 Main St. Franklin, NY; that he is the President of NEW YORK, SUSQUEHANNA & WESTERN RAILWAY CORPORATION, the corporation described in and which executed the within Lease Agreement; that he knows the seal of said corporation; that the seal affixed to said Lease Agreement is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.


  
Notary Public

EXHIBIT A

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DESCRIPTION OF THE LAND

Syracuse Branch

Cortland County, New York

ALL THAT LINE of Railroad being a portion of Grantor's Syracuse Branch identified as Line Code 6251 in the records of the United States Railway Association and also being the former Erie Lackawanna's Syracuse Branch also identified in the Clerk's Office of Cortland County, New York in Liber 358 at page 580 and EXTENDS from the County Line between the Town of Lisle, Broome County and Town of Marathon, Cortland County, New York and continuing in a general northwesterly direction somewhat parallel to the Tioughnioga River and passing through Marathon, Lapear, Messengerville, Virgil, Cortlandville, Blodgetts Mills, Cortland, Homer and Preble to the County Line between the Town of Preble, Cortland County and Town of Tully, Onondaga County, New York.

BEING a part or portion of the same premises which Thomas F. Patton and Ralph S. Tyler, Jr., as Trustees of the Property of the Erie Lackawanna Railway Company, Debtor, by Conveyance Document No. EL-CRC-RP-18 dated March 31, 1976 and recorded on October 5, 1978 in the Clerk's Office of Cortland County, New York in Liber 358 at page 575 & c., granted and conveyed unto Consolidated Rail Corporation, and thereafter conveyed by said Consolidated Rail Corporation to the Grantor by Deed dated April 16, 1982, and recorded on April 22, 1982 in the Clerk's Office of Cortland County, New York.

UNDER and SUBJECT, however, to (1) whatever rights the public may have to the use of any roads, alleys, bridges or streets crossing the premises herein described, (2) any streams, rivers and creeks passing under, across or through the premises herein described and (3) any easements or agreements of record or otherwise affecting the land hereby conveyed, and to the state of facts which a personal inspection or accurate survey would disclose, and to any other pipes, wires, poles, cables, culverts, drainage courses or systems and their appurtenances now existing and remaining in, on, under, over, across and through the herein conveyed premises, together with the right to maintain, repair, renew, replace, use and remove same.

APR 29 3 43 PM '82  
CORTLAND COUNTY  
CLERK'S OFFICE  
FILED FOR RECORD

STATE OF NEW YORK  
COUNTY OF CORTLAND  
Recorded on the 29th day of April, 1982  
at 3:43 P.M. in book 372 of Deeds  
at page 1087 and examined.

John Kimminich Clerk