

RENT

DRAFT - FOR DISCUSSION PURPOSES ONLY

February 27, 2008 (revised March 20, 2008)

Fixed dollar amount with deductions for other payments plus per carload amount

A) The C&OR shall pay as rent for the Rail Property as follows:

1. The sum of seven hundred ninety-nine thousand dollars (\$799,000) annually, hereinafter referred to the "base amount," payable in eleven (11) equal monthly installments of sixty-six thousand five hundred eighty-three dollars (\$66,583) each and a twelfth monthly payment of sixty-six thousand five hundred eighty-seven dollars (\$66,587).

The rent payment made by C&OR pursuant to this division may be reduced by the following factors:

- a) **Acquisition debt.** If any amount of the acquisition debt, i.e. original certificates of participation, remains outstanding at any time during the term of this agreement, the C&OR shall pay from the gross revenues received from operation of the Rail Property the amount of fifty-eight thousand dollars (\$58,000) per month. Such payments shall fulfill ORDC's Lease requirements with First Capital Corp or its subsidiary, CAPRAIL I, INC. The abovementioned payments shall be made to a special account established and maintained at the Bank of New York by means of direct electronic transfer by the first of each month, or 24 hours before said payments are due, whichever comes later. The amount of such payments may be deducted from the monthly rent amount required above.
- b) **Infrastructure loans.** If the C&OR obtains a Railroad Rehabilitation and Infrastructure Fund or other infrastructure rehabilitation loan from the Federal Railroad Administration, or its successor, or any other federal agency, and uses the loan amount to defease the certificates of participation or to undertake major capital improvements along the Rail Property, the amount of the payments made to service the loan may be deducted from the monthly rent amount required above.
- c) **Extraordinary maintenance activities.** If the C&OR undertakes extraordinary maintenance activities along the Rail Property beyond the normal maintenance activities and investments needed to maintain the Rail Property pursuant to section 11 of this agreement, and pursuant to a schedule that has received the prior written approval of the Executive Director of the ORDC, the

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amount of the improvements may be deducted from the monthly rent amount required above until C&OR has recovered the cost of the improvements. The amount of any deduction pursuant to this section shall receive written approval of the Executive Director of the ORDC.

All deductions made pursuant to this section are subject to audit.

2. The C&OR shall pay an administrative fee of \$5,000 per month.
3. The C&OR shall pay a monthly fee of \$2 per carload, hereinafter the “per carload fee,” for any cars originating or terminating on the Rail Property and for any cars not originating or terminating on the Rail Property but moving over it for any distance.

Payments made pursuant to this section shall be made payable to Treasurer, State of Ohio, and delivered to ORDC pursuant to the notice provisions of this Lease. Payment is due by the first of each month, except that the per carload fee shall be paid one month in arrears (i.e. the fee based on January’s carloads shall be due March 1).

C) As stipulated in Article 6, “Twenty-Five Year Term,” in the event that the C&OR chooses to renew this Lease Agreement for an additional five years, the C&OR and ORDC shall adjust the payments in this Article 8 “Rent” in the following manner:

- i) The C&OR payment for the base amount, the administrative fee, and the per carload fee shall be the amounts from the previous five year period, escalated or deescalated in accordance with the Consumer Price Index. The amounts shall remain the same for the five years of the renewal period.

D) The C&OR’s failure to pay monthly rent will be considered a default of this lease Agreement.