

RECORDATION NO. 10214-4 Filed 1425

MAR 20 1979 - 11 55 AM

INTERSTATE COMMERCE COMMISSION

THE FIRST NATIONAL BANK OF BOSTON
100 Federal Street
Boston, Massachusetts 02110

RECORDATION NO. 10214 Filed 1425

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INTERSTATE COMMERCE COMMISSION

March 16, 1979

9-679A013

Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Re: Recordation and Filing of Documents Pertaining
to the Mortgage and the Management of One-Hundred
Covered-Hopper Railroad Freight Cars Owned by
GWI Leasing Corp.

MAR 20 1979
Date
File #
Washington, D.C.

Dear Sir:

In accordance with the provisions and procedures of Section 11303 of the Revised Interstate Commerce Act, 49 U.S.C. §11303, and Part 1116 of Title 49 of the Code of Federal Regulations, it is hereby respectfully requested that the documents enclosed with this letter of transmittal, and more fully described hereinbelow, pertaining to the mortgage and the management of one-hundred (100) covered-hopper railroad freight cars owned by GWI Leasing Corp., be recorded and filed by the Interstate Commerce Commission (the "Commission") pursuant to Section 1116.5 of said Title 49 of the Code of Federal Regulations.

A. Description of the Documents and the Parties Thereto.

Enclosed herewith are the following original documents to be recorded by the Commission and two certified true copies of each of the said original documents to be recorded and filed by the Commission:

(i) the Loan and Security Agreement, dated as of February 16, 1979, by and among (A) GWI Leasing Corp., a Delaware corporation, the principal offices of which are located at 270 Greenwich Avenue, Greenwich, Connecticut, (B) Genesee and Wyoming Industries, Inc., a Delaware corporation, the principal offices of which are located at 270 Greenwich Avenue, Greenwich, Connecticut, and (C) The First National Bank of Boston, 100 Federal Street, Boston, Massachusetts 02110 (the said Loan and Security Agreement being hereinafter called the "Loan Agreement"); and

(ii) the Management Agreement, dated November 7, 1978, by and between States Marine Corporation, doing business through its division, States Rail Services, 280 Park Avenue, New York, New York; and GWI Leasing Corp., a Delaware corporation, the principal offices of which are located at 270 Greenwich Avenue, Greenwich, Connecticut (the said Management Agreement being hereinafter called the "Management Agreement").

Some Lily
C. Quintero

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FEE OPERATION

1. The Loan Agreement.

The First National Bank of Boston (the "Bank") has, upon the terms and subject to the conditions contained in the Loan Agreement, made loans in the aggregate principal amount of \$2,662,500.00 (the "Loans") to GWI Leasing Corp. (the "Investor"). The entire proceeds of the Loans have been applied by the Investor towards the payment of the purchase price of one-hundred (100) covered-hopper railroad freight cars purchased by the Investor from National Steel Car Corporation, Limited, a Canadian corporation located in Hamilton, Ontario, Canada (the "Manufacturer"). Further particulars of the one-hundred (100) covered-hopper railroad freight cars so purchased by the Investor from the Manufacturer (the said one-hundred (100) covered-hopper railroad freight cars being hereinafter called the "Investor's Covered-Hopper Railroad Cars") are set forth below.

In order to secure the payment and performance by the Investor of all of its obligations to the Bank under the Loan Agreement and under two Promissory Notes, dated February 20, 1979 and March 12, 1979, respectively (the "Notes"), executed and delivered to the Bank by the Investor (which Notes evidence the obligations of the Investor to the Bank to repay the Loans and the interest thereon), the Investor has, pursuant to Section 4 of the Loan Agreement, granted to the Bank a mortgage over and in respect of each of the Investor's Covered-Hopper Railroad Cars.

Each of the Investor's Covered-Hopper Railroad Cars is a 100-ton, 4,550 cubic feet capacity, steel covered-hopper railroad freight car, lined for use in the transport and shipping of grain products and select minerals, including salt. Each of the Investor's Covered-Hopper Railroad Cars was manufactured by, and was purchased by the Investor from, the Manufacturer.

The Identifying Marks, the Serial Numbers and the A.A.R. Mechanical Designation of the Investor's Covered-Hopper Railroad Cars are as follows:

<u>Number of Cars</u>	<u>Identifying Marks</u>	<u>Serial Numbers</u>	<u>A.A.R. Mech. Desig.</u>
11	GNWR	810105 to and including 810115	LO
89	GNWR	810206 to and including 810294	LO

2. The Management Agreement.

Pursuant to the terms of the Management Agreement, States Marine Corporation, doing business through its division, States Rail Services ("SMC/SRS"), has agreed to manage, on behalf of and as agent for the Investor, the one-hundred (100) Investor's Covered-Hopper Railroad Cars purchased by the Investor from the Manufacturer and mortgaged by the Investor to the Bank pursuant to Section 4 of the Loan Agreement. In accordance with the terms of the Management Agreement, SMC/SRS took possession of each of the Investor's Covered-Hopper Railroad Cars at the Manufacturer's plant in Hamilton, Ontario, Canada, for the purpose of managing such railroad cars as agent for the Investor and as provided by the Management Agreement.

Although SMC/SRS has the right under the Management Agreement to manage each of the Investor's Covered-Hopper Railroad Cars, SMC/SRS does not have title to, and is not the owner of, any of the Investor's Covered-Hopper Railroad Cars.

B. Description of Other Documents Previously Submitted to the Commission for Recording.

Reference is also hereby made to the following two documents, an original of each of which has been recorded by the Commission and two certified true copies of each of which have been recorded and filed by the Commission under the recordation numbers, and on the date and at the hour set forth below:

<u>DOCUMENT</u>	<u>RECORDATION NUMBER</u>	<u>DATE</u>	<u>HOUR</u>
(i) the Agreement, dated as of November 7, 1978, by and between the <u>Genesee and Wyoming Railroad Company, 3846 Retsof Road, Retsof, New York, and (B) States Marine Corporation, doing business through its division, States Rail Services, and acting both for itself and as agent for the Investor (the said Agreement being hereinafter called the "GWRR Use Agreement")</u> ; and	#10209	3/16/79	2:20 p.m.
(ii) the Subcontractor Agreement, dated as of November 7, 1978, by and between <u>States Marine Corporation, doing business through its division, States Rail Services, 280 Park Avenue, New York, New York, and GWI Rail Management Corp., 3846 Retsof Road, Retsof, New York (the said Subcontractor Agreement being hereinafter called the "Subcontractor Agreement")</u>	#9946A	12/27/78	1:35 p.m.

1. The GWRR Use Agreement.

Pursuant to the terms of the GWRR Use Agreement, SMC/SRS, acting in its capacity as agent for the Investor under the Management Agreement, has delivered to the Genesee and Wyoming Railroad Company ("GWRR"), for the latter's use in the ordinary course of its operations, each of the Investor's Covered-Hopper Railroad Cars.

2. Subcontractor Agreement.

Pursuant to the terms of the Subcontractor Agreement, SMC/SRS has subcontracted to GWI Rail Management Corp. ("GWIRM") certain operational and managerial responsibilities which have been assumed by SMC/SRS under the Management Agreement and the GWRR Use Agreement in respect of each of the Investor's Covered-Hopper Railroad Cars.

Reference is also hereby made (A) to the letter of transmittal, dated December 21, 1978, from States Rail Services to the Commission, for a more complete description of the arrangements and transactions contemplated by the Subcontractor Agreement, and (B) to the letter of transmittal dated March 12, 1979, from States Rail Services to the Commission, for a more complete description of the arrangements and transactions contemplated by the GWRR Use Agreement.

C. Description of Guarantee.

Genesee and Wyoming Industries, Inc., a Delaware corporation, the principal offices of which are located at 270 Greenwich Avenue, Greenwich, Connecticut, has, upon the terms contained in Section 5 of the Loan Agreement, absolutely and unconditionally guaranteed to the Bank the payment of all of the obligations of the Investor to the Bank under the Loan Agreement and the Notes.

D. Rights and Interests in the Cars.

The rights and interests in and to the Investor's Covered-Hopper Railroad Cars of each of the parties named herein may be briefly summarized as follows:

<u>Party</u>	<u>Rights and Interests in the Cars</u>
GWI Leasing Corp.	Owner and Mortgagor of the Cars
The First National Bank of Boston	Mortgagee of the Cars
States Marine Corporation/States Rail Services.	Manager of the Cars
Genesee and Wyoming Railroad Company.	User or Bailee of the Cars
GWI Rail Management Corp.	Manager of the Cars

E. Procedural Matters.

It is hereby respectfully requested that each of the following names be inserted in the Commission index established pursuant to Section 1116.5(c) of Title 49 of the Code of Federal Regulations:

- (1) The First National Bank of Boston;
- (2) GWI Leasing Corp.;
- (3) States Marine Corporation;
- (4) States Rail Services;
- (5) Genesee and Wyoming Railroad Company; and
- (6) GWI Rail Management Corp.

It is also hereby respectfully requested that the recordation number of each of the following documents be noted in the Commission index under the name of each of the parties shown above:

- (a) the Loan Agreement enclosed with this letter;
- (b) the Management Agreement enclosed with this letter;
- (c) the GWRR Use Agreement (Recordation Number: 110209); and
- (d) the Subcontractor Agreement (Recordation Number: 9946A).

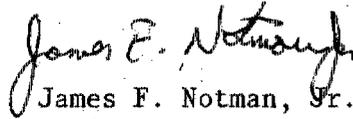
A check in the amount of One Hundred Dollars (\$100.00) has been enclosed with this letter of transmittal to cover the recordation fee prescribed by Section 1116.3(d) of Title 49 of the Code of Federal Regulations.

Kindly stamp the enclosed copy of this letter of transmittal and return such copy and the original documents enclosed herewith to Louis J. Duval, Esq., Bingham, Dana & Gould, 100 Federal Street, Boston, Massachusetts 02110.

If there are any questions with respect to the Loan Agreement, the Management Agreement, the GWRR Use Agreement, the Subcontractor Agreement or the transactions described therein please feel free to telephone Louis J. Duval, Esq., collect, at (617) 357-9300.

The undersigned hereby declares that he is an Assistant Vice President of The First National Bank of Boston, and that he has knowledge of the matters set forth in the documents enclosed herewith.

Very truly yours,



James F. Notman, Jr.
Assistant Vice President

Enclosures

10214

RECORDATION NO. Filed 1425

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INTERSTATE COMMERCE COMMISSION

COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF SUFFOLK)

I, the undersigned, Notary Public, do hereby certify that I have compared the documents attached hereto with an executed original of the Loan and Security Agreement, dated as of 16th February, 1979, among (1) GWI Leasing Corp., (2) Genesee and Wyoming Industries, Inc., and (3) The First National Bank of Boston, and that the document attached hereto is a true, correct and complete copy of the said Loan and Security Agreement.

Date: MARCH 16, 1979

Arthur J. Pottie

Notary Public

[Notarial Seal]

My commission expires:

ARTHUR J. POTTIE, Notary Public
My Commission Expires: June 2, 1983



LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT is made as of the 16th day of February, 1979, AMONG (1) GWI LEASING CORP., (2) GENESEE AND WYOMING INDUSTRIES, INC., and (3) THE FIRST NATIONAL BANK OF BOSTON.

Section 1. Interpretation. For all purposes of this Loan and Security Agreement, including the Exhibits annexed hereto, unless the context otherwise requires:

(a) "Advances" means, collectively, all advances made or to be made to the Borrower pursuant to Section 2.2 hereof, and "Advance" means any one of the Advances.

(b) "this Agreement" means this Loan and Security Agreement as originally executed and includes the Exhibits annexed hereto, or, if this Loan and Security Agreement shall be varied or supplemented from time to time, as this Loan and Security Agreement shall be so varied or supplemented.

(c) "Bank" means The First National Bank of Boston, the Head Office of which is located at 100 Federal Street, Boston, Massachusetts, and includes its successors in title and assigns.

(d) "Borrower" means GWI Leasing Corp., a Delaware corporation, the principal offices of which are located at 270 Greenwich Avenue, Greenwich, Connecticut, and includes its successors in title and assigns.

(e) "Cars" means, collectively, (i) all of the covered hopper railroad freight cars which shall from time to time be delivered by the Manufacturer to the Manager as agent for the Borrower and accepted by the Manager as agent for the Borrower, all as contemplated by the Management Agreement, (ii) all appliances, parts, instruments, accessories, appurtenances and other equipment of whatever nature which shall, at any time or times, become incorporated or installed in or attached to any of such freight cars, and (iii) all additions, improvements, renewals and replacements made at any time or times to any of the foregoing, and "Car" means any one of the Cars. Each Car is to be identified in Exhibit A annexed hereto or in a supplement to said Exhibit A promptly after such Car has been delivered by the Manufacturer to the Manager as agent for the Borrower and accepted by the Manager as agent for the Borrower, all as contemplated by the Management Agreement.

(f) "Collateral" means, collectively, all of the rights, title and interests, all of the agreements, contracts, instruments, property, assets and moneys, and all of the income, products and proceeds of any thereof, in, to, under or in respect of which the Bank, by this Agreement, acquires or shall from time to time acquire a security interest from the Borrower.

(g) "Event of Default" means any event or condition described in Section 8.1 hereof.

(h) "Event of Loss" means, in relation to any Car, any of the following events: (i) the loss or total destruction of such Car; (ii) damage to such Car to an extent which makes the repair of such Car uneconomical or which renders such Car unfit for normal use; or (iii) any condemnation, confiscation, seizure, requisition or other taking of title to or use of such Car which shall result in the loss of title to or use of such Car for a period of thirty days or more.

(i) "Event of Loss Proceeds" means all compensation, damages or other payments (including, but not limited to, recoveries under any policies of insurance payable in respect of any Event of Loss with respect to any of the Cars) which shall at any time or times become and be due and payable to the Borrower, to the Manager, as agent for the Borrower, or to the Bank by any governmental authority or by any other person as a consequence or in respect of any Event of Loss with respect to any of the Cars.

(j) "Freights" has the meaning given to that expression in Section 4.1(d) hereof.

(k) "Guarantee" means the guarantee made by the Guarantor in favor of the Bank pursuant to Section 5 of this Agreement.

(l) "Guarantor" means Genesee and Wyoming Industries, Inc., a Delaware corporation, the principal offices of which are located at 270 Greenwich Avenue, Greenwich, Connecticut, and includes its successors in title and assigns.

(m) "GWRR" means Genesee and Wyoming Railroad Company, a New York corporation, the principal offices of which are located at Retsof, New York, and includes its successors in title and assigns.

(n) "Instalment Payment Dates" means, collectively, the dates on which the sixty quarter-annual instalments of the combined principal of and interest on each of the Notes shall become and be due and payable by the Borrower to the Bank in accordance with the terms of this Agreement and each of the Notes, and "Instalment Payment Date" means any one of such dates.

(o) "Insurances" has the meaning given to that expression in Section 4.1(f) hereof.

(p) "Leases" has the meaning given to that expression in Section 4.1(c) hereof.

(q) "Loan" means the aggregate principal amount of all of the Advances from time to time outstanding hereunder.

(r) "Management Agreement" means the Management Agreement, dated as of November 7, 1978, between the Manager and the Borrower upon the terms of which the Manager has agreed to manage the Cars as agent for the Borrower, as such Management Agreement was originally executed, or, if varied or supplemented from time to time, as so varied or supplemented, and "Management Agreements" has the meaning given to that expression in Section 4.1(b) hereof.

(s) "Manager" means States Marine Corporation, a New York corporation, acting as agent for the Borrower under the Management Agreement, either directly or by and through its division, States Rail Services, the principal offices of which division are located at 280 Park Avenue, New York, New York, and includes the successors in title and assigns of States Marine Corporation.

(t) "Manufacturer" means National Steel Car Corporation, Limited, a Canadian corporation, the principal offices of which are located in Hamilton, Ontario, Canada, and includes its successors in title and assigns.

(u) "Manufacturing Contract" means the Agreement, dated as of June 16, 1978, between the Manufacturer and States Marine Corporation, as amended on August 28, 1978 and on October 12, 1978, pursuant to which States Marine Corporation agreed (among other things) to purchase the Cars from the Manufacturer, as such Agreement has heretofore been varied or supplemented or, if such Agreement shall be varied or supplemented from time to time hereafter, as such Agreement shall be so varied or supplemented.

(v) "Maximum Commitment" means the maximum liability of the Bank to make Advances to the Borrower upon the terms and subject to the conditions contained in this Agreement.

(w) "Notes" means, collectively, the promissory notes in or substantially in the form of Exhibit B annexed hereto which will be appropriately completed and signed by the Borrower, executed by the Guarantor as guarantor of the payment and performance of all of the Borrower's obligations to the Bank thereunder, and delivered to the Bank in accordance with the terms of this Agreement, and "Note" means any one of

the Notes, as originally executed, or, if varied or supplemented from time to time, as so varied or supplemented.

(x) "Obligations" means, collectively, all indebtedness, obligations and liabilities existing on the date of this Agreement or arising from time to time thereafter, whether matured or unmatured, certain or contingent, liquidated or unliquidated, arising by contract, operation of law or otherwise, of the Borrower to the Bank (i) in respect of the Loan, or (ii) under or in respect of this Agreement or the Notes, and "Obligation" means any one of the Obligations.

(y) "Purchase Contract" means the Assignment and Purchase Contract, dated November 7, 1978, between States Marine Corporation and the Borrower pursuant to which all of States Marine Corporation's rights, title and interests under the Manufacturing Contract with respect to the Cars were assigned and transferred by States Marine Corporation to the Borrower, as such Assignment and Purchase Contract was originally executed, or, if varied or supplemented from time to time, as so varied or supplemented.

(z) "Purchase Price" means the total purchase price payable by the Borrower for all of the Cars, which price includes estimated import duties, transit fees, inspection charges and all other fees necessary to place the Cars in service.

(aa) "Sales Proceeds" means all moneys, property and assets which shall at any time or times become and be due and payable to or otherwise receivable by the Borrower, the Manager (as agent for the Borrower) or the Bank from any person in consideration for the sale, transfer or other disposition of all or any of the Cars.

(bb) "SRS Consent Agreement" means the Agreement and Consent to Assignment, dated as of February 16, 1979, among (i) States Marine Corporation, acting in its individual capacity by and through its division, States Rail Services, (ii) States Marine Corporation, acting as agent for the Borrower by and through its division, States Rail Services, (iii) the Borrower, and (iv) the Bank, pursuant to which (among other things) States Marine Corporation, acting as agent for the Borrower by and through its division, States Rail Services, has agreed to pay or to cause to be paid directly to the Bank the moneys which will become and be due and payable by the Manager to the Borrower upon the terms of the Management Agreement, as such Agreement and Consent to Assignment was originally executed, or, if varied or supplemented from time to time, as so varied or supplemented.

Section 2. The Loan.

2.1. The Bank's Maximum Commitment.

(a) The Bank agrees to make Advances to the Borrower upon the

terms and subject to the conditions set forth in this Agreement. Until the Maximum Commitment shall be terminated in accordance with the terms of this Agreement, the amount of the Maximum Commitment shall be \$3,993,750. The Bank shall not be obligated to make any further Advances to the Borrower after the Maximum Commitment shall have terminated in full.

(b) The Maximum Commitment shall terminate in full upon the earlier to occur of (i) April 21, 1979, or (ii) the making of an Advance in respect of the entire unused balance of the amount of the Maximum Commitment. The Maximum Commitment may be terminated in full by the Bank, prior to such time, in accordance with Section 8.2(a) of this Agreement.

2.2. Making The Advances.

(a) The Borrower may, in accordance with the terms of Section 2.2(b) hereof, obtain Advances from the Bank to provide funds with which to pay a part of the Purchase Price. Anything in this Agreement express or implied to the contrary notwithstanding, the aggregate original principal amount of the Advances shall not exceed the lesser of (i) \$3,993,750, or (ii) the amount obtained by multiplying (A) \$26,625, by (B) the number of Cars actually delivered by the Manufacturer to the Manager as agent for the Borrower and accepted by the Manager as agent for the Borrower, all as contemplated by the Management Agreement. Each Advance will be made by the Bank to the Borrower, in the manner provided by Section 2.2(b) hereof, on a date on which a part of the Purchase Price is paid to the Manufacturer by the Manager as agent for the Borrower. The entire proceeds of each Advance will be applied towards the payment of the Purchase Price.

(b) Whenever and so often as the Borrower desires to receive an Advance, the Borrower shall deliver to the Bank a written application for such Advance, which application (hereinafter called a "Loan Application") shall (i) specify the date (hereinafter called a "Drawdown Date") on which a part of the Purchase Price is to be paid to or for the account of the Manufacturer by the Manager, (ii) specify the number and identify each of the Cars for or in respect of which such part of the Purchase Price is to be paid on such Drawdown Date, (iii) notify the Bank that the Cars identified in such Loan Application have been delivered to and accepted by the Manager as agent for the Borrower, (iv) specify the original principal amount of such Advance (the original principal amount thereof to be determined as hereinafter provided in this paragraph (b)), (v) specify the bank account of the Borrower to which payment of the proceeds of such Advance is to be made by the Bank, (vi) be received by the Bank not later than the fourth business day prior to such Drawdown Date, and (vii) be substantially in the form of Exhibit C annexed hereto, appropriately completed and signed on behalf of the Borrower by one of its duly authorized officers. Anything in

this Agreement express or implied to the contrary notwithstanding, (A) the original principal amount of any Advance shall not exceed the amount obtained by multiplying (x) the number of Cars specified in the Loan Application for such Advance, by (y) \$26,625, and (B) the Bank shall not be obligated to make an Advance requested by the Borrower if the sum of (s) the original principal amount of such Advance specified in the Loan Application for such Advance, and (t) the aggregate original principal amount of all Advances made by the Bank prior to the date on which such Loan Application is received by the Bank, exceeds the Maximum Commitment.

(c) If the Maximum Commitment has not terminated on or prior to the Drawdown Date of any Advance requested by the Borrower in the manner provided by Section 2.2(b) hereof, and if all of the applicable conditions contained in Section 3 hereof are satisfied on or prior to such Drawdown Date, the Bank will make such Advance to the Borrower on such Drawdown Date in the manner provided by Section 2.2(b) hereof.

2.3. The Notes. The obligations of the Borrower to repay the principal amount of each Advance, to pay interest thereon and to pay other sums which may become and be due and payable by the Borrower to the Bank in respect thereof shall be evidenced by a promissory note of the Borrower (herein called a "Note") in the principal amount of such Advance. Each Note shall be dated the Drawdown Date of the Advance relating thereto, shall be in or substantially in the form of Exhibit B annexed hereto and shall be appropriately completed in accordance with the provisions of this Agreement. The payment and performance by the Borrower of all of its obligations to the Bank under or in respect of each Note and the indebtedness evidenced thereby shall be guaranteed by the Guarantor, and the Guarantor shall sign each Note as guarantor of the payment and performance of all such obligations. The unpaid principal of each Note (not at the time overdue) shall bear interest at the annual rate provided by Section 2.4 hereof. The principal of each Note and the interest accrued thereon shall be payable in accordance with the provisions of Section 2.5 hereof.

2.4. Interest. The unpaid principal of each Note shall bear interest from the date of such Note until the principal thereof or the unpaid portion thereof shall have become due and payable at the rate of ten and one-half percent (10-1/2%) per annum.

2.5. Fixed Installments Of Principal And Interest. The interest which shall accrue on the the unpaid principal of each Note from the date of such Note to April 20, 1979, shall be payable by the Borrower on April 20, 1979. Thereafter, the principal of each Note and the interest accrued thereon shall be payable in sixty equal consecutive quarter-annual installments of combined principal and interest on the twentieth day of each April, July, October and January in each year beginning July 20, 1979, until the entire indebtedness evidenced by such

Note is fully paid, except that any remaining indebtedness, if not sooner paid, shall be due and payable on April 20, 1994, the date of the final maturity of such Note. The Bank shall determine the exact amount of each of the sixty quarter-annual installments of the combined principal of and interest on each Note promptly after the Bank's receipt of the Loan Application for the Advance relating to such Note, and the amount so determined by the Bank shall be properly inserted in the appropriate place in such Note. Any partial payment of the combined principal of and interest on any Note shall be applied first to interest on such Note accrued to the date of such partial payment and then to the unpaid principal of such Note.

2.6. Mandatory Prepayments Of Principal, Etc.

(a) If any Event of Loss shall at any time occur in respect of any one or more of the Cars, then there shall become and be absolutely due and payable to the Bank on the ninetieth day following the date on which such Event of Loss shall have occurred (such ninetieth day being in this paragraph (a) called the "Mandatory Prepayment Date"), and the Borrower hereby promises to pay to the Bank on such Mandatory Prepayment Date, that portion of the aggregate principal amount of all of the Notes outstanding on such Mandatory Prepayment Date as shall be equal to the amount obtained by subtracting (i) the aggregate amount of all Event of Loss Proceeds paid in respect of such Event of Loss and applied by the Bank, at any time or times on or prior to such Mandatory Prepayment Date, towards the prepayment of the aggregate unpaid principal amount of all of the Notes, from (ii) the amount obtained by multiplying the total number of Cars in respect of which such Event of Loss shall have occurred by the amount obtained by dividing (A) the difference between (x) the aggregate principal amount of all of the Notes outstanding on the date on which such Event of Loss shall have occurred, and (y) the aggregate amount of the principal portion of all installments which shall have been paid by the Borrower in accordance with the terms of the Notes after the date on which such Event of Loss shall have occurred but prior to such Mandatory Prepayment Date, by (B) the total number of Unaffected Cars immediately prior to the occurrence of such Event of Loss. For the purposes of this paragraph (a), the term "Unaffected Cars" means, in relation to the Cars at any particular time, Cars which have not been sold, transferred or otherwise disposed of at or prior to such time and in respect of which no Event of Loss has occurred at or prior to such time.

(b) If any Event of Loss shall at any time occur in respect of any one or more of the Cars and any Event of Loss Proceeds shall at any time or times become and be due and payable to the Borrower from any person or persons as a consequence of the occurrence of such Event of Loss, there shall become and be absolutely due and payable to the Bank on the date on which such Event of Loss Proceeds are paid to or for the

account of the Borrower, and the Borrower hereby promises to pay to the Bank on such date, the full amount of the Event of Loss Proceeds so paid. The Bank will, promptly after its receipt of any Event of Loss Proceeds in respect of any Event of Loss, apply the full amount thereof in the manner hereinafter provided by this paragraph (b):

(i) if such Event of Loss Proceeds shall have been paid to the Bank at any time or times on or prior to the ninetieth day following the date on which such Event of Loss shall have occurred (such ninetieth day being in this paragraph (b) called the "Mandatory Prepayment Date"), then the Bank will apply the full amount of such Event of Loss Proceeds in or towards the prepayment of the aggregate unpaid principal amount of all of the Notes; and

(ii) if such Event of Loss Proceeds shall have been paid to the Bank at any time or times after the Mandatory Prepayment Date relating to such Event of Loss and such Event of Loss Proceeds shall exceed that part of the aggregate unpaid principal amount of all of the Notes which shall, as a consequence of the occurrence of such Event of Loss, have been paid by the Borrower to the Bank on such Mandatory Prepayment Date in accordance with Section 2.6(a) hereof, then the Bank will (A) apply the full amount of such excess in or towards the prepayment of the aggregate unpaid principal amount of all of the Notes, (B) apply the balance (if any) of such Event of Loss Proceeds remaining after the application referred to in clause (A) of this subparagraph (b)(ii) in or towards the payment of all (if any) sums which are then due and payable by the Borrower to the Bank hereunder or under the Notes, and (C) remit to the Borrower the balance (if any) of such Event of Loss Proceeds remaining after the applications referred to in clauses (A) and (B) of this subparagraph (b)(ii); and

(iii) if such Event of Loss Proceeds shall have been paid to the Bank at any time or times after the Mandatory Prepayment Date relating to such Event of Loss and such Event of Loss Proceeds shall be equal to or less than that part of the aggregate unpaid principal amount of all of the Notes which shall, as a consequence of the occurrence of such Event of Loss, have been paid by the Borrower to the Bank on such Mandatory Prepayment Date in accordance with Section 2.6(a) hereof, then the Bank will (A) apply such Event of Loss Proceeds in or towards the payment of all (if any) sums which are then due and payable by the Borrower to the Bank hereunder or under the Notes, and (B) remit to the Borrower the balance (if any) of such Event of Loss Proceeds remaining after such application.

(c) If any cash Sales Proceeds shall at any time or times become and be due and payable to the Borrower, there shall become and be

absolutely due and payable to the Bank on the date on which such cash Sales Proceeds are paid to or for the account of the Borrower, and the Borrower hereby promises to pay to the Bank on such date, the full amount of such cash Sales Proceeds. The Bank will, promptly after its receipt of such cash Sales Proceeds, apply the full amount thereof in or towards the prepayment of the aggregate unpaid principal amount of all of the Notes. If any non-cash Sales Proceeds shall at any time or times be receivable by the Borrower from any person or person, the Borrower will cause such non-cash Sales Proceeds to be delivered to the Bank. The Bank shall have the immediate and continuing right to sell or otherwise dispose of any non-cash Sales Proceeds so received by it. The entire proceeds of any such sale or disposition shall be applied by the Bank in or towards the prepayment of the aggregate unpaid principal amount of all of the Notes.

(d) In the event that any partial prepayment of the aggregate unpaid principal amount of all of the Notes is made pursuant to paragraph (a), (b) or (c) of Section 2.6 hereof, the Bank will, in order to reflect the change in the principal amount of each Note which will be outstanding from and after the date of such partial prepayment, recompute the amount of the quarter-annual instalments of the combined principal of and interest on each Note which shall become and be due and payable by the Borrower to the Bank under each Note on each Instalment Payment Date falling after the date of such partial prepayment, and the Bank will promptly thereafter notify the Borrower in writing of the amount of the quarter-annual instalments which shall be payable by the Borrower to the Bank under each Note on each such Instalment Payment Date. No partial prepayment of the aggregate unpaid principal amount of all of the Notes made pursuant to paragraph (a), (b) or (c) of Section 2.6 hereof shall discharge the obligation of the Borrower to pay any quarter-annual instalment of the combined principal of and interest on any Note falling due on any Instalment Payment Date subsequent to such partial prepayment, operate to extend or postpone the due date of any such subsequent quarter-annual instalment or, except as hereinabove provided, change the amount of any such instalment.

(e) The Borrower shall have the right to prepay the aggregate unpaid principal amount of all of the Notes in full (but not in part) on any Instalment Payment Date falling after April 20, 1989, provided that the Borrower's right to make such a prepayment is subject to the condition that the Borrower shall have given the Bank at least seven (7) days' prior written notice of the Borrower's intention to make such a prepayment and is also subject to the condition that the Borrower shall pay to the Bank, on the date of such prepayment, a premium equal to (i) five and one-half percent (5-1/2%) of the aggregate principal amount being prepaid if such prepayment is made after April 20, 1989, but prior to July 20, 1990, (ii) four percent (4%) of the aggregate principal amount being prepaid if such prepayment is made after April 20, 1990,

but prior to July 20, 1991, (iii) two and one-half percent (2-1/2%) of the aggregate principal amount being prepaid if such prepayment is made after April 20, 1991, but prior to July 20, 1992, and (iv) one percent (1%) of the aggregate principal amount being prepaid if such prepayment is made after April 20, 1992, but prior to July 20, 1993. No premium shall be payable by the Borrower to the Bank upon the prepayment of the aggregate unpaid principal amount of all of the Notes in full on any Instalment Payment Date falling after April 20, 1993. If notice of the prepayment of the aggregate unpaid principal amount of all of the Notes is given to the Bank by the Borrower pursuant to this paragraph (e), there shall become and be absolutely due and payable to the Bank on the date of prepayment specified by such notice, and the Borrower hereby promises to pay to the Bank on such date of prepayment, the entire aggregate unpaid principal amount of all of the Notes, all of the unpaid interest accrued on the aggregate unpaid principal amount of all of the Notes to such date of prepayment and all (if any) other sums payable by the Borrower to the Bank under this Agreement or on or in respect of the Notes or the indebtedness evidenced thereby.

(f) Except as otherwise expressly provided by paragraphs (a), (b), (c) and (e) of Section 2.6 hereof, the Borrower shall have no right to prepay all or any part of the unpaid principal of any of the Notes.

(g) If, on any Instalment Payment Date, the moneys which shall be available to the Bank for application towards the payment of the aggregate amount of all of the instalments of the combined principal of and interest on the Notes payable on such Instalment Payment Date shall be less than the aggregate amount of all such instalments, then such moneys shall be applied by the Bank towards the payment of such instalments ratably in accordance with the respective amount of such instalments. Each partial prepayment of the aggregate unpaid principal amount of all of the Notes made pursuant to paragraph (a), (b) or (c) of Section 2.6 hereof shall be applied by the Bank towards the payment of the unpaid principal of the Notes ratably in accordance with the respective principal amounts thereof then outstanding.

2.7. Place of Payment; Computations, Etc.

(a) All payments of principal, interest and other amounts payable by the Borrower to the Bank hereunder or on or in respect of the Notes or the indebtedness evidenced thereby shall be made to the Bank at its Head Office located at 100 Federal Street, Boston, Massachusetts 02110, in funds immediately available to the Bank as it may direct.

(b) All payments by the Borrower to the Bank hereunder or on or in respect of the Notes or the indebtedness evidenced thereby shall be made to the Bank without set-off or counterclaim and free and clear of, and without any deduction for, any taxes, levies, imposts, duties,

charges, fees, deductions, withholdings, restrictions or conditions of any nature whatever.

(c) All computations of any interest which shall become payable by the Borrower in accordance with Section 2.7(d) hereof or by the Guarantor in accordance with Section 5.4(c) hereof shall be made by the Bank on the basis of the number of days elapsed divided by 360. Whenever any payment to be made on or in respect of this Agreement or the Notes or the indebtedness evidenced thereby becomes due and payable on a day which is not a business day, the maturity thereof shall be extended to the next succeeding business day and interest thereon shall accrue at the applicable rate during such extension.

(d) Anything in this Agreement or in the Notes express or implied to the contrary notwithstanding, each overdue payment under this Agreement or on or in respect of the Notes or the indebtedness evidenced thereby shall bear interest, from the date on which such payment shall have become due and payable to the Bank in accordance with the terms hereof or thereof to the date on which such payment shall be paid by the Borrower to the Bank (whether before or after judgment), at the rate of eleven percent (11%) per annum. The unpaid interest accrued on any overdue payment in accordance with this paragraph (d) will become and be absolutely due and payable by the Borrower to the Bank on demand by the Bank. Interest on each overdue payment will continue to accrue as provided by this paragraph (d) and will be compounded monthly until the obligations of the Borrower in respect of the payment of such overdue payment are discharged (whether before or after judgment).

2.8. Application of Moneys Received by Bank, Obligations Absolute and Unconditional, etc.

(a) The Manager has agreed, in accordance with the terms of the SRS Consent Agreement, to pay or to cause to be paid directly to the Bank, for the account of the Borrower, on each Instalment Payment Date, that portion of the Distributable Net Earnings (as hereinafter defined) relating to such Instalment Payment Date as shall be equal to the sum (such sum being in this paragraph (a) called the "Debt Service") of (i) the aggregate amount of all of the instalments of the combined principal of and interest on the Notes due and payable by the Borrower to the Bank under the Notes on such Instalment Payment Date, and (ii) the aggregate amount of all (if any) other sums then due and payable by the Borrower to the Bank hereunder or on or in respect of the Notes or the indebtedness evidenced thereby. In the event that the Debt Service due and payable by the Borrower to the Bank on any Instalment Payment Date shall be equal to or greater than the Distributable Net Earnings relating to such Instalment Payment Date, the Manager has agreed, in accordance with the terms of the SRS Consent Agreement to pay or to cause to be paid

directly to the Bank, for the account of the Borrower, on such Instalment Payment Date, the full amount of the Distributable Net Earnings relating to such Instalment Payment Date. Upon the receipt by the Bank from the Manager of all or any part of the Distributable Net Earnings relating to any Instalment Payment Date, the Bank will, upon such Instalment Payment Date, apply the full amount of the Distributable Net Earnings actually received by the Bank from the Manager in or towards the payment of the Debt Service due and payable by the Borrower to the Bank on such Instalment Payment Date. For the purposes of this paragraph (a), the term "Distributable Net Earnings" means, in relation to any Instalment Payment Date, the Net Earnings (as defined in the Management Agreement) which shall become and be due and payable by the Manager to the Borrower, in accordance with the terms of the Management Agreement, within twenty days after the end of the calendar quarter ending on the last day of the calendar month immediately preceding the calendar month in which such Instalment Payment Date falls.

(b) If the Bank shall at any time or times change, in accordance with Section 2.6(d) hereof, the amounts of the quarter-annual instalments of combined principal and interest due and payable by the Borrower to the Bank under the Notes on each Instalment Payment Date, the Bank will notify the Manager in writing of such change. If, in addition to the instalments of combined principal and interest which shall become and be due and payable by the Borrower to the Bank under the Notes on any Instalment Payment Date, any other sums shall be due and payable by the Borrower to the Bank hereunder or on or in respect of the Notes or the indebtedness evidenced thereby on such Instalment Payment Date, the Bank will, on or prior to such Instalment Payment Date, notify the Manager in writing of the aggregate amount of such other sums.

(c) The Manager has agreed, in accordance with the terms of the SRS Consent Agreement, to pay or to cause to be paid directly to the Bank, for the account of the Borrower, the full amount of all Event of Loss Proceeds which will become and be due and payable by the Manager to the Borrower at any time or times in accordance with the terms of the Management Agreement. Promptly after the receipt by the Bank from the Manager of any Event of Loss Proceeds, the Bank will apply the amount of such Event of Loss Proceeds in or towards the prepayment of the aggregate principal amount of all of the Notes then outstanding and the payment of all (if any) other sums then due and payable by the Borrower to the Bank hereunder or under the Notes, all as provided by Section 2.6(b) hereof.

(d) The Manager has agreed, in accordance with the terms of the SRS Consent Agreement, to pay or deliver or to cause to be paid or delivered directly to the Bank, for the account of the Borrower, the full amount of all Sales Proceeds which will become and be due and payable by the Manager to the Borrower at any time or times in accordance

with the terms of the Management Agreement. Promptly after the receipt by the Bank from the Manager of any Sales Proceeds, the Bank will apply the full amount of such Sales Proceeds in or towards the prepayment of the aggregate principal amount of all of the Notes then outstanding, as provided by Section 2.6(c) hereof.

(e) In addition to the distributions of Net Earnings, the Event of Loss Proceeds and the Sales Proceeds which will or (as the case may be) may become and be due and payable from time to time by the Manager to the Borrower in accordance with the terms of the Management Agreement, other sums may from time to time become and be due and payable by the Manager to the Borrower in accordance with the terms of the Management Agreement (such other sums being in this paragraph (e) collectively called the "Additional Sums"). The Manager has agreed, in accordance with the terms of the SRS Consent Agreement, to pay or to cause to be paid directly to the Bank, for the account of the Borrower, the full amount of all Additional Sums which will become and be due and payable by the Manager to the Borrower at any time or times in accordance with the terms of the Management Agreement. Promptly after the receipt by the Bank from the Manager of any Additional Sums, the Bank will apply the full amount of such Additional Sums in or towards the payment of all amounts which are then due and payable by the Borrower to the Bank hereunder or on or in respect of the Notes or the indebtedness evidenced thereby. The balance (if any) remaining after such application will be remitted by the Bank to the Borrower.

(f) The Borrower hereby irrevocably directs the Bank to apply, in the manner hereinabove provided in this Section 2.8, all of the moneys which shall at any time or times be paid by the Manager to the Bank, for the account of the Borrower, in accordance with the terms of the SRS Consent Agreement. The Borrower hereby irrevocably appoints the Bank the attorney-in-fact of the Borrower with power of substitution, in the name of the Borrower or of the Bank, to execute and do all such assurances, acts and things as shall, in the opinion of the Bank, be necessary in order to accomplish all or any of the foregoing acts and things referred to in paragraphs (a), (b), (c), (d) and (e) of this Section 2.8, the Borrower hereby ratifying and confirming all that the Bank may do in pursuance of the power hereby granted which, being given for security, is irrevocable.

(g) The Obligations of the Borrower to the Bank under or in respect of this Agreement, the Notes and the indebtedness evidenced hereby and thereby are absolute, unconditional and irrevocable under any and all circumstances, it being the express intention of the Borrower and the Bank that the Obligations shall not be to any extent or in any way or manner whatsoever satisfied, discharged, released, impaired, diminished or otherwise affected except by payment to the Bank by or on behalf of the Borrower and then only to the extent of such payment.

Without any limitation whatsoever of the generality of the foregoing, the Obligations of the Borrower are in no way conditional upon any requirement that the Bank first (i) attempt to collect from the Manager any moneys which will become and be due and payable by the Manager to the Borrower at any time or times in accordance with the terms of the Management Agreement, (ii) attempt to collect from States Marine Corporation any moneys which will become and be due and payable by States Marine Corporation to the Bank at any time or times in accordance with the terms of the SRS Consent Agreement, (iii) attempt to collect from the Guarantor any moneys which will become and be due and payable by the Guarantor to the Bank under the Guarantee, (iv) proceed to protect or enforce all or any of the rights, remedies, powers or privileges of the Borrower under the Management Agreement or under or in respect of any of the Collateral by action at law or other appropriate proceedings, (v) proceed to protect or enforce all or any of the rights, remedies, powers or privileges of the Bank under the Guarantee or the SRS Consent Agreement or under or in respect of any of the Collateral by action at law or other appropriate proceedings, or (vi) attempt to take possession of, sell, transfer or otherwise dispose of or otherwise realize upon or resort to any of the Collateral or otherwise enforce any of the security interests granted to the Bank hereby.

(h) Without any limitation whatsoever of the generality of the provisions contained in Section 2.8(g) hereof:

(i) if, on the date on which any Obligation shall become and be due and payable by the Borrower to the Bank hereunder, the moneys which (A) shall have been paid by the Manager to the Bank for the account of the Borrower in accordance with the terms of the SRS Consent Agreement, and (B) shall be freely available to the Bank for application in or towards the payment of such Obligation on the due date thereof, shall be less than the amount of such Obligation, the Borrower shall be absolutely and unconditionally obligated to pay to the Bank, on the due date of such Obligation, the full amount of such deficiency;

(ii) the failure, refusal or inability of the Manager to make any payment or payments to the Bank for the account of the Borrower in accordance with the terms of the SRS Consent Agreement shall not to any extent or in any way or manner whatsoever satisfy, discharge, release, impair or diminish any of the Obligations; and

(iii) if (A) any payment (in this clause (iii) called a "Manager Payment") shall at any time be made by the Manager to the Bank in accordance with the terms of the SRS Consent Agreement, (B) the Bank shall credit such Manager Payment as paid by the Borrower in or towards the satisfaction of any Obligation, and (C) such Manager Payment or any part thereof shall at any time be recovered

from the Bank by any person or persons, then the Borrower shall be absolutely and unconditionally obligated to pay to the Bank, on the date on which such Manager Payment or any part thereof shall be recovered from the Bank, an amount equal to the Manager Payment or the part thereof so recovered from the Bank.

(i) The maximum liability of the Borrower to the Bank hereunder or on or in respect of the Notes or the indebtedness evidenced thereby is not limited to any extent or in any way or manner whatsoever. Without limitation of the generality of the foregoing sentence of this paragraph (i), if the proceeds of any sale, transfer or other disposition by the Bank of all or any part of the Collateral shall not be sufficient to satisfy and discharge all of the Obligations then due and payable by the Borrower to the Bank under this Agreement or under or in respect of the Notes, the Borrower shall be absolutely and unconditionally liable to the Bank for the deficiency.

Section 3. Conditions of Lending.

3.1. Conditions To Making The First Advance. The obligation of the Bank to make the first Advance requested by the Borrower in accordance with Section 2.2 hereof shall be subject to the satisfaction, prior thereto or concurrently therewith, of each of the following conditions precedent, in addition to those specified in Section 3.2 hereof:

(a) This Agreement shall have been duly authorized, executed and delivered to the Bank by the Borrower and by the Guarantor and shall be in full force and effect on the Drawdown Date for the first Advance (such Drawdown Date being in this Section 3.1 called the "First Drawdown Date").

(b) The SRS Consent Agreement shall have been duly authorized, executed and delivered to the Bank by States Marine Corporation, acting in its individual capacity, by States Marine Corporation, acting as agent for the Borrower, and by the Borrower, and shall be in full force and effect on the First Drawdown Date.

(c) The Management Agreement and the Purchase Contract shall have been duly authorized, executed and delivered by the Borrower and by States Marine Corporation, acting directly or by and through its division, States Rail Services, and shall be in full force and effect on the First Drawdown Date. All counterpart originals of the Management Agreement and the Purchase Contract owned or possessed by the Borrower or the Guarantor shall have been delivered to the Bank on or prior to the First Drawdown Date.

(d) The Bank shall have received evidence, in form and substance satisfactory to it, that a counterpart original of this Agreement

and the Management Agreement and two certified true copies of each of this Agreement and the Management Agreement have been duly filed with the Interstate Commerce Commission.

(e) The Bank shall have received (i) from Messrs. Harter, Secret and Emery, a legal opinion addressed to the Bank, dated not more than four business days prior to the First Drawdown Date, and in or substantially in the form of Exhibit D annexed hereto, and (ii) from Messrs. Shearman and Sterling, a legal opinion addressed to the Bank, dated not more than four business days prior to the First Drawdown Date, and in or substantially in the form of Exhibit E annexed hereto.

3.2. Conditions To The Making Of Each Advance. The obligation of the Bank to make each Advance requested by the Borrower in accordance with Section 2.2 hereof shall be subject to the satisfaction, prior thereto or concurrently therewith, of each of the following conditions precedent:

(a) The Bank shall have received from the Borrower a Loan Application requesting such Advance in accordance with Section 2.2(b) hereof.

(b) This Agreement shall be in full force and effect on the Drawdown Date for such Advance. The Note relating to such Advance shall have been duly authorized, executed and delivered to the Bank by the Borrower and shall be in full force and effect on the Drawdown Date for such Advance. The Guarantor shall have duly signed such Note as guarantor of the payment and performance of all of the obligations of the Borrower to the Bank thereunder.

(c) No event shall have occurred and be continuing on the Drawdown Date for such Advance and no condition shall exist on such Drawdown Date which constitutes an Event of Default.

(d) The SRS Consent Agreement shall be in full force and effect on the Drawdown Date for such Advance.

(e) The Management Agreement and the Purchase Contract shall be in full force and effect on the Drawdown Date for such Advance.

(f) The Bank shall have received evidence, in form and substance satisfactory to it, that: (i) each Car identified in the Loan Application requesting such Advance has been duly delivered to and accepted by the Manager as agent for the Borrower; (ii) the Borrower has good title to each such Car subject to no mortgages, security interests or other encumbrances other than the security interest in respect of each such Car granted to the Bank hereby; (iii) insurance coverage satisfactory to the Bank is in effect in respect of each such Car; (iv)

the security interest of the Bank, as secured party, in and to each such Car has been duly endorsed upon all policies of insurance issued in respect of each such Car; (v) Uniform Commercial Code financing statements, in form and substance satisfactory to the Bank, have been duly executed by the Borrower, as debtor, and by the Bank, as secured party, and properly filed in all appropriate places; and (vi) there have been filed with the Interstate Commerce Commission all such agreements, instruments and documents as shall, in the opinion of the Bank, be necessary in order to maintain, preserve and safeguard at all times all of the rights, title and interests in and to each such Car of the Borrower, as owner, and the Bank, as secured party.

(g) The Bank shall have received all such information as shall be required by the Bank in order to identify each of the Cars identified in the Loan Application requesting such Advance and to complete, in respect of each such Car, Exhibit A annexed hereto or a supplement to said Exhibit A. The Borrower hereby irrevocably authorizes the Bank to complete, in respect of each such Car, Exhibit A or a supplement thereto promptly after the Bank's receipt of such information. The Bank will furnish the Borrower with a copy of Exhibit A and each supplement thereto so completed by the Bank. The said Exhibit A and each supplement thereto, in each case as from time to time so completed by the Bank, shall become and be a part of this Agreement with the same full force and effect as if the said Exhibit A and each supplement thereto had in each case been so completed at the time of the execution and delivery to the Bank of this Agreement.

(h) All corporate and other proceedings in connection with the transactions contemplated by this Agreement, the Note relating to such Advance, the SRS Consent Agreement, the Management Agreement, the Purchase Contract and all documents incidental thereto shall be satisfactory in form and substance to the Bank, and the Bank shall have received all such counterpart originals or certified or other copies of all such documents, including records of corporate proceedings, as the Bank shall have from time to time requested.

Section 4. Security Interests.

4.1. Grant of Security Interest. In order to secure the payment and performance of all of the Obligations and each and every part thereof, the Borrower hereby mortgages and assigns to the Bank, and hereby grants to the Bank a continuing security interest in, all of the Borrower's rights, title and interests in, to, under or in respect of all of the following:

(a) each of the Cars, the Manufacturing Contract and the Purchase Contract, including, without limitation, all of the contract rights, accounts, claims, remedies and all other interests and benefits

whatever existing on the date hereof or arising from time to time thereafter of the Borrower under or in respect of the Manufacturing Contract or the Purchase Contract;

(b) the Management Agreement and each (if any) of the other management agreements which shall at any time or times hereafter be made or otherwise entered into by or on behalf of the Borrower, its agents or representatives in respect of the Cars or any of them and pursuant to which the Borrower, its agents or representatives shall grant to any person or persons any rights to manage the Cars or any of them or to collect the Freights or any of them for or on behalf of the Borrower (the Management Agreement and all of such other management agreements being herein collectively called the "Management Agreements"), including, without limitation, all of the contract rights, accounts, powers, privileges, options, guarantees, indemnities, claims and remedies and all other interests and benefits whatever existing on the date hereof or arising from time to time thereafter of the Borrower under or in respect of the Management Agreements or any of them;

(c) each of the leases, bailments, use agreements, contracts for employment or other contracts or agreements of any nature whatsoever which has heretofore been made or entered into, or which shall at any time or times hereafter be made or entered into, by or on behalf of the Borrower, its agents or representatives and pursuant to which the Borrower, its agents or representatives shall, at any time or times, lease, hire, bail or let the Cars or any of them to any person or persons or otherwise permit or authorize the Cars or any of them to be used or employed by or on behalf of any person or persons (all of such leases, bailments, use agreements, contracts for employment and other contracts and agreements being herein collectively called the "Leases");

(d) all moneys (other than any Sales Proceeds or Event of Loss Proceeds) which shall, at any time or times, become and be due and payable to the Borrower, its agents or representatives under or in respect of the Management Agreements or any of them or under or in respect of the Leases or any of them, including, without limitation, all damages and claims for damages for or in respect of any breach of any of the Management Agreements or any of the Leases, and all other earnings and revenues of the Cars or any of them of any kind whatever which shall at any time or times become and be due and payable to the Borrower, its agents or representatives (all such moneys, earnings and revenues being herein collectively called the "Freights") and all accounts which shall, at any time or times, arise under or in respect of all or any of the Management Agreements, the Leases or the Freights;

(e) all Sales Proceeds, all Event of Loss Proceeds and all accounts which shall, at any time or times, arise in respect of all or any of the Sales Proceeds or the Event of Loss Proceeds;

(f) each of the policies or contracts of insurance which has heretofore been obtained, or which shall at any time or times hereafter be obtained, by or on behalf of the Borrower, its agents or representatives or by any other persons in the joint names of such persons and the Borrower in respect of the Cars or any of them or in respect of the Freights or otherwise howsoever in connection with any of the Cars or the Freights (all of such policies and contracts of insurance being herein collectively called the "Insurances"), including, without limitation, all of the benefits of the Insurances and all accounts and claims arising in respect thereof of whatsoever nature; and

(g) all of the proceeds and products of all of the foregoing.

4.2. Bank's Rights in Respect of the Collateral, Etc.

(a) The rights granted by the Borrower to the Bank pursuant to Section 4.1 hereof include, without limitation, the immediate and continuing rights to give notices, requests, consents, approvals and waivers under any of the Management Agreements, the Leases or the Insurances, to make demands upon any party or parties thereto, to execute and/or deliver any instruments or documents required to be executed and/or delivered by the Borrower thereunder, to compel performance by any party or parties thereto of all or any of the obligations thereunder of any such party or parties, to receive notices or other communications from any parties thereto, to request or agree to any amendments or modifications thereof or any supplements or additions thereto, to receive or collect by legal process or otherwise and to give receipts for all Freights, Sales Proceeds or Event of Loss Proceeds which may at any time or times become payable to the Borrower by, and for all other moneys which may at any time or times become recoverable by the Borrower from or payable to the Borrower by, any party or parties to any of the Management Agreements, the Leases or the Insurances, and, generally, to do all of the things which the Borrower is or may hereafter become entitled to do under or in respect of any of the Management Agreements, the Leases, the Insurances or the Cars, the Borrower hereby appointing the Bank the attorney-in-fact of the Borrower with power of substitution, in the name of the Borrower or of the Bank or its nominees, to do all or any of the foregoing, the Borrower hereby ratifying and confirming all that the Bank or any substitute attorney may do in pursuance of the powers granted to the Bank by Sections 4.1 and 4.2 of this Agreement which, being given for security, are irrevocable. Anything hereinbefore to the contrary notwithstanding, but without any prejudice whatsoever to the provisions of Section 4.2(b) or 4.2(c) hereof, the Bank hereby agrees with the Borrower that the Bank will not (except as otherwise permitted by Section 4.2(b) or 4.2(c) hereof) exercise any of the foregoing rights until the Bank shall furnish the Borrower with a written notice advising the Borrower of the Bank's decision (which shall be conclusive and binding on the Borrower) to exercise any one or more of the foregoing

rights. Notices pursuant to the foregoing sentence of this paragraph (a) may be furnished by the Bank to the Borrower at any time and from time to time, whether or not any Event of Default shall have occurred and be continuing. The Borrower hereby absolutely and irrevocably agrees with the Bank that, from and after the date of any such notice from the Bank to the Borrower, the Bank shall have the sole and exclusive right, power and privilege to exercise such of the foregoing rights as shall have been specified by the Bank in such notice.

(b) The Bank shall have the immediate and continuing right (but shall have no obligation) at any time or times (whether or not any Event of Default shall have occurred and be continuing) to take, in its own name or in the name of the Borrower, or otherwise, without notice to the Borrower, such action as the Bank may determine to be necessary to cure any default, or to protect or enforce any rights of the Borrower, under or in respect of any of the Management Agreements, the Leases, the Insurances, the Cars or the Freights. Any action, suit or proceeding brought by the Bank pursuant to any provision hereof may be compromised, withdrawn or otherwise dealt with by the Bank without the approval of the Borrower or any other person or persons.

(c) It is the express intention of the Borrower and the Bank that, except as otherwise expressly provided by Section 2.8 hereof and by Section 3.1 of the SRS Consent Agreement, all of the Freights, Event of Loss Proceeds and Sales Proceeds and all other moneys which shall at any time or times become and be due and payable to the Borrower under or in respect of the Management Agreements, the Leases or the Insurances or otherwise howsoever in respect of the Cars shall (in each case) be paid directly to the Bank in full and applied by the Bank in or towards the payment of the Obligations in accordance with the terms of Section 2.8 hereof. The Bank shall have the immediate and continuing right (but shall have no obligation) at any time or times (whether or not any Event of Default shall have occurred and be continuing) to receive, collect, sue for and recover and to give receipts and good discharge for all or any of the Freights, Event of Loss Proceeds and Sales Proceeds and all or any of the other moneys aforesaid, all without notice to the Borrower. The Borrower will (except as otherwise expressly provided by this Agreement and the SRS Consent Agreement) at all times cause all of the Freights, Event of Loss Proceeds and Sales Proceeds and all other moneys aforesaid to be paid directly to the Bank in full. If any of the Freights, Event of Loss Proceeds or Sales Proceeds or any of the other moneys aforesaid are received at any time by the Borrower, the Borrower shall hold all of the moneys so received in trust for the Bank without commingling the same with any other funds of the Borrower, and, promptly after the Borrower's receipt of any such moneys, the Borrower shall pay the same directly to the Bank.

(d) The security interests created by this Agreement shall be held by the Bank as a continuing security for the payment and performance of all of the Obligations and each and every part thereof and shall be held by the Bank, and shall not be discharged or otherwise terminated, until such time as all of the Obligations are paid and satisfied in full. This Agreement, the Notes, the SRS Consent Agreement, the rights, remedies, powers and privileges of the Bank hereunder and thereunder and the security interests created hereby shall be in addition to, and shall not in any way be prejudiced or affected by, any other collateral or any other security now or at any time or times hereafter held by the Bank for all or any part of the Obligations. Each and every right, remedy, power and privilege conferred on or reserved to the Bank under this Agreement, the Notes or the SRS Consent Agreement shall be cumulative and in addition to, and not in limitation of, each and every other right, remedy, power or privilege conferred on or reserved to the Bank under this Agreement, the Notes or the SRS Consent Agreement or under any other collateral. All of the rights, remedies, powers and privileges vested in the Bank under this Agreement, the Notes or the SRS Consent Agreement may be exercised by the Bank at such time or times and in such order and manner as the Bank may, in its absolute discretion, deem expedient.

(e) The Obligations and the security interests granted hereby shall not be to any extent or in any way or manner whatsoever satisfied, discharged, impaired, diminished, released or otherwise affected by any of the following, whether or not the Borrower shall have had any notice or knowledge of any thereof: (i) any extension or postponement of the time for the payment or performance of any of the Obligations, the acceptance of any partial payment thereon, any and all other indulgences by the Bank in respect of any of the Obligations, the taking, addition, substitution or release, in whole or in part, at any time or times, of any security for any of the Obligations or the addition, substitution or release, in whole or in part, of any person or persons primarily or secondarily liable in respect of any of the Obligations; (ii) any action or delay in acting or failure to act on the part of the Bank under this Agreement, the Notes or the Guarantee or in respect of any of the Obligations or any of the Collateral or under the SRS Consent Agreement or otherwise, including, without limitation, any failure strictly or diligently to assert any right or to pursue any remedy against the Borrower or the Guarantor under this Agreement, the Notes or the Guarantee or to assert any right or to pursue any remedy under any of the agreements, instruments or documents for the time being comprising the Collateral against any other party or parties thereto or to assert any right or to pursue any remedy against States Marine Corporation under the SRS Consent Agreement; (iii) any waiver, consent or other action or acquiescence by the Bank at any time or times in respect of (A) any default by the Borrower or by the Guarantor in the performance of or the compliance

with any term, covenant, condition or provision contained in this Agreement, the Notes, or the SRS Consent Agreement, or (B) any default under any of the agreements, instruments or documents for the time being comprising the Collateral by any other party or parties thereto, or (C) any default by States Marine Corporation in the performance of or the compliance with any term, covenant, condition or provision contained in the SRS Consent Agreement; or (iv) the existence or creation at any time or times of any claim, defense, right of set-off or counterclaim of any nature whatsoever of the Borrower against the Bank. The Borrower hereby irrevocably assents to and waives notice of any and all events, conditions, matters and things hereinabove specified in clauses (i) through (iv), inclusive, of the foregoing sentence of this paragraph (e) and hereby further irrevocably waives presentment, demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance, default or enforcement of this Agreement, the Notes, the SRS Consent Agreement or any Collateral.

Section 5. The Guarantee.

5.1. Guarantee of Payment and Performance.

(a) Guarantee of Payment. The Guarantor hereby absolutely, unconditionally and irrevocably guarantees the due payment in full of all of the Obligations (including, without limitation, the due and punctual payment of each of the Notes) in accordance with their respective terms, whether the Obligations are outstanding on the date of this Agreement or arise or are incurred at any time or times thereafter.

(b) Payments. If the Borrower shall fail to make any payment of any Obligation to the Bank when and as the same shall become due and payable, the Guarantor agrees to make such payment to the Bank forthwith upon demand by the Bank.

(c) Performance. Without prejudice to the obligations of the Guarantor to the Bank under paragraphs (a) and (b) of this Section 5.1, which are absolute and unconditional, but as a separate undertaking on the part of the Guarantor, the Guarantor will use its best efforts in good faith, to the extent that the Guarantor lawfully can, to cause the Borrower to perform and comply with the agreements and conditions to be performed or complied with by the Borrower which are contained in this Agreement or in the Notes, and the Guarantor will promptly take or cause to be taken, without expense to the Bank, such measures as may be appropriate and are within its lawful powers to prevent the occurrence of any Event of Default or to make good any Event of Default which may occur.

(d) Unlimited Liability of the Guarantor. The liability of the Guarantor under the Guarantee shall be unlimited.

5.2. Waivers of Notice, Assent, Etc. It is the express intention of the Guarantor and the Bank that the obligations of the Guarantor to the Bank under the Guarantee shall not be to any extent or in any way or manner whatsoever satisfied, discharged, released, impaired, diminished or otherwise affected except by the payment by the Guarantor of its obligations to the Bank under the Guarantee and then only to the extent of such payment. Without limitation of the generality of the foregoing, the obligations of the Guarantor to the Bank under the Guarantee shall not be to any extent or in any way or manner whatsoever satisfied, discharged, released, impaired, diminished or otherwise affected by any of the following, whether or not the Guarantor shall have had any notice or knowledge of any thereof: (a) the dissolution, termination of existence, insolvency, business failure, appointment of a receiver for any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against, the Borrower or the Guarantor; (b) the absorption, merger or amalgamation of, or the effectuation of any other change whatsoever in the name, membership, constitution or place of formation of, the Borrower, the Guarantor or the Bank; (c) any extension or postponement of the time for the payment of any of the Obligations, the acceptance of any partial payment thereon, any and all other indulgences whatsoever by the Bank in respect of any of the Obligations, the taking, addition, substitution or release, in whole or in part, at any time or times, of any security for any of the Obligations or the addition, substitution or release, in whole or in part, of any person or persons (other than the Borrower) primarily or secondarily liable in respect of any of the Obligations; (d) any action or delay in acting or failure to act on the part of the Bank under this Agreement, the Notes or the SRS Consent Agreement or in respect of any of the Obligations or any of the Collateral or otherwise, including, without limitation, any failure strictly or diligently to assert any right or to pursue any remedy against the Borrower under this Agreement, the Notes or the SRS Consent Agreement or provided by statute or at law or in equity or to mitigate damages or to assert any right or to pursue any remedy under the SRS Consent Agreement or any of the agreements, instruments or documents for the time being comprising the Collateral against any other party or parties thereto; (e) any modification or amendment of, or any supplement or addition to, the Notes, the SRS Consent Agreement or any of the agreements, instruments or documents for the time being comprising the Collateral; (f) any waiver, consent or other action or acquiescence by the Bank at any time or times in respect of any default by the Borrower in the Borrower's performance of or the Borrower's compliance with any term, covenant, condition (including, but not limited to, any condition set forth in Section 3 hereof) or provision contained in this Agreement, the Notes or the SRS Consent Agreement or any waiver, consent or other action or acquiescence by the Bank at any time or times in respect of any default under the SRS Consent Agreement or any of the agreements, instruments or documents for the time being comprising the Collateral by

any party or parties thereto; (g) the occurrence at any time or times of any event, or the existence on the date hereof or the development at any time or times after the date hereof of any condition, which constitutes an Event of Default or which, with notice or the lapse of time, or both, would constitute an Event of Default; (h) the existence or creation at any time or times on or after the date hereof of any claim, defense, right of set-off or counterclaim of any nature whatsoever of the Guarantor against the Borrower or against the Bank or of the Borrower against the Guarantor or against the Bank; or (i) the Notes, the SRS Consent Agreement, any of the agreements, instruments or documents for the time being comprising the Collateral or any provisions of any thereof shall at any time and for any reason whatsoever cease to be in full force and effect or shall be declared null and void or illegal, invalid, unenforceable or inadmissible in evidence. The Guarantor hereby absolutely, unconditionally and irrevocably assents to and waives notice of any and all events, conditions, matters and things hereinbefore specified in clauses (a) through (i), inclusive, of the foregoing sentence of this Section 5.2. The Guarantor hereby irrevocably waives notice of acceptance of the Guarantee and also presentment, demand, notice, protest, notice of protest, notice of dishonor and all other demands and notices in connection with the delivery, acceptance, performance, default or enforcement of this Agreement, the Notes, any of the Obligations or any of the Collateral.

5.3. Election of Remedies. The Guarantee may be enforced by the Bank from time to time as often as the occasion therefor may arise and without any requirement on the part of the Bank first to exercise any rights against the Borrower or any other person or to exhaust any remedies available to the Bank against the Borrower or any other person or to resort to any Collateral in the Bank's possession or under the Bank's control or to resort to any other source or means of obtaining payment or enforcing performance of the Obligations or any of them.

5.4. Place of Payment, Etc.

(a) Each payment payable by the Guarantor to the Bank under the Guarantee or otherwise upon the terms of Section 5 hereof shall be made to the Bank at its Head Office located at 100 Federal Street, Boston, Massachusetts 02110, in funds immediately available to the Bank as it may direct.

(b) Each payment payable by the Guarantor to the Bank under the Guarantee or otherwise upon the terms of Section 5 hereof shall be made to the Bank without set-off or counterclaim and free and clear of, and without any deduction for, any taxes, levies, imposts, duties, charges, fees, deductions, withholdings, restrictions or conditions of any nature whatever.

(c) Anything in this Agreement express or implied to the contrary notwithstanding, any overdue payment payable by the Guarantor to the Bank under the Guarantee or otherwise upon the terms of Section 5 hereof shall bear interest, from the date on which such payment shall have become due and payable by the Guarantor to the Bank in accordance with the terms hereof to the date on which such payment shall be paid to the Bank (whether before or after judgment), at the rate of eleven percent (11%) per annum. The unpaid interest accrued on any overdue payment in accordance with this paragraph (c) will become and be absolutely due and payable by the Guarantor to the Bank on demand by the Bank. Interest on each overdue payment will continue to accrue as provided by this paragraph (c) and will be compounded monthly until the obligations of the Guarantor in respect of the payment of such overdue payment are discharged (whether before or after judgment).

5.5. Expenses. The Guarantor hereby agrees to pay to the Bank, within three days after demand by the Bank, any and all expenses (including, without limitation, the fees and disbursements of lawyers for the Bank) which shall at any time or times hereafter be incurred or sustained by the Bank in connection with the Bank's enforcement of all or any of its rights, remedies, powers or privileges under Section 5 hereof.

5.6. Unenforceability of Obligations Against Borrower, Etc. It is hereby agreed by the Guarantor and the Bank as a separate and independent stipulation that, if the Borrower shall cease to have any obligation to discharge the Obligations or any of them or if any of the moneys included in the Obligations shall become irrecoverable from the Borrower or if any of the Obligations shall become invalid or unenforceable, in whole or in part, against the Borrower for any reason whatsoever (legal or otherwise), including, but not limited to, (a) any defect in or insufficiency of the powers of the Borrower or any irregular or improper exercise thereof, or (b) the operation of any statute of limitations or the operation of any other laws now or hereafter in effect, or (c) the existence of any legal limitation, disability or incapacity affecting or otherwise relating to the Borrower, then the Guarantee and the obligations of the Guarantor to the Bank thereunder shall nevertheless be binding on and enforceable against the Guarantor as if the Obligations were, at the time of demand by the Bank upon the Guarantor for payment under the Guarantee, fully valid and enforceable against the Borrower and as if the Guarantor was, at the time of such demand, the principal debtor in respect of the Obligations.

5.7. Subrogation and Subordination. Subject as hereinafter provided in this Section 5.7, the Guarantor shall be subrogated to the rights of the Bank against the Borrower in respect of any payments made by the Guarantor under the Guarantee, and the Borrower hereby acknowledges, and hereby absolutely, unconditionally and irrevocably agrees

with the Guarantor, that no payment made by the Guarantor to the Bank under the Guarantee shall to any extent or in any way or manner whatsoever satisfy, discharge, release, impair, diminish or otherwise affect the Borrower's absolute and unconditional obligation to pay and perform all of the Obligations and each and every part thereof. The rights which the Guarantor shall acquire against the Borrower as a consequence of making any payment to the Bank under the Guarantee are hereinafter collectively called the "Subrogation Rights." Anything hereinbefore to the contrary notwithstanding, in the event of any proceeding for the distribution, division or application of all or any part of the assets of the Borrower, whether such proceeding be for the liquidation, dissolution or winding up of the Borrower, a receivership, insolvency or bankruptcy proceeding, an assignment for the benefit of creditors, or a proceeding by or against the Borrower for relief under any bankruptcy, reorganization or insolvency law, if all of the Obligations have not been paid or satisfied in full at the time, the Bank is hereby irrevocably authorized by the Guarantor at any such proceeding: (a) to enforce the Subrogation Rights of the Guarantor, either in the Bank's own name or in the name of the Guarantor, by proof of debt, proof of claim, suit or otherwise; (b) to collect any assets of the Borrower distributed or applied by way of dividend or payment on account of the Subrogation Rights of the Guarantor, and apply the same, or the proceeds of any realization thereof, towards the payment of the Obligations until all of the Obligations have been paid in full; and (c) to vote claims arising under or in respect of the Subrogation Rights of the Guarantor. Should any payment on account of the Subrogation Rights of the Guarantor be received by the Guarantor, such payment shall be delivered by the Guarantor forthwith to the Bank in the form received, except for the addition of any endorsement or assignment necessary to effect transfer of all rights therein to the Bank. Until so delivered, any such payment shall be held by the Guarantor in trust for the Bank and shall not be commingled with any other funds of the Guarantor. The balance (if any) remaining after the Bank shall have applied the said assets, proceeds and payments in or towards the payment and satisfaction in full of all of the Obligations shall, after the Obligations shall have been paid and satisfied in full, be remitted by the Bank to the Guarantor or to whomsoever shall be entitled thereto.

5.8. Set-Off. Regardless of the adequacy of any Collateral, if any principal, interest or other sum payable to the Bank by the Borrower or the Guarantor under this Agreement or under the Notes is not paid to the Bank punctually when due, any deposits or other sums at any time credited by or due from the Bank to the Guarantor may, without notice to the Guarantor or compliance with any other condition precedent now or hereafter imposed by statute, rule of law or otherwise (all of which are hereby expressly waived by the Guarantor), be applied to or set off against all or any of the obligations of the Guarantor to the Bank.

Section 6. Representations and Warranties. The Borrower and the Guarantor hereby represent and warrant to the Bank as follows:

(a) Each of the Borrower and the Guarantor is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation. The Borrower has adequate corporate power and authority to enter into and perform its obligations under this Agreement, the Notes, the SRS Consent Agreement, the Management Agreement and the Purchase Contract. The Guarantor has adequate corporate power and authority to enter into and perform its obligations under or in respect of this Agreement and the Guarantee.

(b) The execution and delivery by the Borrower of this Agreement, the Notes, the SRS Consent Agreement, the Management Agreement and the Purchase Contract and the performance by the Borrower of all of its obligations hereunder and thereunder in accordance with their respective terms have been duly authorized by all necessary corporate action on the part of the Borrower and do not and will not (i) require any waivers, consents or approvals by any creditor or trustee for creditors of the Borrower, (ii) contravene any provision of the Certificate of Incorporation or the By-Laws of the Borrower, (iii) violate or contravene any provision of any law or regulation of the United States, the State of Connecticut or the State of New York, or any order, ruling or interpretation thereunder or any decree or order of any court or governmental or regulatory authority, bureau, agency or official (all as in effect and applicable to the Borrower on the date hereof), (iv) conflict with, or result in a breach of the terms, conditions or provisions of, or constitute a default under, or result in the creation of any mortgage, charge or other encumbrance upon any of the property of the Borrower under, any agreement, trust deed, indenture or other instrument to which the Borrower is or may become a party or by which the Borrower or any of its property is or may become bound or affected, or (v) require any approvals or consents of the Guarantor.

(c) The execution and delivery by the Guarantor of this Agreement, the signing of the Notes by the Guarantor, as guarantor of the payment and performance of all of the Borrower's obligations thereunder, and the performance by the Guarantor of all of its obligations under or in respect of this Agreement and the Guarantee in accordance with their respective terms have been duly authorized by all necessary corporate action on the part of the Guarantor and do not and will not (i) require any waivers, consents or approvals by any creditor or trustee for creditors of the Guarantor, (ii) contravene any provision of the Certificate of Incorporation or the By-Laws of the Guarantor, (iii) violate or contravene any provision of any law or regulation of the United States, the State of Connecticut or the State of New York, or any order, ruling or interpretation thereunder or any decree or order of any court or governmental or regulatory authority, bureau, agency or official (all

as in effect and applicable to the Guarantor on the date hereof), (iv) conflict with, or result in a breach of the terms, conditions or provisions of, or constitute a default under, or result in the creation of any mortgage, charge or other encumbrance upon any of the property of the Guarantor under, any agreement, trust deed, indenture or other instrument to which the Guarantor is or may become a party or by which the Guarantor or any of the property of the Guarantor is or may become bound or affected, or (v) require any approvals or consents of any of the shareholders of the Guarantor.

(d) The Borrower has duly executed and delivered this Agreement, the SRS Consent Agreement, the Management Agreement and the Purchase Contract. The agreements and obligations of the Borrower contained in this Agreement, the SRS Consent Agreement, the Management Agreement and the Purchase Contract constitute legal, valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms. The agreements and obligations of the Borrower contained in each Note will, when such Note is executed and delivered to the Bank by the Borrower, constitute legal, valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms. Anything expressed in this paragraph (d) to the contrary notwithstanding, the enforceability of the agreements and obligations of the Borrower under or in respect of this Agreement, the Notes, the SRS Consent Agreement, the Management Agreement and the Purchase Contract may be limited by the Federal Bankruptcy Act and any other applicable bankruptcy, insolvency, reorganization, moratorium or similar law relating to or affecting the enforcement of creditors' rights generally, now or hereafter in effect, and subject to usual equity principles.

(e) The Guarantor has duly executed and delivered this Agreement. The agreements and obligations of the Guarantor contained in this Agreement constitute legal, valid and binding obligations of the Guarantor enforceable against the Guarantor in accordance with their respective terms; provided, that the enforceability of the agreements and obligations of the Guarantor under or in respect of this Agreement may be limited by the Federal Bankruptcy Act and any other applicable bankruptcy, insolvency, reorganization, moratorium or similar law relating to or affecting the enforcement of creditors' rights generally, now or hereafter in effect, and subject to usual equity principles.

(f) Except for the filings referred to in Section 6(g) hereof, no approval, consent, order, authorization or license by, or giving notice to, or taking any other action with respect to any governmental or regulatory authority or agency is required, under any provision of any law or regulation of the United States, the State of Connecticut or the State of New York, or any order, ruling or interpretation thereunder (all as in effect and applicable to the Borrower or the Guarantor on the

date hereof), (i) for the execution and delivery of this Agreement by the Borrower and the Guarantor, or for the execution and delivery by the Borrower of the Notes, the SRS Consent Agreement, the Management Agreement or the Purchase Contract, (ii) for the performance by the Borrower of all of its agreements and obligations under this Agreement, the Notes, the SRS Consent Agreement, the Management Agreement and the Purchase Contract in accordance with their respective terms, (iii) for the performance by the Guarantor of all of its agreements and obligations under or in respect of this Agreement and the Guarantee in accordance with their respective terms, (iv) as a condition to the legality, validity, binding effect, enforceability or admissibility in evidence of this Agreement, the Notes, the security interests granted to the Bank hereby, the Guarantee, the SRS Consent Agreement, the Management Agreement, or the Purchase Contract, or (v) in order to perfect the security interests granted to the Bank hereby.

(g) No filing, recording or enrolling of this Agreement, the Notes, the SRS Consent Agreement, the Management Agreement or the Purchase Contract or any other agreement, instrument or document relating hereto or thereto with any court or governmental or regulatory authority, bureau, agency or official of the United States, the State of Connecticut or the State of New York is required, under any provision of any law or regulation of the United States, the State of Connecticut or the State of New York or any order, ruling or interpretation thereunder (all as in effect on the date hereof), (i) to ensure the legality, validity, binding effect, enforceability or admissibility in evidence of this Agreement, the Notes, the security interests granted to the Bank hereby, the Guarantee, the SRS Consent Agreement, the Management Agreement or the Purchase Contract at any time or times after the date of this Agreement, or (ii) to perfect the security interests granted to the Bank hereby, except for (A) the filing, with the Connecticut Department of State, of a Uniform Commercial Code financing statement covering the security interests granted by the Borrower to the Bank pursuant to this Agreement, and (B) the filing, with the Interstate Commerce Commission, of a counterpart original and two certified true copies of each of this Agreement and the Management Agreement.

(h) Each of the Cars which has been delivered to and accepted by the Manager (as agent for the Borrower) on or prior to the date hereof has been duly documented in the name of the Borrower as sole owner in accordance with all applicable laws and regulations in effect on the date hereof. The Borrower has and will at all times continue to have (unless the Bank otherwise agrees) good title to each of such Cars, and, except for the security interests granted by the Borrower to the Bank hereby, the Borrower is and will be at all times (except as otherwise contemplated by this Agreement) the absolute and lawful owner of all of the Collateral owned by the Borrower on or as of the date hereof. Each of the Cars which will be delivered to and accepted by the Manager (as

agent for the Borrower) at any time after the date hereof will, at the time of such delivery and acceptance, be duly documented in the name of the Borrower as sole owner in accordance with all applicable laws and regulations in effect at such time. Unless the Bank otherwise agrees, the Borrower will, at all times from and after the delivery to and acceptance by the Manager (as agent for the Borrower) at any time after the date hereof of any Cars, have good title to each of such Cars. Except for the security interests granted by the Borrower to the Bank hereby, and except as otherwise contemplated by this Agreement, the Borrower will, at all times from and after the acquisition by the Borrower at any time after the date hereof of any interest in any part of the Collateral, be the absolute and lawful owner of such part of the Collateral. No part of the Collateral is or will be subject to any mortgage, assignment, lien, pledge, charge, security interest or other encumbrance of any kind whatever other than the security interests granted by the Borrower to the Bank hereby and other than liens of the kind permitted by Section 7.1(f) hereof. No financing statements, mortgages, assignments, security agreements or deeds of trust have been or will be filed with respect to all or any part of the Collateral other than such as relate to the security interests granted by the Borrower to the Bank hereby or to liens of the kind permitted by Section 7.1(f) hereof.

(i) The chief place of business of the Borrower is located on the date hereof at 270 Greenwich Avenue, Greenwich, Connecticut, and, on the date hereof, the offices where all of the records and books of account of the Borrower are kept are located at 270 Greenwich Avenue, Greenwich, Connecticut.

(j) The Guarantor has heretofore furnished the Bank with copies of: (i) the unaudited consolidated balance sheet of the Guarantor and its consolidated subsidiaries as at November 30, 1978, and the related unaudited consolidated statements of income, retained earnings and changes in the financial position of the Guarantor and its consolidated subsidiaries for the eleven-month period then ended, all as certified by the principal financial officer of the Guarantor; and (ii) the audited balance sheet of GWRR as at December 31, 1977, and the related audited statements of income, retained earnings and changes in the financial position of GWRR for the year then ended, all as certified by Price Waterhouse & Co. Such balance sheets are materially accurate and complete and present fairly the financial position of the Guarantor and its consolidated subsidiaries and the financial position of GWRR as at the date of each of such balance sheets. Such statements of income, retained earnings and changes in financial position are materially accurate and complete and present fairly the results of operations of the Guarantor and its consolidated subsidiaries and the results of operations of GWRR for the periods indicated. Such financial statements have been prepared in accordance with generally accepted accounting principles applied on a consistent basis. Except as disclosed to the Bank in a letter dated December 20, 1978, from the Guarantor to the Bank, neither the Guarantor

and its consolidated subsidiaries nor GWRR had, as at November 30, 1978 in the case of the Guarantor and its consolidated subsidiaries, and as at December 31, 1977 in the case of GWRR, any material liabilities or obligations which were not reflected in the balance sheets referred to above.

(k) Except as disclosed to the Bank in a letter dated December 20, 1978, from the Guarantor to the Bank, no changes have occurred in the assets, liabilities or financial condition of the Guarantor and its consolidated subsidiaries from that reflected in the balance sheet of the Guarantor and its consolidated subsidiaries referred to in Section 6(j) hereof which, individually or in the aggregate, have been materially adverse; and, since the date of such balance sheet, there has been no materially adverse development in the business as a whole or in the prospects of the Guarantor and its consolidated subsidiaries.

(l) All of the outstanding shares in the capital of the Borrower are owned of record and beneficially by the Guarantor. All of such shares were validly issued and are fully paid and nonassessable and are free of all pledges, liens, security interests and other encumbrances. One thousand outstanding shares in the capital of GWRR are not owned of record or beneficially by the Guarantor on the date hereof. All of the other outstanding shares in the capital of GWRR are owned of record and beneficially by the Guarantor on the date hereof. All of the outstanding shares in the capital of GWRR owned by the Guarantor were validly issued and are fully paid up and nonassessable and are free of all pledges, liens, security interests and other encumbrances.

(m) To the knowledge and belief of the Borrower and the Guarantor, there is no pending or threatened action, suit, proceeding or investigation before any court, governmental or regulatory body, agency, commission or official, board of arbitration or arbitrator against or affecting the Borrower or the Guarantor or GWRR, the outcome of which could materially adversely affect the financial position, business, operations or prospects of the Borrower or the Guarantor or GWRR or the outcome of which could significantly impair the ability of the Borrower to perform its obligations under this Agreement, the Notes, the SRS Consent Agreement, the Management Agreement or the Purchase Contract or the ability of the Guarantor to perform its obligations under or in respect of this Agreement or the Guarantee.

(n) Neither the Borrower, the Guarantor nor GWRR is in default in any material respect under any contract, agreement or instrument to which the Borrower, the Guarantor or GWRR is a party or by which the Borrower, the Guarantor or GWRR or any of the property of the Borrower, the Guarantor or GWRR is or may become bound or affected, the consequence of which default could materially adversely affect the financial position, business, operations or prospects of the Borrower, the

Guarantor or GWRR or significantly impair the ability of the Borrower to perform its obligations under this Agreement, the Notes, the SRS Consent Agreement, the Management Agreement or the Purchase Contract or the ability of the Guarantor to perform its obligations under or in respect of this Agreement or the Guarantee.

Section 7. Further Covenants.

7.1. Further Covenants of the Borrower. The Borrower hereby further covenants and agrees with the Bank that, from the date hereof and so long as any part of the Maximum Commitment remains in effect and until such later date as all of the Obligations are paid and satisfied in full:

(a) The Borrower will do or cause to be done all things necessary to preserve, maintain and keep in full force and effect at all times its corporate rights, corporate franchises and separate corporate existence and to comply at all times with all laws applicable to it.

(b) The Borrower will at all times keep proper records and books of account in which complete and correct entries shall be made in accordance with generally accepted accounting principles and practices consistently applied throughout the periods involved, and the Borrower will furnish or cause to be furnished to the Bank, with reasonable promptness, such information respecting the business, assets, financial condition and results of operations of the Borrower as the Bank may from time to time reasonably request.

(c) The Borrower will permit any officer, employee or representative of the Bank to visit and inspect any of the assets or properties owned or held under lease by the Borrower, and, on the request of the Bank, to examine the Borrower's books of account, records, reports and other papers (and to make copies thereof and to take extracts therefrom) and to discuss the Borrower's affairs, finances and accounts with the Borrower's Directors and officers, all at such reasonable times and as often as the Bank may reasonably request.

(d) The Borrower will not at any time or times, without the express prior written consent of the Bank, (i) take any action to cancel, terminate or rescind, or agree or consent to any cancellation, termination or rescission of, the SRS Consent Agreement, the Management Agreement or any other Management Agreements or any Leases which shall at any time or times hereafter be made or otherwise entered into by the Borrower, (ii) waive, release or discharge, or agree or consent to any waiver, release or discharge of, any obligation or liability of States Marine Corporation or the Manager to the Borrower under the SRS Consent Agreement or the Management Agreement or any obligation or liability of any person to the Borrower under any other Management Agreements or any

Leases which shall at any time or times hereafter be made or otherwise entered into by the Borrower, (iii) agree or consent to any act or omission by States Marine Corporation or the Manager which would constitute a default by States Marine Corporation or the Manager in the performance of or compliance with any term, covenant or provision of the SRS Consent Agreement or the Management Agreement, (iv) agree or consent to any act or omission by any person which would constitute a default by such person in the performance of or compliance with any term, covenant or provision of any other Management Agreements or any Leases which shall at any time or times hereafter be made or otherwise entered into by the Borrower, (v) agree or consent to any modification or amendment of, or any supplement or addition to, the SRS Consent Agreement, the Management Agreement or any other Management Agreements or Leases which shall at any time or times hereafter be made or otherwise entered into by the Borrower, (vi) make or otherwise enter into any Management Agreements (other than the Management Agreement) or any Leases, or (vii) extend or renew, or agree to any extension or renewal of, any Management Agreements or any Leases.

(e) The Borrower will not at any time or times, without the express prior written consent of the Bank, (i) use or employ any of the Cars or knowingly permit or authorize any of the Cars to be used or employed in any way or for any purpose which might impair the security interests granted to the Bank hereby, (ii) sell, offer for sale or agree to sell any of the Cars or otherwise authorize or permit any person or persons (including the Manager) to sell, offer for sale or agree to sell any of the Cars, (iii) transfer or dispose of any of the Cars or otherwise agree or consent to any transfer or disposition of any of the Cars, (iv) refuse to permit or otherwise object to the making of any alterations, modifications, improvements or additions to the Cars or any of them of the kind described in Section 8(c) of the Management Agreement, or (v) take or omit to take any action, the taking or omission of which shall result in the withdrawal of all or any of the Cars from the Management Program (as defined in the Management Agreement) or the termination of the Management Agreement or the SRS Consent Agreement.

(f) The Borrower will not at any time or times create, assume or incur, or suffer to be created, assumed or incurred, or permit to exist, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind in respect of the Collateral or any part thereof; excluding, however, from the operation of this paragraph (f): (i) any of the Leases; (ii) any of the Management Agreements; (iii) the security interests granted to the Bank hereby; (iv) any materialmen's, mechanics', workmen's, repairmen's or other like liens arising in respect of the Cars in the ordinary course of the use or operation of the Cars; (v) liens created by or resulting from any litigation or legal proceeding which is currently being contested in good faith by appropriate proceedings or other measures; and (vi) judgment liens which shall not have

been in existence for a period longer than fifteen days after the creation thereof, or, if a stay of execution shall have been obtained, for a period longer than fifteen days after the expiration of such stay; provided, however, that the Borrower will pay and discharge, or otherwise cause to be paid and discharged, as required by Section 7.1(i) hereof, all debts, damages and liabilities which have given or may give rise to any such liens of the kind referred to in clause (iv), (v) or (vi) of this sentence; and provided, further, that any such liens shall be permitted to exist only so long as there shall exist no danger that any such liens will be asserted or otherwise enforced against any of the Cars or any of the other Collateral. The Borrower will not take or knowingly omit to take any action, the taking or omission of which would prejudice, delay or impair in any way whatsoever all or any of the rights, remedies, powers and privileges of the Bank under this Agreement, the Notes or the SRS Consent Agreement or under or in respect of all or any part of the Collateral.

(g) The Borrower will duly perform and comply with all of the agreements and conditions to be performed and complied with by it under the SRS Consent Agreement, the Management Agreement and the Purchase Contract and under any other Management Agreements or any Leases which shall at any time or times hereafter be made or otherwise entered into by the Borrower.

(h) The Borrower will insure each of the Cars or otherwise cause each of the Cars to be insured in the name of the Borrower or in the joint names of the Borrower and any manager and/or lessee for the time being of the Cars in such amount or amounts as the Bank may from time to time reasonably stipulate and against all such risks as the Bank may from time to time reasonably stipulate. The Borrower will effect all such insurances, or otherwise cause all of such insurances to be effected, with such reputable insurance companies or underwriters as the Bank shall approve. All of the insurances required to be carried and maintained on or with respect to the Cars shall name the Bank as a loss payee and shall be taken out in such manner as shall create a first priority security interest in such insurances in the Bank, for which purpose the Borrower shall at all times act in accordance with the requirements of the Bank. All policies or contracts of insurance which shall at any time or times be obtained in respect of the Cars shall be satisfactory to the Bank in form and substance. The Borrower will notify the Bank in writing, and will cause each of the insurers of the Cars to agree with the Bank (each such agreement to be in form and substance satisfactory to the Bank) to notify the Bank in writing, (i) of any cancellation of any of the Insurances, (ii) of any proposed alteration in any of the Insurances, (iii) of any failure to pay, as and when the same shall become and be due and payable, any premium in respect of any of the Insurances, and (iv) of any other act or omission which might invalidate or render unenforceable, in whole or in part, any of the Insurances.

(i) The Borrower will pay and discharge, or otherwise cause to be paid and discharged, when the same shall become due and payable, all debts, damages and liabilities whatsoever which have given or may give rise to any liens on or claims enforceable against the Cars or any of them.

(j) The Borrower will not at any time or times (i) change the location of its chief place of business, or (ii) change the location of the offices where the records and books of account of the Borrower are kept, without (in each case) giving at least thirty (30) days' prior written notice to the Bank specifying the new address of the Borrower's chief place of business or (as the case may be) the new address of such offices.

(k) The Borrower will not, without the express prior written consent of the Bank (which consent shall not be unreasonably withheld by the Bank), consolidate with or merge into any other corporation or entity.

7.2. Further Covenants of the Guarantor. The Guarantor hereby further covenants and agrees with the Bank that, from the date hereof and so long as any part of the Maximum Commitment remains in effect and until such later date as all of the Obligations are paid and satisfied in full:

(a) The Guarantor will do or cause to be done, and will cause each of the Borrower and GWRR to do or cause to be done, all things necessary to preserve, maintain and keep in full force and effect at all times its corporate rights, corporate franchises and separate corporate existence and to comply at all times with all laws applicable to it.

(b) The Guarantor will at all times keep, and at all times cause each of its subsidiaries to keep, proper records and books of account in which complete and correct entries shall be made in accordance with generally accepted accounting principles and practices consistently applied throughout the periods involved, and the Guarantor will furnish or cause to be furnished to the Bank:

(i) as soon as available and, in any event, not later than ninety days after the end of each fiscal year of the Guarantor and GWRR, beginning with the fiscal year of each ended December 31, 1978, (A) the consolidated and consolidating balance sheets of the Guarantor and its consolidated subsidiaries as at the end of such fiscal year, (B) the related consolidated and consolidating statements of income and retained earnings of the Guarantor and its consolidated subsidiaries for such fiscal year, (C) the consolidated and consolidating statements of changes in the financial position of the Guarantor and its consolidated subsidiaries in such fiscal

year, all of the foregoing to be in reasonable detail and certified by Price Waterhouse & Co. or by other independent accountants of recognized standing chosen by the Guarantor, (D) the unaudited and unconsolidated balance sheet of GWRR as at the end of such fiscal year, (E) the related unaudited and unconsolidated statements of income and retained earnings of GWRR for such fiscal year, and (F) the unaudited and unconsolidated statements of changes in the financial position of GWRR in such fiscal year, all of the foregoing financial statements of GWRR to be in reasonable detail and certified to be materially true and correct by the principal financial officer of GWRR;

(ii) as soon as available and, in any event, not later than forty-five days after the end of each of the first three quarters of each fiscal year of the Guarantor and GWRR, beginning with the fiscal year of each ending December 31, 1979, (A) the consolidated and consolidating balance sheets of the Guarantor and its consolidated subsidiaries as at the end of such quarter, (B) the consolidated and consolidating statements of income and retained earnings of the Guarantor and its consolidated subsidiaries for such quarter and for the portion of the fiscal year ended at the end of such quarter, (C) the consolidated and consolidating statements of changes in the financial position of the Guarantor and its consolidated subsidiaries in such quarter, (D) the balance sheet of GWRR as at the end of such quarter, (E) the statements of income and retained earnings of GWRR for such quarter and for the portion of the fiscal year ended at the end of such quarter, and (F) the statements of changes in the financial position of GWRR in such quarter, all in reasonable detail and certified to be materially true and correct (subject to year-end audit adjustments) by the principal financial officer of the Guarantor or the principal financial officer of GWRR; and

(iii) with reasonable promptness, such other information respecting the business, assets, financial condition and results of operations of the Guarantor, GWRR, the Borrower or any of the Guarantor's other subsidiaries as the Bank may from time to time reasonably request.

(c) The Guarantor will permit, and will cause each of GWRR and the Borrower to permit, any officer, employee or representative of the Bank to visit and inspect any of the assets or properties owned or held under lease by it, and, on the request of the Bank, to examine its books of account, records, reports and other papers (and to make copies thereof and to take extracts therefrom) and to discuss its affairs, finances and accounts with its Directors and officers, all at such reasonable times and as often as the Bank may reasonably request.

(d) The Guarantor will not, and will not cause, permit or suffer GWRR or the Borrower to, consolidate with or merge into any other corporation or entity, in each case without the express prior written consent of the Bank (which consent shall not be unreasonably withheld by the Bank).

(e) The Guarantor will not at any time or times sell, transfer or otherwise dispose of (i) any shares in the capital of GWRR or the Borrower which have heretofore been or shall hereafter be acquired by the Guarantor, (ii) or any securities which have heretofore been or shall hereafter be acquired by the Guarantor and which are or shall be exchangeable for or convertible into any shares in the capital of GWRR or the Borrower. The Guarantor will not create, assume or incur or permit to exist any pledge, security interest or other encumbrance of any kind (A) in respect of any shares in the capital of GWRR or the Borrower which have heretofore been or shall hereafter be acquired by the Guarantor, or (B) in respect of any securities which have heretofore been or shall hereafter be acquired by the Guarantor and which are or shall be exchangeable for or convertible into any shares in the capital of GWRR or the Borrower.

(f) The Guarantor will not at any time cause or permit any shares (whether issued at any time or times on or prior to the date hereof or issued at any time or times thereafter) in the capital of the Borrower or GWRR (other than the one thousand shares in the capital of GWRR not owned by the Guarantor on the date hereof) to be owned of record or beneficially by any person or persons other than the Guarantor.

(g) The Guarantor will not at any time or times, without the express prior written consent of the Bank: (i) cause or permit the Consolidated Net Worth (as hereinafter defined) of the Guarantor and its consolidated subsidiaries as at any date to be less than \$4,000,000; (ii) cause or permit the Consolidated Total Indebtedness (as hereinafter defined) of the Guarantor and its consolidated subsidiaries as at any date to be greater than an amount equal to 400% of the Consolidated Net Worth of the Guarantor and its consolidated subsidiaries as at such date; or (iii) cause or permit the Consolidated Current Assets (as hereinafter defined) of the Guarantor and its consolidated subsidiaries as at any date to be less than the sum of (A) the Consolidated Current Liabilities (as hereinafter defined) of the Guarantor and its consolidated subsidiaries as at such date, plus (B) \$850,000.

For the purposes of this paragraph (g), the following terms shall have the respective meanings set forth below:

(1) "Consolidated Net Worth" means, in relation to the Guarantor and its consolidated subsidiaries as at any particular date, total shareholders' equity as such item would, in accordance with generally accepted accounting principles and practices consistently applied,

be reflected in a consolidated balance sheet of the Guarantor and its consolidated subsidiaries prepared as at such date.

(2) "Consolidated Total Indebtedness" means, in relation to the Guarantor and its consolidated subsidiaries as at any particular date, all indebtedness, obligations and liabilities of the Guarantor and its consolidated subsidiaries which would, in accordance with generally accepted accounting principles and practices consistently applied, be classified as liabilities upon a consolidated balance sheet of the Guarantor and its consolidated subsidiaries prepared as at such date.

(3) "Consolidated Current Assets" means, in relation to the Guarantor and its consolidated subsidiaries as at any particular date, all assets of the Guarantor and its consolidated subsidiaries which would, in accordance with generally accepted accounting principles and practices consistently applied, be classified as current assets upon a consolidated balance sheet of the Guarantor and its consolidated subsidiaries prepared as at such date.

(4) "Consolidated Current Liabilities" means, in relation to the Guarantor and its consolidated subsidiaries as at any particular date, all liabilities (including tax and other proper accruals) of the Guarantor and its consolidated subsidiaries which would, in accordance with generally accepted accounting principles and practices consistently applied, be classified as current liabilities upon a consolidated balance sheet of the Guarantor and its consolidated subsidiaries prepared as at such date; provided, however, that the Consolidated Current Liabilities of the Guarantor and its consolidated subsidiaries as at any particular date shall not include any payments required to be made by the Guarantor or any of its consolidated subsidiaries not more than one year after such date in respect of any indebtedness of the Guarantor or any of its consolidated subsidiaries which (x) shall have been incurred to finance the purchase price of any railroad cars, locomotives or other railroad rolling stock owned by the Guarantor or by any of its consolidated subsidiaries, and (y) shall have a final maturity later than one year after the date of creation thereof.

(h) The Guarantor will not at any time or times, and will not at any time or times cause or permit GWRR to, (i) create, assume or incur, or suffer to be created, assumed or incurred, or permit to exist, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind in respect of any of the property, assets, income or revenues of any character of the Guarantor or GWRR, whether heretofore or at any time or times hereafter acquired by the Guarantor or by GWRR, or (ii) lease (as lessee) any real property or any tangible personal property of any kind whatever from any person or persons; excluding, however, from the operation of this paragraph (h): (A) any mortgage, security interest or other encumbrance for or in respect of the creation

of which the Bank shall grant to the Guarantor or to GWRR the express prior written consent of the Bank; (B) any mortgage, lien, pledge, charge, security interest or other encumbrance securing the payment or performance by the Borrower of all or any part of the Obligations or securing the payment or performance by the Guarantor of all or any part of the obligations of the Guarantor to the Bank under or in respect of this Agreement or the Guarantee; (C) the Collection Agency Agreement, dated as of January 4, 1979, between GWRR, States Marine Corporation and the Bank; (D) all mortgages, liens, pledges, charges, security interests or other encumbrances which have been created, assumed or incurred on or prior to the date hereof and which are in existence on the date hereof; (E) any mortgage at any time hereafter created over or in respect of any real property owned by GWRR on the date hereof, provided that any such mortgage shall secure the payment of only such indebtedness as shall be incurred by GWRR to finance the development of the real property over which such mortgage shall be created or to finance the construction of any new buildings thereon; (F) any lease or other similar agreement heretofore or hereafter made or otherwise entered into by GWRR, as lessor, in the ordinary course of business, and pursuant to which GWRR shall at any time or times lease (as lessor) to any person or persons any real property or tangible personal property owned by GWRR, whether heretofore or at any time or times hereafter acquired by GWRR; (G) any conditional sale or other similar title retention agreement heretofore or hereafter made or otherwise entered into by the Guarantor or by GWRR to secure the payment of the purchase price of tangible personal property purchased by the Guarantor or by GWRR; (H) any lease or other similar agreement heretofore or hereafter made or otherwise entered into by the Guarantor or by GWRR (in each case, as lessee) and pursuant to which the Guarantor or GWRR shall at any time or times lease (in each case, as lessee) from any person or persons any real property or any tangible personal property, provided that the real property or the tangible personal property covered by any such lease or other similar agreement shall, at no time within five years prior to the date of such lease or other similar agreement, have been owned by the Guarantor or by GWRR; (I) any mortgage or other security interest at any time hereafter created over or in respect of any tangible personal property at any time hereafter acquired by the Guarantor or by GWRR, provided that any such mortgage or other security interest shall secure the payment of only such indebtedness as shall be incurred by the Guarantor or by GWRR to finance the purchase of the tangible personal property covered by such mortgage or other security interest; (J) liens for taxes or assessments or other governmental charges or levies; (K) deposits to secure the statutory obligations of the Guarantor or GWRR; (L) any materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of the business of the Guarantor or GWRR, or deposits to secure the release of any such liens; (M) deposits to secure, or in lieu of, surety, appeal or customs bonds in proceedings to which the Guarantor or GWRR is, or otherwise would be, a party; (N) liens created by or

resulting from any litigation or legal proceeding which is currently being contested by the Guarantor or by GWRR in good faith by appropriate proceedings or other measures; (O) judgment liens which shall not have been in existence for a period longer than thirty days after the creation thereof, or, if a stay of execution shall have been obtained, for a period longer than thirty days after the expiration of such stay; and (P) any mortgages, liens, pledges, charges, security interests or other encumbrances which are not otherwise permitted by this paragraph (h) but which collectively secure the payment of indebtedness (whether of the Guarantor, GWRR or any other person or persons) in an aggregate amount not exceeding \$100,000.

7.3. Further Assurances. Each of the Borrower and the Guarantor will, at any time or times upon the written request of the Bank, and without any expense to the Bank, execute, acknowledge (if appropriate) and deliver, or cause to be executed, acknowledged and delivered, any and all such further assurances and other agreements, instruments and documents and take or cause to be taken such other action as shall, in the opinion of the Bank, be necessary at any time or times in order (i) to give full effect to this Agreement, the Notes, the Guarantee and the SRS Consent Agreement, (ii) to maintain, preserve, safeguard and continue at all times all or any of the rights, remedies, powers and privileges of the Bank under or in respect of this Agreement, the Notes, the Guarantee, the SRS Consent Agreement and the Collateral, or (iii) to protect the security interests granted to the Bank hereby.

Section 8. Events of Default and Remedies.

8.1. Events of Default. The occurrence of any one or more of the following events shall constitute an "Event of Default":

(a) any principal, interest or other sum payable by the Borrower to the Bank under this Agreement or under the Notes shall not be paid to the Bank punctually when due; or

(b) any representation or warranty made by or on behalf of the Borrower or the Guarantor in this Agreement or otherwise in writing in connection with this Agreement shall prove to have been untrue or incorrect on or as of the date on which such representation or warranty was made; or

(c) the Borrower shall fail to perform, comply with or satisfy any other covenant, agreement or obligation which is contained in this Agreement or in the Notes and which is to be performed, complied with or satisfied by the Borrower; or

(d) the Borrower shall fail to perform, comply with or satisfy any covenant, agreement or obligation which is contained in the SRS

Consent Agreement, the Management Agreement, the Purchase Contract or any other Management Agreements or Leases and which is to be performed, complied with or satisfied by the Borrower; or

(e) the Guarantor shall fail to perform, comply with or satisfy any covenant, agreement or obligation which is contained in this Agreement and which is to be performed, complied with or satisfied by the Guarantor; or

(f) GWRR shall fail to perform, comply with or satisfy any covenant, agreement or obligation which is contained in the Collection Agency Agreement, dated as of January 4, 1979, between GWRR, States Marine Corporation and the Bank, and which is to be performed, complied with or satisfied by GWRR; or

(g) any substantial loss, theft, material damage or destruction of or to the Collateral shall occur which is not adequately covered by the Insurances, or any levy on the Collateral or seizure or attachment thereof by legal process shall occur which is not discharged forthwith upon the Borrower's receipt of notice thereof; or

(h) all or any part of the Collateral shall be sold, transferred, assigned or disposed of, by operation of law or otherwise, without the prior written consent of the Bank; or

(i) the dissolution, termination of existence, insolvency, business failure, appointment of a receiver for any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against the Borrower or the Guarantor shall occur; or

(j) any shares (whether issued at any time or times on or prior to the date hereof or issued at any time or times thereafter) in the capital of the Borrower or GWRR (other than the one thousand shares in the capital of GWRR not owned by the Guarantor on the date hereof) shall at any time be owned of record and/or beneficially by any person or persons other than the Guarantor; or

(k) the SRS Consent Agreement shall terminate or otherwise cease to be in full force and effect, or any period of time shall elapse during which no Management Agreements, in form and substance satisfactory to the Bank, shall be in full force and effect; or

(l) any default by the Borrower, the Guarantor or GWRR shall occur under any loan agreement, credit agreement, promissory note, bond, trust deed, indenture, indemnity, guarantee or other similar agreement or instrument to which the Borrower, the Guarantor or GWRR is or may at any time hereafter become a party or by which any of the property of the Borrower, the Guarantor or GWRR is or may at any time hereafter become

bound or affected, and such default shall consist of a default by the Borrower, the Guarantor or GWRR in the payment at maturity of all or any part of its indebtedness (now existing or hereafter arising) under any such agreement or instrument or such default shall result in all or any part of the indebtedness (now existing or hereafter arising) of the Borrower, the Guarantor or GWRR under any such agreement or instrument becoming or being declared due and payable prior to the date on which such indebtedness or any part thereof would otherwise have become due and payable.

8.2. Remedies. If any one or more of the Events of Default shall occur:

(a) The Bank may, by giving notice to the Borrower, immediately terminate the Maximum Commitment in full, and the Bank shall thereupon be relieved of all (if any) of its obligations to make any further Advances hereunder.

(b) The Bank may, without notice or demand, declare all of the Obligations, including the entire aggregate unpaid principal amount of all of the Notes, all of the unpaid interest accrued thereon and all (if any) other sums payable by the Borrower to the Bank under this Agreement or under the Notes to be immediately due and payable. Thereupon, all of the Obligations shall forthwith become and be due and payable by the Borrower to the Bank without notice and without presentment for payment, demand, protest or notice of protest or any other formalities of any kind, all of which are hereby expressly waived by the Borrower.

(c) The Bank may proceed to protect and enforce all or any of its rights, remedies, powers or privileges under this Agreement and the Notes by action at law, suit in equity or other appropriate proceedings, whether for specific performance of any covenant in this Agreement or the Notes, or in aid of the exercise of any power granted to the Bank in this Agreement or the Notes.

(d) The Bank shall have, in any jurisdiction where enforcement is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the Uniform Commercial Code of the State of Connecticut, including, without limitation, the right to take immediate possession of the Collateral. The Borrower will, upon demand by the Bank but at the expense of the Borrower, make the Collateral available to the Bank at a place and time designated by the Bank which is reasonably convenient to both parties. The Bank will give the Borrower at least five days' prior written notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition of the Collateral is to be made.

Section 9. Provisions of General Application.

(a) All notices, demands, requests, applications and other communications pursuant hereto shall be in writing, either delivered in hand or sent by first-class mail, postage prepaid, or by telex or telegraph, addressed as follows: (i) if to the Borrower or the Guarantor, at 270 Greenwich Avenue, Greenwich, Connecticut 06830, marked "Attention: Mortimer B. Fuller, III"; (ii) if to the Bank, at 100 Federal Street, Boston, Massachusetts 02110, marked "Attention: James F. Notman, Jr., Assistant Vice President"; or (iii) to such other address as any party hereto shall have designated in a written notice to the other parties hereto.

(b) All representations and warranties made by or on behalf of the Borrower or the Guarantor in this Agreement or otherwise in writing in connection with this Agreement are material and shall be deemed to have been relied upon by the Bank.

(c) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors in title and assigns; provided, however, that neither the Borrower nor the Guarantor shall assign any of their respective rights or obligations hereunder to any person or persons without the prior written consent of the Bank.

(d) In the event that any one or more of the provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

(e) Without prejudice to any of the other provisions of this Agreement or the Notes, the Borrower shall pay to the Bank, on demand by the Bank at any time or times, (i) any and all costs, charges, expenses and other sums expended, paid or debited in account by the Bank at any time or times, whether by itself or through any attorney, delegate, substitute or agent, for any of the purposes referred to in this Agreement, the Notes or the SRS Consent Agreement or otherwise howsoever in relation to the security interests granted to the Bank hereby, including, without limitation, the remuneration of any such attorney, delegate, substitute or agent and of any other servants or agents employed by the Bank for any such purposes, and (ii) any and all other costs, charges and expenses (including, but not limited to, the fees and disbursements of lawyers engaged by or on behalf of the Bank) which have been or which shall at any time or times hereafter be incurred or sustained by the Bank in connection with (A) the negotiation, preparation, execution and delivery of this Agreement, the Notes and the SRS Consent Agreement, the negotiation, preparation, execution and delivery of any variations or

supplements hereto or thereto or the making of the Loan, or (B) the maintenance, preservation, protection, realisation or enforcement of, or the collection and recovery of any moneys from time to time arising under, the security interests granted to the Bank hereby, or (C) insuring, inspecting, repairing, maintaining, completing, managing, letting, realising or exercising any other power, authority or discretion in relation to the Collateral or any part thereof, or otherwise incurred under any provision of this Agreement, the Notes or the SRS Consent Agreement, to the intent that the Bank shall be afforded a full and unlimited indemnity in respect thereof, and, until so repaid, the payment of all of the costs, charges, expenses and other sums aforesaid shall be secured by the Collateral (but without prejudice to any other remedy, lien or security available to the Bank).

(f) Regardless of the adequacy of any Collateral, any deposits or other sums at any time credited by or due from the Bank to the Borrower may at any time or times, without notice to the Borrower or compliance with any other condition precedent now or hereafter imposed by statute, rule of law or otherwise (all of which are hereby expressly waived by the Borrower), be applied to or set off against all or any of the Obligations.

(g) This Agreement and the rights and obligations of the parties hereunder shall be governed by and interpreted and determined in accordance with the laws of the State of New York.

(h) This Agreement may be executed in any number of counterparts, but all such counterparts shall together constitute but one agreement. In making proof of this Agreement, it shall not be necessary to produce or account for more than one counterpart signed by all of the parties hereto.

IN WITNESS WHEREOF, this Agreement has been duly executed by or on behalf of each of the parties hereto on the day and in the year first above written.

GWI LEASING CORP.

By *WMB Fuller, President*

GENESEE AND WYOMING INDUSTRIES, INC.

By *WMB Fuller, President*

THE FIRST NATIONAL BANK OF BOSTON

By *James F. Notman, AVP*

EXHIBIT A

EXHIBIT A TO THE FOREGOING LOAN AND SECURITY AGREEMENT, DATED AS OF
FEBRUARY 16, 1979

IDENTIFICATION OF THE CARS

The Cars referred to in the said Loan and Security Agreement are 100 ton covered-hopper railroad freight cars each having a capacity of 4,550 cubic feet.

The Serial Number and the Reporting Mark of each of the Cars which has been delivered to and accepted by the Manager (as agent for the Borrower) on or prior to February 16, 1979 are set forth below:

<u>SERIAL NUMBERS</u>			<u>REPORTING MARKS</u>
810105	810106	810107	GNWR
810108	810109	810110	GNWR
810111	810112	810113	GNWR
810114	810115		GNWR
810206	810207	810208	GNWR
810209	810210	810211	GNWR
810212	810213	810214	GNWR
810215	810216	810217	GNWR
810218	810219	810220	GNWR
810221	810222	810223	GNWR
810224	810225	810226	GNWR
810227	810228	810229	GNWR
810230	810231	810232	GNWR
810233	810234	810235	GNWR
810236	810237	810238	GNWR
810239	810240	810241	GNWR
810242	810243	810244	GNWR
810245	810246	810247	GNWR
810248	810249	810250	GNWR
810251	810252	810253	GNWR
810254	810255	810256	GNWR
810257	810258	810259	GNWR
810260	810261	810262	GNWR
810263	810264	810265	GNWR
810266	810267	810268	GNWR
810269	810270	810271	GNWR
810272	810273	810274	GNWR
810275	810276	810277	GNWR
810278	810279	810280	GNWR
810281	810282	810283	GNWR

SERIAL NUMBERS

REPORTING MARKS

810284	810285	810286	GNWR
810287	810288	810289	GNWR
810290	810291	810292	GNWR
810293	810294		GNWR

EXHIBIT B

EXHIBIT B TO THE FOREGOING LOAN AND SECURITY AGREEMENT DATED AS OF

FEBRUARY 16, 1979

PROMISSORY NOTE

\$

Date: _____, 1979

FOR VALUE RECEIVED, the undersigned, GWI LEASING CORP., a Delaware corporation (hereinafter, together with its successors in title and assigns, called the "Borrower"), by this Promissory Note (hereinafter called "this Note"), absolutely and unconditionally promises to pay to the order of THE FIRST NATIONAL BANK OF BOSTON (hereinafter, together with its successors in title and assigns, called the "Bank") the principal sum of
DOLLARS (\$)) and to pay interest on the principal sum outstanding hereunder from time to time from the date hereof until the said principal sum or the unpaid portion thereof shall have become due and payable at the rate of TEN AND ONE-HALF PERCENT (10 1/2%) PER ANNUM.

On April 20, 1979, there shall become absolutely due and payable hereunder, and the Borrower hereby promises to pay to the order of the Bank, all of the interest which shall accrue on the principal sum outstanding hereunder from time to time from the date hereof until April 20, 1979.

On the twentieth day of each April, July, October and January in each year, beginning July 20, 1979, while any principal hereof remains unpaid, there shall become absolutely due and payable hereunder, and the Borrower hereby promises to pay to the order of the Bank, a fixed instalment of combined principal of and interest on this Note in the amount of

DOLLARS (\$)).

On April 20, 1994, the date of the final maturity of this Note, there shall become absolutely due and payable hereunder, and the Borrower hereby promises to pay to the order of the Bank, the balance (if any) of the principal hereof then remaining unpaid, all of the unpaid interest accrued hereon and all (if any) other sums payable by the Borrower under or in respect of this Note and the indebtedness evidenced hereby.

Any partial payment of any fixed instalment of combined principal of and interest on this Note shall be applied first to the unpaid interest on this Note accrued to the date of such partial payment and then to the unpaid principal of this Note due and payable on such date.

Each overdue amount (whether of principal, interest or otherwise) payable to the order of the Bank under or in respect of this Note or the indebtedness evidenced hereby shall bear interest, from the date on which such amount shall have become due and payable by the Borrower in accordance with the terms hereof to the date on which such amount shall be paid to the order of the Bank (whether before or after judgment), at the rate of ELEVEN PERCENT (11%) PER ANNUM. The unpaid interest accrued on any such overdue amount in accordance with the terms of this paragraph shall become due and payable by the Borrower to the order of the Bank on demand by the Bank. Interest on each such overdue amount will continue to accrue, as provided by the terms of this paragraph, and will be compounded monthly until the obligation of the Borrower in respect of the payment of such overdue amount shall be discharged (whether before or after judgment). All computations of interest payable on or in respect of any overdue amount in accordance with the terms of this paragraph shall be made by the Bank on the basis of the number of days elapsed divided by 360.

This Note is one of the promissory notes of the Borrower made and delivered by the Borrower to the Bank pursuant to a Loan and Security Agreement, dated February 16, 1979 (hereinafter called the "Loan Agreement"), among (1) the Borrower, (2) Genesee and Wyoming Industries, Inc., and (3) the Bank. This Note evidences the obligations of the Borrower (a) to repay an advance in equal principal amount made by the Bank to the Borrower on the date hereof pursuant to the Loan Agreement (hereinafter called the "Advance"), and (b) to pay interest, as hereinabove provided, on the principal amount hereof remaining unpaid from time to time, and (c) to pay other sums which may become due and payable by the Borrower hereunder as hereinafter provided. This Note and all payments on or in respect of this Note are subject to the provisions of the Loan Agreement and reference is hereby made to the Loan Agreement for a complete statement of the terms thereof.

The payment of the principal of and the interest on this Note and the payment of all (if any) other sums which may become due and payable by the Borrower to the order of the Bank under or in respect of this Note are secured by all of the security interests granted by the Borrower to the Bank pursuant to Section 4 of the Loan Agreement. The payment and performance of all of the obligations of the Borrower to the Bank under or in respect of the Advance, this Note and the Loan Agreement have been absolutely, unconditionally and irrevocably guaranteed by Genesee and Wyoming Industries, Inc.

Anything implied herein to the contrary notwithstanding, if any one or more of the Events of Default (as that term is defined in the Loan Agreement) shall occur, the Bank may, in its discretion, without notice to or demand upon the Borrower, declare the principal of this Note and all of the unpaid interest accrued thereon and all (if any) other sums payable by the Borrower under or in respect of this Note and the indebtedness evidenced hereby to be immediately due and payable, whereupon all of the unpaid principal of this Note and all of the unpaid interest accrued hereon and all (if any) other sums payable by the Borrower under or in respect of this Note and the indebtedness evidenced hereby shall (if not already due and payable) forthwith become and be due and payable to the order of the Bank without notice and without presentment for payment, demand, protest or notice of protest or any other formalities of any kind, all of which are hereby expressly waived by the Borrower.

The unpaid principal of this Note may become subject to mandatory prepayment (in whole or in part) in accordance with the terms of Section 2.6(a), 2.6(b) or 2.6(c) of the Loan Agreement. On each date on which all or any part of the unpaid principal of this Note shall become due and payable in accordance with the terms of Section 2.6(a), 2.6(b) or 2.6(c) of the Loan Agreement, there shall become absolutely due and payable hereunder, and the Borrower hereby promises to pay to the order of the Bank, the amount of the principal hereof then to be prepaid in accordance with the terms of the said Section 2.6(a), 2.6(b) or 2.6(c) of the Loan Agreement.

The Borrower shall have the right to prepay the unpaid principal of this Note in full (but not in part) upon the terms and subject to the conditions contained in Section 2.6(e) of the Loan Agreement. If notice of the prepayment of the unpaid principal of this Note is given to the Bank by the Borrower pursuant to Section 2.6(e) of the Loan Agreement, there shall become absolutely due and payable hereunder on the date of prepayment specified in such notice, and the Borrower hereby promises to pay to the order of the Bank on such date, the entire unpaid principal of this Note, all of the unpaid interest accrued hereon and all (if any) other sums payable by the Borrower under or in respect of this Note and the indebtedness evidenced hereby.

All payments of principal, interest and other sums payable on or in respect of this Note or the indebtedness evidenced hereby shall be made to the Bank at its Head Office located at 100 Federal Street, Boston, Massachusetts 02110, in funds immediately available to the Bank as it may direct. All such payments shall be made to the Bank without set-off or counterclaim and free and clear of, and without deduction for, any taxes, levies, imposts, duties, charges, fees, deductions, withholdings, restrictions or conditions of any nature whatever.

Whenever any payment to be made on or in respect of this Note or the indebtedness evidenced hereby becomes due and payable on a day which is not a business day, the maturity thereof shall be extended to the next succeeding business day and interest thereon shall accrue at the applicable rate during each such extension.

The failure of the Bank to exercise any of its rights, remedies, powers or privileges hereunder in any instance shall not constitute a waiver thereof in that or any other instance.

Should all or any part of the indebtedness represented by this Note be collected by action at law, or in bankruptcy, insolvency, receivership or other court proceedings, or should this Note be placed in the hands of attorneys for collection after default, the Borrower hereby agrees to pay to the order of the Bank, upon demand by the Bank, in addition to principal, interest and all (if any) other sums due and payable hereunder, all court costs and attorneys' fees and all other collection charges and expenses incurred or sustained by the Bank.

The Borrower hereby waives notice of acceptance, presentment, notice of demand, notice of non-payment, protest, notice of protest, suit and all other conditions precedent in connection with the delivery, acceptance, collection and/or enforcement of this Note or any security therefor.

All notices, demands and other communications to or upon the Borrower pursuant to this Note shall be in writing, either delivered in hand or sent by first-class mail, postage prepaid, or by telex or telegraph, and addressed to the Borrower at 270 Greenwich Avenue, Greenwich, Connecticut 06830, marked "Attention: Mortimer B. Fuller, III", or at such other address as the Borrower shall have designated in a written notice to the Bank.

This Note and the obligations of the Borrower hereunder shall be governed by and interpreted and determined in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, this Promissory Note has been duly executed by or on behalf of the undersigned, GWI LEASING CORP., on the day and in the year first above written.

GWI LEASING CORP.

By _____

FOR VALUE RECEIVED, the undersigned, GENESEE AND WYOMING INDUSTRIES, INC., as principal obligor, hereby absolutely, unconditionally and irrevocably guarantees to THE FIRST NATIONAL BANK OF BOSTON (the "Bank") the payment and performance in full of all of the obligations of GWI LEASING CORP. (the "Borrower") to the Bank under the foregoing Promissory Note in accordance with the terms thereof. This guarantee is made by the undersigned upon the terms and in accordance with all of the provisions contained in Section 5 of the Loan and Security Agreement, dated February 16, 1979 (the "Loan Agreement"), among (1) the Borrower, (2) Genesee and Wyoming Industries, Inc., and (3) the Bank. Reference is hereby made to the Loan Agreement for a complete statement of the terms of the said guarantee.

GENESEE AND WYOMING INDUSTRIES, INC.

Date: _____

By _____

EXHIBIT C

EXHIBIT C TO THE FOREGOING LOAN AND SECURITY AGREEMENT, DATED AS OF
FEBRUARY 16, 1979

GWI LEASING CORP.

The First National Bank of Boston
100 Federal Street
Boston, Massachusetts 02110

_____, 1979

Re: Loan and Security Agreement, dated as
of February 16, 1979 Among GWI Leasing
Corp., Genesee and Wyoming Industries,
Inc., and The First National Bank of
Boston

LOAN APPLICATION

Dear Sirs:

Pursuant to Section 2.2(b) of the Loan and Security Agreement, dated as of February 16, 1979 (the "Loan Agreement"), among GWI Leasing Corp., Genesee and Wyoming Industries, Inc., and The First National Bank of Boston (terms defined in the Loan Agreement having the same respective meanings herein as therein), the undersigned hereby makes written application to the Bank for an Advance in the principal amount of Dollars (\$ _____).

In accordance with Section 2.2(b) of the Loan Agreement, the undersigned hereby irrevocably directs the Bank to make such Advance to the undersigned on _____, 1979, by causing the entire proceeds of such Advance to be credited to checking account No. 5296818 of the undersigned with the Bank.

The undersigned hereby further irrevocably directs the Bank to transfer from checking account No. 5296818 maintained with the Bank by the undersigned to checking account No. 5286504 (States Rail Services, General Account as Agent), the following:

(a) the sum of \$ _____; plus

(b) the sum of \$ _____, such sum representing the difference between (i) that part of the unpaid balance of the Purchase Price payable by the undersigned for the _____ Cars hereinafter identified in this letter, and (ii) the principal amount of the Advance.

The undersigned hereby irrevocably directs the Bank to make the said transfer of such sums on _____, 1979.

The undersigned does hereby represent and warrant to the Bank as follows:

(1) No event has occurred and is continuing on the date hereof which constitutes an Event of Default;

(2) The representations and warranties made by the undersigned and the Guarantor in Section 6 of the Loan Agreement are true and correct on and as of the date hereof, as if made on and as of the date hereof;

(3) Each of the Loan Agreement, the SRS Consent Agreement, the Management Agreement and the Purchase Contract is in full force and effect on the date hereof;

(4) The date on which the Manager will (as agent for the undersigned) pay to or for the account of the Manufacturer that part of the unpaid balance of the Purchase Price payable by the undersigned for the _____ Cars identified below is _____, 1979;

(5) On _____, 1979, the unpaid balance of the Purchase Price will be paid by the Manager (as agent for the undersigned) to or for the account of the Manufacturer in consideration for the undersigned's purchase of _____ Cars, the Serial Numbers and Reporting Marks of which are as follows:

SERIAL NUMBERS

REPORTING MARKS

(6) Each of the Cars identified above has been delivered by the Manufacturer to and accepted by the undersigned prior to the date hereof.

Very truly yours,

GWI LEASING CORP.

By: _____

EXHIBIT D

EXHIBIT D TO THE FOREGOING LOAN AND SECURITY AGREEMENT, DATED AS OF

FEBRUARY 16, 1979

[Messrs. Harter, Secrest & Emery]

The First National Bank of Boston
100 Federal Street
Boston, Massachusetts 02110

_____, 1979

Gentlemen:

This opinion is furnished to you pursuant to Section 3.1(e) of the Loan and Security Agreement, dated as of February 16, 1979 (the "Loan Agreement"), among (a) GWI Leasing Corp., (b) Genesee and Wyoming Industries, Inc., and (c) The First National Bank of Boston. The capitalized expressions used without definition in this opinion which are defined in or by reference in the Loan Agreement have the same respective meanings herein specified therein.

Please be advised that James B. Gray, Jr., a Director of the Borrower and an officer of Genesee and Wyoming Railroad Company, an affiliate of the Borrower and the Guarantor, is associated with this firm. George R. Williams, a Director of the Guarantor and an officer of Genesee and Wyoming Railroad Company, is also associated with this firm. Matters referred to Mr. Gray and Mr. Williams in their respective enumerated capacities should not be deemed by reason thereof to be known to us or to have been referred to us.

As counsel for the Borrower and the Guarantor, and for purposes of this opinion, we have examined the following:

- (a) the Loan Agreement, including all Exhibits annexed thereto;
- (b) the SRS Consent Agreement;
- (c) the Management Agreement;
- (d) the Purchase Contract;
- (e) the Certificate of Incorporation and the By-Laws of the Borrower, each as in effect on _____, 1979;
- (f) a Certificate of Good Standing of the Secretary of State of the State of Delaware, dated _____, 1979, pertaining to the Borrower, together with a telegram, dated _____, 1979 from the Secretary of State of the State of Delaware (a copy of each of which is attached hereto);

(g) the Certificate of Incorporation and the By-Laws of the Guarantor, each as in effect on _____, 1979;

(h) a Certificate of Good Standing of the Secretary of the State of Delaware, dated _____, 1979, pertaining to the Guarantor, together with a telegram, dated _____, 1979, from the Secretary of State of the State of Delaware stating that _____.

We have also examined originals or certified true copies of all such resolutions adopted by the Board of Directors of the Borrower and by the Board of Directors of the Guarantor as we have deemed necessary or advisable in order to render the opinions set forth below.

Based upon our examination of the foregoing, we are of the opinion that:

(i) The Borrower and the Guarantor are corporations duly organized, validly existing and in good standing under the laws of the State of Delaware, and neither corporation has any provision within its Certificate of Incorporation which limits the duration of its corporate existence.

(ii) The Borrower has full corporate power and authority to enter into and perform its obligations under the Loan Agreement, the Notes, the SRS Consent Agreement, the Management Agreement and the Purchase Contract and to make the borrowings contemplated by the Loan Agreement. The Guarantor has full corporate power and authority to enter into and perform its obligations under the Loan Agreement and the Guarantee.

(iii) The execution and delivery by the Borrower of the Loan Agreement, the Notes, the SRS Consent Agreement, the Management Agreement and the Purchase Contract, the performance by the Borrower of all of its obligations thereunder in accordance with their respective terms, and the making by the Borrower of the borrowings contemplated by the Loan Agreement, have been duly authorized by all necessary corporate action on the part of the Borrower and do not and will not (A) contravene any provision of the Certificate of Incorporation or by By-Laws of the Borrower, each as in effect on the date hereof, (B) violate or contravene any provision of any law of the United States of America or the State of New York or any published regulation, ruling or interpretation thereunder, all as in effect and applicable to the Borrower on the date hereof, which violation or contravention could materially impair the enforceability of the Loan Agreement, the Notes, the SRS Consent Agreement, the Management Agreement or the Purchase Contract, or (C) require any approvals or consents of the Guarantor.

(iv) The execution and delivery by the Guarantor of the Loan Agreement, the signing of the Notes by the Guarantor, and the performance by the Guarantor of all of its obligations under the Loan Agreement and the Guarantee in accordance with their respective terms, have been duly authorized by all necessary corporate action on the part of the Guarantor and do not and will not (A) contravene any provision of the Certificate of Incorporation or the By-Laws of the Guarantor, each as in effect on the date hereof, (B) violate or contravene any provision of any law or regulation of the United States of America or the State of New York or any ruling or interpretation thereunder all as in effect and applicable to the Guarantor on the date hereof, or (C) require any approvals or consents of any of the shareholders of the Guarantor.

(v) All of the agreements and obligations of the Borrower under the Loan Agreement, the SRS Consent Agreement, the Management Agreement and the Purchase Contract constitute valid and legally binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms, and all of the obligations of the Borrower under or in respect of each of the Notes will, when each such Note is executed and delivered to the Bank by the Borrower, constitute valid and legally binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms, except to the extent that enforceability may be limited by the Federal Bankruptcy Act and any other applicable bankruptcy, insolvency, reorganization, moratorium or similar law relating to or affecting the enforcement of creditors' rights generally, now or hereafter in effect, and subject to usual equity principles.

(vi) All of the obligations of the Guarantor under the Loan Agreement and the Guarantee constitute valid and legally binding obligations of the Guarantor enforceable against the Guarantor in accordance with their respective terms, except to the extent that enforceability may be limited by the Federal Bankruptcy Act and any other applicable bankruptcy, insolvency, reorganization, moratorium or similar law relating to or affecting the enforcement of creditors' rights generally, now or hereafter in effect, and subject to usual equity principles.

(vii) All of the outstanding shares of the Borrower are owned of record and, to our knowledge, beneficially by the Guarantor on the date hereof. All but 1,000 shares of the _____ outstanding shares of Genesee and Wyoming Railroad Company are owned of record and, to our knowledge, beneficially by the Guarantor on the date hereof. All of such shares of the Borrower and Genessee and Wyoming Railroad Company owned by the Guarantor were validly issued and are fully paid and nonassessable and, to our knowledge,

are free and clear, on the date hereof, of all pledges, liens, security interests and other encumbrances.

(viii) To our knowledge, the execution and delivery by the Borrower of the Loan Agreement, the Notes, the SRS Consent Agreement, the Management Agreement and the Purchase Contract, the performance by the Borrower of all of its obligations thereunder in accordance with their respective terms and the making by the Borrower of the borrowings contemplated by the Loan Agreement, do not (A) require any waivers, consents or approvals by any creditor or trustee for creditors of the Borrower, (B) violate or contravene any decree or order of any court or governmental or regulatory authority, bureau, agency or official of the United States of America or the State of New York, all as in effect and applicable to the Borrower on the date hereof, or (C) conflict with, or result in a breach of the terms, conditions or provisions of, or constitute a default under, or result in the creation of any mortgage, charge or other encumbrance upon any of the property of the Borrower under, any agreement, trust deed, indenture or other instrument known to us to which the Borrower is a party on the date hereof or by which the Borrower or any of its property is bound on the date hereof.

(ix) To our knowledge, the execution and delivery by the Guarantor of the Loan Agreement, the signing of the Notes by the Guarantor, and the performance by the Guarantor of all of its obligations under the Loan Agreement and the Guarantee in accordance with their respective terms do not (A) require any waivers, consents or approvals by any creditor or trustee for creditors of the Guarantor, (B) violate or contravene any decree or order of any court or governmental or regulatory authority, bureau, agency or official of the United States of America or the State of New York, all as in effect and applicable to the Guarantor on the date hereof, or (C) conflict with, or result in a breach of the terms, conditions or provisions of, or constitute a default under, or result in the creation of any mortgage, charge or other encumbrance upon any of the property of the Guarantor under, any agreement, trust deed, indenture or other instrument known to us to which the Guarantor is a party on the date hereof or by which the Guarantor is bound on the date hereof.

Very truly yours,

EXHIBIT E

EXHIBIT E TO THE FOREGOING LOAN AND SECURITY AGREEMENT, DATED AS OF
FEBRUARY 16, 1979

[Messrs. Shearman & Sterling]

The First National Bank of Boston
100 Federal Street
Boston, Massachusetts 02110

_____, 1979

Gentlemen:

This opinion is furnished to you pursuant to Section 3.1(e) of the Loan and Security Agreement, dated as of February 16, 1979 (the "Loan Agreement"), among (a) GWI Leasing Corp., (b) Genesee and Wyoming Industries, Inc., and (c) The First National Bank of Boston. The capitalized expressions used without definition in this opinion which are defined in or by reference in the Loan Agreement have the same respective meanings herein specified therein.

As special counsel for States Marine Corporation, a New York corporation (the "Company"), and for the purposes of this opinion, we have examined the SRS Consent Agreement, the Management Agreement, the Purchase Contract and such other documents as we have deemed necessary or advisable. We have also made such examination of law as in our judgment is necessary and appropriate for the purposes of this opinion. We do not, however, purport to be qualified to pass upon, and express no opinion as to, the laws of any jurisdiction other than those of the United States of America and the State of New York.

Based upon and subject to the foregoing, and further subject to the qualifications set forth hereinbelow, we are of the opinion that:

1. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of New York, with perpetual corporate existence. The Company has full corporate power and authority and full legal right to enter into and perform all of its agreements and obligations under or in respect of each of the SRS Consent Agreement, the Management Agreement and the Purchase Contract.

2. The execution and delivery by the Company of the SRS Consent Agreement, the Management Agreement and the Purchase Contract and the performance by the Company of all of its agreements and obligations thereunder in accordance with their respective terms have been duly authorized by all necessary corporation action on the part of the Company,

and do not and will not (a) contravene any provision of the Certificate of Incorporation or the By-Laws of the Company, each as in effect on the date hereof, (b) violate or contravene any provision of any law or regulation of the United States of America or the State of New York, all as in effect and applicable to the Company on the date hereof, or (c) require any approvals or consents of any of the shareholders of the Company.

3. The Company has duly executed and delivered each of the SRS Consent Agreement, the Management Agreement and the Purchase Contract. All of the agreements and obligations of the Company under or in respect of the SRS Consent Agreement, the Management Agreement and the Purchase Contract constitute legal, valid and binding obligations of the Company enforceable against the Company in accordance with their respective terms.

4. No approval, consent, order, authorization or license by, or giving notice to, or taking any other action with respect to any governmental or regulatory authority or agency of the United States of America or the State of New York is required, under any provision of any law or regulation of the United States of America or the State of New York, all as in effect and applicable to the Company on the date hereof, (a) for the execution and delivery by the Company of the SRS Consent Agreement the Management Agreement or the Purchase Contract, (b) for the performance by the Company of all of its agreements and obligations under or in respect of the SRS Consent Agreement, the Management Agreement or the Purchase Contract in accordance with their respective terms, or (c) as a condition to the legality, validity, binding effect, enforceability or admissibility in evidence, on the date hereof or at any time thereafter, of the SRS Consent Agreement, the Management Agreement or the Purchase Contract.

The opinions expressed herein with respect to the SRS Consent Agreement, the Management Agreement and the Purchase Contract are subject to the following qualifications:

(a) the enforceability of the agreements and obligations of the Company under or in respect of the SRS Consent Agreement, the Management Agreement and the Purchase Contract may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting generally the enforcement of creditors' rights; and

(b) the availability of any remedy may be limited by equitable principles, including the principle that equitable relief may be denied if an adequate remedy exists at law.

Very truly yours,
