

GREENBERG IRWIN PELLMAN & SLADE  
COUNSELORS AT LAW

HAROLD GREENBERG  
STEPHEN IRWIN  
STUART M. PELLMAN  
MELVIN S. SLADE  
FREDERICK R. BIEHL

JOHN F. TRIGGS  
ELLIOTT D. HEFLER  
J. ANDREW RAHL, JR.  
FRANK J. HARITON  
SIDNEY M. SEGALL

9-239A032

Date AUG 27 1979

Fees \$ 150<sup>00</sup>

CC Washington, D. C.

RECORDATION NO. 10765 Filed 1425

AUG 27 1979 - II 15 PM AM

INTERSTATE COMMERCE COMMISSION  
NEW YORK, N. Y. 10022

TEL: (212) 838-6670

RECORDATION NO. 10765 Filed 1425  
CABLE: "GLEEWING"

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August 21, 1979 INTERSTATE COMMERCE COMMISSION

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Secretary  
Recordation Section  
Interstate Commerce Commission  
Washington, D.C. 20423

Re: Recordation and Filing of Documents Pertaining to the Mortgage and the Management of Ten Covered-Hopper Railroad Freight Cars Owned by Connecticut Railcar Associates and formerly owned by Richard L. Rosenthal

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 ten (10) covered-hopper railroad freight cars owned by Connecticut Railcar Associates (such cars formerly being owned by Richard L. Rosenthal a partner in Connecticut Railcar Associates), 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 true photo copies of each of said original documents to be recorded and filed by the Commission:

(i) Loan and Security Agreement dated as of January 2, 1979, between Connecticut Railcar Associates, a general partnership c/o Assets Administration and Management, Inc., High Ridge Park, Stamford, Connecticut 06905 and Marine Midland Bank, 140 Broadway, New York, New York 10015 (said Loan and Security Agreement being hereinafter called the "Security Agreement"). This document should be recorded under Recordation Number 9946B if such number is not taken.

Secretary  
Recordation Section  
Page 2

August 21, 1979

(ii) Management Agreement, dated December 15, 1978, by and between States Marine Corporation, doing business through its division, States Rail Services, 280 Park Avenue, New York, New York 10017, and Richard L. Rosenthal, an individual at High Ridge Park, Stamford, Connecticut 06905 (said Management Agreement being hereinafter called the "Management Agreement"). This document should be recorded under Recordation Number 9946C if such number is not taken.

(iii) Transfer and Assignment dated as of January 2, 1979 from Richard L. Rosenthal to Connecticut Railcar Associates, a general partnership composed of Richard L. Rosenthal and Hinda G. Rosenthal with a copy of a letter from Richard L. Rosenthal to States Marine Corporation and a letter dated May 30, 1979 from States Marine Corporation to Richard L. Rosenthal annexed. This document should be recorded under Recordation Number 9946 D, if such number is not taken.

1. The Security Agreement

The Marine Midland Bank (the "Bank") has made, upon the terms and subject to the conditions contained in the Security Agreement, a loan in the principal amount of Two Hundred Sixty-Six Thousand, Two Hundred and Fifty (\$266,250) Dollars, (the "Loan") to Connecticut Railcar Associates (the "Borrower"). The Loan is secured by ten (10) covered-hopper railroad freight cars ("Cars") purchased by Richard L. Rosenthal from National Steel Car Corporation, Limited, a Canadian corporation, located in Hamilton, Ontario, Canada (the "Manufacturer"). Richard L. Rosenthal transferred his rights to such Cars to Borrower pursuant to the Instrument of Transfer and Assignment dated as of January 2, 1979 filed concurrently herewith.

Each of the 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 Cars was manufactured by, and was purchased by Mr. Rosenthal 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:

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<u>Number of Cars</u>	<u>Identifying Marks</u>	<u>Serial Numbers</u>	<u>A.A.R. Mech. Design</u>
10	GNWR	810060 to and including 810069	LO

2. The Management Agreement

Pursuant to the terms of the Management Agreement which Agreement has been assigned by Mr. Rosenthal to Connecticut Railcar Associates pursuant to the Instrument of Transfer and Assignment dated as of January 2, 1979 filed concurrently herewith, States Marine Corporation, doing business through its division, States Rail Services ("SMC/SRS"), has agreed to manage, on behalf of and as agent for Borrower, the ten (10) Cars purchased from the Manufacturer and mortgaged by the Borrower to the Bank pursuant to the Security Agreement.

Although SMC/SRS has the right under the Management Agreement to manage Borrower's Cars, SMC/SRS does not have title to, and is not the owner of, any of the Cars. We understand that SMC/SRS has since assigned its rights and obligations under the Management Agreement to Brae Corporation, which will now manage the 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) Agreement, dated as of November 7, 1978, by and between the Genesee and Wyoming Railroad Company, 3846 Retsof Road, Retsof, New York 14539, and States Marine Corporation, doing business through its division, States Rail Services, 280 Park Avenue, New York, New York 10017 (said Agreement being hereinafter called the "GWRR Use Agreement"); and	#9946	12/27/78	1:35 p.m.

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<u>Party</u>	<u>Rights and Interests in the Cars</u>
Genesee and Wyoming Railroad Company	- User or Bailee of the Cars
GWI Rail Management Corp.	- Manager of the Cars

D. 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. Marine Midland Bank
2. Connecticut Railcar Associates
3. Richard L. Rosenthal
4. States Marine Corporation
5. States Rail Services
6. Brae Corporation
7. Genesee and Wyoming Railroad Company
8. GWI Rail Management Corp.

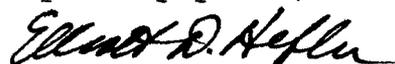
It is also hereby respectfully requested that the recordation number of each of the following documents be noted in the Commission index under the name of each of the parties shown above.

- (a) The Security Agreement
- (b) The Management Agreement
- (c) Transfer and Assignment dated as of January 2, 1979
- (d) The GWRR Use Agreement (Recordation Number: 9946); and
- (e) The Subcontractor Agreement (Recordation Number: 9946A).

A check in the amount of \$150 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, the two true photo copies of the documents enclosed herewith bearing your recordation stamp, and the filing and recordation stamp, to the undersigned.

Very truly yours,



Elliott D. Hefler

EDH:ig  
Enc.

**Interstate Commerce Commission**  
Washington, D.C. 20423

9/10/79

OFFICE OF THE SECRETARY

Elliott D. Hefler  
Greenberg Irwin Pellman & Slade  
540 Madison Avenue  
New York, N.Y. 10022

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 8/27/79 at 11:15am, and assigned re-  
recording number(s). 10765,10766,10767

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

SE-30  
(7/79)

AUG 27 1979 - 11 15 PM AM

## LOAN AND SECURITY AGREEMENT INTERSTATE COMMERCE COMMISSION

AGREEMENT made this 2nd day of January, 1979, by and between CONNECTICUT RAILCAR ASSOCIATES, a general partnership, with an office c/o Assets Administration and Management, Inc., High Ridge Park, Stamford, Connecticut 06905 (the "Borrower") and MARINE MIDLAND BANK, a New York banking corporation with an office at 140 Broadway, New York, New York (the "Bank").

W I T N E S S E T H :

WHEREAS, the Borrower through its partner has purchased from the National Steel Car Corporation, Limited, certain Cars (as hereinafter defined) for the Purchase Price (as hereinafter defined); and

WHEREAS, the Borrower through its partner has heretofore borrowed the sum of \$266,250 from the Bank and has issued his unsecured demand note in such amount to the Bank (the "Demand Note"); and

WHEREAS, the Borrower wishes to repay the Demand Note and to borrow \$266,250 from the Bank on a term basis, which loan will be secured by the Cars and certain other Collateral (as hereinafter defined); and

WHEREAS, the Bank is willing to make such secured term loan on the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual agreements, covenants and representations herein set forth, the parties hereto agree as follows:

Section 1. Interpretation. As used in this Agreement:

(a) "Bank" means Marine Midland Bank which is located at 140 Broadway, New York, New York, and includes its successors in title and assigns.

(b) "Borrower" means Connecticut Railcar Associates, a general partnership, and its successors, assigns, and the partners thereof and their heirs, executors, administrators and other legal representatives.

(c) "Cars" means, collectively, (i) the Ten (10) covered hopper railroad freight cars purchased by Richard L. Rosenthal from the National Steel Car Corporation, Limited (the "Manufacturer"), pursuant to an Agreement dated as of June 16, 1978, between the Manager and the Manufacturer, as amended on August 28, 1978 and on October 12, 1978, all of the Manager's rights to purchase such freight cars from the Manufacturer having been assigned by the Manager to

Richard L. Rosenthal pursuant to an instrument of assignment dated December 15, 1978, between the Manager and Richard L. Rosenthal, as further assigned by an assignment by Richard L. Rosenthal to Borrower pursuant to an instrument dated as of January 2, 1979, (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 Cars, and (iii) all additions, improvements, renewals and replacements made at any time or times to any of the foregoing. All of the Cars are identified in Exhibit A annexed hereto.

(d) "Collateral" means, collectively, all of the right, title and interest, all of the agreements, contracts, instruments, property, assets and moneys, and all of the income 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.

(e) "Event of Default" means any event or condition described in Section 10 hereof.

(f) "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.

(g) "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.

(h) "Freights" has the meaning given to that expression in Section 6(d) hereof.

(i) "Installment Payment Dates" means, collectively, July 20, October 20, January 20 and April 20 in each year through 1994, being the dates on which the sixty consecutive quarter-annual installments of combined principal and interest shall become and be due and payable by the Borrower to the Bank in accordance with the terms hereof, and "Installment Payment Date" means any one of such dates.

(j) "Insurances" has the meaning given to that expression in Section 6(f) hereof.

(k) "Leases" has the meaning given to that expression in Section 6(c) hereof.

(l) "Loan" means the loan in the principal amount of Two Hundred Sixty-Six Thousand Two Hundred Fifty (\$266,250) Dollars made by the Bank to the Borrower hereunder, the making of such secured term loan being subject to the conditions contained in Sections 2 and 3 hereof.

(m) "Management Agreement" means the Management Agreement, dated as of December 15, 1978, between the Manager and Richard L. Rosenthal (as assigned to 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 6(b) hereof.

(n) "Manager" means States Marine Corporation, a New York corporation, acting as agent for the Borrower under the Management Agreement, whether 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.

(o) "Manufacturer" has the meaning given to that expression in Section 1(c) hereof.

(p) "Note" means the Promissory Note of Borrower annexed hereto as Exhibit B.

(q) "Obligations" means, collectively, all indebtedness, obligations and liabilities existing on the date of the Note 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 the Note or this Agreement. "Obligation" means any one of the Obligations.

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

(s) "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 or by the Manager, as agent for the Borrower, or by the Bank from any person in consideration for the sale, transfer or other disposition of all or any of the Cars.

Section 2. The Loan.

(a) The Bank has heretofore loaned the Borrower through its partner Richard L. Rosenthal, the sum of \$266,250, which loan is currently evidenced by the Borrower's Demand Note to the Bank. Upon the execution of this Agreement, the Borrower will repay the Demand Note together with interest thereon to the date hereof. Upon the satisfaction of each of the conditions set forth in Section 3 hereof, the Bank will make the Loan to the Borrower and to evidence the Borrower's obligation to repay the Loan, the Borrower will deliver to the Bank the Note duly executed by the Borrower. The Note provides that the Loan will be repaid in sixty (60) equal consecutive quarter annual installments of \$8,862.28 each, commencing July 20, 1979, and on the 20th day of each October, January, April and July thereafter, to and including July 20, 1994. Each such constant quarterly installment to be applied first to payment of interest at the rate of 10 1/2% per annum, on the then principal indebtedness from time to time remaining unpaid, and then toward the reduction of principal, and the entire unpaid indebtedness together with accrued interest shall be due and payable on July 20, 1994.

(b) The Note evidences the obligations of the Borrower to the Bank (i) to repay the Loan made to the Borrower by the Bank upon the terms and subject to the conditions contained in Sections 2 and 3 hereof, and (ii) to pay interest on the Loan and to pay other amounts in accordance with the provisions set forth herein or therein.

Section 3. Conditions of Accepting Note. The obligation of the Bank to make the Loan in accordance with Section 2 hereof, shall be subject to the satisfaction, prior thereto or concurrently therewith, of each of the following conditions precedent:

(a) No event shall have occurred and be continuing on the date of the making of the Loan which constitutes an Event of Default.

(b) The Bank shall have received evidence, in form and substance satisfactory to it, that: (i) each of the Cars has been duly delivered to and accepted by the Manager as agent for the Borrower and placed in service pursuant to the Management Agreement; (ii) the Borrower has good title to each of the Cars free and clear of any mortgage, security interest or other encumbrance other than the security interest in respect of the Cars granted to the Bank hereby; (iii) insurance coverage satisfactory to the Bank is in effect in respect of each of the Cars; (iv) the security interest of the Bank, as secured party, in and to each of the Cars has been duly endorsed upon all policies of insurance issued in respect of the Cars; (v) Uniform Commercial Code financing statements, in form and substance satisfactory to the Bank, have been duly executed and delivered by the Borrower, as debtor, and by the Bank, as secured

party, and duly filed in all appropriate places; and (vi) a counterpart original of this Agreement and two certified true copies thereof have been duly filed with the Interstate Commerce Commission, and (vii) there will have also been filed with the Interstate Commerce Commission all such other 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 right, title and interest in and to the Cars of the Borrower, as owner, and the Bank, as secured party.

(c) All proceedings in connection with the transactions contemplated hereby and all documents incidental thereto shall be satisfactory in form and substance to the Bank and its counsel, and the Bank shall have received all such counterpart originals or certified or other copies of such documents as the Bank may request.

#### Section 4. Prepayments of the Note.

(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 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 principal amount of the Note 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 unpaid principal of the Note, from (ii) the amount obtained by dividing (A) the difference between (x) the principal amount of the Note outstanding on the date on which such Event of Loss occurred, and (y) the aggregate amount of the principal portion of all installments which shall have become due and payable in accordance with the terms of the Note after the date on which such Event of Loss 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 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 unpaid principal of the Note; 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, then the Bank will (A) apply, in or towards the prepayment of the unpaid principal of the Note, that part of such Event of Loss Proceeds as shall be equal to the difference between (x) the full amount of such Event of Loss Proceeds, and (y) the amount of the unpaid principal of the Note 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 4(a) hereof, (B) apply the balance (if any) of such Event of Loss Proceeds remaining after the application referred to in clause (A) of this paragraph (b) in or towards the payment of all (if any) sums which are then due and payable by the Borrower to the Bank hereunder, 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 paragraph (b).

(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 unpaid principal of the Note. If any non-cash Sales Proceeds shall at any time or times be receivable by the Borrower from any person or persons, the Borrower will cause such non-cash Sales Proceeds to be delivered to the Bank. The Bank shall have the immediate and continuing right, in its sole discretion, to hold such non-cash Sales Proceeds

or to sell or otherwise dispose of any non-cash Sales Proceeds so received by it. The cash Sales Proceeds (or the proceeds of non-cash Sales Proceeds) shall be applied by the Bank in or towards the prepayment of the unpaid principal of the Note.

(d) In the event that any partial prepayment of the unpaid principal of the Note is made pursuant to paragraph (a), (b) or (c) of Section 4 hereof, the Bank will, in order to reflect the change in the principal amount of the Note which will be outstanding from and after the date of such partial prepayment, recompute the amount of the quarter-annual installments of principal and interest which shall become and be due and payable by the Borrower to the Bank on each Installment 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 installments which shall be payable on each such Installment Payment Date. No partial prepayment of the unpaid principal of the Note made pursuant to paragraph (a), (b) or (c) of Section 4 hereof shall discharge the obligation of the Borrower to pay any quarter-annual installment of combined principal and interest falling due on any Installment Payment Date subsequent to such partial prepayment, operate to extend or postpone the due date of any subsequent quarter-annual installment or, except as hereinabove provided, change the amount of any such installment.

(e) The Borrower shall also have the right, on any quarter-annual installment date and on not less than seven (7) days' prior written notice to the Bank to prepay the Note in whole but not in part. If there is a prepayment prior to July 20, 1987, there shall be paid to the Bank a prepayment penalty in an amount equal to one (1%) percent on the amount prepaid. There shall be no prepayment penalty if prepayment occurs on or after July 20, 1987. There shall become and be absolutely due and payable to the Bank on the date of prepayment specified by such notice, and the Borrower agrees to pay to the Bank on such date of prepayment, the entire unpaid principal amount of the Note, all of the unpaid interest accrued on the unpaid principal of the Note to such date of prepayment, and all (if any) other sums then due and payable by the Borrower to the Bank in or in respect of the Note under this Agreement.

(f) Except as otherwise expressly provided in this Section 4, the Borrower shall have no right to prepay all or any part of the unpaid principal of the Note.

#### Section 5. Obligations - Absolute and Unconditional

(a) The Obligations of the Borrower to the Bank under or in respect of this Agreement or the Note and the indebtedness evidenced 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

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 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 appoints the Bank as his attorney-in-fact 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 pursuant to the powers granted by this Agreement which, being given for a valuable consideration and coupled with an interest, are irrevocable. Anything hereinbefore to the contrary notwithstanding, but without any prejudice whatsoever to the provisions of Section 7(b) hereof, the Bank hereby agrees with the Borrower that the Bank will not 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 before or after any Event of Default shall occur. 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 right (but shall have no obligation) at any time or times to take, in its own name or in the name of the Borrower, or otherwise, such action as the Bank may determine to be necessary to cure any default, or to protect or enforce any right of the Borrower, under or in respect of any of the Management Agreements, the Leases, the Insurances or the Cars. 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 this Agreement, \$8,862.28 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 for the account of Borrower to be deposited in an account set up at the Bank. If the \$8,862.28 of the Freights, Event of Loss Proceeds or Sales Proceeds or any other moneys are received at any time by the Borrower, the Borrower shall pay the same directly to the Bank to be deposited in such account. The Bank is authorized to withdraw such moneys from said account to pay the Note as provided herein. Borrower shall use its best efforts to cause the Manager to pay all such Freights, Event of Loss Proceeds and Sale Proceeds to the Bank in full for the account of Borrower.

(d) The security interest 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. This Agreement, the rights, remedies, powers and privileges of the Bank hereunder 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 how 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 hereunder 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 or under any other collateral. All of the rights, remedies, powers and privileges vested in the Bank hereunder 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 interest granted hereby shall not be to any extent or in any way or manner whatsoever 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 hereunder 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 hereunder or to mitigate damages 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 (whether in its individual capacity or in its capacity as agent for the Borrower) under the Management 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 in the performance of or the compliance with any term, covenant, condition or provision contained herein, 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 (whether in its individual capacity or in its capacity as agent for the Borrower) in the performance of or the compliance with any term, covenant, condition or provision contained in the Management 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 further hereby 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 Note or of any Collateral.

Section 8. Borrower's Representations and Warranties.

The Borrower hereby represents and warrants to the Bank that:

(a) The Borrower is a general partnership consisting of Richard L. Rosenthal and his wife, Hinda Gould Rosenthal.

(b) Except for the security interest granted hereby, the Borrower is the absolute and lawful owner of the Collateral free and clear of any mortgage, assignment, lien, pledge, charge, security interest or other encumbrance of any kind whatsoever other than the security interest granted to the Bank hereby. No financing statements, mortgages, assignments, security agreements or deeds of trust have been filed with respect to all or any part of the Collateral other than such as relate to the security interest granted to the Bank hereby.

(c) This Agreement and the Note have been duly executed by the Borrower and delivered to the Bank, and the agreements of the Borrower contained herein and therein constitute legal, valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms.

Section 9. Further Covenants of the Borrower. The Borrower hereby further covenants and agrees with the Bank that, from the date hereof and until such later date as all of the Obligations are paid and satisfied in full:

(a) 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 Management Agreement or any other Management Agreements or any Leases which shall at any time 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 the Manager or States Marine Corporation to the Borrower under 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 hereafter be made or otherwise entered into by the Borrower, (iii) agree or consent to any act or omission by the Manager or States Marine Corporation which would constitute a default by the Manager or States Marine Corporation in the performance of or compliance with any term, covenant or provision of 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 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 Management Agreement or any other Management Agreements or Leases which shall at any time 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, (vii) extend or renew, or agree to any extension or renewal of, any Management Agreements or any Leases, or (viii) revoke or attempt to revoke any instructions given by the Borrower to the Manager to pay all Freights, Event of Loss Proceeds, Sales Proceeds or other moneys to the Bank for the account of the Borrower.

(b) 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 interest 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.

(c) The Borrower will not at any time or times: (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 the Collateral or any part thereof, excluding, however, from the operation of this paragraph (c), (X) materialmen's, mechanics', workmen's, repairmen's or other like statutory liens arising in respect of the Cars in the ordinary course of the use or operation of the Cars, provided, that the Borrower will pay and discharge, or otherwise cause to be paid and discharged, as required by Section 9(f) hereof, all debts, damages and liabilities which have given rise to any such liens referred to in this clause, (Y) and that any such liens so referred to 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 (ii) 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 hereunder.

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

(e) 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 reasonable amount or amounts as the Bank may from time to time stipulate and against all such risks as the Bank may from time to time reasonably stipulate. The Borrower will effect all of such Insurances, or otherwise cause all of such Insurances to be effected with such reputable insurance companies or underwriters as the Bank shall reasonably 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 reasonable 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.

(f) 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.

(g) The Borrower will furnish or cause to be furnished to the Bank:

(i) with reasonable promptness, such information respecting the assets, liabilities and financial condition of the Borrower as the Bank may from time to time reasonably request;

(ii) with reasonable promptness, all such information regarding the Cars, the Management Agreements, the Leases and the Insurances as the Bank may from time to time reasonably request; and

(iii) immediately upon the occurrence of any such change, written notice of any change in the Borrower's address from that shown in Section 8(a) of this Agreement.

(h) The Borrower will pay to the Bank, on demand by the Bank at any time or times, all moneys whatsoever which the Bank shall or may reasonably expend, be put to, or become and be liable for, in or about the protection, maintenance or enforcement of the security interest granted to the Bank hereby or in or about the exercise by the Bank of all or any of the rights, remedies, powers and privileges vested in the Bank hereunder, which sums shall be secured by the Collateral.

(i) The Borrower 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, (ii) to maintain, preserve, safeguard and continue all or any of the rights, remedies, powers and privileges of the Bank under this Agreement and in the Collateral, or (iii) to protect the security interests granted to the Bank hereby.

#### Section 10. Events of Default and Remedies.

(a) The occurrence of any one or more of the following events shall constitute an "Event of Default":

(i) Any installment of principal, interest or other sum payable to the Bank under the Note or under this Agreement shall not be paid to the Bank when due, and shall remain unpaid for a period of five (5) days thereafter; or

(ii) any representation or warranty made by or on behalf of the Borrower 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

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

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

(v) 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 promptly discharged upon the Borrower's receipt of notice thereof; or

(vi) all or any part of the Collateral shall be sold, transferred, assigned or disposed of, by operation of law or otherwise; or

(vii) the death, 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 shall occur; or

(viii) 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

(ix) anything shall be done or omitted to be done by the Borrower which, in the reasonable opinion of the Bank, shall imperil the security interest granted to the Bank hereby; or

(x) any event shall occur or any condition shall exist which, in the reasonable opinion of the Bank, shall impair the ability of the Borrower to pay and perform all or any part of the Obligations.

(b) If any Event of Default shall occur:

(i) The Bank may, without notice or demand, declare all of the Obligations, including the entire unpaid principal of the Note, all of the unpaid interest accrued thereon and all other sums (if any) payable by the Borrower to the Bank hereunder 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.

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

(iii) The Bank shall have in any jurisdiction where enforcement is sought, in addition to all other rights, remedies, the rights and remedies of a secured party under the applicable provisions of the Uniform Commercial Code, and under the Interstate Commerce Commission Act, and the rules and regulations thereunder, 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 are 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 11. Provisions of General Application.

(a) All notices, 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, at c/o Assets Administration & Management Inc., High Ridge Park, Stamford, Connecticut; (ii) if to the Bank, at 140 Broadway, New York, New York, marked "Attention: Dennis G. Buchert, Vice President"; or (iii) to such other address as either party hereto shall have designated in a written notice to the other party hereto.

(b) All representations, warranties, agreements and covenants of the Borrower in this Agreement shall be binding upon the Borrower and his successors, assigns, heirs, executors, administrators and other legal representatives. This Agreement shall inure to the benefit of the Bank and its successors in title and assigns.

(c) Without prejudice to any of the other provisions of this Agreement, the Borrower shall pay to the Bank, on demand by the Bank at any time or times, any and all reasonable costs, charges, expenses and other sums expended, paid or debited in account by the Bank, whether by itself or through any attorney, delegate, sub-delegate, substitute or agent, for any of the purposes referred to in this 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, sub-delegate, substitute or agent and of any other servants or agents employed by the Bank for any such purposes and any and all other costs, charges and expenses (including, but not limited to, the fees and disbursements of lawyers) which have been or which shall at any time or times hereafter be incurred or sustained by the Bank in connection with the preparation, execution and delivery of this Agreement, the preparation, execution and delivery of any amendment or supplements hereto or the making of the Loan, or in the maintenance, preservation, protection, realization or enforcement of, or the collection and recovery of any moneys from time to time arising under, such security interests, or in insuring, inspecting, repairing, maintaining, completing, managing, letting, realizing 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, 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 such costs, charges, expenses and other sums shall be secured by the Collateral (but without prejudice to any other remedy, lien or security available to the Bank).

(d) 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 New York.

(e) This Agreement shall be executed in two or more counterparts, each of which shall be deemed an original. One of such counterparts shall be filed with the Interstate Commerce Commission.

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

CONNECTICUT RAILCAR ASSOCIATES

By: *Richard I. Rosenthal*  
Richard I. Rosenthal

By: *Hinda G. Rosenthal*  
Hinda Gould Rosenthal

MARINE MIDLAND BANK

By: *Dennis G. Buchert*  
Dennis G. Buchert,  
Vice President

EXHIBIT A

EXHIBIT A TO THE FOREGOING LOAN AND SECURITY AGREEMENT, DATED  
January 2, 1979

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IDENTIFICATION OF THE CARS

The Cars referred to in the said Loan and Security Agreement are 100 ton covered-hopper railroad freight cars having a capacity of 4,550 cubic feet each. The Serial Number of each of the Cars and the Reporting Mark (at the date of completion of this Exhibit A) of each of the Cars are set forth below:

SERIAL NUMBERS

REPORTING MARKS

810060 through  
810069 inclusive

GNWR

EXHIBIT B

PROMISSORY NOTE

\$266,250

January 2, 1979

New York, New York

FOR VALUE RECEIVED, Connecticut Railcar Associates, a Connecticut general partnership having an office c/o Assets Administration and Management, Inc., High Ridge Park, Stamford, Connecticut 06905 (the "Maker"), hereby promises to pay to the order of Marine Midland Bank, a New York banking corporation (the "Payee"), at its offices located at 140 Broadway, New York, New York, or such other place as the holder hereof shall designate, the principal sum of Two Hundred Sixty Six Thousand Two Hundred Fifty (\$266,250) Dollars. This principal sum together with interest thereon will be payable in sixty (60) consecutive quarter annual installments of \$8,862.28, commencing July 20, 1979 and on the 20th day of each October, January, April and July thereafter, to and including July 20, 1994. Each such constant quarterly installment to be applied first to payment of interest at the rate of ten and one half (10 1/2) percent per annum, and on the then principal indebtedness from time to time remaining unpaid, and then toward the reduction of principal, and the entire unpaid indebtedness together with accrued interest shall be due and payable on July 20, 1994.

If this Note or any installment of principal or interest hereof becomes due and payable on a Saturday, Sunday or legal holiday under the laws of the State of New York, the due date of such installment shall be extended to the next succeeding full business day, and interest shall accrue at the applicable rates during such extensions.

This Note is the note referred to in a certain Loan and Security Agreement dated and executed simultaneously herewith between the Maker and the Payee ("Security Agreement"). The Payee is entitled to the benefits of the Security Agreement.

This Note is subject to Mandatory Prepayment by the Maker hereof as provided in Section 4 of the Security Agreement. The Maker shall also have the right, on any quarter-annual installment date and on not less than seven (7) days' prior written notice to the holder of this Note, to prepay this Note in whole but not in part. If there is a prepayment prior to July 20, 1987, there shall be paid to the holder of this Note a prepayment penalty in an amount equal to one (1%) percent on the amount prepaid. There shall be no prepayment penalty if prepayment occurs after July 20, 1987. There shall become and be absolutely due and payable to the Payee on the date of prepayment specified by such notice, and the Maker hereby promises to pay to the Payee on such date of prepayment, the entire unpaid principal amount of this Note, all of the unpaid interest accrued on the unpaid principal of this Note to such date of prepayment and all (if any) other sums then due and payable by the Maker to the Payee on or in respect of this Note or the indebtedness evidenced hereby or under the Security Agreement.

This Note is secured by certain collateral as more fully described and provided in the Security Agreement. All payments on or in respect of this Note or the indebtedness evidenced hereby shall be made to the Payee 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.

All computations of interest payable as provided in this Note shall be made by the Payee on the basis of the number of days elapsed divided by 360.

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

Upon the occurrence of any one or more of the Events of Default specified in the Security Agreement, all amounts then remaining unpaid on this Note may be declared to be immediately due and payable by the holder of this Note as provided in the Security Agreement.

The Maker and any endorser hereby agrees to indemnify the holder of the Note against and hold it harmless from any costs and expenses, including reasonable attorneys' fees, disbursements and court costs, incurred by the holder in the collection of the indebtedness represented by this Note. The Maker, in any litigation

arising out of this Note, in which the Maker and the holder shall be adverse parties waives trial by jury and the right to interpose any defense, set-off or counterclaim of any nature or description.

This Note shall be binding upon the Maker, its successors and assigns, its partners and their heirs, executors, administrators, other legal representatives, successors and assigns. The Maker and any endorser hereby waives presentment, demand, protest, notice of protest and notice of dishonor of this Note.

This Note and the rights and obligations of the parties hereto shall be governed, construed and interpreted according to the laws of the State of New York, wherein it was executed. The Maker hereby agrees that the State and Federal Courts which sit in the State of New York shall have exclusive jurisdiction of all controversies and disputes arising hereunder.

CONNECTICUT RAILCAR ASSOCIATES

By:

\_\_\_\_\_  
Richard L. Rosenthal

By:

\_\_\_\_\_  
Hinda Gould Rosenthal