

PAULINE E. MYERS  
*Registered Transportation Practitioner*

SUITE 420, COLORADO BUILDING  
1341 G STREET, N. W.  
WASHINGTON, D. C. 20005-3103

(202) 737-2188

14925

Filed 1425

No. ....  
Date ... **MAR 20 1986** .....  
Fee \$ **10.00** .....

March 20, 1986

**MAR 20 1986 -9 05 AM**

INTERSTATE COMMERCE COMMISSION

ICC Washington, D. C.

**6-079A03D**

Mr. James H. Bayne  
Secretary  
Interstate Commerce Commission  
Washington, DC 20423

In Re: Modification Agreement for Recordation

Dear Mr. Bayne:

I have enclosed an Original and One copy of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U. S. Code.

This document is a MODIFICATION AGREEMENT dated February 3, 1986.

The names and addresses of the parties of this document are as follows:

DEBTOR: G.W.I. Leasing Corporation  
71 Lewis Street,  
Greenwich, CT

GUARANTOR: Genesee and Wyoming Industries, Inc.  
71 Lewis Street,  
Greenwich, CT

BANK: Key Bank N.A.  
60 State Street  
Albany, NY

A check in the amount of \$10.00 to cover the Recordation Fee is enclosed. Please return the original.

Your usual cooperation in this matter is greatly appreciated.

Yours very truly,

*Pauline E. Myers*

Pauline E. Myers

PEM/s

Enclosure:

*M. Catherine Hamblett*  
*Comptroller*

MAR 20 1986 -9 05 AM

## MODIFICATION AGREEMENT INTERSTATE COMMERCE COMMISSION

THIS AGREEMENT made as of the *3rd* day of February, 1986, between G.W.I. LEASING CORPORATION, a Delaware corporation with its principal offices located at 71 Lewis Street, Greenwich, Connecticut (the "DEBTOR"), GENESEE AND WYOMING INDUSTRIES, INC. with its principal offices located at 71 Lewis Street, Greenwich, Connecticut (the "GUARANTOR") and KEY BANK N.A., a national banking association organized under the laws of the United States of America, with its principal office and place of business at 60 State Street, Albany, New York (the "BANK").

W I T N E S S E T H:

WHEREAS, BANK is the holder of a promissory note dated January 19, 1981 (the "NOTE") in the amount of One Million Five Hundred Thousand (\$1,500,000.00) Dollars executed by DEBTOR and other documents and agreements executed by DEBTOR as a part of a loan transaction (the "LOAN"); and

WHEREAS, the NOTE has been unconditionally guaranteed in writing to BANK by GUARANTOR pursuant to a Guaranty dated January 16, 1981 (the "Guaranty"); and

WHEREAS, under the terms of the NOTE, the DEBTOR was to pay the full principal balance thereunder, with interest, on January 18, 1986 (the "DUE DATE"); and

WHEREAS, the DEBTOR, BANK and GUARANTOR desire to modify the NOTE by extending the aforementioned DUE DATE and making certain other changes to the terms of repayment of the NOTE, all as are more particularly specified herein;

NOW, THEREFORE, in consideration of One and No/100 (\$1.00) Dollar and other good and valuable consideration, the parties hereto hereby agree as follows:

1. DEBTOR and the GUARANTOR certify to BANK the following:

(a) That the full amount of principal now owing on the NOTE of One Million Three Hundred Fifteen Thousand Five Hundred (\$1,315,500.00) Dollars is due to BANK with interest at the rate set forth in the NOTE from G.W.I. Leasing Corporation to Key Bank N.A. and that there are no defenses or offsets to the NOTE and that all of the provisions of the NOTE are in full force and effect.

(b) That the Guaranty and any and all liens and security interests in personal property of DEBTOR held by BANK pursuant to the Chattel Mortgage and Security Agreement between DEBTOR and BANK dated January 19, 1981 and the Assignment of Rents between DEBTOR and BANK dated January 19, 1981 (the "Security Agreements") are in full force and effect, and that there are no defenses to the liens or security interests.

(c) That the DEBTOR and the GUARANTOR are each duly constituted business corporations validly existing and in good standing with full power and authority to enter into this Agreement and do all things required of each hereunder.

(d) That DEBTOR and the GUARANTOR have not (i) filed a petition seeking relief under any provision of any bankruptcy, reorganization, arrangement or dissolution law of any jurisdiction; (ii) made any assignments for the benefit of creditors; (iii) had a receiver, custodian, liquidator or trustee appointed

by court order; or (iv) failed to pay, or admitted in writing an inability to pay, debts generally as they have become due.

2. The terms of repayment of the principal balance outstanding on the NOTE totalling One Million Three Hundred Fifteen Thousand Five Hundred (\$1,315,500.00) Dollars, are modified so that DEBTOR will repay said sum in accordance with the following terms:

Interest shall be payable at an annual rate of one (1%) percent per annum above the "prime rate" of Key Bank N.A. (the "Prime Rate") as that rate is determined on a periodic basis by Key Bank N.A. (said combined rate, as periodically calculated, to be referred to as the "Note Rate"). The Note Rate shall be ten and one-half (10½%) percent until April 1, 1986 and on that date shall change to reflect the Prime Rate level on that date and thereafter shall be adjusted on the first day of each calendar quarter to reflect the Prime Rate level on that day, and as adjusted, shall remain constant until the first day of the next calendar quarter and the interest portion of each quarterly payment will be calculated to reflect each change, during the preceding quarter, in the "prime rate" and therefore in the Note Rate.

The principal balance on even date herewith, plus interest at the Note Rate, shall be repaid in the following manner:

Commencing on the first day of January, 1986, and quarterly, on the first day of each April, July, October and January thereafter, until the unpaid principal balance has been paid in full, interest payments shall be paid on the unpaid principal balance at the applicable Note Rate.

In addition to interest, the following annual principal payments shall be made on the dates indicated below:

<u>Date</u>	<u>Amount of Principal Payment</u>
December 31, 1986	\$ 58,500.00
December 31, 1987	\$ 67,500.00
December 31, 1988	\$ 81,000.00
December 31, 1989	\$ 93,000.00
December 31, 1990	\$109,000.00

In any event, all unpaid principal plus accrued interest shall become due and payable on December 31, 1990.

Interest shall be computed on a 360 day basis and shall accrue to the date of receipt of payment.

3. DEBTOR agrees that any liens and security interests which were created to secure the obligation of DEBTOR to repay the NOTE are to continue and remain in full force and effect.

4. DEBTOR, BANK and GUARANTOR hereby agree that, except as modified herein, the terms and conditions of (i) the NOTE, (ii) the Security Agreements, (iii) the Guaranty and (iv) any other documents executed by DEBTOR in connection with the LOAN, shall remain in full force and effect, including without limitation any provision for acceleration in the event of a default and are hereby ratified and confirmed.

5. The GUARANTOR hereby consents to the modification of the NOTE, as set forth in paragraph 2 above, and hereby ratifies and confirms in all respects the Guaranty.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

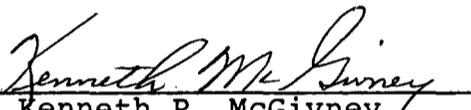
G.W.I. LEASING CORPORATION

By: 

GENESSEE AND WYOMING, INDUSTRIES,  
INC.

By: 

KEY BANK N.A.

By:   
Kenneth P. McGivney  
Assistant Vice President

0751/r

CONNECTICUT  
STATE OF NEW YORK )  
FAIRFIELD ) ss.:  
COUNTY OF ALBANY )

On this 3<sup>rd</sup> day of February, 1986, before me the subscriber personally appeared *Mark W Hastings*, who being by me duly sworn, did depose and say; that he resides at *Norwalk, Connecticut*; that he is *Treasurer* of G.W.I. LEASING CORPORATION, the corporation described in and which executed the foregoing instrument; that he signed his name thereto by order of the Board of Directors of said corporation.

*Joan M. Pignataro*  
NOTARY PUBLIC

JOAN M. PIGNATARO  
NOTARY PUBLIC  
MY COMMISSION EXPIRES MARCH 31, 1987

CONNECTICUT  
STATE OF NEW YORK )  
FAIRFIELD ) ss.:  
COUNTY OF ALBANY )

On this 3<sup>rd</sup> day of February, 1986, before me the subscriber personally appeared *Mortimer B. Fuller, III*, who being by me duly sworn, did depose and say; that he resides at *Rye, New York*; that he is *President* of GENESSEE AND WYOMING, INDUSTRIES, INC., the corporation described in and which executed the foregoing instrument; that he signed his name thereto by order of the Board of Directors of said corporation.

*Joan M. Pignataro*  
NOTARY PUBLIC

JOAN M. PIGNATARO  
NOTARY PUBLIC  
MY COMMISSION EXPIRES MARCH 31, 1987

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

On this *4<sup>th</sup>* day of February, 1986, before me the subscriber personally appeared *Kenneth P. McGivney*, who being by me duly sworn, did depose and say; that he resides at *STUYVESANT*, New York; that he is Assistant Vice President of KEY BANK N.A., the corporation described in and which executed the foregoing instrument; that he signed his name thereto by order of the Board of Directors of said corporation.

*Brenda A. Gibbs*  
NOTARY PUBLIC

BRENDA A. GIBBS  
Notary Public, State of New York  
Qualified in Rensselaer County  
Commission Expires March 30, 1986

0751/r