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1 85267

RECORDATION NO. Filed 1429

JUL 20 1987 - 10 49 AM

INTERSTATE COMMERCE COMMISSION

PETER SWIECICKI

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P.O. BOX 509
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TELEPHONE (313) 646-4300

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SUITE 200
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LANSING, MICHIGAN 48933
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No. 7-201A016
Date JUL 20 1987
Fee \$ 10.00
ICC Washington, D. C.

July 17, 1987

Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Re: Documents for Recordation

Dear Secretary:

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 Security Agreement, a primary document, dated July 14, 1987.

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

Debtor/Mortgagor: Helm Locomotive Leasing
131 West Lafayette Blvd.
Detroit, MI 48226
Attention: Contract Administration

Secured Party/
Mortgagee: National Bank of Detroit
611 Woodward Avenue
Detroit, MI 48226
Attention: Susan S. Moody
Second Vice President
Michigan Banking Division

TOP OFFICE OF THE SECRETARY
JUL 20 10 43 AM '87
MOTOR OPERATING UNIT

Secretary, ICC
July 17, 1987
Page 2

A description of the equipment covered by the document follows: 35 GP 38-2 Locomotives bearing road numbers in the series MP 2009 through MP 2030 and MP 2032 through MP 2053. Included in the property covered by the aforesaid Security Agreement are locomotives intended for use related to interstate commerce, or interests therein, owned by Helm Locomotive Leasing at the date of said mortgage or thereafter acquired by it or its successors as owners of such locomotives with the proceeds of loans made pursuant to a Credit Agreement dated July 14, 1987 with National Bank of Detroit.

A fee of \$10 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to:

Peter Swiecicki, Esq.
Dickinson, Wright, Moon,
Van Dusen & Freeman
800 First National Bldg.
Detroit, MI 48226

A short summary of the document to appear in the index follows:

Security Agreement between Helm Locomotive Leasing, 131 West Lafayette Blvd., Detroit, MI 48226, Attention: Contract Administration and National Bank of Detroit, 611 Woodward Avenue, Detroit, Michigan 48226, Attention: Susan S. Moody, Second Vice President, Michigan Banking Division, and covering all locomotives of Helm Locomotive Leasing now owned or hereafter acquired with the proceeds of loans made pursuant to a Credit Agreement dated July 14, 1987, including 35 GP 38-2 Locomotives bearing road numbers in the series MP 2009 through MP 2030 and MP 2032 through MP 2053.

Very truly yours,



Peter Swiecicki
Attorney for National
Bank of Detroit

PS/tm
Enc.

PS//00007/1369/AU3/21

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

7/20/87

Peter Swiecicki, Esq.
Dickinson, Wright, Moon
Van Dusen & Freeman
800 First National Bldg.
Detroit, Michigan 48226

Dear

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 7/20/87 at 10:50 AM, and assigned recordation number(s). I5267

Sincerely yours,

Noreta R. McGee
Secretary

Enclosure(s)

SE-30
(7/79)

RECORDATION NO. 5267
FILED 1423

JUL 20 1987 - 10 59 AM

INTERSTATE COMMERCE COMMISSION

SECURITY AGREEMENT

THIS SECURITY AGREEMENT, dated as of July 14, 1987 (this "Security Agreement"), by HELM LOCOMOTIVE LEASING, a joint venture (the "Company") created pursuant to a Joint Venture Agreement dated July 14, 1987 by and between Helm Equipment Leasing Corporation, a California corporation, and Domestic Three Leasing Corporation, a Delaware corporation, in favor of NATIONAL BANK OF DETROIT, a national banking association (the "Bank").

WITNESSETH:

WHEREAS, the Company has entered into a Credit Agreement, dated as of July 14, 1987 (the "Credit Agreement"), with the Bank pursuant to which the Bank may make Loans (as therein defined) to the Company; and

WHEREAS, as a condition to the effectiveness of the obligations of the Bank under the Credit Agreement, the Company is required, among other things, to grant to the Bank a first-priority security interest in and to the Collateral hereinafter described;

NOW, THEREFORE, to secure (a) the payment of Revolving Credit Loans made pursuant to the Credit Agreement in the principal sum not to exceed Seven Million Six Hundred Forty Thousand Dollars (\$7,640,000), together with interest thereon; (b) the payment of a Term Loan made pursuant to the Credit Agreement in the principal amount not to exceed Seven Million Six Hundred Forty Thousand Dollars (\$7,640,000), together with interest thereon; (c) the performance of the covenants herein contained and any monies expended by the Bank in connection therewith; (d) the payment of all obligations and performance of all covenants of the Company under the Credit Agreement, the Assignment Agreement, the Repurchase Agreement and any other documents, agreements or instruments between the Company and the Bank given in connection therewith, and (e) any and all other indebtedness, obligations and liabilities of any kind of the Company to the Bank, now or hereafter existing, direct or indirect (including without limitation any participation interest acquired by the Bank in any such indebtedness, obligations or liabilities of the Company to any other person), absolute

or contingent, joint and/or several, secured or unsecured, arising by operation of law or otherwise, and whether incurred by the Company as principal, surety, endorser, guarantor, accommodation party or otherwise (all of the aforesaid indebtedness, obligations and liabilities of the Company being herein called the "Secured Obligations", and all of the documents, agreements and instruments between the Company and the Bank evidencing or securing the repayment of, or otherwise pertaining to the Secured Obligations being herein collectively called the "Operative Documents"), for value received and pursuant to the Credit Agreement, the Company hereby grants, assigns and transfers to the Bank a first-priority security interest in and to the following described property of the Company whether now owned or existing or hereafter acquired or arising and wherever located (all of which is herein collectively called the "Collateral"):

(a) All present and future equipment (as such term is defined in the Michigan Uniform Commercial Code) and machinery acquired with the proceeds of any Loan, including, without limitation, thirty-five (35) GP 38-2 locomotives bearing road numbers in the series MP 2009 through MP 2030 and MP 2032 through MP 2053, and all spare parts or equipment relating thereto;

(b) All present and future inventory (as that term is defined in the Michigan Uniform Commercial Code) of every type acquired with the proceeds of any Loan, including, without limitation, thirty-five (35) GP 38-2 locomotive bearing road numbers in the series MP 2009 through MP 2030 and MP 2032 through MP 2053;

(c) All books and records of the Company related in any way to any of the above;

(d) All substitutions and replacements for, and all additions and accessions to, any and all of the foregoing; and

(e) All proceeds of any and all of the foregoing, and, to the extent not otherwise included, all payments under insurance (whether or not the Bank is the loss payee thereof), and any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing.

1. Representations, Warranties, Covenants and Agreements. The Company represents, warrants, covenants, and agrees as follows:

(a) Representations and Warranties. At the time any Collateral becomes subject to a security interest of the Bank hereunder, unless the Bank shall otherwise consent, the Company shall be deemed to have represented and warranted that (a) the Company is the lawful owner of such Collateral and has the right and authority to subject the same to the security interest of the Bank; (b) none of the Collateral is subject to any lien, security interest, charge or encumbrance, other than that in favor of the Bank and there is no effective financing statement covering any of the Collateral on file in any public office, other than in favor of the Bank. This Security Agreement creates in favor of the Bank a valid and perfected first-priority security interest in the Collateral enforceable against the Company and all third parties and securing the payment of the Secured Obligations and all filings and other actions necessary or desirable to create, preserve or perfect such security interests have been duly taken.

(b) Location of Offices, Records and Facilities. The Company's chief executive office and chief place of business and the office where the Company keeps its records concerning its accounts, contract rights, chattel papers, instruments, general intangibles and other obligations arising out of or in connection with the sale or lease of goods or the rendering of services or otherwise ("Receivables"), and all originals of all leases and other chattel paper which evidence Receivables, are located in the State of Michigan at 131 West Lafayette Blvd., Detroit, Michigan 48226. The Company will provide the Bank with prior written notice of any proposed change in the location of its chief executive office. The Company's only other offices and facilities are at One Embarcadero Center, San Francisco, California 94111. The Company will provide the Bank with prior written notice of any change in the locations of its other offices and the facilities.

(c) Location of Inventory, Fixtures, Machinery and Equipment. All Collateral consisting of inventory, machinery and equipment is, and will be, goods which are mobile and which are of a type normally used in more than one jurisdiction, and are not covered by a certificate of title.

(d) Liens, Etc. The Company will keep the Collateral free at all times from any and all liens, security interests or encumbrances other than those in favor of the Bank and those consented to in writing by the Bank. The Company will not, without the prior written consent of the Bank, sell or lease, or permit or suffer to be sold or leased, any of the Collateral except inventory which is sold

or, subject to the Bank's security interest therein, is leased in the ordinary course of the Company's business. Upon written request of the Company, and provided that no event of default has occurred and is continuing and that the maximum prepayment required under Section 4.1(f) of the Credit Agreement has been made with respect to such inventory, the Bank will execute partial releases of liens requested by the Company in order to release liens on inventory sold by the Company in the ordinary course of business. The Bank or its attorneys may at any and all reasonable times inspect the Collateral and for such purpose may enter upon any and all premises where the Collateral is or might be kept or located.

(e) Insurance. The Company shall cause to be maintained any insurance required by any leases of the Units. To the extent any insurance proceeds or casualty payments are received by the Company, the Company shall apply such proceeds or payments to the repair or replacement of the damaged Units or prepay the Loans with such proceeds or payments as required by Section 4.1(f) of the Credit Agreement.

(f) Taxes, Etc. The Company will pay promptly, and within the time that they can be paid without interest or penalty, any taxes, assessments and similar imposts and charges, not being contested in good faith, which are now or hereafter may become a lien, charge or encumbrance upon any of the Collateral. If the Company fails to pay any such taxes, assessments or other imposts or charges in accordance with this Section, the Bank shall have the option to do so and the Company agrees to repay forthwith all amounts so expended by the Bank with interest at the Overdue Rate.

(g) Further Assurances. The Company will do all acts and things and will execute all financing statements and writings requested by the Bank to establish, maintain and continue a perfected and valid security interest of the Bank in the Collateral, and will promptly on demand pay all reasonable costs and expenses of filing and recording all instruments, including the costs of any searches deemed necessary by the Bank to establish and determine the validity and the priority of the Bank's security interests.

(i) The Company agrees that from time to time, at the expense of the Company, the Company will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that the Bank may reasonably

request, in order to preserve, perfect and protect any security interest granted or purported to be granted hereby or to enable the Bank to exercise and enforce its rights and remedies hereunder with respect to any Collateral. Without limiting the generality of the foregoing, the Company will execute and file such financing or continuation statements, or amendments thereto, and such other instruments or notices, as may be necessary or desirable, or as the Bank may reasonably request, in order to preserve, perfect and protect the security interests granted or purported to be granted hereby, including, without limitation, those instruments required to perfect the security interests granted in respect of after-acquired Collateral.

(ii) The Company hereby authorizes the Bank to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Collateral without the signature of the Company where permitted by law.

(iii) The Company will furnish to the Bank from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Bank may reasonably request, all in reasonable detail.

(h) Maintenance of Tangible Collateral. The Company will cause the tangible Collateral to be maintained and preserved in the same condition, repair and working order as when acquired, ordinary wear and tear excepted, and shall forthwith, or, in the case of any loss or damage to any of the tangible Collateral as quickly as practicable after the occurrence thereof, make or cause to be made all repairs, replacements, and other improvements made in connection therewith which are necessary or desirable to such end, unless the Company determines, in its discretion, not to repair or replace such Unit, in which case the Company shall prepay the amount attributable to such Unit specified in Section 4.1(f) of the Credit Agreement. The Company shall promptly furnish to the Bank a statement respecting any loss or damage to any of the tangible Collateral.

2. Events of Default. The occurrence of any Event of Default specified in the Credit Agreement shall be deemed an event of default under this Security Agreement.

3. Remedies. Upon the occurrence of any such event of default, the Bank shall have and may exercise any one or more of the rights and remedies provided to it under

this Security Agreement or any of the other Operative Documents or provided by law, including but not limited to all of the rights and remedies of a secured party under the Uniform Commercial Code, and the Company hereby agrees to assemble the Collateral and make it available to the Bank at a place to be designated by the Bank which is reasonably convenient to both parties, authorizes the Bank to take possession of the Collateral with or without demand and with or without process of law and to sell and dispose of the same at public or private sale and to apply the proceeds of such sale to the costs and expenses thereof (including reasonable attorneys' fees and disbursements, incurred by the Bank) and then to the payment of the indebtedness and satisfaction of other Secured Obligations. Any requirement of reasonable notice shall be met if the Bank sends such notice to the Company, by registered or certified mail, at least 5 days prior to the date of sale, disposition or other event giving rise to a required notice. The Bank may be the purchaser at any such sale. The Company expressly authorizes such sale or sales of the Collateral in advance of and to the exclusion of any sale or sales of or other realization upon any other collateral securing the Secured Obligations. The Bank shall have no obligation to preserve rights against prior parties. The Company hereby waives as to the Bank any right of subrogation or marshalling of such Collateral and any other collateral for the Secured Obligations. To this end, the Company hereby expressly agrees that any such collateral or other security of the Company or any other party which the Bank may hold, or which may come to any of them or any of their possession, may be dealt with in all respects and particulars as though this Security Agreement were not in existence. The parties hereto further agree that public sale of the Collateral by auction conducted in any county in which any Collateral is located or in which the Bank or the Company does business after advertisement of the time and place thereof shall, among other manners of public and private sale, be deemed to be a commercially reasonable disposition of the Collateral.

4. Special Remedies Concerning Certain Collateral.

(a) Upon the occurrence of any event of default, the Company shall, if requested to do so in writing, and to the extent so requested (i) promptly collect and enforce payment of all amounts due the Company on account of, in payment of, or in connection with, any of the Collateral, (ii) hold all payments in the form received by the Company as trustee for the Bank, without commingling with any funds belonging to the Company, and (iii) forthwith deliver all such payments to the Bank with endorsement to the Bank's order of any checks or similar instruments.

(b) Upon the occurrence of any event of default, the Company shall, if requested to do so, and to the extent so requested, notify all account debtors and other persons with obligations to the Company on account of or in connection with any of the Collateral of the security interest of the Bank in the Collateral and direct such account debtors and other persons that all payments in connection with such obligations and the Collateral be made directly to the Bank. The Bank itself may, upon the occurrence of an event of default, so notify and direct any such account debtor or other person that such payments are to be made directly to the Bank.

(c) The Company hereby irrevocably appoints the Bank the Company's attorney-in-fact, with full authority in the place and stead of the Company and in the name of the Company, the Bank or otherwise, from time to time after the occurrence and during the continuance of an event of default in the Bank's discretion to take any action and to execute any instrument which the Bank may deem necessary or advisable to accomplish the purposes of this Security Agreement, including, without limitation:

(i) To obtain and adjust insurance required to be paid to the Bank pursuant to paragraph 1(e);

(ii) To ask, demand, collect, sue for, recover, compound, receive and give acquittance and receipts for monies due and to become due under or in respect of any of the Collateral;

(iii) To receive, endorse, and collect any draft or other instruments, documents and chattel paper in connection with clauses (a) or (b) above, and

(iv) To take any action or institute any proceedings which the Bank may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce the rights of the Bank with respect to any of the Collateral.

5. Remedies Cumulative. No right or remedy conferred upon or reserved to the Bank under any Operative Document is intended to be exclusive of any other right or remedy, and every right and remedy shall be cumulative in addition to every other right or remedy given hereunder or now or hereafter existing under any applicable law. Every right and remedy of the Bank under any Operative Document or under applicable law may be exercised from time to time and as often as may be deemed expedient by the Bank. To the extent that it lawfully may, the Company agrees that it will

not at any time insist upon, plead, or in any manner whatever claim or take any benefit or advantage of any applicable present or future stay, extension or moratorium law, which may affect observance or performance of any provisions of any Operative Document.

6. Conduct No Waiver. No waiver of default shall be effective unless in writing executed by the Bank and waiver of any default or forbearance on the part of the Bank in enforcing any of its rights under this Security Agreement shall not operate as a waiver of any other default or of the same default on a future occasion or of such right.

7. Governing Law; Definitions. This Security Agreement is a contract made under, and the rights and obligations of the parties hereunder shall be governed by and construed in accordance with, the laws of the State of Michigan applicable to contracts made and to be performed entirely within such State. Terms used but not defined herein shall have the respective meaning ascribed thereto in the Credit Agreement. Unless otherwise defined herein or in the Credit Agreement, terms used in Article 9 of the Uniform Commercial Code in the State of Michigan are used herein as therein defined on the date hereof.

8. Notices. All notices, demands, requests, consents and other communications hereunder shall be in writing and shall be delivered or sent to the Company at 131 West Lafayette Blvd., Detroit, Michigan 48226, Attention: P. E. Tatro, with a copy to One Embarcadero Center, San Francisco, California 94111, Attention: Richard C. Kirchner, and to the Bank at 611 Woodward Avenue, Detroit, Michigan 48226, Attention: Susan S. Moody, Vice President, Michigan Banking Division, or to such other address as may be designated by the Company or the Bank to the other party. All notices shall be deemed to have been given at the time of actual delivery thereof to such address, or if sent by certified or registered mail, postage prepaid, to such address, on the fifth day after mailing.

9. Rights Not Construed as Duties. The Bank neither assumes nor shall it have any duty of performance or other responsibility under any contracts in which the Bank has or obtains a security interest hereunder.

10. Amendments. None of the terms and provisions of this Security Agreement may be modified or amended in any way except by an instrument in writing executed by each of the parties hereto.

11. Severability. If any one or more provisions of this Security Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected, impaired or prejudiced thereby.

12. Expenses. (a) The Company agrees to indemnify the Bank from and against any and all claims, losses and liabilities growing out of or resulting from this Security Agreement (including, without limitation, enforcement of this Security Agreement), except claims, losses or liabilities resulting from the Bank's gross negligence or willful misconduct.

(b) The Company will, upon demand, pay to the Bank an amount of any and all reasonable expenses, including the reasonable fees and disbursements of its counsel and of any experts and agents, which the Bank may incur in connection with (i) the administration of this Security Agreement, (ii) the custody, preservation, use or operation of, or the sale of, collection from or other realization upon, any of the Collateral, (iii) the exercise or enforcement of any of the rights of the Bank hereunder, or (iv) the failure of the Company to perform or observe any of the provisions hereof.

13. Successors and Assigns; Termination. This Security Agreement shall create a continuing security interest in the Collateral and shall (a) remain in full force and effect until full payment and performance of the Secured Obligations, (b) be binding upon the Company, its successors and assigns and (c) inure, together with the rights and remedies of the Bank hereunder, to the benefit of the Bank and its successors, transferees and assigns. Upon the full payment and performance of the Secured Obligations the security interests granted hereby shall terminate and all rights to the Collateral shall revert to the Company. Upon any such termination, the Bank will, at the Company's expense, execute and deliver to the Company such documents as the Company shall reasonably request to evidence such termination.

IN WITNESS WHEREOF, the Company has caused this Security Agreement to be duly executed as of the day and year first set forth above.

HELM LOCOMOTIVE LEASING, a joint venture

(CORPORATE SEAL)

By: HELM EQUIPMENT LEASING CORPORATION, a California corporation, its Joint Venturer

Attest:

By: *William M. Peters*
Its: SECRETARY

By: *Julius C. Kuhn*
Its: President

And by: DOMESTIC THREE LEASING CORPORATION, a Delaware corporation, its Joint Venturer

Attest:

By: *W. J. McKnight*
Its: SECRETARY-TREASURER

By: *P. S. Jeter*
Its: President

