

38

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9498-R  
RECORDATION  
APR 3 1981

APR 3 - 1981 3 45 PM  
INTERSTATE COMMERCE COMMISSION

CABLE "WALLACES NEW YORK"  
ITT TELEX 422532  
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April 3  
March , 1981

1-093A166

Ms. Agatha L. Mergenovich  
Secretary of the Interstate  
Commerce Commission  
12th Street and Constitution Avenue, N.W.  
Washington, D.C.

DATE  
MAY 3 1981  
FEE \$ 150.00  
2.4  
ICC Washington, D. C.

RECEIVED  
APR 3 2 35 PM '81  
I.C.C.  
FEE OPERATION BR.

Mrs Lee - this is under  
9498

Re: Documents recorded under Recordation  
No. 9498 originally Filed and Recorded  
on June 30, 1978

Dear Madam:

PLEASE CROSS INDEX THIS FILING  
UNDER GRAND TRUNK WESTERN  
RAILROAD COMPANY

\* a filing fee of \$10.00 is enclosed.

I enclose for filing with the Interstate Commerce  
Commission pursuant to 49 U.S.C. §11303, the following documents:

- 9498 - L 1. Sublease of Railroad Equipment dated as of May 1, 1978, together with Certificate of Acceptance dated March 5, 1981.  
Sublessee: Grand Trunk Western Railroad Company  
Sublessor: Great American Management Services, Inc.
- 9498 - M 2. Amendment No. 1 to Sublease of Railroad Equipment dated as of May 1, 1978  
Sublessee: Grand Trunk Western Railroad Company  
Sublessor: Great American Management Services Inc.
- 9498 - N 3. Assignment of Sublease and Agreement dated as of May 1, 1978  
Assignee: First Security State Bank, as Owner  
Trustee  
Assignor: Great American Management Services, Inc.

9498 - O  
9498 - P  
9498 - Q  
9498 - R  
9498 - S

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- 9498-C 4. Assignment of Leases, Reassignment of Sublease, Assignment of Surety Bond and Agreement dated as of May 1, 1978  
Assignee: First Security Bank of Utah, N.A.,  
as Agent  
Assignor: First Security State Bank, as Owner-Trustee
- 9498-P 5. Amendment to Lease of Railroad Equipment dated as of May 1, 1978 (see Document No. 9498-C Filed and Recorded on June 30, 1978 - 4:05 P.M.)  
Lessee: Great American Management Services, Inc.  
Lessor: First Security State Bank, as Owner-Trustee
- 9498-G 6. Lease of Railroad Equipment dated as of May 1, 1978  
Lessee: Grand Trunk Western Railroad Company  
Lessor: First Security State Bank, Owner-Trustee
- 9498-R 7. Amendment No. 1 to Lease of Railroad Equipment dated as of May 1, 1978  
Lessee: Grand Trunk Western Railroad Company  
Lessor: First Security State Bank, Owner-Trustee
- 9498-S 8. Amendment dated as of April 1, 1980 to Conditional Sale Agreement dated as of May 1, 1978 (see Document No. 9498A Filed and Recorded on June 30, 1978 - 4:05 P.M.)  
Owner-Trustee: First Security State Bank  
Builder: Portec, Inc. (Paragon Division)

The documents listed above cover the railroad equipment (the "Equipment") described in Exhibit A to the Sublease ("229 Flatcars") and Exhibit A to the Lease ("229 Autoracks"). The 229 Flatcars are being leased by the Lessee from the Owner-Trustee pursuant to a Lease of Railroad Equipment dated as of May 1, 1978 and are being subleased by the Lessee as sublessor to the Sublessee pursuant to the Sublease referred to in item 1 above. The 229 Autoracks are being leased by the Owner-Trustee to the Sublessee pursuant to the Lease described in item 6 above. The rights of the Lessee under the Sublease are being assigned to the Owner-Trustee and in turn are being reassigned to the Agent and the rights of the Owner-Trustee in the Lease are being assigned to the Agent.

Ms. Agatha L. Mergenovich

3:

In addition, I enclose a check in the amount of \$150.00 to cover the cost of recordation with the Secretary's Office.

Please return the stamped copies of the above documents to the bearer of this letter.

Very truly yours,

*Thacher, Proffitt + Wood*

THACHER, PROFFITT & WOOD,  
as Agent for Great American  
Management Services, Inc.

19498-R

Amendment No. 1 to Lease of Railroad Equipment  
dated as of May 1, 1978, between  
Grand Trunk Western Railroad Company  
and First Security State Bank as Owner Trustee

RECORDATION NO. 9498-R  
Filed 1426

APR 3 1981 -2 45 PM

INTERSTATE COMMERCE COMMISSION

WHEREAS, the undersigned are the parties to that certain Lease of Railroad Equipment (the "Lease") dated as of May 1, 1978;

WHEREAS, for good and valuable consideration, the receipt of which is hereby acknowledged, the undersigned desire to amend the Lease;

NOW, THEREFORE, the undersigned hereby amend the Lease as follows.

The following sections are hereby added to the Lease:

"SECTION 29. Subordination of Certain Payments. Notwithstanding any provision of § 6 or § 21 hereof, if an event of default (as defined in the Security Document) or event which with notice or lapse of time or both would constitute such an event of default shall have occurred and is continuing under the Security Document, upon and after receipt of notice from the Vendor no indemnity payment or increase in rental payment under § 6 or § 21 hereof shall be made by the Lessee to any person (other than the Vendor or any Investor), and, if any such payment is made, such person agrees, as a party hereto or, if a third-party beneficiary hereof, as a condition to being such a third party beneficiary, to promptly forward any such payment to the Vendor to be applied in accordance with the provisions of the first paragraph of Paragraph 10 of the Participation Agreement; provided, however, that the Lessee shall not be relieved hereby of its obligation to make any such payment after such event of default or event is no longer continuing.

"SECTION 30. The Lessee will deliver to the Owner-Trustee, the Owner, the Vendor and every Investor which shall so request the following:

(a) as soon as available and in any event within 120 days after the end of each fiscal year of the Lessee, a certificate signed by the President, any vice president or the treasurer of the Lessee stating that a review of the activities of the Lessee during such year has been made under such officer's supervision with a view to determining whether it has kept, observed, performed and fulfilled all of its obligations under the Lease and that certain Lessee's (Railroad's) Consent and Agreement, dated as of May 1, 1978, executed by the Lessee and accepted by First Security Bank of Utah, N.A., as Agent and that to the best of such officer's knowledge during such year it has kept, observed, performed and fulfilled each and every covenant, obligation and condition contained herein and therein, or if an Event of Default (as defined in Lease) shall exist, or if an event has occurred and is continuing which with the giving of notice or the passage of time or both would constitute an Event of Default, specifying such Event of Default and all such events and the nature and status thereof;

(b) as soon as available and in any event within 90 days after the end of each quarterly period (except the last) of each fiscal year, a balance sheet of the Lessee as of the end of such period, and an income statement of the Lessee for the year ending on the date of such income statement, setting forth comparative figures for the corresponding period of the preceding fiscal year, all in reasonable detail and certified by the principal accounting officer employed by the Lessee, subject to year end adjustments; as soon as available and in any event within 120 days after the end of each fiscal year, a copy of the Lessee's annual report (Form R-1 as filed with the Interstate Commerce Commission or any form substituted therefor), which shall include the balance sheet, income statement and statement of retained income of the Lessee, certified by the principal accounting officer employed by the Lessee; as

soon as available and in any event within 120 days after the end of each fiscal year, a copy of the balance sheet of the Lessee and its consolidated subsidiaries and the related statements of income and retained income and changes in financial position, certified by independent public accountants; and any other report reasonably required; and

(c) within 120 days after the end of each fiscal year of the Lessee, a letter, executed by an officer of the Lessee, confirming the Lessee's participation in the self-insurance program of the Canadian National Railway Company and confirming that, in the opinion of the Lessee, such participation provides the Lessee with reasonably adequate casualty and liability insurance coverage.

"SECTION 31. The Lessee represents and warrants, as of the date of its execution hereof, to the Lessor as follows:

(a) The Lessee is a corporation duly incorporated, validly existing and in good standing under the laws of the State of its incorporation and is duly qualified to do business and in good standing in such other jurisdictions in which the business and activities of the Lessee require such qualification.

(b) The Lessee has full power, authority and legal right to carry on the Lessee's business as now conducted and is duly authorized to execute and deliver the Lease, the Flat Car Lease (the Lease and the Flat Car Lease are together referred to in this Section 31 as the "Leases") and that certain Lessee's (Railroad's) Consent and Agreement (the "Consent"), dated as of May 1, 1978, related to the Leases and to fulfill and comply with the terms, conditions and provisions thereof; the Leases and the Consent have been duly authorized, executed and delivered by the Lessee and, assuming due authorization, execution and delivery thereof by the other parties thereto, constitute or will then constitute valid, legal and binding agreements, enforceable against the Lessee in accordance with their terms.

(c) Except as disclosed in the form R-1 for 1979 filed by the Lessee with the Interstate Commerce Commission, there are no actions, suits or proceedings pending or threatened against or affecting the Lessee or any property rights of the Lessee at law or in equity or before any commission or other administrative agency which could materially and adversely affect the condition, financial or otherwise, of the Lessee; and the Lessee is not to its knowledge in default with respect to any order or decree of any court or governmental commission, agency or instrumentality.

(d) The Lessee is not a party to any agreement or instrument or subject to any charter or other restriction materially and adversely affecting the business, present or proposed, of the Lessee or the operations, property or assets or condition, financial or otherwise, of the Lessee.

(e) Neither the execution and delivery of the Leases or the Consent nor the consummation of the transactions therein contemplated nor the fulfillment of, or compliance with, the terms and provisions thereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of the certificate of incorporation (as amended) or the by-laws (as amended) of the Lessee or of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which the Lessee is now a party or by which it or its property may be bound, or constitute (with the giving of notice or the lapse of time or both) a default thereunder or result in the creation or imposition of any lien, charge, security interest or other encumbrance of any nature whatsoever upon any property of the Lessee or upon the Units pursuant to the terms of any such agreement or instrument.

(f) The Lessee has all patents, patent rights, licenses, trademarks, trademark rights, trade names, trade name rights and copyrights which the Lessee considers necessary to the conduct of the Lessee's business as presently operated or proposed to be operated.

(g) No authorization or approval is required from any court or other governmental or public body or authority in connection with the execution, delivery and performance by the Lessee of the Leases or the Consent.

(h) The Lessee has filed all foreign, Federal, state and local tax returns which (to its knowledge) are required to be filed, and has paid or made provisions for the payment of all taxes which have or may become due pursuant to said returns or pursuant to any assessment received by it, other than taxes which are being contested in good faith and which in the aggregate do not involve material amounts.

(i) Neither the Lessee nor any person acting on behalf of Lessee has directly or indirectly offered or sold any interest in the Conditional Sale Indebtedness (as defined in the Security Document), any securities or beneficial interests in the Units from; or otherwise approached or negotiated in respect of the purchase or sale or other disposition of any interest in the Conditional Sale Indebtedness, other securities or beneficial interests in the Units with, any person so as to bring the transactions contemplated by the Leases within the provisions of Section 5 of the Securities Act of 1933, as amended (hereinafter called the Securities Act). The Lessee will not offer any securities or beneficial interests in the Units to, or solicit any offer to buy any thereof from, any other person or approach or negotiate with any other person in respect thereof, so as to bring the transactions contemplated by the Leases within the provisions of Section 5 of the Securities Act.

(j) The Lessee is not entering into the Leases or Consent or any other transaction contemplated thereby, directly or indirectly, in connection with any arrangement or understanding in any way involving any employee benefit plan or related trust (other than a governmental plan) with respect to which it is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974 (hereinafter called ERISA) or the Internal Revenue Code of 1954, as amended to the date hereof.

"SECTION 32. The Lessor represents and warrants, as of the date of its execution hereof, to the Lessee as follows:

(a) The Lessor is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Utah.

(b) The Lessor has full power, authority and legal right to carry on its business as now conducted and is duly authorized and empowered to execute and deliver this amendment to the Lease, that certain Amendment, dated as of April 1, 1980, to the Trust Agreement, the Lease, that certain Amendment, dated as of April 1, 1980, to the Security Document, that certain Amendment dated April 1, 1980, to the Bond, the Assumption Agreement, the Lease Assignment and any documents related thereto (collectively the "Auto Rack Documents") and to fulfill and comply with the terms, conditions and provisions hereof and thereof.

(c) The Auto Rack Documents have been duly authorized and (except in the case of the Assumption Agreement) have been, or will be duly executed and delivered by the Lessor and, assuming due authorization, execution and delivery thereof by the other parties thereto and execution and delivery of the Assumption Agreements by the Lessor, constitute or will then constitute valid, legal and binding agreements, enforceable against the Lessor under the laws of the State of Utah in accordance with their terms; acceptance of the Bond as amended has been duly authorized by the Lessor and the Bond as amended has been accepted by the Lessor.

(d) The Lessor is not entering into the Auto Rack Documents or any other transaction contemplated thereby directly or indirectly in connection with any arrangement in any way involving any employee benefit plan or related trust (other than a governmental plan) with respect to which it in its individual capacity, or to

its knowledge, the Owner, any Investor, the Lessee, the Builder, Great American, the Surety, or any of their affiliates, is a party in interest, all within the meaning of ERISA and the Code.

(e) No authorization or approval is required from any court or other governmental or public body or authority of the State of Utah, or, to the knowledge of the Lessor, of any court or other governmental or public body or authority of the United States of America governing the banking or trust powers of the Lessor, in connection with the execution, delivery and performance by the Lessor of the Auto Rack Documents or acceptance of the Bond as amended.

The foregoing are representations and warranties of the Lessor only and not of any assignee of Lessor.

"SECTION 33. Notwithstanding anything to the contrary contained in that certain Schedule A to Auto Rack Lease attached to the Lease, the quantity of Units to be leased under the Lease in the "General Motors EBPS-119 bi-level" category shall be up to 41, not 42."

SECTION 27 of the Lease is hereby amended by the deletion of "Illinois" in the third line thereof and by the substitution of "Michigan" therefor.

This amendment is dated as of May 1, 1978.

Except as herein set forth, the Lease shall remain in full force and effect as when executed.

GRAND TRUNK WESTERN RAILROAD  
COMPANY

By

  
Vice President

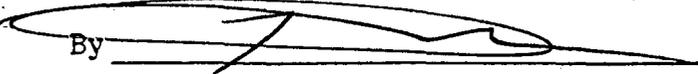
[ CORPORATE SEAL ]

Attest:

  
ASST. SECRETARY

FIRST SECURITY STATE BANK, as Owner-  
Trustee

By



[ CORPORATE SEAL ]

Attest:



STATE OF MICHIGAN )  
 ) ss.:  
COUNTY OF WAYNE )

On this 5th day of March, 1981, before me personally appeared P. E. Tatro to me personally known, who, being by me duly sworn, says that he is Vice President of GRAND TRUNK WESTERN RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and be acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

J. A. Brewer  
Notary Public

[ NOTARIAL SEAL ]

My Commission expires J. A. BREWER  
Notary Public, Wayne County, Mich.  
My Commission Expires Dec. 16, 1981

STATE OF UTAH )  
 ) ss.:  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 11th day of March, 1981 by Robert S. Clark, an Authorized Officer of First Security State Bank, a Utah corporation, on behalf of the Corporation.

Randy R. Marquart  
Notary Public

[ NOTARIAL SEAL ]

My Commission expires 2-8-82