

VEDDER, PRICE, KAUFMAN & KAMMHOLZ

A PARTNERSHIP INCLUDING VEDDER, PRICE, KAUFMAN & KAMMHOLZ, P.C.

115 SOUTH LA SALLE STREET

CHICAGO, ILLINOIS 60603

312-781-2200

TELECOPIER: 312-781-2330

IN WASHINGTON

VEDDER, PRICE, KAUFMAN, KAMMHOLZ & DAY

1919 PENNSYLVANIA AVE., N.W.
WASHINGTON, D.C. 20006
202-828-5000

IN NEW YORK

VEDDER, PRICE, KAUFMAN, KAMMHOLZ & DAY

1 DAG HAMMARSKJOLD PLAZA
NEW YORK, NEW YORK 10017
212-223-1880

WRITER'S DIRECT DIAL NUMBER

781-2288

1 5340

RECORDATION NO. Filed 1428

OCT 26 1987 - 3 45 PM

INTERSTATE COMMERCE COMMISSION

October 22, 1987

cc:

Date

OCT 26 1987
10:00.....

WASH. D.C.
LAD

? 299A091

Ms. Noreta McGee
Secretary
Interstate Commerce Commission
Washington, D.C.

Re: Wisconsin & Southern Railroad Co.

Dear Secretary:

We are counsel to Northbrook Corporation, a Delaware corporation. We have enclosed an original and one fully executed and acknowledged counterpart of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

- (a) This document is a Term Loan and Security Agreement dated as of December 2, 1986 between Northbrook Corporation and Wisconsin & Southern Railroad Co.
- (b) Said Term Loan and Security Agreement is a primary document.
- (c) The names and addresses of the parties to said document are:

Secured Party: Northbrook Corporation
2215 Sanders Road
Suite 370
Northbrook, Illinois 60062

Debtor: Wisconsin & Southern Railroad Co.
511 Barstow Street
Horicon, Wisconsin 53032

MOTOR OPERATING UNIT
OCT 26 3 36 PM '87
TOO OFFICE OF
THE SECRETARY

Ms. Noreta McGee
October 22, 1987
Page 2

- (d) The types of equipment covered by said Term Loan and Security Agreement are the following three locomotives:

<u>Make</u>	<u>Identifying Number</u>
Electro-Motive Division of General Motors Corporation	GP 9-M (rebuilt locomotive) EX-RI No. 4490
Electro-Motive Division of General Motors Corporation	GP 9-M (rebuilt locomotive) EX-RI No. 4491
Electro-Motive Division of General Motors Corporation	SW-2 No. 1009 Serial No. 6581

The above-listed locomotives bear the "WSOR" registered reporting mark of Wisconsin & Southern Railroad Co.

- (e) A fee of \$10.00 is enclosed. Please return to the undersigned the original and the extra copy if not needed by the Commission for recordation.
- (f) A short summary of the document to appear in the index follows:

"The Term Loan and Security Agreement dated as of December 2, 1986 governs the terms under which Northbrook Corporation, with an office at 2215 Sanders Road, Suite 370, Northbrook, Illinois 60062, made a certain secured loan to Wisconsin & Southern Railroad Co., with an office at 511 Barstow Street, Horicon, Wisconsin 53032. Wisconsin & Southern Railroad Co. granted Northbrook Corporation a security interest in and lien on substantially all of the assets of Wisconsin & Southern Railroad Co. to secure payment of said loan. Included in the assets covered by the aforesaid Agreement are locomotives and rolling stock intended for use related to interstate commerce, or interests therein, owned by Wisconsin & Southern Railroad Co. at the date of said

Ms. Noreta McGee
October 22, 1987
Page 3

Agreement or thereafter acquired by it or its successors as owners or operators of the lines of railway referred to in the Agreement."

Very truly yours,

VEDDER, PRICE, KAUFMAN & KAMMHOLZ,
Attorneys for Northbrook
Corporation and on behalf thereof

By: DCFOT
Dalius F. Vasys

DFV/vl
Enclosure

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

On this 19th day of October, 1987 before me personally appeared, JAMES B. SHEIN to me personally known, who being by me duly sworn, says that he is the PRESIDENT & CEO of Northbrook Corporation, that the seal 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 he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[SEAL]

Carmen Montano
Signature of Notary Public

My Commission expires ~~My Commission Expires~~ October 20, 1988

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

On this 19th day of October, 1987 before me appeared, EARL L. FREEMAN to me personally known, who being by me duly sworn, says that he is the PRESIDENT of Wisconsin & Southern Railroad Co., that the seal 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 he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[SEAL]

Carmen Montano
Signature of Notary Public

My Commission expires ~~My Commission Expires~~ October 20, 1988

Interstate Commerce Commission
Washington, D.C. 20423

10/27/87

OFFICE OF THE SECRETARY

Dalius F. Vasys
Vedder, Price, Kaufman & Kammholz
115 South LaSalle Street
Chicago, Illinois 60603

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 10/26/87 at 3:45pm, and assigned re-
recording number (s). 15340

Sincerely yours,

Noreta R. McGehee
Secretary

Enclosure(s)

SE-30
(7/79)

RECORDATION NO. 5340 Filed 10/26/87

OCT 26 1987-3 45 PM

INTERSTATE COMMERCE COMMISSION

LOAN AND SECURITY AGREEMENT

This Agreement is made as of December 2, 1986, by and between Wisconsin & Southern Railroad Co., a Wisconsin corporation (the "Company"), and Northbrook Corporation, a Delaware corporation ("Northbrook").

WHEREAS, the Company currently is indebted to Northbrook in the principal amount of \$1,690,000 as evidenced by a Subordinated Promissory Note dated July 19, 1985; and

WHEREAS, the Company desires to borrow from Northbrook the additional principal amount of \$655,717.06 for the purpose of prepaying the indebtedness of the Company in such amount to First Wisconsin National Bank of Milwaukee, Milwaukee, WI ("First Wisconsin Indebtedness"), the payment of which is secured by a lien granted to said Bank on substantially all of the assets of the Company; and

WHEREAS, Northbrook is willing to lend said additional amount to the Company provided that, among other things, the payment thereof is secured substantially in the same manner as the First Wisconsin Indebtedness;

NOW THEREFORE, in consideration of the premises and the mutual agreements contained herein, the parties hereto agree as follows:

1. Definitions and Financial Terms

1.1 "Capitalized Lease" means any lease which is or should be capitalized on the balance sheet of the lessee in accordance with generally accepted accounting principles.

"Collateral" shall have the meaning set forth in Section 4.1(a) hereof.

"Company Assets" means:

(a) All cash of the Company;

(b) All inventory of the Company, including any and all goods, merchandise and other personal property which is held for sale or lease, furnished under any contract of service or held as raw materials, work-in-progress, finished goods, supplies or materials used or consumed in the Company's business;

(c) All accounts, chattel paper, contract rights, instruments, documents and general intangibles of the Company, and in addition and without limiting the generality of the foregoing (i) all rights of the Company to payment for goods sold or leased or

for services rendered, whether arising out of sales of goods in the ordinary course of business or otherwise and whether or not yet earned by performance, (ii) all returned or repossessed goods relating thereto, (iii) all notes, drafts, acceptances, and other obligations arising out of or representing a right to payment for goods sold or leased or services rendered, and (iv) all registered reporting marks, tradenames, goodwill, rights and claims against carriers and shippers and rights to indemnification;

(d) All fixtures, machinery, equipment, vehicles, locomotives, railroad cars, and other tangible personal property of the Company, together with all parts, tools and accessories thereto, used or held for use in the Company's business; and

(e) All products, substitutions, replacements and proceeds of (including insurance proceeds and condemnation awards), and all improvements, accessions, appurtenances and additions to, any of the property and interests in property described in (a) - (d) above excluding the following:

(i) any railroad cars owned by third parties but managed or leased by the Company;

(ii) any equipment, fixtures or other tangible personal property leased to the Company under the Operating Right; and

(iii) any cash and accounts receivable which are collected or received by the Company for remission to Northbrook or third parties and which arise from the performance by the Company, as agent for and on behalf of Northbrook or third parties, of certain services related to the management of railcars owned by such third parties.

"Event of Default" means any of the events described in Section 7 of this Agreement.

"Loan" means the additional borrowing of \$655,717.06 arising hereunder as evidenced by the Note.

"Note" means the promissory note evidencing the Company's obligations under the Loan dated of even date herewith and in the form of Exhibit A hereto.

"Operating Right" means the Operating Agreement For Rail Service Continuation by and between The East Wisconsin Counties Railroad Consortium and the Company dated April 29, 1980, and any amendments thereto.

"Reference Rate" means, at any time, the rate of interest then most recently announced by Continental Illinois National Bank and Trust Company of Chicago at Chicago, Illinois as its reference rate. Each change in the interest rate hereunder shall take effect on the effective date of the change in the Reference Rate.

"Secured Liabilities" means all obligations of the Company to Northbrook arising under the Note and this Agreement, and all extensions, refinancings, modifications and renegotiations thereof.

"Unmatured Event of Default" means any event or condition which with the passage of time or giving of notice to the Company, or both, would constitute an Event of Default.

1.2 Fiscal Year

Unless otherwise defined or the context otherwise requires, all financial and accounting terms used herein have the same meaning assigned to them under generally accepted accounting principles. The Company's fiscal year is a 12 month calendar year ending on December 31.

2. Note Evidencing Borrowing

The borrowing by the Company hereunder shall be evidenced by the Note which shall be made payable to the order of Northbrook, shall be dated the date of the Loan made by Northbrook and shall be payable to Northbrook in installments as provided therein.

3. Interest

3.1 Interest

The unpaid principal of the Note shall bear interest prior to maturity at the Reference Rate in effect from time to time, plus 1% per annum. Interest prior to maturity shall be payable monthly on the last day of each month, commencing with the first such date to occur after the date of the Loan and continuing until maturity. After the maturity of any installment, whether by acceleration or otherwise, the unpaid principal of each installment shall bear interest at the Reference Rate in effect from time to time, plus 3% per annum, but never less than 3% above the Reference Rate in effect at maturity. Interest after maturity shall be payable on demand.

3.2 Method of Calculating Interest

Interest shall be computed on the basis of a year consisting of 360 days as applicable and paid for actual days elapsed.

4. Collateral

4.1 Grant of Security Interest.

(a) To induce Northbrook to make the Loan, and as security for any and all Secured Liabilities, the Company hereby grants to Northbrook a security interest in and lien against all of the following property of the Company, whether now owned or existing or hereafter acquired or arising and regardless of where located (hereinafter referred to together with the Operating Right as the "Collateral"):

(1) Company Assets;

(2) All monies and any property of any kind of the Company in the possession or under the control of Northbrook or a bailee of Northbrook or Northbrook's successors and assigns;

(3) All books and records (including, without limitation, computer programs, printouts and other computer materials and records) of the Company pertaining to any of the foregoing.

(b) In addition to the foregoing, concurrently with the execution of this Agreement, the Company shall assign to Northbrook, as security for the Secured Liabilities, the Operating Right.

4.2 Perfection of Security Interest. The Company shall, at its expense, perform any and all steps requested by Northbrook at any time to perfect, maintain, protect and enforce Northbrook's lien on and security interest in the Collateral, including, without limitation, affixing notations of Northbrook's lien on certificates of title, executing and filing financing or continuation statements, and amendments thereof, in form and substance satisfactory to Northbrook, maintaining complete and accurate records relating to the Collateral, and taking such other steps as are deemed necessary by Northbrook to maintain Northbrook's control of, lien on and security interest in the Collateral. Unless prohibited by law, the Company hereby authorizes

Northbrook to execute and file financing statements or continuation statements concerning the Collateral on the Company's behalf. The Company agrees that a carbon, photographic, photostatic or other reproduction of this Agreement or of a financing statement is sufficient as a financing statement.

5. Payments of Principal and Interest

5.1 Place of Payment

All payments hereunder shall be made without set-off or counterclaim and shall be made by wire transfer, cashier's check or Company check payable to Northbrook at its principal place of business or at such other place as may be designated by Northbrook in writing. Whenever any payment to be made hereunder shall be stated to be due on a date other than a banking day, such payment may be made on the next succeeding banking day.

5.2 Regularly Scheduled Payments

The Company shall make payments of principal in the amount of \$13,000.00, plus accrued interest on the then outstanding principal balance of the Loan on or before the last day of each month during the term of this Agreement. The first payment hereunder shall be due on December 31, 1986, and subsequent payments

shall be due monthly on the last day of each month with the final principal payment of \$5,717.06 plus accrued interest due on February 28, 1991.

5.3 Optional Prepayments

The Company may from time to time, prepay the outstanding principal amount of the Note in whole or in part, without premium or penalty; provided, however, that any partial prepayment shall be in a minimum principal amount of \$5,000.00 and shall be accompanied by a written direction to the effect that such payment is to be applied in reduction of the unpaid principal of the Note. All such prepayments shall be applied to the installments of principal under the Note in their reverse order of maturity.

5.4 Application of Payments After Default

Any payments or prepayments made at a time when an Event of Default shall have occurred and is continuing, or Northbrook shall have made a demand for payment of the Secured Liabilities shall first be applied to any costs and expenses (including reasonable attorneys' fees, court costs and other legal expenses) of Northbrook in enforcing the obligations of the Company under this Agreement, and next to unpaid interest and principal under this

Agreement in such order of application as Northbrook may elect in its sole discretion.

6. Company's Covenants

6.1 From and after the date of this Agreement and until the Secured Liabilities are paid in full, the Company agrees that (except with respect to any individual covenant contained herein to the extent it shall have obtained a prior written consent from Northbrook waiving or altering any such covenant) it will furnish to Northbrook:

- (a) within 30 days after the end of each month (except the last month of each fiscal year of the Company, for which the time period will be 90 days) a copy of its unaudited financial statements for the month or fiscal year then ended, as the case may be, prepared in accordance with generally accepted accounting principles and certified as true and correct by the Company's President or Vice President;
- (b) together with the financial statements furnished by the Company under the preceding clause (a), a certificate of the Company's President or Vice President to the effect that

no Event of Default or Unmatured Event of Default has occurred and is continuing, or, if there is any such event, describing it and the steps, if any, being taken to cure it. Each such certificate delivered with the financial statements of the Company at the end of each fiscal quarter shall contain a computation of, and shall show compliance with, each of the restrictions set forth in Section 6;

- (c) immediately upon learning of the occurrence of any of the following, written notice thereof, describing the same and the steps being taken by the Company with respect thereto: (i) the occurrence of an Event of Default or an Unmatured Event of Default, (ii) the institution of, or any adverse determination in, any litigation, arbitration, proceeding or governmental proceeding which is material to the Company, or (iii) any other material adverse change in the assets or operations of the Company;
- (d) from time to time, such other information as Northbrook may reasonably request.

6.2 Company's Insurance

The Company will maintain insurance coverage on its structures, facilities, equipment, vehicles, inventory and other properties and assets and with respect to its employees and operations sufficient to insure against liabilities and risk prudently insured against by similar businesses, all in sufficient amounts to enable the Company to meet its obligations hereunder and all of its other obligations notwithstanding the effect of property losses. The Company will name Northbrook as an additional insured under all such policies.

6.3 Capital Expenditures

The Company will not, without the prior written consent of Northbrook, expend for fixed assets, any other asset that would be capitalized in accordance with generally accepted accounting principles on the Company's balance sheet or Capitalized Leases an amount greater than \$25,000 in the aggregate in any fiscal year during the term of this Agreement.

6.4 Indebtedness

The Company will not, from the date hereof and while any Secured Liabilities remain unpaid, create, incur or assume any indebtedness for borrowed money or any

indebtedness which the Company is obligated to discharge by furnishing the holder thereof with goods or services, without the prior written consent of Northbrook, except indebtedness of the Company under premium financing agreements relating to the payment of insurance integral to the operation of the Company's business.

6.5 Liens

The Company will not permit to exist any mortgage, pledge, title retention lien, or other lien, encumbrance or security interest with respect to any of the Collateral except:

- (a) for current taxes not delinquent or taxes being contested in good faith and by appropriate proceedings;
- (b) for liens securing indebtedness permitted by Section 6.4;
- (c) for liens related to borrowings of the Company prior to the date hereof; and
- (d) for liens arising in the ordinary course of business for sums not due or sums being

contested in good faith and by appropriate proceedings and not involving any deposits or advances or borrowed money or the deferred purchase price of property or services.

6.6 Other Agreements

The Company will not enter into any agreement containing any provision which would be violated or breached by the performance of its obligations hereunder or under any instrument or document delivered or to be delivered by it hereunder or in connection herewith.

7. Events of Default

Each of the following shall constitute an Event of Default under this Agreement:

(a) Non-Payment.

Failure to pay when due any principal of or interest on the Note, or any other amount which the Company is required to pay Northbrook hereunder, and such failure continues for a period of 10 days after written notice thereof from Northbrook.

(b) Non-Payment of other Indebtedness.

Failure to pay when due (subject to any applicable grace period), whether by acceleration or otherwise, of any other indebtedness of the Company or default in the performance of observance of any obligation or condition with respect to any such other indebtedness if the effect of such default is to accelerate the maturity of such indebtedness to cause it to become due and payable prior to its expressed maturity.

(c) Insolvency.

The Company shall become insolvent or generally fail to pay, or admit in writing its inability to pay, its debts as they mature, or apply for, consent to, or acquiesce in the appointment of a trustee, receiver or other custodian for the Company or, in the absence of such application, consent or acquiescence, a trustee, receiver or other custodian shall be appointed for the Company, or for a substantial part of the property of the Company and shall not be discharged within 30 days; or any bankruptcy, reorganization, debt arrangement, or other proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding shall be instituted by or against the Company and if in-

stituted against the Company is consented to or acquiesced in by the Company or remains for 30 days undismissed; or any warrant of attachment shall be issued against any substantial portion of the property of the Company which shall not be released within 30 days of service.

(d) Default Under Section 6

Default in the performance of any of the Company's covenants set forth in Section 6 of this Agreement

(e) Operating Agreement

A "Default" shall occur under the Collateral Assignment of Operating Agreement for Rail Service Continuation of even date herewith from the Company to Northbrook (as defined therein).

8. Waivers

No delay or omission of Northbrook to exercise any right or power hereunder or under the Note shall impair such right or power or be construed to be a waiver of any default or any acquiescence therein, and any single or partial exercise of any such right or power shall not preclude other or further exercise thereof or the exercise of any other right, and no waiver whatsoever shall be valid unless in writing signed by an executive officer of Northbrook and then only to the extent in such writing specifically set forth. All remedies herein or by law afforded shall be cumulative and shall be

available to Northbrook until it has been paid in full in lawful money all of the Secured Liabilities.

9. Remedies

If any Event of Default described in Section 7 shall occur and be continuing, Northbrook may, at its option, declare all or any portion of the Secured Liabilities, including the entire principal amount of the Note, together with accrued and unpaid interest thereon, immediately due and payable whereupon the same shall forthwith become due and payable without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived. In such event, Northbrook shall have, in addition to all other rights exercisable under applicable law, the rights and remedies of a secured party under the applicable version of the Uniform Commercial Code.

10. General

(a) Notices

Any notices required or permitted hereunder shall be in writing and shall be valid and sufficient if delivered personally or dispatched in any post office in the United States by registered mail or certified mail, postage prepaid addressed to the other party as follows:

If to the Company, to:

Wisconsin & Southern Railroad Co.
511 Barstow Street
P. O. Box A
Horicon, Wisconsin 53032
Attn: Senior Vice President

If to Northbrook to:

Northbrook Corporation
2215 Sanders Road, Suite 370
Northbrook, Illinois 60062
Attn: President

(b) Governing Law

This Agreement shall be governed in all respects by the laws of the State of Illinois.

(c) Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

(d) Headings

Title and headings of the Sections and Subsections of this Agreement are for convenience of reference only and do not form a part of this Agreement and shall not in any way effect the interpretation hereof.

(e) Binding Effect

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

Attest:

Gerald T. Kilcoyne
ASSISTANT Secretary

Attest:

Dennis T. Hurst
Secretary

Wisconsin & Southern Railroad Co.

By: Earl E. Jansen

Title: President

Northbrook Corporation

By: James B. Blair

Title: PRESIDENT & CEO

EXHIBIT A
PROMISSORY NOTE

\$655,717.06

Due: February 28, 1991
Northbrook, Illinois: December 2, 1986

The undersigned, for value received, hereby promises to pay to the order of NORTHBROOK CORPORATION, a Delaware corporation ("Northbrook"), at its principal place of business in Northbrook, Illinois, SIX HUNDRED FIFTY FIVE THOUSAND SEVEN HUNDRED SEVENTEEN DOLLARS AND SIX CENTS payable in installments as follows:

<u>Amount</u>	<u>Payment Dates</u>
\$13,000.00	December 31, 1986 and the last day of each month thereafter to and including January 31, 1991
\$ 5,717.06	February 28, 1991

The unpaid principal amount hereof shall bear interest prior to maturity at the Reference Rate in effect from time to time, plus 1% per annum. Interest prior to maturity shall be payable monthly on the last day of each month, commencing with the first such date to occur after the date of the Loan (as defined in the Loan and Security Agreement referred to hereinafter) and continuing until maturity. After the maturity of any installment, whether by acceleration or otherwise, the unpaid principal of each installment shall bear interest at the Reference Rate in effect from time to time plus 3% per annum, but never less than 3% above the Reference Rate in effect at maturity. Interest after maturity shall be payable on demand.

"Reference Rate" means, at any time, the rate of interest then most recently announced by Continental Illinois National Bank and Trust Company of Chicago at Chicago, Illinois as its reference rate. Each change in the interest rate on this Note

shall take effect on the effective date of the change in the Reference Rate.

Payments of both principal and interest are to be made in lawful money of the United States of America.

This Note evidences certain indebtedness incurred under a Loan and Security Agreement dated as of December 2, 1986, and as it may be further amended from time to time between the undersigned and the payee to which Loan and Security Agreement reference is hereby made for a statement of said terms and provisions, including those under which this Note may or must be paid prior to its due date or its due date accelerated.

In addition to and not in limitation of the foregoing and the provisions of the Loan and Security Agreement hereinabove referred to, the undersigned further agrees, subject only to any limitation imposed by applicable law, to pay all expenses, including reasonable attorneys' fees and legal expenses, incurred by the holder of this Note in endeavoring to collect any amounts payable hereunder which are not paid when due, whether by acceleration or otherwise.

This Note is made under and governed by the laws of the State of Illinois.

WISCONSIN & SOUTHERN RAILROAD CO.

By: _____
Title: _____

(Corporate Seal)

Attest:

By: _____
Title: _____