

THE PITTSBURGH & LAKE ERIE RAILROAD COMPANY

13827A

G. EDWARD YURCON
GENERAL COUNSEL

RECORDATION NO. Filed 1425

324 P&LE TERMINAL BUILDING
PITTSBURGH, PA. 15219
PHONE (412) 261-3201

RICHARD A. PORACH
RICHARD R. WILSON
MARK T. WADSWORTH
ATTORNEYS

OCT 29 1982-9 5:52 AM

INTERSTATE COMMERCE COMMISSION

October 29, 1982

2-302A046

13827 No.
RECORDATION NO. Filed 1425
OCT 29 1982

OCT 29 1982-9 5:52 AM Fee \$ 60.00

INTERSTATE COMMERCE COMMISSION
ICC Washington, D. C.

Ms. Agatha Mergenovich
Secretary
Interstate Commerce Commission
12th and Constitution Ave., N.W.
Washington, D. C. 20423

Enclosed for filing with the Commission pursuant to Section 11303(a) of the Interstate Commerce Act are four executed originals and three additional copies of Railroad Equipment Lease, dated as of October 28, 1982, covering 252 used railroad freight cars. The names and addresses of the parties to the transaction are as follows:

- OWNER: The Pittsburgh and Lake Erie Railroad Company
Smithfield and Carson Streets
Pittsburgh, Pa. 15219
- LESSEE: Youngstown & Southern Railway Company
7891 Southern Boulevard
Youngstown, Ohio 44512

The following is a general description of the railroad equipment covered by said document:

| <u>No. of Units</u> | <u>Description</u> | <u>A.A.R. Mechanical Designation</u> | <u>Identifying Road Nos.</u> |
|---------------------|---------------------|--------------------------------------|------------------------------|
| 252 | 50' 55-ton Box Cars | XP | Y&S 4000-4382 |

Also enclosed are four executed originals and three additional copies of Assignment of Railroad Equipment Lease, dated as of October 29, 1982, whereby The Pittsburgh and Lake Erie Railroad Company assigns all of its right, title and interest to the above Railroad Equipment Lease to Manufacturers Hanover Trust Company.

Handwritten signature: Stanley Paul R...

OCT 29 9 47 AM '82
RECEIVED
I.C.C. OPERATIONS DIV.

Ms. Agatha Mergenovich

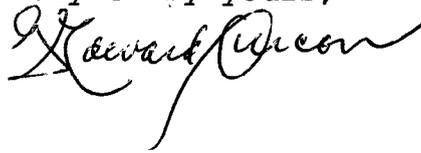
-2-

October 28, 1982

Further enclosed are two P&LE RR Company vouchers, each payable to the Treasurer of the United States, one in the amount of \$50.00 to cover the filing fee for the Lease, and the other in the amount of \$10.00 to cover the filing fee for the Assignment, as prescribed by the Commission in its rules and regulations.

Please acknowledge receipt at your earliest convenience by stamping and returning to me three executed originals and two copies of the documents.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Howard Queen". The signature is written in black ink and is positioned below the typed name "Howard Queen".

encs.

Interstate Commerce Commission
Washington, D.C. 20423

10/29/82

OFFICE OF THE SECRETARY

G. Edward Yurcon
General Counsel
The Pittsburgh & Lake Erie RR Co.
324 P&LE Terminal Building
Pittsburgh, PA. 15219

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 10/29/82 at 9:55am , and assigned re-
recording number(s). 13827 & 13827-A

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

13827

RECORDATION NO. Filed 1425

OCT 29 1982-9 55 AM

INTERSTATE COMMERCE COMMISSION

RAILROAD EQUIPMENT LEASE

THIS AGREEMENT AND LEASE, dated as of the 28th day of October, 1982, by and between THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY, hereinafter called "P&LE", and the YOUNGSTOWN & SOUTHERN RAILWAY COMPANY, hereinafter called "Y&S".

W I T N E S S E T H:

WHEREAS, P&LE is, and has been at all times material hereto, the owner of all of the capital stock of Montour Railroad Company which, in turn, is, and has been at all times material hereto, the owner of all of the capital stock of Y&S; and

WHEREAS, Y&S desired to obtain certain box car equipment in order that traffic over its line may be properly transported; and

WHEREAS, P&LE is, and has been at all times material hereto, the owner of certain 55-ton, 50' XP Box Cars, more particularly described in Exhibit A, attached hereto and made a part hereof, which P&LE proposed to lease to its wholly owned affiliate, Y&S; and

WHEREAS, beginning March 25, 1980, and continuing

through January 31, 1981, P&LE delivered to Y&S two hundred fifty-two (252) 55-ton, 50', XP Box Cars under lease at the rental and for the term and under the conditions hereinafter stated, which cars were accepted by Y&S; and

WHEREAS, P&LE and Y&S desire to ratify and memorialize the lease of said cars.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, the parties hereto, intending to be legally bound, hereby covenant and agree as follows:

1. Lease of Cars. P&LE shall lease to Y&S and Y&S shall and does hereby lease from P&LE two hundred fifty-two (252) 55 ton, 50' XP Box Cars (any one of said cars hereinafter referred to as "Car", and more than one or all of which are hereinafter referred to as "Cars"), bearing numbers as set forth in Exhibit A. The lease shall become effective as to any Car immediately upon its acceptance by Y&S at a point on its line.

2. Additional or Substitute Cars. In the event that P&LE shall furnish to Y&S for lease other box cars in addition to or in substitution for any of the Cars described in Exhibit A hereto, such other cars, upon acceptance by Y&S, shall be included as Cars under this Agreement and Lease and shall be subject to all of the terms and conditions hereof in all respects as though they had been part of the Cars initially described herein.

3. Possession and Use. During the term of this lease, so long as Y&S is not in default of the provisions hereunder, Y&S shall be entitled to possession of each Car and the same may be used upon the lines of any other railroad in normal interchange service for the uses for which they are designed. All per diem time and mileage charges payable for the use of the Cars by other parties shall be accounted for by P&LE and paid over to Y&S.

4. Term. This Agreement and Lease shall continue in effect for an initial term of one (1) year which shall commence on March 25, 1980. If Y&S has fully performed all of its obligations under this Agreement and Lease, the lease of the Cars shall continue under all the provisions herein contained for additional periods of one (1) year each until this Agreement and Lease shall be terminated upon six (6) months' written notice given by either party to the other, or at such earlier date as may be mutually agreed to by the parties.

5. Rental. As rental for the use of each Car, Y&S shall pay P&LE for such use from the date of this Agreement and Lease at the rate of One Dollar (\$1.00) per year. Y&S shall make annual payments of the aforesaid rental to P&LE within fifteen (15) days from the end of each year.

6. Title. Y&S shall not by reason of this Agreement and Lease or any action taken hereunder acquire or have any right or title in and to the Cars except as to the rights herein expressly granted to it as lessee.

7. Maintenance. From the time of delivery of the Cars by P&LE to Y&S until the Cars have been accepted by P&LE from Y&S at the termination of the lease, maintenance of the Cars shall be provided in accordance with the following:

1. At times when Cars are on the lines of Y&S, Y&S will make routine inspection and repair such minor repairs as may be required at its sole cost and expense;
2. Cars returned to Y&S with defect cards or otherwise requiring other than minor repairs will be directed by Y&S to P&LE via Lansingville Yard, and P&LE will make such repairs as are necessary at no cost to Y&S. All payments made under applicable Car Service Rules for defect card repairs made by P&LE shall be retained by P&LE. Y&S will confer with P&LE Equipment Department regarding disposition of any Car received by Y&S in damaged condition without a defect card affixed thereto; and

3. The cost of all repairs made upon Cars by railroads other than the parties hereto and billable to the owning railroad under applicable Car Service Rules shall be borne and paid by Y&S.

8. Additions to Cars. Any parts, replacements or additions made to any Car shall be accessions to such Car and title thereto shall be immediately vested in P&LE without cost or expense to P&LE.

9. Taxes. Y&S shall promptly pay all taxes, assessments and other governmental charges, including sales, use or ad valorem taxes, levied or assessed during the continuance of this lease upon the Cars or the interest of Y&S therein whether or not upon the use or operation thereof or the earnings derived therefrom. If any levy or assessment is made against P&LE on account of any of the foregoing matters or on account of its ownership of the Cars, exclusive, however, of any taxes on the rentals herein provided or the net income of P&LE therefrom, Y&S will promptly pay or reimburse P&LE for the same except that Y&S shall not be required to pay the same so long as it shall in good faith and by appropriate legal or administrative proceedings protest the validity or amount of such levy or assessment.

10. Prohibition Against Liens. Y&S shall pay or set aside and discharge any and all sums claimed by any party by, through or under Y&S and its successors and assigns which,

if unpaid, might become a lien or a charge upon the Cars. Y&S shall not be required, however, to pay or discharge any such claim as long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner which will not affect the title in and to the Cars.

11. Identification of Cars. At all times during the continuance of this lease, Y&S will cause each Car to bear only the initials of Y&S and the number assigned to it and appearing thereon as of the date of its delivery by P&LE. Y&S shall further cause each side of such Cars to bear, in letters not less than one inch (1") in height, the following legend:

"LEASED BY YOUNGSTOWN & SOUTHERN RY. CO. FROM THE
PITTSBURGH AND LAKE ERIE RAILROAD COMPANY, OWNER,
UNDER LEASE FILED WITH THE INTERSTATE COMMERCE COM-
MISSION."

In the event that any of such markings or legends shall at any time prior to the termination of the lease be removed, defaced or destroyed, Y&S shall immediately cause the same to be restored or replaced.

12. Indemnity. Y&S agrees to indemnify, defend and save P&LE, its officers and employees, harmless from and against all expenses, damages, claims, actions or liabilities based upon personal injuries, death or property damage arising

out of or in connection with the condition, operation or use of any of the Cars upon the line of Y&S. Whenever Cars are operated on lines of railroads other than Y&S, P&LE will indemnify, defend and save Y&S, its officers and employees, harmless from and against all expenses (including litigation and counsel fees), damages, claims, actions or liabilities based upon personal injuries, death or property damage arising out of or in connection with the condition, operation or use of the Cars upon such railroad lines.

13. Loss or Destruction of Cars. Y&S shall forthwith advise P&LE of all occurrences in which any Car shall be lost, destroyed or irreparably damaged beyond economic repair from any cause whatsoever at any time during the term of this lease, and all sums due or payments made in accordance with the prevailing rules applicable thereto in the Field Manual of the Interchange Rules prescribed by the Association of American Railroads, shall be paid over to P&LE. Upon payment of such settlement this Agreement and Lease shall terminate as to such Car as of said date and Y&S shall be entitled to salvage, if any.

14. Redelivery of Cars. Upon termination of this lease with respect to any Car (other than pursuant to paragraph 13 hereinabove), Y&S shall at its sole cost and expense immediately surrender possession of such Car by causing delivery of the same to be made to P&LE at Youngstown, Ohio. Y&S shall return all Cars to P&LE in as good condition (ordinary wear and tear excepted) as when the same were delivered to Y&S. Until

such time as each Car has been redelivered to P&LE, Y&S shall make all payments and perform all obligations and requirements of Y&S under all other provisions of this lease as though such termination had not occurred.

15. Default. The term "event of default" for the purpose hereof shall mean any one or more of the following:

- (a) Y&S shall default or fail for a period of thirty (30) days in the observance or performance of any agreement required to be observed or performed on its part under this Agreement and Lease, and said default or failure shall continue for a period of thirty (30) days after the giving of written notice thereof by P&LE;
- (b) A decree or order shall be entered by a court having jurisdiction in the premises adjudging Y&S a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization under the Federal Bankruptcy Act or any other applicable Federal or State law;
- (c) The institution by Y&S of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to the institution of any proceeding or to any action taken or proposed

to be taken in any proceeding described hereinabove in clause (b), or the making by Y&S of a general assignment for the benefit of creditors.

16. Remedies. P&LE shall have the right in the event of default by Y&S to terminate this Agreement and Lease immediately by giving notice to Y&S, and P&LE may without any notice of demand take or cause to be taken immediate possession of the Cars and sell or otherwise dispose of the same, provided, however, that such retaking shall not be deemed a waiver of P&LE's right to receive payment of all sums payable by Y&S to P&LE under this Agreement and Lease or any other rights or remedies conferred upon P&LE under applicable laws.

17. Recording. Immediately upon execution, P&LE shall cause this lease to be filed with the Interstate Commerce Commission for recordation under Section 11303(a) of the Interstate Commerce Act.

18. Sublease and Assignment. Y&S shall not assign or sublease this lease or any of the Cars without the prior written consent of P&LE. P&LE may assign and reassign all or part of its rights under this lease without the consent of Y&S if said assignment or reassignment does not diminish, interfere or prejudice the right of Y&S under this lease, and P&LE shall give to Y&S notice of any such assignment or reassignment.

19. Successors and Assigns. The covenants, conditions and agreements contained in this Agreement and Lease shall

bind and inure to the benefit of the parties, their successors and assigns (to the extent permitted in paragraph 18 hereof).

20. Governing Laws - Amendments. The terms of this Agreement and Lease and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania. The terms of this Agreement and Lease and the rights and obligations of the parties hereto may not be amended or terminated orally, but only by agreement in writing by the party against whom the enforcement of such amendment or termination is sought.

21. Secured Interest. The parties hereto hereby agree that the rights and obligations of the parties hereto under this Agreement and Lease shall be subordinate and inferior in all respects to the rights of Manufacturers Hanover Trust Company (the "Bank") under the Amended and Restated Security Agreement dated as of October 15, 1980, as amended by the First Amendment dated as of September 1, 1982 (the "Security Agreement"), between the Bank and P&LE. Each party hereto agrees that upon default by P&LE in any of its obligations under (i) the Term Loan Agreement dated as of October 15, 1980, as amended by the First Amendment dated as of September 1, 1982 (the "Term Loan Agreement"), between the Bank and P&LE, (ii) the letter dated August 11, 1982, from the Bank addressed to P&LE pursuant to which the Bank has agreed to loan up to \$10,000,000 to P&LE or (iii) the Security Agreement, or the exercise by the Bank of any of its rights or remedies

under the Security Agreement, this Lease and Agreement shall immediately terminate upon demand by the Bank.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement and Lease to be executed by their duly authorized officers as of the day and year first above written.

ATTEST:

Howard Carson
Assistant Secretary

THE PITTSBURGH AND LAKE ERIE
RAILROAD COMPANY

By

H. S. Allen, Jr.
President

ATTEST:

Howard Carson
ASSISTANT SECRETARY

YOUNGSTOWN & SOUTHERN RAILWAY
COMPANY

By

G. E. Henschel
President

COMMONWEALTH OF PENNSYLVANIA))
COUNTY OF ALLEGHENY)) ss:

On this 28th day of October, 1982, before me, the undersigned Notary Public, personally appeared H. G. ALLYN, Jr., who, being by me duly sworn, acknowledged that he is President of The Pittsburgh and Lake Erie Railroad Company; that he executed the foregoing instrument for and on behalf of said corporation and that the execution of the foregoing instrument was the free act and deed of said corporation.

Michelle P. Sullivan

MICHELLE P. SULLIVAN, NOTARY PUBLIC
PITTSBURGH, ALLEGHENY COUNTY
MY COMMISSION EXPIRES DEC. 23, 1985
Member, Pennsylvania Association of Notaries

My commission expires: Dec 23, 1985

COMMONWEALTH OF PENNSYLVANIA))
COUNTY OF ALLEGHENY)) ss:

On this 28th day of October, 1982, before me, the undersigned Notary Public, personally appeared GORDON E. NEUENSCHWANDER who, being by me duly sworn, acknowledged that he is President of Youngstown & Southern Railway Company; that he executed the foregoing instrument for and on behalf of said corporation and that the execution of the foregoing instrument was the free act and deed of said corporation.

Michelle P. Sullivan

MICHELLE P. SULLIVAN, NOTARY PUBLIC
PITTSBURGH, ALLEGHENY COUNTY
MY COMMISSION EXPIRES DEC. 23, 1985
Member, Pennsylvania Association of Notaries

My commission expires: Dec. 23, 1985

EXHIBIT A

No. of Cars: 252

Description of Cars: 55-ton, 50', XP Box Cars

Identifying Nos.:

| <u>P&LE No.</u> | <u>Y&S No.</u> | <u>P&LE No.</u> | <u>Y&S No.</u> |
|---------------------|--------------------|---------------------|--------------------|
| 204000 | 4000 | 204026 | 4026 |
| 204001 | 4001 | 204027 | 4027 |
| 204002 | 4002 | 204028 | 4028 |
| 204003 | 4003 | 204029 | 4029 |
| 204004 | 4004 | 204030 | 4030 |
| 204005 | 4005 | 204031 | 4031 |
| 204006 | 4006 | 204032 | 4032 |
| 204007 | 4007 | 204033 | 4033 |
| 204008 | 4008 | 204034 | 4034 |
| 204009 | 4009 | 204035 | 4035 |
| 204010 | 4010 | 204036 | 4036 |
| 204011 | 4011 | 204037 | 4037 |
| 204012 | 4012 | 204038 | 4038 |
| 204013 | 4013 | 204039 | 4039 |
| 204014 | 4014 | 204040 | 4040 |
| 204015 | 4015 | 204041 | 4041 |
| 204016 | 4016 | 204042 | 4042 |
| 204017 | 4017 | 204043 | 4043 |
| 204018 | 4018 | 204044 | 4044 |
| 204019 | 4019 | 204045 | 4045 |
| 204020 | 4020 | 204046 | 4046 |
| 204021 | 4021 | 204047 | 4047 |
| 204022 | 4022 | 204048 | 4048 |
| 204023 | 4023 | 204049 | 4049 |
| 204024 | 4024 | 204050 | 4050 |
| 204025 | 4025 | | |

EXHIBIT A

page 2

| <u>P&LE No.</u> | <u>Y&S No.</u> | <u>P&LE No.</u> | <u>Y&S No.</u> |
|---------------------|--------------------|---------------------|--------------------|
| 204051 | 4051 | 204076 | 4076 |
| 204052 | 4052 | 204077 | 4077 |
| 204053 | 4053 | 204078 | 4078 |
| 204054 | 4054 | 204079 | 4079 |
| 204055 | 4055 | 204080 | 4080 |
| 204056 | 4056 | 204081 | 4081 |
| 204057 | 4057 | 204082 | 4082 |
| 204058 | 4058 | 204083 | 4083 |
| 204059 | 4059 | 204084 | 4084 |
| 204060 | 4060 | 204085 | 4085 |
| 204061 | 4061 | 204086 | 4086 |
| 204062 | 4062 | 204087 | 4087 |
| 204063 | 4063 | 204088 | 4088 |
| 204064 | 4064 | 204089 | 4089 |
| 204065 | 4065 | 204090 | 4090 |
| 204066 | 4066 | 204091 | 4091 |
| 204067 | 4067 | 204092 | 4092 |
| 204068 | 4068 | 204093 | 4093 |
| 204069 | 4069 | 204094 | 4094 |
| 204070 | 4070 | 204095 | 4095 |
| 204071 | 4071 | 204096 | 4096 |
| 204072 | 4072 | 204097 | 4097 |
| 204073 | 4073 | 204098 | 4098 |
| 204074 | 4074 | 204099 | 4099 |
| 204075 | 4075 | | |

EXHIBIT A
page 3

| <u>P&LE No.</u> | <u>Y&S No.</u> | <u>P&LE No.</u> | <u>Y&S No.</u> |
|---------------------|--------------------|---------------------|--------------------|
| 204200 | 4200 | | |
| 204201 | 4201 | 204226 | 4226 |
| 204202 | 4202 | 204227 | 4227 |
| 204203 | 4203 | 204228 | 4228 |
| 204204 | 4204 | 204229 | 4229 |
| 204205 | 4205 | 204230 | 4230 |
| 204206 | 4206 | 204231 | 4231 |
| 204207 | 4207 | 204232 | 4232 |
| 204208 | 4208 | 204233 | 4233 |
| 204209 | 4209 | 204234 | 4234 |
| 204210 | 4210 | 204235 | 4235 |
| 204211 | 4211 | 204236 | 4236 |
| 204212 | 4212 | 204237 | 4237 |
| 204213 | 4213 | 204238 | 4238 |
| 204214 | 4214 | 204239 | 4239 |
| 204215 | 4215 | 204240 | 4240 |
| 204216 | 4216 | 204241 | 4241 |
| 204217 | 4217 | 204242 | 4242 |
| 204218 | 4218 | | |
| 204219 | 4219 | 204244 | 4244 |
| 204220 | 4220 | 204245 | 4245 |
| 204221 | 4221 | 204246 | 4246 |
| 204222 | 4222 | 204247 | 4247 |
| 204223 | 4223 | 204248 | 4248 |
| 204224 | 4224 | 204249 | 4249 |
| 204225 | 4225 | 204250 | 4250 |

EXHIBIT A
page 4

| <u>P&LE No.</u> | <u>Y&S No.</u> | <u>P&LE No.</u> | <u>Y&S No.</u> |
|---------------------|--------------------|---------------------|--------------------|
| 204251 | 4251 | 204276 | 4276 |
| 204252 | 4252 | 204277 | 4277 |
| 204253 | 4253 | 204278 | 4278 |
| 204254 | 4254 | 204279 | 4279 |
| 204255 | 4255 | 204280 | 4280 |
| 204256 | 4256 | 204281 | 4281 |
| 204257 | 4257 | 204282 | 4282 |
| 204258 | 4258 | 204283 | 4283 |
| 204259 | 4259 | 204284 | 4284 |
| 204260 | 4260 | 204285 | 4285 |
| 204261 | 4261 | 204286 | 4286 |
| 204262 | 4262 | 204287 | 4287 |
| 204263 | 4263 | 204288 | 4288 |
| 204264 | 4264 | 204289 | 4289 |
| 204265 | 4265 | 204290 | 4290 |
| 204266 | 4266 | 204291 | 4291 |
| 204267 | 4267 | 204292 | 4292 |
| 204268 | 4268 | 204293 | 4293 |
| 204269 | 4269 | 204294 | 4294 |
| 204270 | 4270 | 204295 | 4295 |
| 204271 | 4271 | 204296 | 4296 |
| 204272 | 4272 | 204297 | 4297 |
| 204273 | 4273 | 204298 | 4298 |
| 204274 | 4274 | 204299 | 4299 |
| 204275 | 4275 | | |

EXHIBIT A

page 5

| <u>P&LE No.</u> | <u>Y&S No.</u> | <u>P&LE No.</u> | <u>Y&S No.</u> |
|---------------------|--------------------|---------------------|--------------------|
| 204300 | 4300 | 204326 | 4326 |
| 204301 | 4301 | 204327 | 4327 |
| 204302 | 4302 | 204328 | 4328 |
| 204303 | 4303 | 204329 | 4329 |
| 204304 | 4304 | 204330 | 4330 |
| 204305 | 4305 | 204331 | 4331 |
| 204306 | 4306 | 204332 | 4332 |
| 204307 | 4307 | 204333 | 4333 |
| 204308 | 4308 | 204334 | 4334 |
| 204309 | 4309 | 204335 | 4335 |
| 204310 | 4310 | 204336 | 4336 |
| 204311 | 4311 | 204337 | 4337 |
| 204312 | 4312 | 204338 | 4338 |
| 204313 | 4313 | 204339 | 4339 |
| 204314 | 4314 | 204340 | 4340 |
| 204315 | 4315 | 204341 | 4341 |
| 204316 | 4316 | 204342 | 4342 |
| 204317 | 4317 | 204343 | 4343 |
| 204318 | 4318 | 204344 | 4344 |
| 204319 | 4319 | 204345 | 4345 |
| 204320 | 4320 | 204346 | 4346 |
| 204321 | 4321 | 204347 | 4347 |
| 204322 | 4322 | 204348 | 4348 |
| 204323 | 4323 | 204349 | 4349 |
| 204324 | 4324 | 204350 | 4350 |
| 204325 | 4325 | 204351 | 4351 |
| | | 204352 | 4352 |