—B (Lease)
—C (Assignment)

ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

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ALBERT H. GREENE
CARL C. DAVIS*
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JOHN H. DOYLE
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April 1, 1983

RECORDATION NO. 13995 Filed 1425 B

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INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 13995 Filed 1425 C

APR 1 1983 -11 45 AM
INTERSTATE COMMERCE COMMISSION

Ms. Agatha L. Mergenovich
Secretary
Interstate Commerce Commission
Washington, D.C.

Dear Ms. Mergenovich:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. §11303 are the original and one certified true copy of a Lease dated March 28, 1983, a "primary document" as that term is defined in 49 C.F.R. §1116.1(a), and an Assignment of Lease and Rents dated as of March 28, 1983.

A general description of the railroad equipment covered by the enclosed documents is set forth in Exhibit A attached hereto and made a part hereof.

The names and addresses of the parties to the enclosed documents are:

Lessor/
Assignor: Genesee and Wyoming Railroad Company
3846 Retsof Road
Retsof, New York 14539

Lessee: GWI Leasing Corporation
71 Lewis Street
Greenwich, Connecticut

Assignee: Marine Midland Leasing Corporation
One Marine Midland Center
Buffalo, New York 14203

Kindly return the original copies of the enclosed documents to Charles T. Kappler, Esq., Alvord and Alvord, 918 Sixteenth Street, N.W., Washington, D.C. 20006.

Also enclosed is a check in the amount of $50 covering the required recordation fee.

Very truly yours,

Charles T. Kappler

Charles T. Kappler

Original to C. T. Kappler

RECORDATION NO. 13995/C FILED 1425

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INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF LEASE AND RENTS

This Assignment, made as of this 28 day of March, 1983 by Genesee and Wyoming Railroad Company (hereinafter referred to as the "Company"), a New York corporation with its office and principal place of business at 3846 Retsof Road, Retsof, New York 14539, to Marine Midland Leasing Corporation (hereinafter referred to as the "MMLC"), a New York corporation, with an office for the transaction of business at One Marine Midland Center, Buffalo, New York 14240.

W I T N E S S E T H :

1. The Company is lessor under a certain railroad car lease agreement dated March 28, 1983 (Lease) with GWI Leasing Corporation as lessee (Lessee), pursuant to which the Company leases to Lessee 297 steel covered hopper cars (Cars). The Lease as used herein covers and includes all amendments and supplements to, and renewals of, the Lease at any time made.

2. The Company hereby assigns, transfers and sets over to MMLC all of the Company's right, title and interest in and to the Lease and in and to all rents, renewal rents, proceeds of settlement for Cars which are lost, destroyed or damaged beyond repair and all other amounts due and to become due under and pursuant to, or by reason of, the Lease.

3. This Assignment is given and intended as continuing collateral security for the payment and performance of any and all of the obligations, due and to become due, of the Company to MMLC under a certain railroad car lease agreement dated March 25, 1983, by and between MMLC as lessor and the Company as lessee (Base Lease), and all costs and expenses incurred by MMLC in connection therewith and in connection with this Assignment, including, without limitation, all costs and expenses of enforcement thereof and hereof (collectively, Obligations).

4. When all Obligations have been paid and satisfied in full, this Assignment shall terminate and be discharged but shall otherwise remain in full force and effect.

5. (a) This Assignment is made upon the express understanding and agreement that MMLC assumes no responsibility for the performance of the Company's obligations under the Lease; that MMLC shall in no event be liable to the Lessee for the

failure on the part of the Company to comply with or perform any of the Company's obligations under the Lease; and that MMLC shall in no way be held to have assumed or become liable for compliance with or performance of any covenant or agreement or obligation binding on the Company, but the Company shall continue to be bound by all such obligations, covenants and agreements.

(b) MMLC shall be under no obligation to exercise or prosecute any of the rights or claims assigned to it hereunder or to perform or carry out any of the obligations of the Company under the Lease and does not assume any of the liabilities in connection with or arising or growing out of the covenants and agreements of the Company in the Lease. The Company hereby agrees to indemnify MMLC and to hold it harmless from any liability, loss or damage including, without limitation, reasonable attorneys' fees, which may or might be incurred by MMLC under the Lease or by reason of this Assignment or any document executed in connection herewith and from any and all claims and demands whatsoever which may be asserted against MMLC by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Lease.

6. The Company does hereby irrevocably constitute and appoint MMLC its true and lawful attorney with full power of substitution, for it and in its name, place and stead, to ask, demand, collect, receive, receipt for, sue for, compound and give acquittance for any and all amounts which may be or become due or payable under the Lease with full power to settle, adjust or compromise any claim thereunder as fully as the Company could itself do, and to indorse the name of the Company on all negotiable instruments given in payment or in part payment thereof, and in its discretion, to file any claim or take any other action or proceeding, either in its own name or in the name of the Company, or otherwise, which MMLC may deem necessary or appropriate to collect any and all sums which may be or become due or payable under the Lease, or which may be necessary or appropriate to protect and preserve the right, title and interest of MMLC in and to such moneys and the security intended to be afforded hereby.

7. The Company authorizes and directs MMLC to notify the Lessee of this assignment and, upon the occurrence of an event which with notice, lapse of time, or both would be an Event of Default under the Base Lease, to direct the Lessee to make all payments of all sums due or to become due under the Lease, including without limitation, payment of rental and payments for Cars lost, destroyed or damaged beyond repair, directly to MMLC. Any such payments received by the Company after the occurrence of an event which with notice, lapse of time, or both, would be an Event of Default under the terms of the Base Lease, shall be

received as an agent for MMLC; shall be held in trust by the Company for MMLC; shall be delivered to MMLC in the same medium as received by the Company; shall under no circumstances at any time be commingled with any funds of the Company, and shall be forwarded to MMLC on the day of their receipt by the Company unless received too late for forwarding on such day, in which event they shall be forwarded on the next business day.

8. MMLC shall not be obligated to collect any of the rentals or other sums of money hereby assigned and the failure on the part of MMLC to collect the same shall not in any way affect any Obligations of the Company to MMLC or in any way affect any security therefor.

9. No renewal or extension of any or all of the Obligations shall operate to waive, alter, vary, affect or annul this Assignment of the security afforded hereby. Nothing herein contained shall operate as or be deemed to be an extension of the time of payment of the Obligations or to in any way affect any rights, powers or remedies of MMLC contained in the Base Lease or any agreements related to the Obligations.

10. The Company warrants, covenants and agrees with MMLC as follows:

(a) That it is and shall be the sole owner of the entire lessor's interest in the Lease, that it has not and shall not execute any other assignment of any of the Lease or the rents, income and profits accruing from the Cars, and that it has not and shall not perform any acts or execute any other instruments which might prevent MMLC from fully exercising its rights under any of the terms, covenants and conditions of this Assignment.

(b) That the Lease is and shall be valid and enforceable in accordance with its terms and has not been altered, modified, amended, terminated, renewed nor have any of the terms and conditions thereof been waived in any manner whatsoever except as approved in writing by MMLC and shall not be altered, modified, amended, terminated, renewed or any term or condition thereof be waived without the prior approval of MMLC.

(c) That there are no defaults now existing under the Lease and there exists no state of facts which, with the giving of notice or lapse of time or both, would constitute a default under the Lease; and that the Company will fulfill or perform each and every condition and covenant of the Lease by lessor to be fulfilled or performed, and give prompt notice to MMLC of any notice of default by the Company under the Lease received by the Company, together with a complete copy of any such notice.

The Company shall, at its sole cost and expense, enforce, short of termination of the Lease, the performance or observance of each and every covenant and condition of the Lease by the Lessee to be performed or observed.

(d) That it shall not, without the prior written consent of MMLC, enter into any other leases of all or any part of the Cars.

(e) That it shall and does hereby assign and transfer to MMLC any and all subsequent leases upon all or any part of the Cars and shall execute and deliver at the request of MMLC all such further assurances and assignments as MMLC shall from time to time require or deem necessary.

(f) That the Lease shall remain in full force and effect irrespective of any merger of the interests of the lessor and lessee under the Lease.

11. MMLC is hereby vested with full power to use all measures, legal and equitable, deemed by it necessary or proper to enforce this Assignment and to collect the rents, income and profits assigned hereunder. The Company hereby grants full power and authority to MMLC to exercise all rights, privileges and powers herein granted at any and all times hereafter, without notice to the Company, with full power to use and apply all of the rents and other income herein assigned to the payment of the costs of managing and operating the Cars and to the Obligations, including but not limited to the payment of taxes, special assessments, insurance premiums, damage claims, the costs of maintaining, repairing, rebuilding and restoring the Cars or of making same rentable and attorneys' fees incurred in connection with the enforcement of this Assignment and the Base Lease, all in such order as MMLC may determine.

12. MMLC may take or release other security, may release any party primarily or secondarily liable for any Obligations secured hereby, may grant extensions, renewals, or indulgences with respect to such Obligations and may apply any other security therefor held by it to the satisfaction of such Obligations without prejudice to any of its rights hereunder.

13. MMLC may, at its option, although it shall not be obligated to do so, perform any Lease covenant for and on behalf of the Company and any monies expended in so doing shall be chargeable with interest to the Company and added to the Obligations secured hereby.

14. Waiver of or acquiescence by MMLC in any default by the Company, or failure of MMLC to insist upon strict performance by the Company of any warranties or agreements in this Assignment,

shall not constitute a waiver of any subsequent or other default or failure, whether similar or dissimilar.

15. The rights and remedies of MMLC under this Assignment are cumulative and are not in lieu of, but are in addition to any other rights or remedies which MMLC shall have under the Base Lease.

16. If any term of this Assignment, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Assignment, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Assignment shall be valid and enforceable to the fullest extent permitted by law.

17. All notices to be given pursuant to this Assignment shall be sufficient if mailed postage prepaid, to the above described addresses of the parties hereto, or to such other address as a party may request in writing. Any time period provided in the giving of any notice hereunder shall commence upon the date such notice is deposited in the mail.

18. The terms "Company" and "MMLC" shall be construed to include the representatives, successors and assigns thereof.

19. This Assignment may not be amended, modified or changed nor shall any waiver of any provision hereof be effective, except only by a document in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought.

20. No delay by MMLC in exercising, or failure by MMLC to exercise, or partial or single exercise by MMLC of any right or power hereunder shall preclude any other or further exercise thereof or of any other right or power. The rights and remedies of MMLC as specified herein are cumulative and not exclusive of any other rights and remedies which MMLC may otherwise have.

21. The parties hereto agree that this Assignment of Lease and Rents and the acts of the parties hereunder shall be

construed and interpreted in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, each of the parties hereto has caused these presents to be executed in its corporate name and under its corporate seal by its corporate officer thereunto authorized this 28th day of March, 1983.

GENESEE AND WYOMING RAILROAD COMPANY

By Gerald E. Johnson
President

(Corporate Seal)

ATTEST:

James B Gray Jr
Secretary

MARINE MIDLAND LEASING CORPORATION

By Paul M. Sciandra
President

(Corporate Seal)

ATTEST:

Phil G Binighan
Assistant Secretary

XXlz

STATE OF New York)
) SS.:
COUNTY OF Monroe)

On this 28 day of March, 1983, before me personally came Gerald E. Johnson, to me personally known, who being by me duly sworn, says that he resides at, Nunda, New York; that he is President of Genesee and Wyoming Railroad Company, the corporation described in and which executed the above instrument; that he knows the seal of said corporation that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

James B. Gray Jr.

Notary [illegible] Co.
[illegible] 19 83

STATE OF NEW YORK)
) SS.:
COUNTY OF Erie)

On this 29TH day of March, 1983, before me personally came Paul M. Sciandra to me personally known, who being by me duly sworn, says that he resides at East Aurora in the County of Erie, New York; that he is President of Marine Midland Leasing Corporation, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

John D. Small

JOHN D. SMALL
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 19[illegible]