

INB National Bank
One Indiana Square
Indianapolis, Indiana 46266
317-266-5854

9-170A063



INB

RECORDATION NO **16392** FILED 1425

JUN 19 1989 - 11 55 AM

Paul J. Dunne
Vice President and
Legal Counsel

Noretta McGee, Secretary
Interstate Commerce Commission
12th and Constitution Avenues
Washington, D.C. 20423

INTERSTATE COMMERCE COMMISSION June 14, 1989

Attention: Mildred Lee, Recordation Section

RE: Locomotive described in the enclosed Security Agreement

Dear Ms. McGee:

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 an Amended and Restated Security Agreement dated as of June 1, 1989.

The names and address of the parties to the document are:

INB NATIONAL BANK (Secured Party)
One Indiana Square #465
Indianapolis, Indiana 46266

and

INDIANA HI-RAIL CORPORATION (Debtor)
R. R. 1 Box 242
Connersville, Indiana 47331

The document covers various assets of the debtor including but not limited to the following locomotives.

1. Alco C420, Unit No. IHRC 315, Diesel Locomotive
2. Alco C420, Unit No. IHRC 332, Diesel Locomotive
3. RSD-15, Unit No. IHRC 442, Diesel Locomotive
4. RSD-15, Unit No. IHRC 443, Diesel Locomotive
5. GP-35, Unit No. IHRC 371, Diesel Locomotive
6. GP-35, Unit No. IHRC 372, Diesel Locomotive

JUN 19 11 47 AM '89
PHOTO-COPYING DEPT

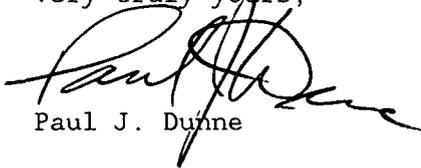
Noreta McGee, Secretary
June 1, 1989
Page 2

7. GP-35, Unit No. IHRC 373, Diesel Locomotive
8. Alco C420, Unit No. IHRC 311, Diesel Locomotive
9. Alco C425, Unit No. IHRC 326, Diesel Locomotive
10. Alco C420, Unit No. IHRC 310, Diesel Locomotive

A fee of Thirteen and 00/100 Dollars (\$13.00) is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to:

Paul J. Dunne
Vice President and Legal Counsel
INB National Bank
Indianapolis, Indiana 46266

Very truly yours,



Paul J. Dunne

PJD/crt

cc: Curt Brown

ihrclet

Interstate Commerce Commission
Washington, D.C. 20423

6/22/89

OFFICE OF THE SECRETARY

Paul J. Dunne
Vice President & Legal Counsel
INB National Bank
Indianapolis, Indiana 46266

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 6/19/89 at 11:55am , and assigned recordation number(s). 16392

Sincerely yours,

Narita L. McEa

Secretary

Enclosure(s)

RECORDATION NO. **16392** FILED 1423

JUN 19 1989 - 11 55 AM

INTERSTATE COMMERCE COMMISSION

AMENDED AND RESTATED SECURITY AGREEMENT

INDIANA HI-RAIL CORPORATION having its principal mailing address at R. R. 1 Box 242, Connersville, Indiana 47331 ("Borrower") grants to INB National Bank, Indianapolis, Indiana, its successors and assigns, ("Bank"), a security interest in all Collateral to secure the payment and performance of all Liabilities of Borrower in favor of Bank.

In consideration for the loans which may be made from time to time by Bank to Borrower, Bank and Borrower agree as follows:

1. Definitions. As used herein.

(a) The term "Accounts" shall mean all of Borrower's rights to payment for the sale or lease of goods or the rendering of services, whether or not yet earned by performance, together with all instruments, documents, chattel paper, notes, drafts owned by Borrower and other forms of obligations owing to Borrower, however created, including, without limitation, all right, title and interest in and to the inventory which gave right to an Account.

(b) The term "Account Debtor" shall mean the party who is obligated on or under any Account or Contract Right.

(c) The term "Collateral" shall mean all of Borrower's personal property, including, without limitation, Inventory, (including all Inventory returned or rejected by, or repossessed from Borrower's Customers) Equipment, Accounts, General Intangibles, Deposit Accounts and Records, whether now existing or hereafter arising or acquired, and all cash and non-cash proceeds of any of the foregoing, including, without limitation, proceeds of insurance and returned and unearned premiums related thereto.

(d) The term "Deposit Accounts" shall mean any demand, time, savings, passbook or like account maintained by Borrower with a bank, savings and loan association, credit union or like organization other than an account evidenced by a certificate of deposit.

(e) The term "Equipment" shall mean all machinery, equipment, furniture, fixtures, motor vehicles, rolling stock (including but not limited to the locomotives described on the attached Exhibit B) and all other goods (exclusive of Inventory) used in connection with or in the conduct of Borrower's business, together with all replacements and substitutions therefore or accessions thereto and all products or proceeds thereof.

(f) The term "General Intangibles" shall mean all of Borrower's general intangibles, including, without limitation, all tax refunds and all tax refund claims of every kind and nature to which Borrower is now or hereafter may become entitled, all other refunds, goodwill, trade secrets, computer programs, customer lists, tradenames, trademarks, licenses, copyrights, patents, monies in any Deposit Account and all guaranties,

liens and security granted to or held by Borrower with respect to an Account or any other obligation owing to Borrower.

(g) The term "Insolvency" of Borrower or any other person means that there shall have occurred with respect to that person one or more of the following events: death, dissolution, termination of existence, insolvency, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by, or the filing of a petition in bankruptcy or the commencement of any proceedings under any bankruptcy or insolvency laws, or any laws relating to the relief of debtors, readjustment of indebtedness, reorganization, composition, or extension, by or against, such person.

(h) The term "Inventory" shall mean all goods, merchandise and other personal property, now owned or hereafter acquired by the Borrower, which are held for sale or lease or are furnished or to be furnished under a contract of service, or are raw materials, work in process, finished goods, component parts, materials or supplies used, consumed or to be used or consumed in the Borrower's business.

(i) The term "Liabilities" shall mean all loans and advances from time to time made by Bank to Borrower or for the account of Borrower, all other debts, liabilities and obligations (including obligations of performance of Borrower to Bank of every kind and description, whether or not evidenced by a note or other instrument, whether or not for the payment of money and whether arising under this Amended and Restated Security Agreement or any of the Other Agreements) direct or indirect, absolute or contingent (including a guaranty of the indebtedness of Garden Spot and Ohio Partnership, Ltd.), primary or secondary, due or to become due, now existing or hereafter arising and all interest, fees, charges and expenses payable by Borrower hereunder or under any of the Other Agreements or any instrument evidencing any of the foregoing. "Liabilities" shall also include any duty to act or to refrain therefrom.

(j) The term "Note" shall mean any promissory note executed by the Borrower evidencing any loan or advance by Bank to Borrower.

(k) The term "Other Agreements" shall mean all agreements, instruments and documents, including, without limitation, security agreements, loan agreements, notes, guaranties, mortgages, deeds of trust, subordination agreements, contracts, notices, leases, financing statements, and all other written matter in addition to this Amended and Restated Security Agreement, whether heretofore, now or hereafter executed by or on behalf of Borrower and delivered to Bank, which relate to this Amended and Restated Security Agreement.

(l) The term "Records" shall mean all Borrower's books of account of every kind and nature, including without limitation, all electronically recorded data relating to Borrower or its business and all receptacles and containers for such records and all of Borrower's files and correspondence.

2. Representations and Warranties. To induce Bank to enter into this Amended and Restated Security Agreement and advance funds to Borrower, Borrower

makes the representations and warranties contained in this Section 2, each of which is acknowledged by Borrower to be a material representation and warranty:

(a) Borrower is organized and existing under the laws of the State of Indiana and in good standing therein and is duly qualified and in good standing in every other state in which it is doing business; is duly authorized to execute and deliver this Amended and Restated Security Agreement, Other Agreements and the Note; none of the provisions of this Amended and Restated Security Agreement contravenes or is in conflict with any provision of any existing indenture or agreement of Borrower, and Borrower has taken all necessary action to authorize the borrowing hereunder or under the Other Agreements and the delivery of the Note and other instruments as may be required hereunder.

(b) Except for the security interest granted hereunder and as detailed on Exhibit "A" attached hereto, Borrower is, and as to Collateral acquired after the date hereof, shall be the owner of such Collateral free from any lien, security interest or encumbrance and Borrower shall defend the Collateral against any person claiming an interest in such Collateral adverse to the interest of Bank.

(c) Any Account subject to the security interest of Bank: (1) is a good and valid Account representing an undisputed, bona fide indebtedness incurred by the Account Debtor named therein, for Inventory held subject to delivery instructions or shipped or delivered pursuant to a contract of sale; (2) is for services performed by Borrower with or for said Account Debtor; (3) is free and clear from setoffs or counterclaims and except as detailed on Exhibit "A" attached hereto is not subject to any lien other than the security interest granted hereunder; (4) is not subject to any agreement wherein the Account Debtor on any account may claim a deduction or discount except as shown on the list of such Accounts furnished Bank; (5) is owned by the Borrower and Borrower shall have the right to subject such Accounts to the security interest of Bank; (6) except as detailed on Exhibit "A" attached hereto will not be sold, assigned or transferred to any person other than Bank or in any other way encumbered and Borrower will defend same against any person claiming an interest in such Accounts adverse to the interest of Bank.

(d) At the time Borrower pledges, sells, assigns, or transfers to Bank any instruments, documents of title, security, chattel paper or other property, or any interest therein, Borrower shall be the lawful owner thereof and shall have the right to pledge, sell, assign or transfer the same; none of such property shall have been pledged, sold, assigned or transferred to any person other than the Bank or in any way encumbered; and Borrower will defend the same against the claims and demands of others.

(e) The Borrower will give Bank written notice of each location at which Inventory and Equipment is or will be kept at all times. Except where such notice is given, all Inventory and Equipment is and shall be kept at the address of Borrower appearing at the beginning of this Amended and Restated Security Agreement.

(f) Borrower will give Bank written notice of each office of Borrower at which records of Borrower relative to Accounts are kept. Except where

such notice is given, all Records are and will be kept at the address of Borrower appearing at the beginning of this Amended and Restated Security Agreement and Borrower will not without the written consent of the Bank, duplicate any Account at any other address.

(g) All balance sheets, earnings statements and other financial data furnished by or for Borrower to Bank accurately reflect the financial condition of Borrower on the date or dates of such financial data and the results of its operations for the period or periods for which such financial data is furnished. From the date of such financial data, there has been no material adverse change, financial or otherwise, in the condition of Borrower, and no litigation or proceeding of any governmental body are presently pending or threatened, to the knowledge of Borrower, against Borrower which, if adversely determined, could materially affect the business, operations or properties of Borrower.

3. Loans. Upon written request of Borrower, the Bank in its discretion may, from time to time, subject to the terms, provisions and conditions of this Amended and Restated Security Agreement, make loans to Borrower secured by the Collateral. All such loans shall be evidenced by notes, in form satisfactory to Bank, bearing interest at the rate agreed upon from time to time by Bank and Borrower.

4. Security Interest in Collateral.

(a) As security for the payment and performance of all the Liabilities, Bank shall have a security interest in the Collateral.

(b) Except as detailed on Exhibit "A" attached hereto, Borrower shall not pledge, sell, assign, mortgage, or create, or suffer to exist, a security interest in the Collateral in favor of any person other than Bank.

5. Financing Statements, Certificates, Schedules and Reports.

(a) Borrower authorizes Bank at the expense of Borrower to sign and file a financing statement or statements on its behalf in those public offices deemed necessary by Bank to protect its security interest in the Collateral granted herein. In addition, Borrower agrees to do such other acts and things and deliver or cause to be delivered such other documents as Bank may deem necessary to establish and maintain a valid security interest in the Collateral (free of all other liens and claims) to secure the payment of the Liabilities.

(b) Borrower agrees that Bank may, if permitted by law, file a carbon, photographic or other reproduction of this Amended and Restated Security Agreement or of a financing statement as a financing statement.

6. Loss or Depreciation of Collateral. Borrower shall give written notice to the Bank of any event which causes material loss or depreciation in value of the Collateral and the amount of such material loss or depreciation. Borrower shall also give written notice to Bank of all cases involving the return, rejection, repossession, loss or damage of or to the Collateral; of any request for credit or adjustment of any Accounts; and generally of all material happenings and events affecting the Collateral or the value or amount thereof.

7. Agreement of Borrower.

(a) Borrower shall have and maintain at all times with respect to Inventory and Equipment insurance covering risks customarily insured against by companies engaged in business similar to that of Borrower, in amounts, containing such terms, in such form, for such periods and written by companies acceptable to Bank. Such insurance shall be payable to Borrower and Bank as their interests may appear. Bank's interest shall be covered through a loss payable endorsement acceptable to Bank. The insurance policy or policies or copies thereof evidencing Borrower's compliance with the above shall be deposited with Bank, and in the event Borrower fails to file and maintain such insurance, Bank may, at its option, purchase such insurance and the cost of such insurance shall become a Liability of Borrower in favor of Bank and shall be payable to Bank on demand.

(b) Borrower shall at all reasonable times, allow Bank, its officers, attorneys and accountants, to examine, inspect or make abstracts from Borrower's Records and to verify Inventory and Equipment both as to quantity and quality and to arrange for verification of Accounts, under reasonable procedures, directly with the Account Debtors or by other methods; shall furnish to Bank upon request additional statements of any Account, together with all notes or other papers evidencing the same and any guaranty, securities or other information relating thereto; and shall do, make, and deliver all such additional and further acts, things, deeds, assurances and instruments as Bank may require to further protect its interest in or rights to the Collateral.

(c) Borrower will, at its own cost and expense, keep the Equipment in a good state of repair and will not waste or destroy the same or any part thereof. Borrower will use such Equipment only within its normal capacity, in a careful and proper manner in the regular course of Borrower's business and in conformity with all applicable governmental laws and regulations and will not be negligent in the care thereof. Borrower hereby agrees to cooperate with Bank to ensure that all pieces of Equipment acquired by Borrower which do not currently constitute fixtures shall not hereafter become fixtures. Borrower further agrees to take reasonable steps to ensure that all Equipment hereafter acquired by Borrower shall remain personal property and not a fixture. Borrower shall, upon request therefor, deliver to Bank all evidence of the ownership of any of the Equipment, including, without limitation, certificates of title and applications for title.

(d) Borrower shall not, without the prior written consent of Bank dispose of the Equipment or any part thereof. In the event any of the Equipment is sold or disposed of, Borrower shall deliver all of the cash proceeds of any such sale or disposition to Bank which proceeds shall be applied to the repayment of the Liabilities except for that portion of such proceeds which is required to repay indebtedness to any person which was granted and still holds a perfected purchase money security interest in the Equipment subject to such sale or disposition.

8. Processing, Sale and Collections. Until such time as Bank shall notify Borrower of the revocation of such authority, Borrower:

(a) may, in the ordinary course of business, at its own expense, sell, lease or furnish under contracts of service, any of the Inventory normally held by Borrower for such purpose (a sale in the ordinary course of business does not include a transfer in total or partial satisfaction of a debt), and use and consume, in the ordinary course of its business, any raw materials, work in process or materials normally held by Borrower for such purposes;

(b) will, at its own expense, endeavor to collect, as and when due, all amounts due with respect to any Collateral, including the taking of such action with respect to such collection as Bank may reasonably request or, in the absence of such request, as Borrower may deem advisable;

(c) may grant, in the ordinary course of business, to any Account Debtor, any rebate, refund or adjustment to which such Account Debtor may be lawfully entitled, and may accept, in connection therewith, the return of goods, the sale or lease of which shall have given rise to the obligation of the Account Debtor; and

(d) will deliver to Bank all chattel paper which constitutes proceeds from the sale of Collateral.

Bank may, however, at any time before or after any revocation of such authority or the maturity of any Liabilities, notify any Account Debtor to make payment directly to Bank of any amounts due or to become due and enforce the collection of any Account by suit or otherwise and surrender, release or exchange all or any part thereof, or compromise or extend or renew for any period (whether or not longer than the original period) any indebtedness thereunder or evidenced thereby.

Borrower will also, if requested by Bank, note the security interest of Bank on all records relative to the Collateral including, without limitation, any invoice which evidences an Account.

9. Events of Default; Acceleration. Any or all of the Liabilities shall, at the option of Bank and notwithstanding any time or credit allowed by any instrument evidencing the Liabilities, be immediately due and payable without notice or demand upon the occurrence of any default in the payment or performance, when due or payable, of any of the Liabilities or of any endorser, guarantor, or surety for any of the Liabilities.

10. Power to Sell or Collect Collateral. Upon the occurrence of any of the above events of default and at any time thereafter (such default not having previously been cured) Bank shall have, in addition to all other rights and remedies, the remedies of a secured party under the Uniform Commercial Code including, without limitation, the right to take possession of the Collateral, and for that purpose Bank may, so far as Borrower can give authority therefore, enter upon any premises on which the Collateral may be situated and remove the same therefrom. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Bank shall give Borrower at least ten (10) days prior written notice of the time and place of any public sale of Collateral or of the time after which any private sale or any other intended disposition is to be made. Bank may at any time in

its discretion transfer any securities or other property constituting Collateral into its own name or that of its nominee and receive the income thereon and hold the same as security for the Liabilities or apply it on principal or interest due on the Liabilities. Insofar as Collateral shall consist of Accounts, insurance policies, instruments, chattel paper, choses in action or the like, Bank may demand, collect, receipt for, settle, compromise, adjust, sue for, foreclose or realize upon Collateral as Bank may determine, whether or not Liabilities or Collateral are then due and for the purpose of realizing Bank's rights therein; receive, open and dispose of mail addressed to Borrower and endorse notes, checks, drafts, money orders, documents of title or other evidences of payment, shipment or storage or any form of Collateral on behalf of and in the name of Borrower.

11. Deposits. Any and all deposits or other sums at any time credited by or due from Bank to Borrower shall at all times constitute security for the Liabilities and Bank may apply or set off such deposits or other sums against the Liabilities at any time whether or not the Liabilities are then due or other Collateral is considered by Bank to be adequate.

12. Waivers. Borrower waives demand, notice, protest, notice of acceptance of this Amended and Restated Security Agreement, notice of loans made, credit extended, Collateral received or delivered or other action taken in reliance hereon and all other demands and notices of any description. With respect to both Liabilities and Collateral, the Borrower assents to any extension or postponement of the time of payment or any other indulgence, to any substitution, exchange, or release of Collateral, to the addition or release of any party or person primarily or secondarily liable, to the acceptance of partial payments thereon and the settlement, compromising or adjusting of any thereof, all in such manner and at such time or times as Bank may deem advisable. Bank shall have no duty as to the collection or protection of Collateral or any income thereon, nor as to the preservation of rights against prior parties, nor as to the preservation of any rights pertaining thereto beyond the safe custody thereof. Bank may exercise its rights with respect to Collateral without resorting or regard to other Collateral or sources of reimbursement for the Liabilities. Bank shall not be deemed to have waived any of its rights under this Amended and Restated Security Agreement or the Other Agreements unless such waiver is in writing and signed by Bank. No delay or omission on the part of Bank in exercising any right shall operate as a waiver of such right or any other right. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future occasion. All rights and remedies of Bank on the Liabilities or the Collateral whether evidenced hereby or by any other instrument or papers shall be cumulative and may be exercised singularly or concurrently.

13. Expenses, Proceeds of Collateral. Borrower shall pay Bank on demand any and all expenses, including reasonable attorneys' fees, incurred or paid by Bank in protecting or enforcing its rights under this Amended and Restated Security Agreement or the Other Agreements. After deducting all of said expenses the residue of any proceeds of collection or sale of Collateral shall be applied to the payment of principal or interest on the Liabilities in such order of preference as the Bank may determine, proper allowance for interest on Liabilities not then due being made, and any excess shall be returned to Borrower and Borrower shall remain liable for any deficiency.

STATE OF Indiana)
COUNTY OF Fayette)

Before me, a Notary Public, in and for said County and State, personally appeared R. Powell Felix, the President of Indiana Hi-Rail Corporation and having been first duly sworn, acknowledged the execution of the foregoing Security Agreement.

Witness my hand and Notarial Seal this 1st day of June, 1989.

Kimberly Ann Brown
Notary Public

Kimberly Ann Brown
Printed Name - Notary Public

My County of Residence:

Fayette

My Commission Expires:

September 4, 1990

STATE OF Indiana)
COUNTY OF Marion)

Before me, a Notary Public, in and for said County and State, personally appeared Curtis A. Brown, the Vice President of INB National Bank and having been first duly sworn, acknowledged the execution of the foregoing Security Agreement.

Witness my hand and Notarial Seal this 1st day of June, 1989.

MARIE E. SIBBING, Notary Public
My Commission Expires Aug. 31, 1990
County of Residence-Marion

Marie E. Sibbing
Notary Public

Printed Name - Notary Public

My County of Residence:

My Commission Expires:

EXHIBIT "A"

to

Amended and Restated Security Agreement

between

Indiana Hi-Rail Corporation

and

INB National Bank

Dated June 1, 1989

Permitted Liens, Encumbrances, Security Interests and Indebtedness.

EXHIBIT B

1. Alco C420, Unit No. IHRC 315, Diesel Locomotive
2. Alco C420, Unit No. IHRC 332, Diesel Locomotive
3. RSD-15, Unit No. IHRC 442, Diesel Locomotive
4. RSD-15, Unit No. IHRC 443, Diesel Locomotive
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