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REGISTRATION NO. 12072-C
NOV 14 1988 12 43 PM
INTERSTATE COMMERCE COMMISSION

SECOND AMENDMENT TO
RAILROAD EQUIPMENT LEASES

THIS AGREEMENT, dated as of the 1st day of September, 1988, by and between THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY, hereinafter called "Lessor", and EXCEL RAILCAR CORPORATION, hereinafter called "Lessee".

W I T N E S S E T H:

WHEREAS, by Agreement and Lease dated March 21, 1980 (hereinafter called "Lease I"), Orchard Capital Management, Inc. (later known as "Buttonwood Capital Corporation") sub-leased to Lessee 203 steel covered hopper cars owned by Lessor; and

WHEREAS, by Assignment of Railroad Equipment Agreements dated May 13, 1986, Buttonwood Capital Corporation assigned all of its right, title and interest in and to the Agreement and Lease dated March 21, 1980, together with Supplements thereto and related Agreements, to Lessor; and

WHEREAS, by Agreement and Lease dated July 22, 1980 (hereinafter called "Lease II"), Lessor leased to Lessee 44 steel covered hopper cars owned by Lessor; and

WHEREAS, by Amendment to Railroad Equipment Leases dated January 1, 1987, the parties hereto amended the aforesaid Railroad Equipment Leases regarding the remaining 241 steel covered hopper cars in several respects, to include the transfer of title to the said Cars from Lessor to Lessee upon the satisfactory completion of that Amendment;

WHEREAS, the parties hereto desire to further amend the aforesaid Railroad Equipment Leases and the Amendment of January 1, 1987;

NOW, THEREFORE, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Paragraph 5 of Lease I and Lease II is hereby amended as follows:

"Term. This Lease shall be for a term which shall commence on September 1, 1988, and shall terminate 16 months from said date, or December 31, 1989. If Lessee has fully performed all of its obligations under this Agreement and Lease, Lessor will transfer full title to all the aforesaid Cars to Lessee."

2. Paragraph 6 of Lease I and Lease II is hereby amended as follows:

"Rental. As rental for the use of these Cars, Lessee shall pay Lessor the amount of \$24,040 per month, in U.S. currency. Lessee shall make the aforesaid monthly payments to Lessor on the last day of each month. It is specifically agreed that Lessee will retain all daily time charges and mileage charges attributable to the use of the Cars during the term of this Lease."

3. Paragraph 7 of Lease I and Lease II is hereby amended as follows:

"Title. Lessee 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. However, upon the satisfactory completion of the Lease Term, or sooner if Lessee chooses to pay the Aggregate Buyout Amount set forth in Appendix A hereto, Lessor agrees to transfer title to the Cars to Lessee and agrees to execute all necessary documents to evidence this transfer of title. The sale of the Cars from Lessor to Lessee is on a "as is" basis. LESSOR WILL NOT BE DEEMED TO HAVE MADE, AND LESSOR HEREBY DISCLAIMS, ANY OTHER REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN OR CONDITION OF THE CARS, THEIR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE CARS, NOR WILL LESSOR BE LIABLE IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE) OR OTHERWISE FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, SUCH AS, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, COST OF CAPITAL OR CLAIMS OF CUSTOMERS OF LESSEE."

4. Paragraph 16 of Lease I and Paragraph 19 of Lease II are hereby amended as follows:

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

- (a) Failure of Lessee to make a monthly payment by the 15th day following the date said monthly payment is due without the necessity of any written notice from Lessor indicating such lack of payment;
- (b) Lessee shall default or fail for a period of thirty (30) days in the observance or performance on its part under the Agreement and Lease, except as referred to in the foregoing clause (a), and said default or failure shall continue for a period of thirty (30) days after the giving of written notice thereof by Lessor;
- (c) Existence of any one or more of the following circumstances, uncorrected for more than thirty (30) days: entry of an order for relief under Title 11 of the United States Code; the making by Lessee of a general assignment for the benefit of creditors; the appointment of a general receiver or trustee in bankruptcy of Lessee's business or property; or action by Lessee under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation. The occurrence of the described events shall not constitute a default if, within the specified thirty (30) day period, Lessee (including its receiver or trustee in bankruptcy) provides to Lessor adequate assurances, reasonably acceptable to Lessor, of its continuing ability and willingness to fulfill all of its obligations on this Lease Agreement, as amended.

5. Paragraph 18 of Lease I and Paragraph 21 of Lease II are hereby amended as follows:

"Recording. Lessor, upon execution and at the sole expense of Lessee, shall cause this Amendment to be filed with the Interstate Commerce Commission for recordation under Section 11303(a) of the Interstate Commerce Act. Upon the satisfactory completion of this Amendment and the transfer of title to the Cars

from Lessor to Lessee, Lessor will, at Lessee's expense, take all necessary steps to clear the records of the Interstate Commerce Commission regarding the aforesaid Cars."

6. Paragraph 21 of Lease I is hereby amended as follows:

"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 hereby 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."

7. Paragraph 8 of the Amendment dated January 1, 1987, is hereby superseded and cancelled.

8. All other terms and provisions of Leases I and II, together with supplements thereto, and the Amendment dated January 1, 1987, remain in full force and effect to the extent that each is not inconsistent with this Second Amendment.

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

WITNESS:

THE PITTSBURGH AND LAKE ERIE
RAILROAD COMPANY

J E Faust

By C. Ray Halley

WITNESS:

EXCEL RAILCAR CORPORATION

Mike J. [Signature]

By [Signature]

APPROVED AS TO FORM
By [Signature]

APPENDIX A

<u>Month</u>		<u>Aggregate Buyout Amount</u>
September	1988	\$ 316,139.29
October	1988	301,010.27
November	1988	285,419.71
December	1988	269,353.53
January	1989	252,797.23
February	1989	235,735.85
March	1989	218,153.98
April	1989	200,035.75
May	1989	181,364.79
June	1989	162,124.24
July	1989	139,810.29
August	1989	117,226.20
September	1989	94,359.81
October	1989	71,207.59
November	1989	47,765.96
December	1989	24,040.00

241 CAR NUMBERS

EXCEL CAR NUMBERS

	ECRX	PLE		ECRX	PLE		ECRX	PLE
1	2000	1674		2015	1770		20028	1358
2	2001	1582		2016	1749		20029	1355
3	2002	1433		2017	1708		20030	1407
4	2003	1527		2018	1700		20031	1412
5	2004	1363		2019	1781		20032	1351
6	2007	1497		2020	1785		20033	1541
7	2008	1342		2021	1711		20034	1526
8	2009	1494		20000	1536		20035	1326
9	2010	1435		20001	1352		20036	1438
10	2011	1376		20002	1327		20037	1367
11	2012	1515		20003	1482		20038	1548
12	2013	1502		20004	1449		20039	1463
13	2014	1304		20005	1469		20040	1513
14	2015	1328		20006	1349		20041	1543
15	2016	1401		20007	1448		20043	1476
16	2017	1648		20008	1418		20044	1528
17	2018	1324		20009	1428		20045	1314
18	2019	1436		20010	1409		20046	1446
19	2020	1385		20011	1420		20047	1488
20	2021	1391		20012	1370		20048	1301
21	2000	1782		20013	1361		20049	1356
22	2001	1743		20014	1483		20050	1464
23	2002	1792		20015	1395		20051	1521
24	2003	1756		20016	1452		20052	1321
25	2004	1759		20017	1540		20053	1537
26	2005	1734		20018	1414		20054	1419
27	2006	1748		20019	1403		20055	1437
28	2007	1760		20020	1340		20056	1415
29	2008	1730		20021	1306		20057	1528
30	2009	1773		20022	1389		20058	1496 Do
31	2010	1719		20023	1398		20059	1382
32	2011	1704		20024	1360		20060	1432
33	2012	1784		20025	1323		20061	1480
34	2013	1752		20026	1333		20062	1337
35	2014	1776		20027	1468		20063	1417

	ECRX	PLC		ECRX	PLC		ECRX	PLC
1	80064	1451		80099	1634		80134	1610
2	80065	1409		80100	1596		80135	1624
3	80066	1457		80101	1595		80136	1653
4	80067	1416		80102	1565		80137	1635
5	80068	1592		80103	1667		80138	1619
6	80069	1560		80104	1592		80139	1564
7	80070	1578		80105	1644		80140	1589
8	80071	1575 DESTROYED		80106	1677		80141	1660
9	80072	1602		80107	1651		80142	1692
10	80073	1577		80108	1641		80143	1572
11	80074	1632		80109	1657		80144	1595
12	80075	1566		80110	1639		80145	1596
13	80076	1621		80111	1666 DESTROYED		80146	1654
14	80077	1614		80112	1563		80147	1594
15	80078	1581		80113	1631		80148	1626
16	80079	1640		80114	1552		80149	1617
17	80080	1699		80115	1612		80150	1670
18	80081	1552		80116	1633		80151	1663
19	80082	1681		80117	1696		80152	1684
20	80083	1576		80118	1616		80153	1647
21	80084	1689		80119	1669		80154	1688
22	80085	1645		80120	1570		80155	1597
23	80086	1603		80121	1600		80156	1671
24	80087	1591		80122	1574		80157	1680
25	80088	1650		80123	1590		80158	1596
26	80089	1569		80124	1580		80159	1609
27	80090	1687		80125	1695		80160	1604
28	80091	1623		80126	1618		80161	1649
29	80092	1613		80127	1642		80162	1643
30	80093	1573		80128	1607		80163	1678
31	80094	1652		80129	1615		80164	1636
32	80095	1691		80130	1622		80165	1625
33	80096	1567		80131	1665		80166	1672
34	80097	1685		80132	1551		80167	1661
35	80098	1608		80133	1568		80168	1687

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF ALLEGHENY)

On this 10th day of October, 1988, before me, the undersigned Notary Public, personally appeared EUGENE R. CONSTANCE, who, being duly sworn according to law, acknowledged that he is President of Excel Railcar Corporation; that he executed the foregoing Second Amendment to Railroad Equipment Leases for and on behalf of said Company, and that the execution of the foregoing instrument was the free act and deed of said Company.



Loretta L. Constance
Notary Public

My Commission expires:

March 3, 1992

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF ALLEGHENY)

On this 27th day of October, 1988, before me, the undersigned Notary Public, personally appeared C. R. HOLLEY, who, being duly sworn according to law, acknowledged that he is Executive Vice President and Chief Operating Officer of The Pittsburgh and Lake Erie Railroad Company; that he executed the foregoing Second Amendment to Railroad Equipment Leases for and on behalf of said Company, and that the execution of the foregoing instrument was the free act and deed of said Company.

NOTARIAL SEAL
DONNA L. WOSHNER, NOTARY PUBLIC
PITTSBURGH, ALLEGHENY COUNTY
COMMISSION EXPIRES OCT. 26, 1991
Pennsylvania Association of Notaries

Donna L. Woshner
Notary Public

My Commission expires:

October 26, 1991