

RECORDATION NO. 12436-B

P. E. MYERS & ASSOCIATES  
*Practice Before The Interstate Commerce Commission*  
SUITE 348, PENNSYLVANIA BUILDING  
PENNSYLVANIA AVENUE AT THIRTEENTH STREET N.  
WASHINGTON, D. C. 20004

NOV 24 1980-2 00 PM  
INTERSTATE COMMERCE COMMISSION

No. **0-329A110**  
(202) 737-2188

Date ~~NOV 24 1980~~ November 24, 1980  
Fee \$ \_\_\_\_\_  
ICC Washington, D. C.

*Registered Practitioners*  
PAULINE E. MYERS  
MARK D. RUSSELL

Mrs. Agatha L. Mergenovich  
Secretary  
Interstate Commerce Commission  
Washington, DC 20423

ATTENTION: Recordation Office  
IN RE: Mortgage of Railroad Cars by and  
Between GWI Leasing Corporation and  
Marine Midland Bank, N.A.

Dear Mrs. Mergenovich:

Attached hereto for recordation is an original copy of the  
above noted Mortgage of Railroad Cars between:

GWI Leasing Corporation, Mortgagor  
71 Lewis Street  
Greenwich, CT 06830

AND

Marine Midland Bank, N.A., Mortgagee  
One Marine Midland Plaza  
Rochester, NY 14639

NOV 24 1 52 PM '80  
DIGITAL FILES  
BRANCH

Your cooperation is greatly appreciated. Check No. 2724 in  
the amount of \$100.00 is attached as recording fee for this docu-  
ment and the other two documents filed this date - Assignment of  
Rents and Lease Agreement.

Yours very truly,  
*Pauline E. Myers*  
Pauline E. Myers

PEM/s

Attachments

NOV 24 1980-2 00 PM

INTERSTATE COMMERCE COMMISSION

## MORTGAGE OF RAILROAD CARS

THIS MORTGAGE, made as of this 12th day of November, 1980, by and between GWI Leasing Corporation, Mortgagor, a Delaware corporation with its office and principal place of business at 71 Lewis Street, Greenwich, Connecticut 06830, and Marine Midland Bank, N.A., a national banking association, with an office for the transaction of business at One Marine Midland Plaza, Rochester, New York 14639, Mortgagee.

WHEREAS, pursuant to the terms of a certain Promissory Note dated November 12, 1980 (herein called the "Promissory Note"), the Mortgagee has agreed to lend to the Mortgagor the principal amount of up to One Million Eight Hundred Thousand Dollars (\$1,800,000).

## W I T N E S S E T H:

That the Mortgagor does hereby grant, bargain, sell and release unto the Mortgagee, its successors and assigns forever, all and singular the following described properties, rights and interests and all of the estate, right, title and interest of the Mortgagor in the railroad cars and other properties described on Schedule A, annexed hereto, whether now owned or hereafter acquired, together with all accessories, equipment, parts and appurtenances appertaining or attached to any of the railroad cars described in Schedule A hereto, whether now owned or

hereafter acquired, and all substitutions, renewals and replacements of and additions, improvements, accessories, and accumulations to any and all of said railroad cars, including all additions thereto which are now or shall hereafter be incorporated therein, together with all the rents, issues, income, profits and avails thereof, all of which railroad cars, other properties, rights and interests hereby transferred, conveyed and mortgaged or intended so to be are hereinafter referred to as "Cars."

SUBJECT, HOWEVER, to all the right, title and interest of Genesee and Wyoming Railroad Company (hereinafter called the "Lessee"), in and with respect to said Cars arising under that certain Lease Agreement, dated November 11, 1980 between GWI Leasing Corporation, as Lessor, and Genesee and Wyoming Railroad Company, as Lessee.

TO HAVE AND TO HOLD the above granted and described property unto said Mortgagee, its successors and assigns forever.

PROVIDED, ALWAYS, and upon the express condition that if the Mortgagor, its successors and assigns shall, while no default exists under any of the provisions of Article IV of the Promissory Note, well and timely pay or cause to be paid to the Mortgagee, its successors or assigns, the above mentioned sum of One Million Eight Hundred Thousand Dollars (\$1,800,000), the indebtedness incurred under the Promissory Note, with all interest thereon and any and all additional sums payable under

the provisions of the Promissory Note and of this Mortgage, all in accordance with the terms thereof, then this mortgage shall be void, otherwise to remain in full force and effect. If such payment in full is made by the Mortgagor while any such default exists and all such defaults are subsequently corrected by the Company, the Company shall be entitled to have this mortgage discharged. This mortgage is given and intended as a collateral and continuing security for the payment of the indebtedness described in the next preceeding paragraph incurred, or to be incurred by the Mortgagor to the Mortgagee whether such indebtedness shall at any time or from time to time have been reduced or paid in full and thereafter increased or reincurred and whether such indebtedness may at any time or from time to time exceed the total obligations incurred by the Mortgagor under the Promissory Note, and no renewal of, or extension of time of payment of the obligation or evidence of the indebtedness or any part thereof, and no agreement not to sue or release or discharge of any persons liable therefor or thereon, or release or exchange of other collateral or any act or thing whatsoever, save payment as provided in the next preceeding paragraph of this mortgage, shall diminish, discharge, impair or affect this mortgage or the lien thereof or the security afforded thereby.

AND, The Mortgagor covenants with the Mortgagee that upon the happening of any event of default as defined in Article IV of the Promissory Note, the Mortgagee's rights and remedies with respect to the Cars shall be those of a secured party under the Uniform Commercial Code and under any other applicable law, as the same may from time to time be in effect, in addition to those rights granted herein. Without in any way requiring notice to be given in the following matter, the Mortgagor agrees that any notice by the Mortgagee of the sale, disposition or other intended action hereunder or in connection herewith, whether required by the Uniform Commercial Code or otherwise, shall constitute reasonable notice to the Mortgagor if such notice is mailed by certified or registered mail, postage prepaid, at least ten (10) days prior to such action, to Mortgagor's address specified above, Attn: President. The Mortgagor agrees to give such further notice of any sale or other disposition to any other person or corporation or to the public generally as it may believe desirable or as may be required by law. The proceeds of any sale, or other disposition after deduction of all expenses of the taking, keeping and sale of the Cars including without limitation any and all expenses incurred by the Mortgagee in any legal proceeding which it may institute for the recovery and possession of the Cars (herein called "Net Proceeds") shall be applied to the payment of the indebtedness hereby secured and the

Mortgagor agrees to pay any deficiency. The Mortgagee may purchase at any such sale in the same manner and to the same effect as a person not interested therein. In no event shall the Mortgagee be required to have the Cars present at the place of sale or comply with any other provisions of law respecting foreclosure of liens either in the State of New York or elsewhere.

The Mortgagee is hereby appointed attorney-in-fact of the Mortgagor with full power of substitution to execute and deliver to any purchaser aforesaid, and is hereby vested with full power and authority to make in the name and on behalf of the Mortgagee, a conveyance of the title to each of the Cars so sold. In the event of any sale of any of the Cars, under any power herein contained, the Mortgagor will, if and when required by the Mortgagee, execute such form of conveyance of the Cars as the Mortgagee may direct or approve.

This Mortgage and all covenants, powers, and rights herein contained shall bind and shall inure to the benefit of the parties and their respective successors and assigns.

The terms of this Mortgage and all rights and obligations hereunder shall be construed and interpreted in accordance with the laws of the State of New York in which state it has been executed and delivered.

IN WITNESS WHEREOF, each of the parties hereby has caused this instrument to be signed by its duly authorized officers and its corporate seal hereunto affixed as of the day and year first above written.

GWI LEASING CORPORATION

By: Gerald E. Johnson  
Gerald E. Johnson  
Secretary

(Corporate Seal)

ATTEST:

\_\_\_\_\_

MARINE MIDLAND BANK, N.A.

By: Eric A. Boyl  
Vice President

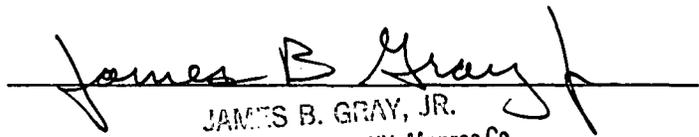
(Corporate Seal)

ATTEST:

Harry [Signature]  
ASST. Secretary  
VICE PRES

STATE OF NEW YORK )  
COUNTY OF MONROE ) ss:  
CITY OF ROCHESTER )

On this 12th day of November, 1980, before me personally came Gerald E. Johnson, to me personally known, who being by me duly sworn, says that he resides in Nunda, New York; that he is Secretary of GWI 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.

  
JAMES B. GRAY, JR.  
Notary Public, State of NY, Monroe Co.  
Commission expires March 30, 1981

STATE OF NEW YORK )  
COUNTY OF MONROE ) ss:  
CITY OF ROCHESTER )

On this 12th day of November, 1980, before me personally came Emmett B. Boylan, to be personally known, who being by me duly sworn, says that he resides at 180 Greenvale Drive in the Town of Brighton, New York; that he is Vice President of Marine Midland Bank, N.A., 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.

  
WALLACE F. BAKER  
NOTARY PUBLIC, State of N.Y., Monroe Co.  
Commission expires March 30, 1982

SCHEDULE A

<u>Quantity</u>	<u>Description</u>	<u>Car Numbers</u>
Fifty (50)	100-Ton, 4750 cfc. covered hoppers manufactured by Pullman Standard, a division of Pullman Incorporated, in accordance with Pullman Standard's Specification No. 1137 and "Buyer's" Purchase Order acceptance dated May 13, 1980 and Pullman Standard's acknowledgment letter dated May 18, 1980.	GNWR 610001 through 610050 inclusive