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9-227A025

RECORDATION NO. 16049 E FILED 1425

AUG 15 1989 -3 05 PM

August 15, 1989

RECORDATION NO. 16049 D FILED 1425

**INTERSTATE COMMERCE COMMISSION
BY HAND**

AUG 15 1989 -3 05 PM
INTERSTATE COMMERCE COMMISSION

Aug 15 3 05 PM '89
RECEIVED UNIT

Ms. Noreta R. McGee, Secretary
Interstate Commerce Commission
12th Street & Constitution Avenue, N.W.
Washington, D.C.

Dear Ms. McGee:

Enclosed are an original, a counterpart and two copies of the documents described below to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

These documents consist of a Master Equipment Lease Agreement, a primary document, dated as of August 8, 1989, and entered into between PHH Financial Services, Inc. and Horsehead Industries, Inc. and Schedule 1 to the Master Lease Agreement, a secondary document to the Master Equipment Lease Agreement, dated as of August 8, 1989, and entered into between PHH Financial Services, Inc. and Horsehead Industries, Inc.

We request that these documents be cross-indexed to the documents recorded under Recordation No. 16049.

The names and addresses of the parties to the Master Equipment Lease Agreement and Schedule 1 are as follows:

Lessor: PHH Financial Services, Inc.
11333 McCormick Road
Hunt Valley, Maryland 21031

Lessee: Horsehead Industries, Inc.
204 East 39th Street
New York, New York 10016

Ruth M. Apparis
[Signature]

Ms. Noreta R. McGee

August 15, 1989

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The equipment covered by the above documents consists of 50 used railroad gondola cars identified by the manufacturer, car number and year built on Exhibit A attached hereto.

A fee of \$26.00 is enclosed. Please return an original of each document and any extra copies not needed by the Commission for recordation to the undersigned.

A short summary of the documents to appear in the index is as follows:

Master Equipment Lease Agreement between PHH Financial Services, Inc., 11333 McCormick Road, Hunt Valley, Maryland 21031 and Horsehead Industries, Inc., 204 East 39th Street, New York, New York 10016, dated August 8, 1989.

Schedule 1 to Master Equipment Lease Agreement between PHH Financial Services, Inc. and Horsehead Industries, Inc., 204 East 39th Street, New York, New York 10016, dated August 8, 1989 and covering 50 railroad gondola cars.

Very truly yours,

Randall D. Sones

Randall D. Sones

RDS:clg

cc: William F. Brown, Esquire

EXHIBIT A

<u>Number of Cars</u>	<u>Description</u>	<u>Manufacturer</u>	<u>Car Numbers</u>	<u>Year Built</u>
50	40', 2200 cubic feet, 100 ton, Gondolas	Midwest Freight Car Company	MQCX-2 to MQCX-5 (4) MQCX-7 to MQCX-13 (7) MQCX-15 to MQCX-38 (24) MQCX-40 (1) MQCX-42 (1) MQCX-44 to MQCX-54 (11) MQCX-59 (1) MQCX-61 (1)	1976

RECORDATION NO.

FILED 1428

16049 D
AUG 15 1989 -3 05 PM

INTERSTATE COMMERCE COMMISSION

Master Equipment Lease Agreement

Dated as of

AUGUST 8, 1989

Between

PHH FINANCIAL SERVICES, INC.

Lessor

and

HORSEHEAD INDUSTRIES, INC.

Lessee

MASTER EQUIPMENT LEASE AGREEMENT

This Master Equipment Lease Agreement (herein called "this Lease Agreement") is entered into by and between PHH Financial Services, Inc., a Maryland corporation having its principal place of business at 11333 McCormick Road, Hunt Valley, Maryland 21031 hereinafter called "Lessor"), and Horsehead Industries, Inc. (hereinafter called "Lessee"), a Delaware corporation with its principal place of business at 204 East 39th Street, New York, New York 10016.

1. Lease of Equipment. Lessor hereby agrees to lease to Lessee, and Lessee hereby agrees to lease from Lessor, the equipment and other personal property (herein, together with all repairs, replacements, substitutions, additions, accessions, and accessories therefor and/or affixed thereto, called the "Equipment") described in each Lease Schedule (individually called a "Schedule" and collectively called "Schedules") now or hereafter executed by Lessor and Lessee and incorporated herein by reference and made a part hereof, the form of which is attached hereto as Exhibit A, all upon the terms and conditions set forth below, as supplemented by the terms and conditions set forth in the applicable Schedule for such Equipment and in any Rider relating hereto or thereto. Each Schedule shall constitute a separate lease and the term "Lease" as used hereinafter shall refer to an individual Schedule which incorporates this Master Equipment Lease Agreement.

2. Term. The lease term of each item of Equipment shall consist of a basic term, and may consist of an interim term, as specified on the Schedule therefor.

3. Rent. The rent for each item of Equipment described in each Schedule shall be due and payable at the times and in the amounts specified therein, and such amounts shall be specified therein as a percentage of Lessor's total cost of such Equipment (herein called the "Acquisition Cost"). All rent shall be payable without notice or demand, at the office of Lessor or at such other place as Lessor or its assigns shall designate in writing.

4. Delivery and Acceptance. Lessor represents and warrants that, prior to execution of a Schedule to this Master Equipment Lease Agreement, it will have obtained adequate financing necessary to allow it to purchase the Equipment and that it will purchase the Equipment. Lessee will select the type, quantity and supplier of each item of Equipment. Lessor shall not be liable to Lessee for any failure or delay in obtaining delivery of any Equipment. Upon delivery of any Equipment to Lessee, Lessee will forthwith inspect such Equipment and, unless Lessee gives Lessor prompt written notice of any defect in or other proper objection to the Equipment,

Lessee shall execute and deliver to Lessor a written acknowledgement of delivery and acceptance covering such Equipment, in the form of the "Delivery and Acceptance Acknowledgement" attached hereto as Exhibit B. Lessee's execution of a Delivery and Acceptance Acknowledgement covering any Equipment shall conclusively establish, as between Lessor and Lessee, that such Equipment has been unconditionally accepted by Lessee for all purposes of this Lease, but such execution shall not constitute a waiver of Lessee's right to make claims directly against the manufacturer or vendor of the Equipment with respect to the breach of any warranties relating thereto.

5. Net Lease; No Offset. THIS IS A NET LEASE, AND ALL RENT AND ALL OTHER SUMS PAYABLE BY LESSEE HEREUNDER SHALL BE PAID UNCONDITIONALLY WHEN DUE, WITHOUT ABATEMENT, DEDUCTION, COUNTERCLAIM OR SETOFF OF ANY NATURE, INCLUDING ANY THEREOF ARISING OUT OF ANY PRESENT OR FUTURE CLAIM LESSEE MAY HAVE AGAINST LESSOR, OR ANY BENEFICIARY OR ASSIGNEE OF LESSOR, OR THE MANUFACTURER OR SUPPLIER OF THE EQUIPMENT. In no event, except as otherwise expressly provided, shall this Lease terminate or shall any of Lessee's obligations be affected by reason of any defect in or damage to or loss or destruction of all or any part of the Equipment, from any cause whatsoever, or any interference with Lessee's use of the Equipment by any person or any other cause whatsoever. The foregoing, however, shall not preclude or limit the right of the Lessee to bring an independent action against Lessor for the latter's alleged breach of its obligations under this Lease.

6. Disclaimer of Warranties. LESSOR, NOT BEING THE MANUFACTURER OR THE VENDOR OF THE EQUIPMENT, HEREBY MAKES NO EXPRESS OR IMPLIED REPRESENTATION OF WARRANTY OF ANY KIND OR AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN OR CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PURPOSE, ITS CAPACITY OR DURABILITY, THE QUALITY OF THE MATERIAL OR WORKMANSHIP, CONFORMITY OF THE EQUIPMENT TO THE PROVISIONS AND SPECIFICATIONS OF ANY PURCHASE ORDER RELATING THERETO, OR ANY PATENT INFRINGEMENT OR PATENT OR LATENT DEFECTS AND LESSEE HEREBY ACKNOWLEDGES THE FOREGOING DISCLAIMER BY LESSOR. Lessor hereby assigns to Lessee the benefit of any and all manufacturers' warranties relating to the Equipment and agrees to reasonably cooperate with Lessee, at Lessee's expense, in making any warranty or claim against the manufacturer with respect to the Equipment. Any recovery in cash or cash equivalent under such warranty shall be made payable to the Lessee provided that Lessee is not in default under this Lease..

7. Use, Maintenance, Inspection Location and Return of Equipment. Lessee agrees that the Equipment will be used in compliance with all statutes, laws, ordinance, regulations, and insurance policy conditions. Lessee, at its own cost and expense will keep, maintain and preserve the Equipment in as good order and condition as when delivered to Lessee hereunder, ordinary wear

and tear from proper use thereof only excepted, including causing any Equipment which has been damaged, but not irreparably, to be promptly repaired and placed in such order and condition. Without Lessor's prior written consent, which will not be unreasonably withheld or delayed, Lessee shall make no addition, improvement or modification to any Equipment which will impair the originally intended function or use of the Equipment. All nonseverable additions, attachments, accessories and repairs to the Equipment shall become a part thereof and the property of Lessor. Upon Lessor's request, Lessee will permit Lessor to have access to the Equipment, upon appropriate notice and without unreasonably interfering with Lessee's operations, for the purpose of inspection and examination. Upon the expiration or termination of the lease term of each item of Equipment (except for any Equipment purchased by Lessee pursuant to any purchase option), Lessee, at its own expense, will return the Equipment to Lessor to the location specified on the Schedule therefor, and in the condition required by this Section 7.

8. Title to and Location of Equipment. All items of Equipment shall at all times be and remain personal property notwithstanding that any such Equipment may now or hereafter be affixed to realty, and title thereto shall at all time during the lease term thereof remain in Lessor. The Equipment shall be delivered to the location specified in the Schedule therefor. Lessee may relocate the Equipment to any of its locations within the United States in which the Uniform Commercial Code is in effect providing that all costs of any nature whatsoever (including any additional property or other taxes and any additional expenses of insurance coverage) resulting from any relocation shall be promptly paid by Lessee upon presentation to Lessee of evidence supporting such cost. Lessee agrees to notify Lessor if Lessee removes Equipment from the location specified on the applicable Schedule within a time period which will permit Lessor to make the appropriate filings to protect its rights in and to the Equipment. On Lessor's request, Lessee agrees, at its cost and expense, to affix and maintain a tag, plate or stencil to each item of Equipment, which in the case of vehicles shall be inside the operator's cab showing Lessor's title thereto. Under no circumstances shall the Equipment be physically located outside the United States.

9. Expenses and Taxes; Payment and Indemnification by Lessee. Except for items arising out of the gross negligence or intentional misconduct of Lessor, Lessee will pay when due and will indemnify and hold Lessor, its beneficiaries and its assigns harmless from and against (a) any and all liabilities, losses, damages, claims and expenses, including legal expenses, of every kind and nature whatsoever, in any way arising out of the manufacture, ordering, purchase, shipment, delivery, acceptance or rejection, ownership, titling, registration, leasing, possession, use, operation, removal, return or other disposition of the Equipment, including without limitation any of such as may arise from patent or latent defects

in the Equipment (whether or not discoverable by Lessee), any claims based on absolute or strict tort liability and any claims based on patent, trademark or copyright infringement, (b) any and all taxes, qualification fees and other fees and charges of any nature (together with any interest or penalties thereon), imposed against Lessor; any beneficiary or Lessee or the Equipment by any governmental authority with respect to the Equipment or upon the manufacture, ordering, purchase, shipment, delivery, acceptance, ownership, titling, registration, leasing, possession, use, operation, removal, return or other disposition thereof or upon the rents, receipts or earnings arising therefrom or upon or with respect to this Lease, excepting only federal and state taxes on or measured by the net income of Lessor, its beneficiaries and assigns, and (c) all Uniform Commercial Code and other applicable filing and recording fees, and lien searches, with respect to this Lease or any Equipment. Lessee shall forthwith upon demand reimburse Lessor, its beneficiaries and assigns for amounts expended in connection with any of the foregoing or pay such amounts directly. In the event any report or return is required to be made with respect to any obligation of Lessee under this Section 9, if Lessee may or is required to make such report or return in its name it will do so promptly and send a copy of such report or return to Lessor, or if Lessor is required to make such report or return, Lessee will promptly furnish to Lessor such data and information in such form as will enable Lessor to make and file such report or return as expeditiously as reasonably possible. Lessee's obligations under this Section 9 shall survive the expiration of or earlier termination of this Lease and the lease term of all Equipment. Lessee shall be entitled to control the defense of accident claims involving motor vehicles leased under this Lease.

10. Liens and Encumbrances. Lessee will not directly or indirectly create or permit to exist, and will promptly and at its own expense discharge, any lien, charge or encumbrance on the Equipment, except for (1) any lien, charge or encumbrance resulting solely from the acts of the Lessor, (2) any lien arising out of or related to any tax not yet due or that is being contested in good faith in appropriate proceedings, or (3) materialmen's mechanics', repairmen's or other liens arising in the ordinary course of business that are not delinquent. Lessor will keep the Equipment free and clear of all liens, claims and encumbrances arising under or through it and unrelated to the transactions contemplated by this Lease (hereinafter "Lessor's Liens").

11. Termination with Respect to Loss, Damage or Destruction. Lessee shall bear all risks of loss, damage, theft, or destruction of any item of Equipment. If any item of Equipment becomes lost, stolen, destroyed, irreparably damaged, confiscated, requisitioned or commandeered (herein called an "Event of Loss"), Lessee shall promptly notify Lessor thereof in writing and shall, on the rent payment date next following the date on which such Event of Loss has occurred, pay Lessor an amount equal to the Stipulated Loss

Value (determined in accordance with the Schedule of Stipulated Loss Values, the form of which is attached hereto as Exhibit C) of such item of Equipment, plus all unpaid periodic rents owing for such Equipment through such rent payment date, plus any amounts (other than such periodic rent) then payable by Lessee hereunder with respect to such Equipment and, upon such payment, the lease term for such item of Equipment will terminate and Lessor will transfer to Lessee, without recourse or warranty all of Lessor's right, title and interest in and to such Equipment. Upon the prior consent of Lessor, which consent shall not be unreasonably withheld, Lessee shall have the right, in lieu of paying the Stipulated Loss Value as aforesaid, to substitute equipment of like kind and condition.

In the event of a loss, Lessee shall be entitled to a credit at the time of payment for the amount of any proceeds of any insurance or award actually received by Lessor on account of the event of loss (Stipulated Loss Value); provided, however, that notwithstanding anything to the contrary contained in this Section 11., Lessee shall be entitled to retain or receive all insurance proceeds and other awards relating to an event of loss received subsequent to the payment of the Stipulated Loss Value, provided that Lessee is not in default under this Lease.

12. Insurance. Lessee will maintain, at its sole expense, at all times during the lease term of the Equipment (a) insurance or self insurance against all risks of physical loss or damage to the Equipment (including theft and collision for any Equipment consisting of motor vehicles) in an amount not less than the Stipulated Loss Value of the Equipment and (b) comprehensive public liability and property damage insurance, in the amount specified in the Schedule for such Equipment. Such insurance policy or policies shall (i) name Lessor the sole loss payee, with respect to property damage insurance, and as an additional insured with respect to both comprehensive public liability and property damage insurance, (ii) provide that they may be altered or cancelled only after thirty (30) days prior written notice to Lessor, and (iii) contain such other provisions as Lessor shall reasonably request. Lessee will furnish to Lessor certificates of insurance evidencing such coverage but Lessor shall be under no duty to ascertain the existence of such coverage or to advise Lessee in the event such coverage does not comply with the requirements hereof.

13. Events of Default. Lessee shall be in default under this Lease upon the happening of any of the following events or conditions (herein called "Events of Default"): (a) Lessee shall fail to make any payment of rent or any other payment hereunder within ten (10) days after written notice that the same is due and payable; (b) within ten (10) days after notice thereof, Lessee shall continue to be in default in the payment or performance of any other indebtedness or obligation now or hereafter owed by Lessee to Lessor under any other agreement or instrument; (c) Lessee shall fail

to perform or observe any other covenant or agreement to be performed or observed by it under this Lease, and such failure shall continue for thirty (30) days after written notice thereof by Lessor to Lessee; (d) any representation, warranty, certification or statement made or furnished to Lessor herein or in any other document by or on behalf of Lessee proves to have been false in any material respect when made or furnished; or (e) Lessee (or any guarantor of Lessee's obligations hereunder) shall make an assignment for the benefit of creditors, or bankruptcy, arrangement, reorganization, liquidation, insolvency, receivership or dissolution proceedings shall be instituted by or against Lessee (or any such guarantor), and, if instituted against Lessee (or any such guarantor), shall be consented to or pending and not dismissed for a period of sixty (60) days.

14. Remedies of Lessor. Upon the occurrence of any Event of Default, and at any time thereafter so long as the same shall be continuing and shall not have been remedied, Lessor may, at its option, declare this Lease to be in default and, at any time thereafter, may exercise one or more of the following remedies, as Lessor in its sole discretion shall elect: (a) terminate this Lease as to any and all Equipment upon written notice to Lessee, without prejudice to any other remedies hereunder; (b) cause Lessee, at its expense, to promptly assemble the Equipment and return it to Lessor at the location specified in the Schedule therefor; (c) peaceably enter upon the premises where any Equipment is located and, upon written notice to Lessee, and with or without legal process, but in accordance with state and local laws, take immediate possession of such Equipment without liability to lessor by reason of such entry or taking possession, unless such liability results from the gross negligence or intentional misconduct of Lessor, and without such action constituting a termination of this Lease unless Lessor notifies Lessee in writing to such effect; (d) sell or re-lease the Equipment in a public or private but commercially reasonable, sale or lease transaction, and become the purchaser at any such sale, and (e) proceed by appropriate action either at law or in equity to enforce performance by Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof. Lessor shall also be entitled to recover as damages for the loss of the bargain and not as a penalty, an amount equal to the sum of the following amounts: (i) all unpaid rents owing for each item of Equipment through the last day of the month in which such Equipment is either sold, re-leased or otherwise disposed of, or in which Lessee pays Lessor the Stipulated Loss Value thereof, (ii) any reasonable expenses paid or incurred by Lessor in connection with the repossession, attempted repossession, holding, repair, and subsequent sale, re-lease or other disposition of any Equipment, including commissions and reasonable attorneys' fees, (iii) an amount equal to the excess, if any, of the Stipulated Loss Value of any Equipment sold, re-leased or otherwise disposed of by Lessor, computed as of the last day of the month in which such sale, re-leasing or other disposition occurs, over the proceeds received

by Lessor from such sale, re-leasing or other disposition; (iv) an amount equal to the Stipulated Loss Value of any Equipment, computed as aforesaid, which Lessee fails to return to Lessor or converts or destroys, or which Lessor is unable to repossess; plus (v) all other amounts then payable by Lessee to Lessor hereunder, including without limitation, amounts owing for indemnification. None of Lessor's remedies under this Lease are intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to herein or otherwise available to Lessor in law or in equity.

In no event shall Lessee be liable for any indirect, special or consequential damages not specifically allowed under the Lease.

15. Further Assurances. Lessee will promptly execute and deliver to Lessor such further documents and assurances and take such further action as Lessor may from time to time reasonably request in order to more effectively carry out the purpose of this Lease and to protect the rights and remedies of Lessor hereunder.

16. Sublease Assignment and Quiet Enjoyment. Without Lessor's prior written consent, Lessee will not assign any of Lessee's rights hereunder or sublet or transfer the Equipment, except that Lessee may, without Lessor's prior consent but upon prior written notice to Lessor, sublease the Equipment to any subsidiary that is 50% or more owned by Lessee, with Lessee remaining liable for all of its obligations under this Lease. Lessor may, at any time, with or without notice to Lessee, mortgage, grant a security interest in or otherwise transfer, sell or assign this Lease, in whole or in part, or any Equipment or any rent or other sums due or to become due hereunder, to one or more banks, insurance companies, pension trusts or other institutional investors regularly engaged in the business of financing leased equipment, or subsidiaries or affiliates of the foregoing, and in such event, Lessor's mortgagee, transferee or assignee shall have and may exercise all of Lessor's rights and remedies hereunder, provided that any such transferee shall agree in writing to keep the Equipment free of Lessor's Liens and to observe and perform Lessor's covenants with respect to Lessee's quiet enjoyment of the Equipment. No such mortgagee, transferee or assignee shall be obligated to perform any duty or covenant required to be performed by Lessor (Lessor remaining liable therefor) except that so long as no Event or Default has occurred and is continuing Lessee shall be entitled to the quiet enjoyment of the Equipment and any such mortgage, transfer or assignment shall be subject to Lessee's rights and options, if any, hereunder. Lessee agrees that upon written notice from any assignee to Lessee, Lessee will accept and comply with the reasonable directions and demands of Lessor's assignee in accordance with the Lease, it being understood and agreed that no sale or assignment shall in any way otherwise expand or increase any burdens or obligations on the part of Lessee. THE RIGHTS OF ANY SUCH ASSIGNEE SHALL NOT BE SUBJECT TO ANY DEFENSE, COUNTERCLAIM OR SET-OFF THAT LESSEE MAY HAVE AGAINST

LESSOR OR ANY BENEFICIARY THEREOF.

17. This Agreement as a Lease. Lessor and Lessee hereby agree that this Lease is a lease, that Lessor is the owner of the Equipment and that the relationship between Lessor and Lessee shall always be only that of lessor and lessee.

18. Notices. All notices required hereunder shall be in writing and shall be deemed to have been given when delivered personally or when mailed by certified or registered mail, addressed to Lessor or Lessee, as the case may be, at their respective addresses as set forth herein or as such other address as either of them shall from time to time designate in writing to the other.

19. Business Holidays and Late Charges. If the rent or other sum payable under this Lease shall become due on a date which is not a business day, such sum shall be payable on the next succeeding business day. If Lessee fails to pay any rent or other sum under this Lease when the same becomes due, Lessee shall pay interest on such delinquent payment from the due date until paid (without regard to any grace period) at the lower of 1-1/2% per month or the maximum rate of interest permitted by law.

20. Income Tax Indemnification.

(a) This Lease has been entered into in part on the assumptions (i) that Lessor will be entitled for federal income tax purposes to cost recovery deductions in respect of the Equipment under Section 168 of the Internal Revenue Code of 1986, as amended (the "Code") commencing with the taxable year of Lessor in which the term of the Lease commences, such deductions to be computed on the assumption that each item of Equipment constitutes either 5-year or 3-year property as specified in the Lease Schedule and determined in accordance with Section 168(b)(1) of the Code (such deductions being referred to herein as the "Tax Benefits"), and (ii) that the Lessor will not realize taxable income prior to the termination of the Lease with respect to the Equipment by reason of any payment by Lessee of the costs of, or the making by the Lessee of, any nonseverable improvements, modifications or additions to the Equipment (any such realization being referred to herein as an "Income Realization"). Lessee hereby represents that each item of Equipment constitutes depreciable property which, for federal income tax purposes, has the class life specified in the Lease Schedule. If as a result of (i) any act or omission of Lessee, (ii) the inaccuracy of any representation or the breach of any covenant of Lessee, (iii) any change in federal tax law with an effective date that precedes the date of acceptance of the Equipment for lease by the Lessee, (iv) any Event of Default by Lessee under the Lease, (v) any use of the Equipment by any government, foreign person or tax-exempt entity deriving such use, directly or remotely, from or through the Lessee, or (vi) any transfer by the Lessee of any of the Equipment, Lessor shall lose or lose the right to

claim, or there shall be disallowed or recaptured, all or any portion of the Tax Benefits (herein called a "Tax Loss"), or if Lessor suffers any Income Realization, then thirty (30) days after written notice to Lessee by Lessor that any Tax Loss or Income Realization has occurred, which notice shall set forth in reasonable detail the circumstances of such Tax Loss or Income Realization and the computation of the amount alleged to be due with respect thereto from Lessee, Lessee shall except as provided in subsection (b) of this Section 20, pay Lessor additional monthly rental payments which, will provide Lessor with the same after-tax economic return that Lessor would have realized if such Tax Loss or Income Realization had not occurred, including any interest payable by Lessor attributable to such Tax Loss or Income Realization. A Tax Loss or Income Realization shall, subject to the rights of Lessee set forth in subsection (b) of this Section 20 conclusively be deemed to have occurred if (i) a deficiency shall have been proposed by the Internal Revenue Service or other taxing authority having jurisdiction, and (ii) tax counsel for Lessor reasonably satisfactory to Lessee has rendered an opinion to Lessor that no reasonable basis in law or fact exists for contesting that such Tax Loss or Income Realization has so occurred and, after notice thereof by Lessor to Lessee, tax counsel for Lessee shall not, within thirty (30) days, have rendered to Lessor an opinion to contrary effect.

(b) If the Internal Revenue Service shall propose an adjustment to the taxable income or tax liability of Lessor which, if agreed to by Lessor, would result in a Tax Loss or Income Realization for which Lessee would be required to indemnify Lessor, Lessor shall promptly notify Lessee in writing of such proposed adjustment. If requested by Lessee, in writing within thirty (30) days after delivery of such notice, Lessor shall contest such proposed adjustment if and for so long as all of the terms and conditions of this subsection (b) are satisfied:

(1) If requested by Lessor, Lessee shall have provided Lessor with the opinion of independent tax counsel selected and compensated by Lessee and reasonably satisfactory to Lessor to the effect that there exists a meritorious basis for such contest;

(2) Lessee shall have agreed to reimburse Lessor, on demand, or otherwise hold Lessor harmless in a manner satisfactory to Lessor from, all reasonable costs, expenses and losses that Lessor may incur in connection with such contest; and

(3) Lessor shall have the right to control, all contest proceedings but agrees to permit Lessee to participate in such proceedings to the fullest

extent possible. In the event that a proposed adjustment shall be contested in accordance with the provisions of this subsection (b), the amount payable by Lessee with respect to any Loss resulting from such proposed adjustment shall be payable within thirty (30) days after the earlier to occur of (i) a final determination with respect to such contest or (ii) the failure of any of the conditions in this subsection (b) to be satisfied or continue to be satisfied.

(c) As used in this Section 20 and in Section 21 hereof, the term "Lessor" shall include any successor of Lessor and any member of an affiliated group of which Lessor is, or may become, a member if consolidated returns are filed for such affiliated group for federal income tax purposes. The foregoing indemnity shall continue in full force and effect notwithstanding the expiration or termination of the Lease or of the lease term of the Equipment.

21. Foreign Tax Indemnity. If, as a result of the breach of Lessee's covenant not to remove the Equipment from the United States, any item of income or deduction with respect to the Equipment shall not be treated as derived from, or allocable to, sources within the United States for a given taxable year (any such event hereinafter referred to as a "Foreign Loss"), then in addition to all such other remedies as Lessor may have for the breach of such covenant, the Lessee shall pay to Lessor as an indemnity, on the next succeeding rent payment date after written notice to the Lessee, such amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt of such amount under the laws of any federal, state or local government or taxing authority of the United States, shall equal the sum of: (1) the excess of (x) the foreign tax credits that the Lessor would have been entitled to for such year had no such Foreign Loss occurred over (y) the foreign tax credit to which the Lessor was limited as a result of such Foreign Loss and (2) the amount of any interest, penalties or additions to tax payable as a result of such Foreign Loss. If, as a result of a Foreign Loss with respect to which an indemnity has been paid hereunder, the foreign tax credit which Lessor is entitled to utilize for any taxable year shall exceed the foreign tax credit to which Lessor would have been limited had no such Foreign Loss occurred, then Lessor shall pay to Lessee an amount equal to the reduction in its federal income taxes attributable to the amount of such excess plus any additional federal, state or local income tax benefits realized by Lessor as a result of such payment.

22. Lessee's Purchase Option. Provided that the lease term of the Equipment has not been terminated and that no Event of Default under the Lease has occurred and is continuing, Lessee shall have the option to purchase all (or, with Lessor's consent, a portion)

of the Equipment at the end of the respective lease terms thereof for an amount (the "Purchase Option Price") payable in immediately available funds equal to the then fair market value (as hereinafter determined) of the Equipment, plus an amount equal to all sales or excise taxes on or measured by the sale of the Equipment to Lessee, and provided further that Lessee shall have notified Lessor in writing of Lessee's intention to exercise such option not more than 180 nor less than ninety (90) days prior to the expiration of the lease term of the item(s) of the Equipment. If the fair market value of the Equipment shall not have been determined as hereinafter set forth prior to the expiration date of the lease term of each item of the Equipment, or the Purchase Option Price of the Equipment has not been paid to Lessor when due as aforesaid, Lessee shall continue to pay the rent for the Equipment for each full month as specified in the Schedule therefor, until the earlier to occur of the date on which the Equipment has been returned to Lessor by Lessee pursuant to Section 7 of the Lease or until Lessor has received payment of the Purchase Option Price of the Equipment from Lessee. Lessor's sale of the Equipment to Lessee shall be on an AS-IS, WHERE-IS basis without recourse to, or warranty by Lessor, other than for liens arising under or through Lessor. The fair market value of the Equipment shall be determined on the basis of, and shall be equal in amount to the value that would be obtained in, an arm's-length transaction between an informed and willing buyer-user (other than a lessee currently in possession and a used equipment dealer) and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. If during or after the period of thirty (30) days from Lessor's receipt of the aforesaid written notice from Lessee of Lessee's intention to exercise said purchase option, Lessor and Lessee determine that they cannot agree upon such fair market value, then such value shall be determined in accordance with the foregoing definition by a qualified independent appraiser as selected by mutual agreement between Lessor and Lessee or, failing such agreement, by a panel of three independent appraisers, one of whom shall be selected by Lessor, the second by Lessee and the third designated by the first two selected. If any party refuses or fails to appoint an appraiser or a third appraiser cannot be agreed upon by the two other appraisers, such appraiser or appraisers shall be selected in accordance with the rules for commercial arbitration of the American Arbitration Association. The appraisers shall be instructed to make such determination within a period of twenty (20) days following appointment, and shall promptly communicate such determination in writing to Lessor and Lessee. The determination of fair market value so made by the sole appraiser or by a majority of the appraisers, if there is more than one, shall be conclusively binding upon both Lessor and Lessee. All appraisal costs, fees and expenses shall be shared equally by Lessor and Lessee.

23. Lessee's Renewal Option. Lessee shall have the option to renew the lease term of all (or, with Lessor's consent, a portion)

of the Equipment, at the end of the respective original lease terms thereof, provided that no Event of Default has occurred and is continuing hereunder and provided further that Lessee shall have notified Lessor in writing of Lessee's intention to exercise such option not more than 180 nor less than ninety (90) days prior to the expiration of the original lease term of the item or items of the Equipment. The renewal of the Equipment shall be upon the same terms, covenants and conditions set forth in the Lease, provided that (i) the renewal term shall be for a term of one year, unless the parties shall agree to a longer term or the renewal term shall be terminated in accordance with the provisions of the Lease, (ii) upon the expiration of the renewal term Lessee shall either return all of the Equipment to Lessor in the condition specified in Section 7 of the Lease or purchase all of the Equipment from Lessor upon and subject to the terms, conditions and provisions of Section 22, and (iii) the rent payable by the Lessee during each rental period of the renewal term shall be an amount equal to the then fair rental value of the Equipment for such renewal term, as hereinafter determined. The fair rental value of any Equipment shall be determined on the basis of, and shall be equal in amount to the value that would be obtained in, an arm's length transaction between an informed and willing lessee (other than a lessee currently in possession and a used equipment dealer) and an informed and willing lessor under no compulsion to lease and in such determination, costs of removal from the location of current use shall not be a deduction from such value. If during or after the period of thirty (30) days from Lessor's receipt of the aforesaid written notice from Lessee of Lessee's intention to exercise said renewal option, Lessor and Lessee determine that they cannot agree upon such fair rental value, then such value shall be determined in accordance with the foregoing definition by a qualified independent appraiser as selected by mutual agreement between Lessor and Lessee or, failing such agreement, by a panel of three independent appraisers, one of whom shall be selected by Lessor, the second by Lessee and the third designated by the first two selected. If any party refuses or fails to appoint an appraiser or a third appraiser cannot be agreed upon by the other two appraisers, such appraiser or appraisers shall be selected in accordance with the rules for commercial arbitration of the American Arbitration Association. The appraisers shall be instructed to make such determination within a period twenty (20) days following appointment, and shall promptly communicate such determination in writing to Lessor. The determination of fair rental value so made by the sole appraiser or by a majority of appraisers, if there is more than one, shall be conclusively binding upon both Lessor and Lessee. All appraisal costs, fees and expenses shall be shared equally by Lessor and Lessee.

24. Representations and Warranties. Lessee hereby represents and warrants to Lessor and its assigns that:

(a) Lessee is a corporation duly organized, validly

existing and in good standing under the laws of its state of incorporation and is qualified to do business in every jurisdiction in which the Equipment is located and in which the failure to so qualify could have a material adverse effect upon its business or assets; Lessee has the power and authority to execute and perform this Lease, and has duly authorized the execution, delivery and performance of this Lease;

(b) no approval is required from any regulatory body, board, authority or commission, nor from any other administrative or governmental agency, nor from any other person, firm or corporation, at this time with respect to the execution of this Lease and the payment and performance of all of the obligations hereunder;

(c) this Lease constitutes the legal, valid and binding obligation of Lessee, enforceable in accordance with its terms except as the same may be affected by federal or state bankruptcy laws or laws affecting the collection of debts and creditors' rights, and the execution, delivery and performance of the same by Lessee and Lessor will not violate Lessee's Charter, Certificate or Articles of Incorporation, By-Laws, or any provision of law, any order of any court or other agency of government, or any indenture, agreement or other instrument to which Lessee is a party, or by or under which either Lessee's and Lessor's property is bound, or be in conflict with, result in a breach of, or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of Lessee's property or assets;

(d) no mortgage, deed of trust, or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any property or interest therein of Lessee, now attaches or hereafter will attach to the Equipment leased under this Lease or in any manner affects or will affect adversely Lessor's right, title and interest herein.

(e) there are no suits or proceedings pending, or, to the knowledge of Lessee, threatened, in any court or before any regulatory commission, board or other administrative governmental agency against or affecting Lessee at this time, that will have a material adverse effect on the financial condition or business of Lessee, or any subsidiary of Lessee.

(f) none of the Equipment will be attached to or otherwise affixed or become a part of the real estate at the place where it is located and none will otherwise constitute real estate or fixtures under the law of the jurisdiction in which it will be located.

(g) Lessee and its consolidated subsidiaries have filed all United States and state income tax returns that are required to be filed and have paid, or made provisions for the payment of, all taxes that have or may become due pursuant to said returns or pursuant to any assessment received by Lessee or such consolidated subsidiaries, except such taxes, if any, as are being contested in good faith and as to which adequate reserves have been provided.

25. Counterparts. This Lease and each Schedule and Rider forming a part hereof may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall together constitute but one and the same instrument.

26. Miscellaneous. This Lease, all Schedules and related Riders attached hereto, which collectively constitute the Lease, set forth the entire agreement between Lessor and Lessee with respect to the Equipment and subject matter of this Lease. No term or provision of this Lease may be changed, waived, amended, discharged or terminated except by a written instrument executed by a duly authorized officer of the party against whom enforcement of the charge, waiver, amendment, discharge or termination is sought, except that Lessor may insert the serial number of any item of Equipment on any Schedule. No express or implied waiver by either party of an Event of Default hereunder, or of any other matter, shall in any way be, or be construed to be, a waiver of any future or subsequent Event of Default or other matter, whether similar in kind or otherwise. If any provision of this Lease is contrary to applicable law, such provision shall be deemed ineffective without invalidating the other provisions hereof. If Lessee fails to perform any of its obligations under this Lease, Lessor may, but shall not be obligated to, perform the same, after notice to the Lessee, without thereby waiving such default, and any amount paid or expense or liability incurred by Lessor in such performance shall be paid or reimbursed by Lessee upon Lessor's demand. Lessee agrees to furnish Lessor within one hundred twenty (120) days after the last day of each fiscal year a schedule of annual sales revenues, earnings before interest and taxes, current assets, current liabilities, tangible net worth, long term debt, current maturities of long term debt, total liabilities, depreciation expenses, and deferrals, dividends and interest expense, as derived from the Lessee's financial statements, such financial statements having been certified by an independent public accounting firm of recognized standing. This Lease shall in all respects be governed by and construed in accordance with the laws of the state of Maryland. The provisions of this Lease shall be binding upon, and shall inure to the benefit of the permitted successors and assigns of Lessor and Lessee. Time is of the essence with respect to this Lease and its provisions.

The person executing this lease on behalf of Lessee hereby certifies that he or she is duly authorized to do so.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the 27th day of August, 1989.

LESSOR:

LESSEE:

PHH FINANCIAL SERVICES, INC.

HORSEHEAD INDUSTRIES, INC.

By: 
Daniel E. McKew
Vice President

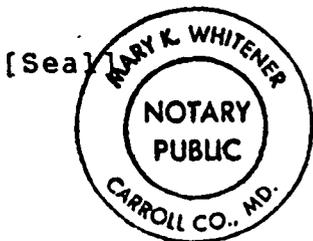
By: 
Title: SENIOR VICE PRESIDENT
Name: WILLIAM M. QUIRK
(Type or Print)

ACKNOWLEDGEMENT

State of Maryland

County of Baltimore, ss:

On this 9th day of August, 1989 before me personally appeared, Daniel E. McKew, to me personally known, who being by me duly sworn, says that he is the Vice President of PHH Financial Services, Inc., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Mary K. Whitener
Notary Public

My commission expires July 1, 1990

ACKNOWLEDGEMENT

State of New York

County of New York. ss:

On this 24 day of August, 1989 before me personally appeared, William M. Guik, to me personally known, who being by me duly sworn, says that he is the Senior Vice President of Horsehead Industries, Inc., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Seal]

Frances S. Burns
Notary Public

My commission expires 8/31/90

FRANCES S. BURNS
Notary Public, State of New York
No. 31-5536950
Qualified in New York County
Commission Expires August 31, 1990