



March 28, 1988

1 5548
RECORDATION NO. _____ FROM 2888

MAR 28 1988-5 22 PM

INTERSTATE COMMERCE COMMISSION

Ms. Loretta McGee
Secretary
Interstate Commerce Commission
12th and Constitution Avenues NW
Washington, DC 20423
ATT: Recordation Office, Room 2303

Dear Ms. McGee:

I have enclosed an original and one copy/counterpart of the document described below to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is a mortgage, a primary document, dated March 28, 1988.

The names and addresses of the parties to the document are as follows:

MORTGAGEE

General Electric
Capital Corporation
1600 Summer Street
Stamford, CT 06905

MORTGAGOR's

GWJ Leasing Corporation
71 Lewis Street
Greenwich, CT 06830

Genesee and Wyoming Railroad Company
3846 Retsof Road
Retsof, NY 14539

A description of the equipment covered by the document is as follows:

122 railroad open top hopper cars plus 14 railroad cars owned by Genesee and Wyoming Railroad Company

A fee of \$13.00 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to:

General Electric Capital Corporation
1600 Summer Street
Stamford, CT 06905
ATT: Judy Lloyd

No. 8-0894-036
Date MAR 29 1988
Fee \$ 13⁰⁰

ICC Washington, D.C.

MAR 28 9 29 AM '88
MOTOR OPERATING UNIT
100 OFFICE OF
FIVE SEVEN 1987

C. County Clerk - Lynette Coleman



Ms. Loretta McGee
March 28, 1988
Page 2

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

Mortgage between General Electric Capital Corporation and GWI Leasing Corporation dated March 28, 1988 and covering 122 railroad open top hopper cars plus 14 railroad cars owned by Genesee and Wyoming Railroad Company.

Very truly yours,


Lawrence J. Cahill
President

LJC:vc

MAR 28 1988 5 20 PM

INTERSTATE COMMERCE COMMISSION

THIS MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF LEASE AND RENTS, dated as of March 28, 1988, is made between GWI LEASING CORPORATION, a corporation organized and existing under the laws of the State of Delaware ("Borrower"), with its address at 71 Lewis Street, Greenwich, Connecticut 06830, and GENESEE AND WYOMING RAILROAD COMPANY, a corporation organized and existing under the laws of the State of New York ("GWRR"), with its address at 3846 Retsof Road, Retsof, New York, and GENERAL ELECTRIC CAPITAL CORPORATION, a New York corporation ("GECC"), with its address at 1600 Summer Street, Stamford, Connecticut 06905.

Borrower has been duly organized under the laws of the State of Delaware. GWRR has been duly organized under the laws of the State of New York. Borrower, GWRR and Rochester & Southern Railroad, Inc., a New York corporation (the "Company"), is each a wholly-owned subsidiary of Genesee and Wyoming Industries, Inc., a Delaware corporation.

Borrower, pursuant to certain acquisition documents by and between one or more sellers, on the one hand, and Borrower and/or GWI Rail Management Corporation, on the other (collectively, the "Acquisition Documents"), proposes, promptly after execution and delivery hereof, to acquire up to 122 railroad hopper cars listed on Annex I-A hereto (the "First Acquired Assets") (the First Acquired Assets being collectively referred to as the "Acquired Assets"), to lease the Acquired Assets to the Company pursuant to a certain Lease Agreement dated as of March 28, 1988 between Borrower and the Company, a copy of which is annexed hereto as Annex III (the "Lease Agreement"), and thereafter to refurbish the Acquired Assets.

Borrower, the Company and GECC have entered into a Railroad Car Loan Agreement dated as of March 28, 1988 (the "Loan Agreement"), providing for two loans to Borrower in the aggregate principal amount of up to \$1,312,500 to be evidenced by two Notes (as defined in the Loan Agreement) for the purpose of acquiring and refurbishing the Acquired Assets, subject to the condition, among other things, that Borrower execute and deliver this Mortgage, Security Agreement and Assignment of Lease and Rents (this "Mortgage") to secure the obligations of Borrower and of the Company created under the Loan Agreement. To induce GECC to make the loans contemplated by the Loan Agreement, and as partial consideration for the Lease Agreement, Borrower has also agreed to execute and deliver this Mortgage to secure the obligations of the Company created under a certain Loan Agreement dated as of June 30, 1986 between the Company and GECC (the "1986 Loan Agreement"). In addition, further to induce GECC to make the loans contemplated by the Loan Agreement, GWRR has agreed to execute and deliver this Mortgage to secure the obligations of

Borrower and of the Company created under the Loan Agreement and to secure the obligations of the Company created under the 1986 Loan Agreement.

All requirements of law and of the charter and the by-laws of Borrower and of GWRR have been duly complied with, and all things necessary to make the Notes, when executed by Borrower, the valid and binding obligations of Borrower, and make this Mortgage a valid and binding mortgage, security agreement and assignment of lease and Rents (as hereafter defined) for the security of the Obligations (as hereinafter defined), have been done and performed.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and in the Loan Agreement and the Notes, Borrower, GWRR and GECC hereby agree as follows:

Section 1. Definitions. Unless the context otherwise requires, the following terms shall have the following meaning:

"Additional Collateral" means the 14 railroad hopper cars, owned by GWRR, listed on Annex II hereto.

"Affiliate" has the meaning specified in the Loan Agreement.

"Collateral" has the meaning specified in Section 2(a) hereof.

"Event of Default" has the meaning specified in the Loan Agreement.

"Lease" means the Lease Agreement, including (i) all rights, claims, powers, privileges and remedies of Borrower, whether provided for in the Lease or arising by statute or at law or in equity or otherwise, consequent on any failure on the part of any lessee or other obligor to perform or comply with any term of the Lease; (ii) all rights to take any and all actions upon the occurrence of a default under the Lease as shall be permitted by the Lease or by law, including without limitation, the commencement, conduct and consummation of proceedings at law or in equity; and (iii) the right, power and authority in the name of Borrower or otherwise, to enforce, collect, receive and receipt for any and all of the foregoing and the Rents, and to do any and all other acts and things whatsoever which Borrower is or may be entitled to do under the Lease, subject to the terms and conditions hereof.

"Liens" has the meaning specified in the Loan Agreement.

"Loan Documents" has the meaning specified in the Loan Agreement.

"1986 Loan Documents" has the meaning specified in the Loan Agreement.

"1986 Mortgage" means the Mortgage dated as of June 30, 1986 between the Company and GECC executed and delivered pursuant to the 1986 Loan Agreement.

"1986 Note" means the Note of the Company dated July 23, 1986, executed and delivered to GECC pursuant to the 1986 Loan Agreement.

"Obligations" means (i) the obligation of Borrower to pay principal of and interest on each of the Notes according to its respective tenor, purport and effect, and to perform all other obligations under the Loan Agreement, the Notes and this Mortgage, in each case as the same may be amended, modified or supplemented, including without limitation the obligations of Borrower, of GWRR and of the Company, as the case may be, to perform and observe all covenants and conditions therein and herein contained and to pay all expenses and disbursements of GECC and its agents and attorneys incurred in connection with the exercise of any right or remedy under the Loan Agreement or this Mortgage; and (ii) the obligation of the Company to pay principal of and interest on the 1986 Note according to its tenor, purport and effect, and to perform all other obligations under the 1986 Loan Agreement, the 1986 Note and the 1986 Mortgage, in each case as the same may be amended, modified or supplemented, including without limitation the obligations of the Company to perform and observe all covenants and conditions therein contained and to pay all expenses and disbursements of GECC and its agents and attorneys incurred in connection with the exercise of any right or remedy under the 1986 Loan Agreement or the 1986 Mortgage.

"Permitted Encumbrances" has the meaning specified in Section 2(b) hereof.

"Person" has the meaning specified in the Loan Agreement.

"Rents" means (i) all the rents, issues, earnings, income, tolls, receipts, revenues, profits, products, proceeds, condemnation awards or any other income or

payments of any nature in respect of the Lease; (ii) all damages or other amounts payable in the event of any expiration or termination of the Lease pursuant to its terms, by operation of law or otherwise; (iii) any indemnification against, or reimbursement for, sums paid and costs and expenses incurred by Borrower under the Lease or otherwise; and (iv) any award in the event of the bankruptcy of the lessee or other obligor under or guarantor (if any) of the Lease.

"Security Interests" means all the first priority mortgage and first security interests granted and assignments made to GECC in Section 2(a) hereof.

Section 2. Security Interests in the Collateral.

(a) To secure the due and punctual payment in full of the Obligations, each of Borrower and GWRR do hereby grant, convey, deliver, mortgage, assign, transfer and set over unto GECC and any other Person or Persons who shall from time to time be entitled to the benefit of the Obligations, including any holder of any of the Notes or of the 1986 Note, a first priority mortgage on and first security interest in and assignment of (the "Security Interests") all Borrower's and GWRR's respective estate, right, title and interest in, to or in respect or the following property and assets (collectively, the "Collateral"):

(i) the First Acquired Assets and any and all property and rights of every kind and description acquired or to be acquired by Borrower from the Seller thereof under the Acquisition Documents, described in Annex I-A to this Mortgage;

(ii) [Intentionally Omitted]

(iii) the Additional Collateral and any and all property and rights of every kind and description acquired or to be acquired by GWRR with respect to the Additional Collateral, described in Annex II to this Mortgage;

(iv) the Lease and the right to receive and apply all the Rents;

(v) any and all additions, improvements and betterments to or upon or in connection with and of the Collateral which, or any estate, right or title to or

interest in which, shall at any time be subject to this Mortgage, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well as equity as in law, of Borrower and of GWRR, respectively, of, in and to the Collateral and every part thereof and of, in and to the appurtenances and franchises appertaining or hereafter to appertain thereto;

(vi) any proceeds of and any unearned premiums on any insurance policies now or hereafter covering any part of the Collateral, including the right to receive and apply to the proceeds of any insurance, judgment or settlement made in lieu thereof;

(vii) any awards or payments, including interest thereon, which may be made with respect to any part of the Collateral, whether in connection with any other injury to or decrease in value of any part of the Collateral;

(viii) any and all proceeds or other payments of any kind received by Borrower or by GWRR as the result of the sale, lease or other disposition of the Collateral or any part thereof; and

(ix) the right, in the name of Borrower or of GWRR, as the case may be, to appear in and defend any action or proceeding brought with respect to the Collateral and to commence any action or proceeding to protect the interest of Borrower or of GWRR, as the case may be, in the Collateral;

TO HAVE AND TO HOLD the foregoing Collateral hereby conveyed and assigned, or intended to be conveyed or assigned, unto GECC, its successors and assigns forever.

(b) The foregoing grants of Security Interests are subject, as to all Collateral, to any Liens described in Annex IV to this Mortgage, in each case to the extent, but only to the extent, that in law any such Lien shall constitute a valid Lien against any part of the Collateral prior to the lien of this Mortgage (all such Liens described in Annex IV to this Mortgage being hereinafter collectively called the "Permitted Encumbrances"); provided, however, that GECC upon the happening of any Event of Default shall have and may exercise any and all rights of Borrower or of GWRR, as the case may be, to terminate any such Permitted Encumbrance.

Section 3. Certain Representations and Covenants.

Borrower and GWRR each make the following representations and covenants with respect to the Collateral owned by it:

(a) Further Assurances. All Collateral by this Mortgage covenanted to be Mortgaged shall, immediately upon the acquisition thereof by Borrower or by GWRR, as the case may be, and without any further act, become and be subject to the lien of this Mortgage as fully and completely as though now owned by such party and specifically described in Section 2 hereof; but, at any and all times, Borrower or GWRR, as the case may be, will make and deliver any and all such further assurances or conveyances or assignments as GECC may reasonably require, for the purpose of expressly and specifically subjecting the same to the lien of this Mortgage; and Borrower and GWRR, as the case may be, will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all and every such further acts, deeds, conveyances, transfers and assurances as shall be necessary or reasonably requested by GECC for such purpose.

(b) Title to Collateral; Liens. Borrower represents, warrants, covenants and agrees that, after giving effect to the transactions contemplated by the respective Acquisition Documents and the Loan Agreement and subject to the provisions of the respective Acquisition Documents, it is lawfully seized and possessed of the respective Acquired Assets and the Lease, including good title to the respective Acquired Assets, that it has a good right to Mortgage such Collateral, and that such Collateral is free from all Liens except Permitted Encumbrances. GWRR represents, warrants, covenants and agrees that it is lawfully seized and possessed of the Additional Collateral, including good title to the Additional Collateral, that it has a good right to Mortgage such Collateral, and that such Collateral is free from all Liens except Permitted Encumbrances. Borrower and GWRR, as the case may be, at its expense will at all times preserve, warrant and defend its respective title and right in and to the Collateral owned by it and the Security Interests therein against the claims and demands of all Persons and will maintain and preserve such Security Interests as long as the Obligations are outstanding.

Except for Permitted Encumbrances, neither Borrower nor GWRR will create or suffer to exist any Lien which would be prior to or on a parity with the lien of this Mortgage upon the Collateral owned by Borrower or GWRR, as the case may be, or any part thereof, or upon the income thereof. Borrower and GWRR, as the case may be, will pay or cause to be discharged, or will make adequate provision to satisfy and discharge, promptly and in any case prior to the due date thereof, all lawful claims and demands

of mechanics, laborers and others which, if unpaid, might by law be entitled to a lien or charge upon the Collateral owned by such party or some part thereof, or the income thereof; provided, however, that neither Borrower nor GWRR shall be required to pay any such claim or demand as long as the same shall be a Permitted Encumbrance.

(c) Maintenance of Collateral; Insurance. Borrower will at all times (i) diligently preserve all the rights and franchises to it granted and upon it conferred in connection with the Acquired Assets or the Lease, (ii) maintain, preserve and keep the Acquired Assets in good repair, working order and condition (ordinary wear and tear excepted), (iii) keep the Acquired Assets supplied with all necessary equipment, and (iv) make all needful repairs, renewals and replacements, alterations, additions, betterments and improvements to the Acquired Assets in view of the level of traffic and service. GWRR will at all times (i) diligently preserve all the rights and franchises to it granted and upon it conferred in connection with the Additional Collateral, (ii) maintain, preserve and keep the Additional Collateral in good repair, working order and condition (ordinary wear and tear excepted), (iii) keep the Additional Collateral supplied with all necessary equipment, and (iv) make all needful repairs, renewals and replacements, alterations, additions, betterments and improvements to the Additional Collateral in view of the level of traffic and service. Borrower and GWRR will maintain or cause to be maintained insurance with respect to the Collateral owned by it in accordance with the provisions of Section 5.4 of the 1986 Loan Agreement.

(d) Recording of Mortgage. Borrower and GWRR, at their own cost and expense, will cause this Mortgage, and will execute and cause all mortgages, amendments and instruments supplemental hereto and all financing statements and other documents, to be recorded and filed and to be kept recorded and filed in such manner, at such times and in such places as may be required by law or necessary or advisable or reasonably requested by GECC in order fully to establish, preserve, protect and perfect the Security Interests and the rights of GECC and all other Persons entitled to the benefit of the Obligations.

Section 4. Remedies and Other Rights.

(a) Remedies. If there shall occur and be continuing an Event of Default, then and in each and every such case, GECC or its agents or attorneys, may, at the expense of Borrower and GWRR and the Collateral, at any time and from time to time:

(i) enter into and upon all or any part of the property of Borrower or of GWRR, including the railroad

cars, rights, interest and franchises hereby Mortgaged or intended so to be, and each and every part thereof, take possession thereof by force, summary proceedings, ejectment or otherwise, and exclude Borrower and GWRR, as the case may be, and all other Persons (subject to the rights of such Persons) therefrom; use, operate, manage and control all or any part of the Collateral, regulate the tolls for the transportation of passengers and freight thereon, and conduct the business thereof; by purchase, repairs or construction, maintain and restore, and insure or or keep insured, all or any part of the Collateral and any property used in connection with all or any part of the Collateral; lease or otherwise deal with or convert all or any part of the Collateral to any other use which GECC shall in its sole discretion determine; make all necessary, useful or proper repairs, renewals, replacements, alterations, additions, betterments and improvements, as GECC may in its sole discretion determine; manage the Collateral and in connection with the Collateral carry on the business, enter into agreements, and exercise all rights and powers of Borrower and GWRR, as the case may be, either in the name of Borrower, GWRR or otherwise, as GECC shall in its sole discretion determine and collect and receive all tolls, earnings, income, rents, issues, profits and proceeds of the same and every part thereof; or

(ii) foreclose upon, sell, assign, transfer and deliver, subject to any or all then-existing Liens thereon, all or any portion of the Collateral, including all the estates, rights, title and interest, claims and demands therein, and rights of redemption thereof, at any private sale or public auction with or without demand, advertisement or notice (except as may be required by applicable law) of the date, time and place of sale and any adjournment thereof, for cash or credit or other property, for immediate or future delivery and for such price or prices and on such terms as GECC, in its sole discretion, may determine, or as may be required by applicable law; or

(iii) proceed to protect and to enforce its rights by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement contained herein or in the Loan Agreement or the Notes or the 1986 Loan Agreement or the 1986 Note, or in aid of the execution of any power herein or therein granted, or for the foreclosure of this Mortgage, or for the enforcement of any other appropriate legal or equitable remedy, as GECC shall deem effectual to protect and enforce any of its rights or duties under this Mortgage; or

(iv) exercise any rights or remedies given to secured parties under the Uniform Commercial Code as in effect in New York or exercise a power of sale or any other right given to mortgagees under applicable law; Borrower and GWRR agree that 15 days' prior written notice of the time and place of any public sale or the time after which a private sale of all or any portion of the Collateral may be made is reasonable for all purposes of the Uniform Commercial Code as in effect in New York; or

(v) exercise any remedies available under the Loan Agreement or the Notes or any other Loan Document, or under the 1986 Loan Agreement or the 1986 Note or any other 1986 Loan Document; or

(vi) any combination of the foregoing.

GECC may foreclose the lien of this Mortgage against the Collateral in one proceeding or against portions of the Collateral in a series of separate proceedings.

(b) Power to Convey Title. Upon any conveyance, assignment or transfer under this Mortgage, GECC shall have the power to execute and deliver to the accepted purchaser or purchasers a good and sufficient deed or deeds and other instruments conveying, assigning and transferring the Collateral sold. GECC hereby is irrevocably appointed the true and lawful attorneys of Borrower and of GWRR, as the case may be, in its respective name and stead, to make all such conveyances, assignments and transfers of the Collateral; and, for that purpose, GECC may execute all requisite deeds and instruments of conveyance, assignment and transfer, and may substitute one or more Persons with like power, Borrower and GWRR, as the case may be, hereby ratifying and confirming all that its said attorneys or such substitute or substitutes shall lawfully do by virtue hereof which is in conformity with this Mortgage, the other Loan Documents and applicable law to the extent not waived hereunder. Nevertheless, Borrower and GWRR, as the case may be, shall, if so requested by GECC, promptly ratify and confirm any conveyance, assignment or transfer of Collateral owned by it by executing and delivering to GECC or to such purchase or purchasers all such instruments as may be requested by GECC. In addition, Borrower and GWRR, as the case may be, shall, if so requested by GECC, promptly execute and deliver to GECC such deeds, instruments of assignment and other documents as GECC may deem necessary or appropriate to enable GECC or any agent or representative designated by GECC to obtain possession of all or any portion or portions of the Collateral owned by Borrower or GWRR, as the case may be, or to enjoy the benefits of any other right or remedy hereunder, subject to the terms of this Mortgage and subject to the rights of other Persons.

(c) Effect of Sale. Any conveyance, assignment or transfer made under or by virtue of this Mortgage, whether under the power of sale herein granted and conferred or under or by virtue of judicial proceedings, shall operate to divest all estate, right, title, interest, claim and demand whatsoever, either at law or in equity, of Borrower or of GWRR, as the case may be, of, in and to the Collateral so conveyed, assigned or transferred, and shall be a perpetual bar, both at law and in equity, against Borrower or GWRR, as the case may be, its respective successors and assigns, and against any and all Persons claiming or to claim the Collateral conveyed, assigned or transferred, from, through or under Borrower or GWRR, as the case may be, its respective successors or assigns.

(d) Purchaser Discharged. The receipt of GECC for the consideration paid at any such conveyance, assignment or transfer shall be a sufficient discharge therefor to any purchaser of the Collateral; and no such purchaser or his representatives, grantees or assigns, after paying such consideration and receiving such receipt, shall be bound to see to the application of such consideration or any part thereof upon or for any trust or purpose of this Mortgage, or in any manner whatsoever be answerable for any loss, misapplication or nonapplication of any such consideration or any part thereof, or be bound to inquire as to the authorization, necessity, expediency or regularity of any such sale.

(e) Application of Proceeds. The proceeds of any exercise of remedies hereunder, whether made under the right of entry or the power of sale herein granted or pursuant to judicial proceedings or otherwise, together with any other sums which then may be held by GECC under any of the provisions of this Mortgage, shall be applied as follows:

(i) to the payment of the costs and expenses of GECC, its agents, attorneys and counsel, and of all expenses, liabilities and advances made or incurred by GECC in managing and maintaining the Collateral or the collateral under any other Loan Document, the costs and expense of effecting any conveyance, assignment or transfer hereunder or exercising any right or remedy hereunder or otherwise and to the payment of all taxes, assessments or other Liens, except Liens subject to which any Collateral shall have been sold;

(ii) to the payment of interest on the Notes;

(iii) to the payment of principal on the Notes;

(iv) to the payment of interest on the 1986 Note;

(v) to the payment of principal on the 1986 Note;

(vi) to the payment of any and all other Obligations at the time due and owing to the Persons entitled thereto; and

(vii) to the payment of the surplus, if any, to Borrower or GWRR, as their respective interests may appear, their respective successors or assigns, or to whomsoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

(f) Waiver of Rights. Borrower and GWRR each agree, to the fullest extent allowed by applicable law, that it will not at any time insist upon or plead, or in any manner whatever claim, or take the benefit or advantage of, any stay or extension law, now or at any time hereafter in force; nor will it claim, take or insist upon any benefit or advantage from any law now or hereafter in force providing for the valuation or appraisal of the Collateral, or any part thereof, prior to any disposition thereof to be made pursuant to any provision herein contained, or to the decree, judgment or order of any court of competent jurisdiction; nor will it insist upon, or be entitled to, the fixing of an upset price upon the Collateral, or any part thereof, in connection with any such sale; nor after any such disposition will it claim or exercise any right under any statute heretofore or hereafter enacted, or otherwise, to redeem the Collateral so sold or any part thereof; each of Borrower and GWRR, for itself and all Persons claiming under or through it, hereby expressly waives, to the fullest extent allowed by applicable law, all such rights and all benefit and advantage of any such law or laws, and it covenants and agrees, to the fullest extent allowed by applicable law, that it will not hinder, delay or impede the execution of any power herein granted or delegated to GECC, but will suffer and permit the execution of every such power as though no such law or laws had been made or enacted. In exercising its right to take possession of the Collateral upon the occurrence of an Event of Default, GECC may enter into or upon any part of the Collateral without being guilty of trespass or any wrongdoing, and without liability for damages thereby occasioned except for its gross negligence or wilfull misconduct. In addition, each of Borrower and GWRR, for itself and all Persons claiming under or through it, to the fullest extent allowed by applicable law, hereby (i) agrees that, if any Collateral proposed to be conveyed, assigned or transferred hereunder should be situated in two or more counties or judicial districts GECC shall have full power in connection with such conveyance, assignment or sale to select in which county or judicial district any or all such Collateral shall be conveyed, assigned or transferred, (ii) waives the provisions of any law heretofore or hereafter enacted in any jurisdiction in which Collateral is located, insofar as such law restricts the right of

GECC to offer for sale more than a specified amount of the Collateral, and GECC may offer for sale any or all Collateral at any time regardless of the manner in which it may be described, (iii) waives the provisions of any law heretofore or hereafter enacted in any jurisdiction in which Collateral is located, providing for forfeiture for failure to note of record an assignment of indebtedness secured by mortgages, security interests or assignments, and (iv) waives trial by jury in any action or proceeding brought or any counterclaim asserted by GECC, which action, proceeding or counterclaim in any way arises out of or is connected with this Mortgage. All recitals in any instrument of assignment or any other instrument executed by GECC incident to any sale, transfer, assignment, disposition or utilization of the Collateral or any part thereof shall be full proof of the matter stated therein and no other proof shall be required to establish full legal propriety of the sale or other action taken by GECC or of any fact or condition incident thereto, all of which shall be deemed conclusively to have been performed or to have occurred.

(g) Delay Not Waiver. No delay or omission of GECC to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default, or an acquiescence therein; and every power and remedy given by this Mortgage may be exercised from time to time, and as often as may be deemed expedient, by GECC.

(h) Abandonment Not Waiver. In case GECC shall have proceeded to enforce any right under this Mortgage by foreclosure, entry or otherwise, and such proceeding shall have been discontinued or abandoned because of waiver or for any other reason, or shall have been determined adversely to GECC, then, and in every such case, Borrower and GWRR and GECC shall severally and respectively be restored to their respective former positions and rights hereunder in respect of the Collateral, and all rights, remedies and powers of GECC, of Borrower and of GWRR shall continue as though no such proceedings had been taken.

(i) Right to Buy at Sale. To the fullest extent allowed by applicable law, GECC or any other Person entitled to the benefit of any Obligation may be a purchaser of the Collateral or any part thereof or any interest therein at any sale thereof, whether pursuant to foreclosure or power of sale or otherwise. GECC may apply against the purchase price therefor the amount then due in respect of the Obligations, and any other Person entitled to the payment of any Obligation may apply against the purchase price therefor the amount thereof then due and owing to such Person, the payment of which this Mortgage by its terms secures, which shall, upon distribution of the net proceeds of such sale, be payable to such Person. GECC or any

such Person shall, upon any such purchase, acquire good title to the property so purchased, free of the lien of this Mortgage.

(j) Appointment of Receiver. GECC shall, as a matter of right, be entitled to the appointment of a receiver (who may be GECC or any successor or nominee thereof) for all or any part of the Collateral, whether such receivership be incidental to a proposed sale of Collateral or the taking of possession thereof or otherwise, and Borrower and GWRR, as the case may be, hereby consents to the appointment of such a receiver with respect to the Collateral owned by it, and will not oppose any such appointment. Any receiver appointed for all or any part of the Collateral shall be entitled to exercise all the rights and powers with respect to the Collateral to the extent instructed to do so by GECC.

(k) Right of GECC To Perform Borrower's and GWRR's Covenants. If Borrower or GWRR shall fail to make any payment or perform any act required to be made or performed by it hereunder or under any other Loan Document, GECC, upon notice to Borrower or to GWRR, as the case may be, and upon expiration of any applicable grace period (except in cases of emergency that threaten bodily injury or material damage to property, in which case GECC will allow such notice and grace period, if any, as is reasonable in the circumstances), but without waiving or releasing any obligation or default, may (but shall be under no obligation to) at any time thereafter make such payment or perform such act for the account and at the expense of Borrower or GWRR, as the case may be, and, to the extent permitted by applicable law, may enter into and upon the Collateral for such purpose and take all such action thereon as, in GECC's opinion, may be necessary or appropriate therefor, subject to the rights of other Persons under the Lease or otherwise. All sums so paid by GECC and all reasonable costs and expenses (including, without limitation, attorneys' fees and expenses) so incurred, together with interest thereon at the rate specified in Section 2.4 of the Loan Agreement from the date of payment or incurring until paid, shall constitute additional indebtedness secured by this Mortgage and shall be paid by Borrower to GECC upon demand therefor.

(l) Remedies Cumulative. Each right, power and remedy of GECC provided for in this Mortgage or now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Mortgage or now or hereafter existing at law or in equity or by statute (including, without limitation, the Uniform Commercial Code as in effect in New York) or otherwise, and the exercise or beginning of the exercise by GECC of any one or more of the rights, powers or remedies provided for in this Mortgage or now or hereafter existing at law or in equity or by statute or otherwise shall not

preclude the simultaneous or later exercise by GECC of any or all of such other rights, powers or remedies.

(m) Liability for Exercise of Remedies and Other Rights. GECC shall be under no liability for or by reason of any taking of possession, entry, renewal or holding, operation or management of Collateral or exercise of any other remedy or right hereunder, except for its gross negligence or wilfull misconduct and except that any proceeds so received by GECC shall be applied in accordance with Section 4(e) hereof.

Section 5. Releases of Collateral.

(a) Collateral Surplus to the Needs of Borrower or of GWRR. From time to time, Borrower or GWRR, as the case may be, subject to the conditions and limitations prescribed in this Section 5, and not otherwise, may request permission to sell, and GECC, upon delivery to GECC of the resolutions, opinion and certificates required by Section 5(c), shall consent to the release from the Lien of this Mortgage, such consent not to be unreasonably withheld, of any Collateral which GECC shall determine to be no longer necessary or expedient or advantageous for Borrower or GWRR, as the case may be, to retain for use in the business of Borrower, GWRR or the Company.

(b) Replacement of Equipment. Borrower shall have full power, in its discretion, from time to time in the ordinary course of business, to dispose of any portion of the capitalized equipment, machinery, apparatus, implements and other portable personal property at any time comprising the Acquired Assets and held by Borrower subject to the lien hereof, which may have become obsolete or otherwise unfit for use in connection with the other Collateral, first or simultaneously replacing the same by new equipment, machinery, apparatus, implements or other portable personal property of at least equal value, which shall become subject to the lien of this Mortgage, unless such replacement is not necessary or appropriate for the continued operation of Borrower's business; provided, however, that Borrower shall not have the power to dispose of property pursuant to this Section 5(b) in any fiscal year with an aggregate book value in excess of \$50,000, without the consent of GECC.

(c) Resolutions, Certificates and Opinions. GECC shall not release Collateral from the Lien of this Mortgage pursuant to Section 5(a) unless, in addition to satisfaction of the conditions to such release therein described, GECC shall have received:

(i) a copy of a resolution of the Board of Directors of Borrower or of GWRR, as the case may be, certified by its

Secretary, requesting such release and describing the Collateral so to be released;

(ii) a certificate signed by the President and by the Chief Financial Officer of Borrower or of GWRR, as the case may be, setting forth:

(A) a description of the Collateral the release of which is requested;

(B) the selling price of such Collateral and a description of, and the cost and fair value to Borrower or to GWRR, as the case may be, of any consideration (other than cash) to be received in exchange therefor;

(C) that, consistent with the requirements of Section 5(a), the fair value of such Collateral is not greater than the fair value of the consideration to be received therefor; and

(D) such matters as may be reasonably required by GECC in order to show that the release of such Collateral is authorized under the provisions and restrictions of this Section 5;

(iii) any instruments necessary or appropriate or requested by GECC to subject to the lien of this Mortgage the consideration for the Collateral so to be released;

(iv) if requested by GECC, in case the release of Collateral is requested which is valued by GECC or by the President and Chief Financial Officer of Borrower or of GWRR, as the case may be, at \$50,000 or more, a certificate of an independent engineer selected by Borrower or by GWRR, as the case may be, and satisfactory to GECC setting forth that the fair value of the Collateral to be released is not greater than the consideration to be received therefor;

(v) an opinion of counsel satisfactory to GECC:

(A) in case the consideration for the Collateral to be released, or any part thereof, consists of property other than cash, specifying the mortgages, deeds, conveyances, assignments, transfers and instruments of further assurance which will be sufficient to subject to the lien of this Mortgage such other property or stating that such other property is then subject to the lien of this Mortgage and that no such mortgage, deed, conveyance, assignment, transfer or instrument of further assurance is necessary for such purpose; and

(B) in case the consideration for the Collateral to be released, or any part thereof, consists of property other than cash, stating that Borrower or GWRR, as the case may be, has acquired good title thereto (or good title subject only to such Liens as do not, in the opinion of such counsel, impair the use of such property by Borrower or GWRR, as the case may be), and that the same and every part thereof is free and clear of all Liens prior to or on a parity with the lien of this Mortgage, except taxes (remaining payable without penalty), and stating also that Borrower or GWRR, as the case may be, has lawful power to acquire, own and use such other property or rights in its business.

The resolutions, opinions and certificates so to be furnished to GECC may be received by GECC as conclusive evidence of any of the facts, or of the continuance of any condition, or of anything by this Section 5 required to be established or shown in order to authorize the action sought in respect of any Collateral forming the subject of such resolutions and certificates, and shall be full warrant to GECC for any action taken on the basis thereof; but GECC, in its discretion, may require at the cost and expense of Borrower or of GWRR, as the case may be, such reasonable further and additional evidence as GECC may deem desirable.

Section 6. Assignment of Lease and Rents.

(a) The assignment of Lease and Rents contained in Section 2(a)(iii) hereof shall be fully operative without any further action on the part of Borrower or GECC and shall entitle GECC to all Rents whether or not GECC takes possession of any of the Collateral. Borrower hereby further grants to GECC the right (i) to enter upon and take possession of any of the Collateral for the purpose of collecting the Rents, (ii) to dispossess by the usual summary proceedings any lessee or other obligor defaulting in the payment thereof to GECC, (iii) to let the Collateral or any part thereof, and (iv) to apply the Rents, after payment of all necessary charges and expenses, toward payment of the Indebtedness in such priority and proportions as GECC, in its discretion, shall deem proper, or to the operation, maintenance and repair of the Collateral, in each case whether or not sale or foreclosure has been instituted. Such assignment and grant shall continue in effect until the Notes have been fully paid and shall be cumulative of all other rights and remedies available to GECC under this Mortgage or otherwise. The foregoing provisions shall constitute an absolute and present assignment of the Lease and Rents to GECC, subject, however, to the conditional permission given to Borrower to collect the Rents

until the occurrence of an Event of Default. Rents collected by Borrower, or a portion of such Rents sufficient to discharge all current sums due on the Notes, shall be held by Borrower in trust for use in payment of the Notes. Borrower shall not, without the consent of GECC, (i) cancel the Lease, (ii) materially change, amend or supplement the Lease, or (iii) further assign the whole or any part of the Rents unless such assignment is expressly subject and subordinate to the rights of GECC hereunder. If the consent of GECC is required hereunder, (a) a certificate of the President and Chief Financial Officer of Borrower shall have been furnished to GECC stating that such action in their opinion is advantageous to Borrower, does not impair the security afforded by this Mortgage, (b) a copy of a resolution of the Board of Directors of Borrower approving such action, if such approval is necessary, shall also have been delivered to GECC, and (c) GECC shall have consented in writing within 15 days after receipt of notice from Borrower. If GECC objects, GECC shall set forth the basis of its objection to Borrower. Borrower shall (a) materially fulfill or perform each and every material provision of the Lease on the part of Borrower to be fulfilled or performed, (b) promptly send copies of all notices of default which Borrower shall send or receive under the Lease to GECC, and (c) enforce, short of termination of the Lease, the performance or observance of the provisions thereof by the lessee or other obligor thereunder. Nothing contained in this Section 6(a) shall be construed as imposing on GECC any of the obligations of any party under the Lease. Borrower shall obtain all consents and approvals, if any, necessary to the effective assignment of the Rents in accordance with the terms hereof.

(b) Events of Default. Borrower hereby irrevocably authorizes and directs each lessee or other Person under the Lease, upon receipt of notice from GECC that an Event of Default has occurred, to pay directly to, or as directed by, GECC all Rent accruing or due under the Lease from and after the receipt of such notice. Borrower agrees that any lessee or other Person shall have the right to rely upon the notice from GECC, and shall pay such Rent to or as directed by GECC without any obligation to inquire into the actual existence of any Event of Default claimed by GECC, and notwithstanding any notice from or right or claim against such lessee or other Person for any Rent so paid to GECC. Such Rent shall continue to be paid to GECC unless and until the Event of Default which gave rise to the termination of Borrower's conditional permission to collect the Rents under Section 6(a) is cured to the satisfaction of GECC, so long as the Notes shall not then be due and payable, whether at maturity, by declaration or acceleration or otherwise. Following an Event of Default, GECC shall enjoy all the benefits of and be entitled (but shall not be obligated) to exercise all rights under the Lease, including but not limited to rights of amendment and termination. In the event any such Event of Default is cured as aforesaid, GECC shall

direct each lessee or other Person by written notice to resume the payment of all Rent accruing or due under the Lease directly to Borrower from and after such lessee's or other Person's receipt of such notice from GECC.

(c) Enforcement of Lease. Borrower at its expense will enforce the Lease in accordance with its terms. Neither this Mortgage nor any action or inaction on the part of GECC shall release any lessee or other Person or Borrower from any of their respective obligations under the lease or constitute an assumption of any such obligation on the part of GECC. No action or failure to act on the part of Borrower shall adversely affect or limit the rights of GECC under this Mortgage, or through this Mortgage, under the Lease.

(d) Further Assurances. During the term hereof, all rights, powers and privileges of GECC herein set forth are coupled with an interest and irrevocable, subject to the terms and conditions hereof, and Borrower will not take any action under the Lease or otherwise which is inconsistent with this Mortgage or any of the terms hereof. Borrower will, from time to time, upon request of GECC, execute all instruments and further assurances and all supplemental instruments and take all such action as GECC from time to time may reasonably request in order to perfect, preserve and protect the interests being assigned to GECC hereby. Borrower hereby agrees that it will not, unilaterally or by agreement, subordinate, amend, modify, extend, discharge, terminate, surrender, waive or otherwise change any term of the Lease in any manner which would violate this Mortgage. If the Lease shall be amended as permitted hereby, it shall continue to be subject to the provisions hereof without the necessity of any further act by any of the parties hereto.

(e) No Obligations. Nothing contained herein shall operate or be construed to (i) obligate GECC to perform any of the terms, covenants or conditions contained in the Lease or otherwise to impose any obligation upon GECC with respect to the Lease, or (ii) place upon GECC any responsibility for the operation, control, care, management or repair of the Collateral.

Section 7. Miscellaneous.

(a) Borrower will pay any United States documentary stamp taxes, with interest and fines and penalties, and any New York (State and City) mortgage recording taxes, with interest and fines and penalties, that may hereafter be levied, imposed or assessed under or upon or by reason of this Mortgage, the Obligations secured hereby or any instrument or transaction affecting or relating to any thereof, and in default thereof GECC may advance the same and the amount so advanced shall be payable

by Borrower to GECC upon demand therefor, together with interest thereon at the rate set forth in Section 2.4 of the Loan Agreement; provided, however, that Borrower shall not be obligated under this Section 7(a) to pay any taxes which may arise in connection with the ownership or transfer by GECC of the Obligations, the Notes or the 1986 Notes or any interest therein, or which may be imposed upon the income of GECC.

(b) Additional Security. Without notice to or consent of Borrower or GWRR, and without impairment of the lien and rights created by this Mortgage, GECC may accept from Borrower or from GWRR (but Borrower or GWRR, as the case may be, shall not be obligated to furnish), or from any other Person or Persons, additional security for the Obligations. Neither the giving of this Mortgage nor the acceptance of any such additional security shall prevent GECC from resorting, first, to such additional security, and second, to the security created by this Mortgage without affecting the Security Interests and GECC's rights under this Mortgage.

(c) Changes in Law Regarding Taxation. In the event of the passage after the date of this Mortgage of any law of the State of New York deducting from the value of real property for the purpose of taxation any lien or encumbrance thereon or changing in any way the laws for the taxation of mortgages or debts secured by mortgages for state or local purposes or the manner of the collection of any such taxes, and imposing a tax, either directly or indirectly, on this Mortgage or the Obligations, GECC may, at its option, upon 60 days' notice, declare the Obligations to be due and payable; provided, however, that GECC shall not make such declaration and this Mortgage shall remain in effect if, notwithstanding said law: (i) either (x) Borrower or GWRR may lawfully pay such taxes on behalf of GECC, or (y) GECC and either Borrower or GWRR may lawfully, and do, enter into an enforceable agreement obligating Borrower or GWRR, as the case may be, to pay to GECC an amount equal to any increase in taxation or charges imposed on or incurred by GECC by reason of such change in law (which agreement shall become part of this Mortgage), and (ii) Borrower or GWRR, as the case may be, does in fact pay such taxes or such increases in taxation or charges, as applicable.

(d) Expenses of GECC.

(i) If any action, suit or other proceeding affecting the Collateral or any part thereof shall be commenced, in which action, suit or proceeding GECC is made a party or participates or in which the right to use the Collateral or any part thereof is threatened, or in which it becomes necessary in the reasonable judgment of GECC to defend or uphold the Security Interests and the other rights of GECC created by this Mortgage,

then all reasonable amounts paid or incurred by GECC for the expense of any such action, suit or other proceeding or to protect its rights therein (whether or not it is made or becomes a party thereto) or otherwise to enforce or defend the Security Interests and such rights created by this Mortgage, together with interest at the rate specified in Section 2.4 of the Loan Agreement from the date of the payment or incurring thereof, shall be a lien on the Collateral, prior to any right, or right to, interest in, or claim upon the Collateral attaching or accruing subsequent to or otherwise subordinate to the lien of this Mortgage, and the same shall be deemed to be an Obligation secured hereby. All other amounts paid, advanced or incurred by GECC in order to secure and protect the Security Interests or other security and rights provided hereunder shall be a like Lien on the Collateral and be deemed to be part of the Obligations secured hereby.

(ii) In the event this Mortgage or either of the Notes is placed in the hands of counsel for collection of any amount payable hereunder or thereunder or for the enforcement of any of the provisions hereof or thereof, all reasonable costs associated therewith incurred by GECC, either with or without the institution of an action, suit or other proceeding, in addition to all costs, disbursements and allowances provided by law, together with interest thereon at the rate specified in Section 2.4 of the Loan Agreement from the date of notice or incurring thereof, shall be deemed to be part of the Obligations secured hereby.

(e) Maximum Amount of Principal on the Notes. The maximum amount of principal on the Notes secured or to be secured by this Mortgage is the amount set forth in Section 2.1 of the Loan Agreement. The maximum amount of principal on the 1986 Note secured or to be secured by this Mortgage is \$4,500,000.

(f) Security Agreement, etc.

(i) Grant of Security. This instrument may be construed as a mortgage, security agreement, assignment, chattel mortgage conveyance, pledge, financing statement, hypothecation or contract, among one or more of them, in order fully to effectuate the lien hereof and the purposes and agreements herein set forth. This Mortgage is a security agreement within the meaning of the Uniform Commercial Code as in effect in New York with respect to all personal property now or hereafter constituting part of the Collateral as to which the creation and perfection of the Security Interests are subject to such Uniform Commercial Code (the "Personal Property"), and is also a mortgage as to those portions of the Collateral, if any, that are classified as real property. Any completely executed counterpart of this instrument may be filed as a mortgage on real property or

fixtures, or as a security agreement or financing statement or as both. The respective addresses of Borrower and of GWRR, as debtors, and the address of GECC, as secured party, are shown on the first page of this Mortgage.

(ii) Financing Statements. Borrower and GWRR shall cause all financing and continuation statements and other instruments with respect to the Personal Property at all times to be kept recorded, filed or registered in such manner and in such places as may be required by law fully to evidence, perfect and secure the interests of GECC in the Personal Property, and shall pay all filing fees in connection therewith. Borrower and GWRR each hereby appoints GECC as its attorney-in-fact to perform the obligations of Borrower or of GWRR, as the case may be, under this Section in the event it fails to do so.

(iii) Multiple Remedies. If an Event of Default shall have occurred, GECC, pursuant to Section 9-501(4) of the Uniform Commercial Code as in effect in the State of New York, as such section is currently constituted or may be hereafter amended, shall have the option of proceeding as to both real and personal property in accordance with its rights and remedies in respect of the real property, if any, as an alternative to proceeding in accordance with the default provisions of such Uniform Commercial Code.

(g) Expenses of Disposition of Collateral. All reasonable expenses of retaking, holding, preparing for sale, lease or other use or disposition, selling, leasing or otherwise using or disposing of the Collateral which are incurred or paid by GECC, including, without limitation, all reasonable attorneys' fees, legal expenses and costs, shall be added to the Obligations and shall be secured thereby.

(h) Termination. If all of the obligations under the Loan Agreement, the Notes and the other Loan Documents shall be paid, performed and discharged in full, GECC shall forthwith cause satisfaction and discharge of this Mortgage to be entered upon the record at the expense of Borrower and shall execute and deliver or cause to be executed and delivered such instruments of satisfaction and reassignment as may be appropriate, and this Mortgage shall become null and void and all powers and appointments granted herein shall cease and determine, notwithstanding the fact that obligations under the 1986 Loan Agreement, the 1986 Note or the other 1986 Loan Documents may be outstanding. Otherwise, this Mortgage shall remain and continue in full force and effect.

(i) Severability. If any provision hereof is invalid, illegal or unenforceable, the other provisions hereof shall remain in full force and effect and the remaining provisions

hereof shall be liberally construed in favor of GECC in order to effectuate the provisions hereof.

(j) Survival. All agreements, representations and warranties made herein shall survive the execution and delivery of this Mortgage.

(k) Notices. Any notice or other communication herein required or permitted to be given shall be in writing and shall be sent in the manner and with the effect provided in the Loan Agreement.

(l) Amendments and Waivers. No amendment, modification, termination or waiver of any provision of this Mortgage, or consent to any departure by Borrower or by GWRR therefrom, shall in any event be effective without the written concurrence of GECC. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on Borrower or on GWRR in any case shall entitle Borrower or GWRR to any other or further notice or demand in similar or other circumstances. Any amendment, modification, termination, waiver or consent effected in accordance with this Section shall be binding upon each holder of the Notes and each holder of the 1986 Note, whether or not the same shall have been marked to indicate such amendment, modification, waiver or consent.

(m) Headings. Headings in this Mortgage are included herein for convenience of reference only and shall not constitute a part of this Mortgage for any other purpose or be given any substantive effect.

(n) Applicable Law. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under any applicable law. All waivers, consents, confessions and releases provided for in this Mortgage are effective only to the extent permitted by applicable law. This Mortgage has been executed and delivered in the State of New York, and shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of New York.

(o) Successors and Assigns. The terms and provisions of this Mortgage shall inure to the benefit of GECC, the holders from time to time of the Notes or the 1986 Note and all other Persons from time to time entitled to the benefit of any Obligation. This Mortgage shall be binding upon Borrower, GWRR, GECC, the holders of the Notes and of the 1986 Note, all other

Persons entitled to the benefits of the Obligations and their respective successors and assigns. Neither Borrower nor GWRR may, without the prior written consent of GECC, assign any of its rights or obligations hereunder.

(p) Counterparts. This Mortgage and any amendments, waivers, consents or supplements may be executed in any number of counterparts, and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Mortgage to be duly executed as of the date first above written.

[corporate seal]

Attest:

Mark W. Hartung
Title: *Treasurer*

GWI LEASING CORPORATION

By: *Sam Cahill*
Its *President*

[corporate seal]

Attest:

Mark W. Hartung
Title: *Controller*

GENESEE AND WYOMING RAILROAD COMPANY

By: *W. M. Miller*
Its *CHAIRMAN*

[corporate seal]

Attest:

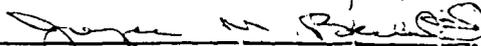

F. Bierley
Title: *Attesting Secretary*

GENERAL ELECTRIC CAPITAL CORPORATION

By: *J. A. Lloyd*
Its *Attorney-in-fact*

STATE OF ^{Connecticut} ~~NEW YORK~~
COUNTY OF Fairfield) ss:

On this 28th day of March, 1988, before me personally came Larry J. Cahill, to me known, who, being by me duly sworn did depose and say that he resides in Upper Montclair, NJ, that he is the President of GWI LEASING CORPORATION, the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.


Notary Public
JOYCE M. BARRETT
NOTARY PUBLIC
MY COMMISSION EXPIRES MARCH 31, 1993

STATE OF ^{Connecticut} ~~NEW YORK~~
COUNTY OF Fairfield) ss:

On this 28th day of March, 1988, before me personally came Mortimer B. Fuller III, to me known, who, being by me duly sworn did depose and say that he resides in Rye, New York, that he is the Chairman of GENESEE AND WYOMING RAILROAD COMPANY, the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.


Notary Public
JOYCE M. BARRETT
NOTARY PUBLIC
MY COMMISSION EXPIRES MARCH 31, 1993

STATE OF ^{Connecticut} ~~NEW YORK~~
COUNTY OF Fairfield) ss:

On this 28th day of March, 1988, before me personally came Judy A. Lloyd, to me known, who, being by me duly sworn did depose and say that he resides in Stamford, CT, that he is the Attorney-in-Fact of GENERAL ELECTRIC CAPITAL CORPORATION, the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.


Notary Public
JOYCE M. BARRETT
NOTARY PUBLIC
MY COMMISSION EXPIRES MARCH 31, 1993

Acquired Assets

BN 540315	BN 540333	BN 540337	BN 540398
BN 540409	BN 540413	BN 540429	BN 540439
BN 540466	BN 540480	SLSF 87400	SLSF 87401
SLSF 87402	SLSF 87404	SLSF 87410	SLSF 87412
SLSF 87416	SLSF 87418	SLSF 87419	SLSF 87421
SLSF 87422	SLSF 87439	SLSF 87429	SLSF 87434
SLSF 87436	SLSF 87445	SLSF 87440	SLSF 87442
SLSF 87443	SLSF 87452	SLSF 87448	SLSF 87450
SLSF 87451	SLSF 87458	SLSF 87455	SLSF 87456
SLSF 87457	SLSF 87463	SLSF 87460	SLSF 87461
SLSF 87462	SLSF 87468	SLSF 87464	SLSF 87465
SLSF 87467	SLSF 87473	SLSF 87470	SLSF 87471
SLSF 87472	SLSF 87479	SLSF 87474	SLSF 87476
SLSF 87477	SLSF 87483	SLSF 87480	SLSF 87481
SLSF 87482	SLSF 87487	SLSF 87484	SLSF 87485
SLSF 87486	SLSF 87495	SLSF 87489	SLSF 87490
SLSF 87494	SLSF 87505	SLSF 87499	SLSF 87502
SLSF 87504	SLSF 87510	SLSF 87506	SLSF 87507
SLSF 87508	SLSF 87517	SLSF 87511	
SLSF 87515	SLSF 87523	SLSF 87518	SLSF 87520
SLSF 87522	SLSF 87532	SLSF 87524	SLSF 87525
SLSF 87526	SLSF 87542	SLSF 87533	SLSF 87536
SLSF 87538	SLSF 87548	SLSF 87543	SLSF 87545
SLSF 87547	SLSF 87553	SLSF 87549	SLSF 87550
SLSF 87552	SLSF 87557	SLSF 87554	SLSF 87555
SLSF 87556	SLSF 87563	SLSF 87558	SLSF 87560
SLSF 87561	SLSF 87569		SLSF 87567
SLSF 87568	SLSF 87583	SLSF 87572	SLSF 87574
SLSF 87582	SLSF 87587	SLSF 87584	SLSF 87585
SLSF 87586	SLSF 87593	SLSF 87588	SLSF 87590
SLSF 87591		SLSF 87596	SLSF 87598
SLSF 87599			

The above cars are to be remarked RSR 1001 thru 1122

ADDITIONAL COLLATERAL

Railcars owned by Genesee and Wyoming Railroad Company

10 - 70 ton box cars	GNWR 300001 thru 300010
4 - 100 ton covered hoppers	GNWR 711027
	GNWR 711032
	GNWR 711037
	GNWR 711038

LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of March 28, 1988, between GWI LEASING CORPORATION, a Delaware corporation, with offices at 71 Lewis Street, Greenwich, Connecticut 06830 ("GWILC"), and ROCHESTER & SOUTHERN RAILROAD, INC., a New York corporation, with offices at 1372 Brooks Avenue, Rochester, New York 14624 ("R&S").

1. Scope of Agreement.

A. GWILC intends to purchase up to 122 railroad hopper cars, described in Schedule 1 attached hereto and made a part hereof (collectively, the "Cars"). GWILC and R&S agree that GWILC shall deliver the Cars to R&S for R&S's use pursuant to the terms of this Lease Agreement.

B. GWILC intends to finance the acquisition and refurbishment of the Cars by means of certain loans from General Electric Capital Corporation, a New York corporation ("GECC"), pursuant to a certain Railroad Car Loan Agreement dated as of March 28, 1988, among GWILC, R&S and GECC (the "Loan Agreement"), and to secure payment of such loans by granting to GECC a first and prior mortgage on and security interest in the Cars and certain other collateral, and assigning to GECC this Lease Agreement and the Rent due GWILC hereunder as collateral, all pursuant to a certain Mortgage, Security Agreement and Assignment of Lease and Rents dated as of March 28, 1988, among GWILC, Genesee and Wyoming Railroad Company and GECC (the "Mortgage"), and as provided therein. Capitalized terms which are not otherwise defined herein shall have the meanings given them by the Loan Agreement.

C. It is the intent of the parties that GWILC shall receive as rent hereunder the amounts provided by Section 6 below, and that R&S shall have the availability and use of the Cars in its present transportation operation and in any expansion of such service.

2. Term.

This Agreement shall remain in full force until it shall expire or have been terminated as to all of the Cars as provided herein. Subject to any termination rights provided herein, this Agreement shall commence upon the delivery of the first Car to R&S as provided in Section 3 below and shall expire as to all of the Cars three years thereafter; provided, however, that R&S may, at its option and upon notice given to GWILC within a reasonable time prior to such date of expiration, renew the term of this Agreement for a maximum of one additional two-year term with respect to all of the Cars, in which event this

Agreement shall not expire until expiration of the term as so renewed.

3. Delivery.

R&S will inspect each of the Cars tendered for delivery by the seller thereof. Upon R&S determination that each Car conforms to the specifications of the respective Acquisition Documents and to all applicable governmental regulatory specifications, GWILC will accept delivery thereof and notify R&S of such acceptance. Each of the Cars shall be deemed delivered to R&S upon such acceptance and notification by GWILC, and control of the Cars shall immediately pass from GWILC to R&S at such time.

4. Railroad Markings and Record-Keeping.

A. GWILC and R&S agree that on or before delivery of any Cars to R&S, such Cars will be lettered with the railroad markings of R&S and may also be marked with the name and/or other insignia used by R&S, all at no cost to R&S. GWILC will insure that such name and/or insignia comply with all applicable regulations.

B. At no cost to R&S, GWILC shall during the term of this Agreement prepare for R&S's signature and filing all documents relating to the registration, maintenance and record keeping functions involving the Cars. Such documents shall include without limitation the following: (i) appropriate Association of American Railroads ("AAR") documents; (ii) registration in the Official Railway Equipment Register and the Universal Machine Language Equipment Register ("UMLER"); and (iii) such reports as may be required from time to time by the Interstate Commerce Commission ("ICC") and/or other regulatory agencies.

5. Maintenance, Taxes and Insurance.

A. Except as otherwise provided herein, R&S will pay all costs, expenses, fees and charges incurred in connection with the use and operation of each of the Cars during the term of this Agreement, including without limitation repairs, maintenance and servicing, unless the same is occasioned by the negligence or willful misconduct of GWILC.

B. R&S shall make or cause to be made such inspections of, and maintenance and repairs to, the Cars as may be required. At R&S's expense, R&S shall perform any necessary

maintenance and repairs to Cars on R&S's railroad tracks as may be reasonably requested by GWILC. R&S shall also make, at its expense, all alterations, modifications or replacement of parts as shall be necessary to maintain the Cars in good operating condition throughout the term hereof.

C. R&S shall be responsible for all taxes (including without limitation sale or use taxes), assessments and other governmental charges of whatsoever kind or character relating to each Car, and on the development, lease, delivery or operation thereof which may remain unpaid as of the date of delivery of such Car to R&S or which may be accrued, levied, assessed or imposed during the term hereof, except taxes, however designated, imposed on income of GWILC. GWILC and R&S will comply with all state and local laws requiring the filing of ad valorem tax returns on the Cars.

D. In the event that there shall occur any casualty loss of any of the Cars which is not fully covered by insurance, then R&S shall thereupon pay to GWILC an amount equal to the amount required to be prepaid GWILC by GWILC under Section 2.8 of the Loan Agreement.

6. Consideration; Rent.

In consideration of GWILC's (i) providing R&S with the use of the Cars hereunder, (ii) performing its obligations hereunder, and (iii) granting to GECC the security interests provided by the Mortgage, R&S shall pay, as rent hereunder, on or before the first day of each month during the term hereof, the amount of \$_____ per month, as the same may be adjusted from time to time in accordance with Schedule Z attached hereto and made a part hereof ("Rent").

7. Possession and Use.

A. So long as R&S shall not be in default under this Agreement, and subject to the provisions of Section 13B below, R&S shall be entitled to the possession and use of the Cars in accordance with and subject to the terms of this Agreement and in the manner and to the extent Cars are customarily used in the railroad freight business; provided, however, that R&S shall not be entitled to sublease the Cars without GECC's prior written consent, which consent shall not be unreasonably withheld or delayed.

B. R&S will not directly or indirectly create, incur, or cause or suffer to exist any mortgage, lien, or other security interest in or with respect to the Cars or any interest therein or in this Agreement (other than the lien of the Mortgage). R&S will promptly, at its expense, take such action as may be

necessary to duly discharge any such mortgage, lien, or security interest if the same shall arise at any time.

8. Default of R&S.

A. The occurrence of any of the following events shall be an event of default of R&S hereunder:

(i) the nonpayment by R&S of any sum required herein to be paid by R&S within five days after the date any such payment is due;

(ii) the breach of R&S of any other term, covenant, or condition of this Agreement, the Loan Agreement or the 1986 Loan Agreement, which is not cured within 20 days after receipt of written notice thereof;

(iii) any act of insolvency by R&S, or the filing by R&S of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law, or any other similar law or laws for the relief of, or relating to, debtors;

(iv) the filing of any involuntary petition under any bankruptcy, reorganization, insolvency or moratorium law against R&S that is not dismissed within 60 days thereafter, or the appointment of any receiver or trustee to take possession of the properties of R&S, unless such petition or appointment is set aside or withdrawn or ceases to be in effect within 60 days from the date of said filing or appointment; or

(v) the subjection of any material portion of R&S's property to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency which is not discharged within 60 days.

B. Upon the occurrence of any event of default, GWILC, at its option, may:

(i) proceed by any lawful means to enforce performance by R&S of this Agreement or to recover damages for a breach thereof; or

(ii) by notice in writing to R&S, and subject to the provisions of Section 13A below, terminate this Agreement and R&S's right of possession and use of the Cars, whereupon all right and interest of R&S in the

Cars shall terminate; and thereupon GWILC may enter upon any premises where the Cars may be located and take possession of them and thenceforth hold, possess and enjoy the same free from any right of R&S. GWILC shall nevertheless have the right to recover from R&S any and all Rent and any other amounts which under the terms of this Agreement may then be due or which may have accrued to that date.

9. Rights of Termination

A. Subject to the provisions of Section 13A below, upon mutual written consent of GWILC and R&S, this Agreement may be terminated as to any Car at any time.

B. At the expiration or termination of this Agreement as to any Car or Cars, R&S shall deliver the Cars to GWILC at the R&S tracks in Retsof, New York (or to such other place designated by GWILC). R&S shall bear the cost of returning the Cars to Retsof, New York. If the Cars are sent to some other place designated by GWILC, then GWILC shall bear the incremental cost above the cost to R&S of returning the Cars to Retsof, New York.

10. Representations, Warranties and Covenants of R&S.

R&S represents, warrants and covenants that R&S is a corporation duly organized, validly existing and in good standing under the laws of the State of New York and has taken all corporate action necessary to enter into and perform its obligations under this Agreement.

11. Representations, Warranties and Covenants of GWILC.

GWILC represents, warrants and covenants that GWILC is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has taken all corporate action necessary to enter into and perform its obligations under this Agreement.

12. Inspection.

GWILC shall at any time during normal business hours have the right to enter the premises where the Cars may be located for the purpose of inspecting and examining the Cars to insure R&S's compliance with its obligations hereunder. R&S shall immediately notify GWILC of any accident connected with the malfunctioning or operation of the Cars, including in such report

the time, place and nature of the accident and the damage caused, the names and address of any persons injured and of any witnesses, and other information pertinent to R&S's investigation of the accident. R&S shall also notify GWILC in writing within five days after any attachment, tax lien or other judicial process shall attach to any Car. R&S will execute any authorization necessary for GWILC or Owner to examine the Cars.

13. Rights of GECC.

A. Notwithstanding any other provision of this Agreement to the contrary, as long as the Loan Agreement shall remain in effect or the principal of or interest on either of the Notes or any other expense or amount payable thereunder or under any Loan Document shall be unpaid, neither GWILC nor R&S shall assign, amend, modify or terminate this Agreement without the prior written consent of GECC.

B. R&S hereby acknowledges and agrees with and consents to GWILC's granting to GECC of a first and prior mortgage on and security interest in the Cars, and assigning to GECC this Lease Agreement and the Rent due GWILC hereunder as collateral, all pursuant to the Mortgage, as provided therein. R&S further agrees that all of its rights hereunder shall be subject and subordinate to the rights of GECC under the Mortgage and the other Loan Documents.

14. Miscellaneous.

A. This Agreement, together with the attached Schedule, shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Subject to the provisions of Section 13A above: (i) R&S may not without the prior consent of GWILC assign this Agreement or any of its rights and obligations hereunder, and any purported assignment in violation hereof shall be void; and (ii) GWILC may not without the prior written consent of R&S assign its agency rights and obligations under this Agreement to any party, and any purported assignment in violation hereof shall be void.

B. It is expressly understood and agreed by R&S and GWILC that this Agreement constitutes an agreement as to use of the Cars only and no joint venture or partnership is being created hereby. Nothing herein shall be construed as conveying to R&S any right, title or interest in the Cars except as R&S's rights are specifically provided herein.

C. No failure or delay by GWILC shall constitute a waiver or otherwise affect or impair any right, power or remedy

available to GWILC nor shall any waiver or indulgence by GWILC or any partial or single exercise of any right, power or remedy preclude any other or future exercise thereof or the exercise of any other right, power or remedy.

D. This Agreement shall be governed by and construed in accordance with the laws of the State of New York applicable to agreements made and to be performed entirely within such State.

E. All notices hereunder shall be in writing and shall be deemed given when delivered personally or when deposited in the United States mail, postage prepaid, certified or registered, addressed to the president of the other party at the address set forth above.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

GWIL LEASING CORPORATION

By: _____
Its

ROCHESTER & SOUTHERN RAILROAD, INC.

By: _____
Its

ANNEX IV

General Permitted Encumbrances

1. The lien of this Mortgage on the Collateral.
2. The interests of the lessee under the Lease.
3. The interests of the assignee under a certain Assignment Agreement dated July 27, 1982 between GWRR and Eastern Shore Railroad, Inc. relating to certain of the Additional Collateral, and the interests of the lessee under a _____ dated _____ between GWRR and _____ relating to certain of the Additional Collateral.
4. Liens for taxes, assessments or governmental charges or claims the payment of which is not at the time due or is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted and such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP (as defined in the Loan Agreement) shall have been made therefor.
5. Statutory Liens of landlords, carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums the payment of which is not at the time due or is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted and such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP (as defined in the Loan Agreement) shall have been made therefor.
6. Liens incurred on deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, other than any Lien imposed by or under ERISA (as defined in the Loan Agreement).
7. Any other Liens, the existence and validity of which are at the time being contested in good faith by appropriate proceedings promptly instituted and diligently conducted and such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP (as defined in the Loan Agreement) shall have been made therefor; provided, however, that no such Lien shall be permitted if it shall cause an Event of Default (as defined in the Loan Agreement) under the Loan Agreement or any of the Notes.