

18901

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RECORDATION NO. BINGHAM, DANA & GOULD

JUL 18 1994 10:41 AM

1550 M STREET, N.W., SUITE 1200
WASHINGTON, D.C. 20005-1790

INTERSTATE COMMERCE COMMISSION

TELEPHONE: (202) 822-9320
TELECOPY: (202) 833-1506

BOSTON OFFICE
(617) 951-8000

HARTFORD OFFICE
(203) 244-3770

LONDON OFFICE
011-44-71-799-2646

July 18, 1994

BY MESSENGER

Interstate Commerce Commission
Room 2303
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423

Attention: Ms. Mildred Lee

Ladies and Gentlemen:

Enclosed for recording with the Commission pursuant to Section 11303 of Title 49 of the U.S. Code are two original fully executed, notarized documents described below.

This document is a Security Agreement, a primary document dated as of July 14, 1994, between Railcar, Ltd., as the debtor (the "Debtor"), and The First National Bank of Boston, as the secured party (the "Secured Party"), covering certain of the Debtor's rolling stock now owned or hereafter acquired and related interests. A description of the rolling stock is attached to the Security Agreement as Schedule 4(a), as the same may be revised from time to time.

The names and addresses of the parties to the Security Agreement are as follows: the Debtor is Railcar, Ltd., whose chief executive office is located at Suite 315, 1819 Peachtree Road, N.E., Atlanta, Georgia 30309-1847; the Secured Party is The First National Bank of Boston whose head office is located at 100 Federal Street, Boston, Massachusetts 02110.

Included in the property covered by the aforesaid Security Agreement are railroad cars, locomotives and other rolling stock intended for use related to interstate commerce, or interests therein (including, without limitation, interests of the Debtor under acquisition agreements, letters of intent to sell or lease, sale or lease agreements or repair or rebuilding agreements relating to such rolling stock), owned by the Debtor at the date of said Security Agreement or thereafter acquired by it.

WAS:10571.2

RECEIVED
JUL 18 11 30 AM '94
TMS

counterparts Dan Crowley

BINGHAM, DANA & GOULD

Interstate Commerce Commission
July 18, 1994
Page 2

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

"A Security Agreement, dated as of July 14, 1994, between Railcar, Ltd., as the debtor, and The First National Bank of Boston, as the secured party, covering certain of the debtor's rolling stock and related interests. A description of the rolling stock is attached to the Security Agreement as Schedule 4(a)."

Also enclosed is a check in the amount of \$18.00, payable to the Interstate Commerce Commission, to cover the recording fee prescribed by the Commission in its rules and regulations.

Please acknowledge receipt of the enclosed documents by stamping and returning to our messenger the enclosed copy of this letter together with the Security Agreement as filed.

If you have any questions with respect to the enclosed documents, please call me.

Sincerely,

Joseph P. Pelican

Joseph P. Pelican

Enclosures

cc: Lawrence F. Christofori,
Assistant Vice President
Amy L. Kyle, Esq.

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

JULY 18, 1994

JOSEPH P. PELICAN
BINGHAM, DANA & GOULD
1550 M ST., NW SUITE 1200
WASHINGTON DC 20005-1790

Dear MR. PELICAN:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 7/18/94 at 11:30 AM^{TMS}, and assigned recordation number(s) 18901

Sincerely yours,

Sidney L. Strickland, Jr.
Secretary

Enclosure(s)

\$ 18.00 The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid and in no way indicates acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one stamped on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had an opportunity to examine you document.

Signature

Sydney L. Strickland, Jr.

RECORDATION NO. **18901** FILED 1994
JUL 18 1994 - 11:22 AM
INTERSTATE COMMERCE COMMISSION

SECURITY AGREEMENT

This SECURITY AGREEMENT, dated as of July 14, 1994, is between RAILCAR, LTD. (the "Borrower"), a Georgia corporation having its principal place of business at 1819 Peachtree Road, N.E., Suite 315, Atlanta, Georgia 30309-1847, and THE FIRST NATIONAL BANK OF BOSTON (the "Bank").

WHEREAS, the Borrower and the Bank are parties to that certain Revolving Credit and Discretionary Term Loan Agreement, dated as of July 14, 1994, as the same may be amended, restated, modified or supplemented from time to time (such agreement, as in effect from time to time, the "Credit Agreement"); and

WHEREAS, it is a condition precedent to the Bank's making any loans or otherwise extending credit to the Borrower that the Borrower execute and deliver to the Bank a security agreement substantially in the form hereof; and

WHEREAS, the Borrower wishes to grant security interests in favor of the Bank as herein provided;

NOW THEREFORE, in consideration of the premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

§1. DEFINITIONS. Capitalized terms which are used herein without definition and which are defined in the Credit Agreement shall have the same meanings herein as in the Credit Agreement.

§2. GRANT OF SECURITY INTEREST. To secure the due and prompt payment and performance by the Borrower of the Obligations, the Borrower hereby pledges, assigns and grants to the Bank, a continuing security interest in and lien on the following properties, assets and rights of the Borrower, wherever located, now owned or hereafter acquired or arising, and all proceeds and products thereof, whether derived from voluntary or involuntary disposition or otherwise, and all accessions thereto: all Rolling Stock (as defined in §4(a) hereof) and, but solely to the extent relating to the Rolling Stock, all accounts receivable, contract rights, all rights of the Borrower under Acquisition Agreements, Letters of Intent, Sale/Lease Agreements, Restoration Contracts and leases of equipment and other personal property, all rights to the payment of money including insurance proceeds, insurance refund claims, tort claims, chattel paper, documents, instruments, general intangibles, together with all income therefrom, increases thereunder and proceeds thereof, books and records (all such properties, assets and rights hereinafter sometimes called, collectively, the "Collateral").

§3. PRO RATA SECURITY; APPLICATION OF PROCEEDS OF COLLATERAL. All amounts owing with respect to the Obligations shall be secured pro rata by the Collateral without distinction as to whether some Obligations are then due and payable and other Obligations are not then due and payable. Upon any realization upon the Collateral by the Bank, whether by receipt of insurance proceeds pursuant to §4(e) hereof or upon foreclosure and sale of all or part of the Collateral pursuant to §8 hereof or otherwise, the Borrower agrees that the proceeds thereof shall be applied as set forth in §12.4 of the Credit Agreement. The Borrower shall remain liable for any deficiency remaining unpaid after the application of proceeds in accordance with the foregoing provisions. The Borrower agrees that all amounts received with respect to any of the Obligations, whether by realization on the Collateral or otherwise, shall be applied to the payment of the Obligations in accordance with the provisions of this §3.

§4. REPRESENTATIONS AND COVENANTS OF THE BORROWER.

(a) Rolling Stock. The Borrower represents and warrants to the Bank, that the Rolling Stock listed on Schedule 4(a) attached hereto constitutes all of the Rolling Stock, including markings thereon and serial numbers thereof, which the Borrower owns or leases and which is or previously has been included in the Borrowing Base. The Borrower agrees not to change any markings or serial numbers on any of the Rolling Stock listed on Schedule 4(a) hereto until after the Borrower has given notice in writing to the Bank of its intention to make such change. The Borrower agrees to notify the Bank of any other Rolling Stock which the Borrower may hereafter acquire or lease. The Borrower agrees that it shall execute and deliver to the Bank supplemental security agreements and other instruments, as referred to in paragraph (k) below of this §4, which, in the case of any additions to Schedule 4(a) to this Agreement, shall be substantially in the form of the Amendment to Security Agreement attached as Exhibit A hereto, and file the same in the appropriate recording offices (i) with respect to the Rolling Stock listed on Schedule 4(a) hereto, (ii) at such times as any assignable right, title or interest is acquired in the future by the Borrower in any other Rolling Stock, and (iii) at such times as any change is made in one or more of the markings or serial numbers on any of the Rolling Stock listed on Schedule 4(a) attached hereto or on any other Rolling Stock owned or leased by the Borrower. All such supplemental security agreements and other instruments shall secure all of the Obligations pro rata and shall be on terms and conditions reasonably satisfactory to the Bank as evidenced by its written consent thereto. The term "Rolling Stock" as used herein means all rolling stock of every kind and description, locomotives and all other rail cars which are or previously have been included in the Borrowing Base.

(b) Location of Chief Executive Office and Principal Place of Business. The Borrower represents and warrants to the Bank that the location of its chief executive office (as such term is used in Paragraph 5(c) of the Official Comment to Section 9-103 of the UCC, as hereinafter defined) and the location where its books

and records are kept is Suite 315, 1819 Peachtree Road, N.E., Atlanta, Georgia 30309-1847. The Borrower further represents that attached hereto as Schedule 4(b) is a true and correct list of all localities where property comprising a part of the Collateral (other than interests in rolling stock set forth in Schedule 4(a) hereto that is leased pursuant to Sale/Lease Agreements and used in interstate commerce) is located. The Borrower agrees that it shall not change the location of its chief executive office or location where books and records are kept or the location of any property comprising a part of the Collateral other than changes in the location of Rolling Stock that is leased pursuant to Sale/Lease Agreements and used in interstate commerce unless it shall have (i) given the Bank at least thirty (30) days' advance written notice of such change, and (ii) filed in all necessary jurisdictions such UCC-3 financing statements or other documents as may be necessary to continue without impairment or interruption the perfection and priority of the liens on the Collateral in favor of the Bank pursuant to the Security Documents.

(c) Ownership of Collateral.

(i) The Borrower represents and warrants to the Bank that it is the owner of the Collateral free from any adverse lien, security interest or encumbrance, except for the security interest created by this Agreement and Permitted Liens.

(ii) Except for the security interest herein granted and except for Permitted Liens, the Borrower shall be the owner of the Collateral free of any lien, security interest or encumbrance. The Borrower shall defend the same against all claims and demands of all persons at any time claiming the same or any interest therein adverse to the Bank. Except for Permitted Liens, the Borrower shall not pledge, mortgage or create or suffer to exist a security interest in the Collateral in favor of any person other than the Bank.

(d) Sale or Disposition of Collateral. Except as permitted by the Credit Agreement, the Borrower shall not sell or offer to sell or otherwise transfer the Collateral or any interest therein.

(e) Insurance. The Borrower shall have and maintain at all times with respect to the Collateral such insurance as is required by the Credit Agreement, such insurance to be payable to the Bank and to the Borrower as their interests may appear, and all such insurance to name the Bank as loss payee and additional insured. All policies of insurance shall provide for thirty (30) days' written minimum cancellation notice to the Bank. In the event of the Borrower's failure to provide and maintain insurance as herein provided, the Bank may, at its option, provide such insurance, and the Borrower hereby promises to pay to the Bank on demand the amount of any disbursements made by the Bank for such purpose. The Borrower shall furnish to the Bank certificates or other evidence satisfactory to the Bank of compliance with the foregoing insurance provisions. Upon the occurrence and during the continuance of an Event of Default, the Bank may act as attorney

for the Borrower in obtaining, adjusting, settling and canceling such insurance and endorsing any drafts; and any amounts collected or received under any such policies shall be applied by the Bank to the Obligations in accordance with the provisions of §3 hereof or, at the option of the Bank, the same may be released to the Borrower, but such application or release shall not cure or waive any default hereunder and no amount so released shall be deemed a payment on any Obligation secured hereby.

(f) Maintenance of Collateral. The Borrower shall keep the Collateral in good order and repair as provided in the Credit Agreement and shall not use the Collateral in violation of law or any policy of insurance thereon. The Bank may inspect the Collateral at any reasonable time, wherever located, as provided in the Credit Agreement. The Borrower shall pay promptly when due all taxes, assessments, governmental charges and levies upon the Collateral or incurred in connection with the use or operation of the Collateral or incurred in connection with this Agreement; provided that any such tax, assessment, charge or levy need not be paid if the validity or amount thereof shall currently be contested in good faith by appropriate proceedings and if the Borrower shall have set aside on its books adequate reserves with respect thereto; and provided further that the Borrower will pay all such taxes, assessments, charges and levies forthwith upon the commencement of proceedings to foreclose any lien that may have attached as security therefor. In its discretion and upon two (2) days prior written notice to the Borrower, the Bank may make repairs of the Collateral (to the extent that the Borrower is not making such repairs), discharge taxes and other encumbrances at any time levied or placed on the Collateral which remain unpaid in violation of §7.8 of the Credit Agreement and pay any necessary filing fees. The Borrower agrees to reimburse the Bank on demand for any and all expenditures so made and, until paid, the amount thereof shall be an Obligation secured by the Collateral. The Bank shall have no obligation to the Borrower to make any such expenditures, nor shall the making thereof relieve the Borrower of any default. The Borrower has at all times operated, and the Borrower will continue to operate, its business in compliance with all applicable provisions of the federal Fair Labor Standards Act, as amended.

(g) Creation of Lien. The Borrower represents and warrants to the Bank and covenants with the Bank that this Agreement creates a valid security interest in the Collateral as security for the payment and performance of the Obligations. The Collateral and the Bank's rights with respect to the Collateral are not subject to any setoff, claims, withholdings or other defenses.

(h) No Further Actions. No authorization, approval or other action by, and no notice of filing with, any governmental authority or regulatory body or other Person that has not been received, taken or made is required for the grant by the Borrower of the security interest granted hereby or for the execution, delivery or performance of this Agreement by the Borrower.

(i) Accounts Receivable. The Borrower shall keep or cause to be kept separate records of accounts receivable constituting Collateral, which such records shall be complete and accurate in all material respects and, from time to time upon the request of the Bank, shall deliver to the Bank lists setting forth the name, address, face value, and date of invoice of each debtor obligated on all accounts receivable.

(j) Government Contracts. The Borrower agrees that from time to time at the Bank's request, it shall execute all such documents, and take all such actions, as the Bank may reasonably deem necessary or proper to perfect the Bank's security interest in any Collateral consisting of the Borrower's rights to monies due or to become due under any contracts or agreements with or orders from the United States government or any agency or department thereof.

(k) Further Assurances By the Borrower. The Borrower agrees to execute and deliver to the Bank from time to time at its reasonable request all documents and instruments, including financing statements, amendments to security agreements, supplemental security agreements, notices of assignments under the United States Assignment of Claims Act and under similar or local statutes and regulations, and to take all action as the Bank may reasonably deem necessary or proper to perfect or otherwise protect the security interest and lien created hereby.

§5. POWER OF ATTORNEY. The Borrower hereby irrevocably constitutes and appoints the Bank and any officer or agent thereof, with full power of substitution, as its true and lawful attorneys-in-fact, with full irrevocable power and authority in the place and stead of the Borrower and in the name of the Borrower or otherwise, to (a) upon the occurrence and during the continuance of an Event of Default, take any and all appropriate action and to execute any and all documents and instruments which the Bank may deem necessary or advisable to accomplish the purpose of this Agreement, including, without limitation, the power and right generally to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Collateral in such manner as is consistent with the UCC and as fully and completely as though the Bank were the absolute owner thereof for all purposes, and to do at the Borrower's expense, at any time, or from time to time, all acts and things which the Bank deems necessary to protect, preserve or realize upon the Collateral and the Bank's security interest therein, in order to effect the intent of this Agreement, all as fully and effectively as the Borrower might do, including, without limitation, the execution, delivery and recording, in connection with any sale or other disposition of any Collateral, of the endorsements, assignments or other instruments of conveyance or transfer with respect to such Collateral; and (b) file such financing statements with respect hereto, with or without the Borrower's signature, or a photocopy of this Agreement in substitution for a financing statement, as the Bank may deem appropriate, and to execute in the Borrower's name such financing statements and amendments thereto and continuation statements which may require the Borrower's signature,

provided that such actions are taken solely to the extent necessary to perfect the Bank's security interest in the Collateral and the Bank provides the Borrower with copies of all such documents. The Borrower ratifies and approves all acts of such attorneys-in-fact. This power of attorney is a power coupled with an interest and shall be irrevocable. The power conferred on the Bank hereunder is solely to protect the Bank's interests in the Collateral and shall not impose any duty upon the Bank to exercise such power. The Bank shall be accountable only for the amounts that it actually receives as a result of the exercise of such powers and neither it nor any of its officers, directors, employees or agents shall be responsible to the Borrower for any act or failure to act, except for the Bank's own gross negligence or willful misconduct. The Bank shall use reasonable care with respect to the custody, safekeeping and physical preservation of the Collateral in its possession.

§6. ACCOUNTS RECEIVABLE. So long as no Event of Default has occurred or is continuing, the Borrower shall continue to collect payment from debtors on accounts receivable of the Borrower constituting Collateral, obligors on accounts, chattel paper and general intangibles of the Borrower constituting Collateral, obligors on instruments constituting Collateral for which the Borrower is an obligee and lessees and conditional vendees under agreements governing the leasing or selling by conditional sale of Collateral by Borrower. After the occurrence and during the continuance of an Event of Default, the Bank may require the Borrower to notify such debtors, obligors, lessees or conditional vendees of the Bank's security interest. Upon the making of such a request by the Bank, the Borrower shall hold, as trustee for the Bank, the proceeds received from such collection and shall turn the same over to the Bank, or to such other bank as may be approved by the Bank, immediately upon receipt of such proceeds and in the identical form received. After the occurrence and during the continuance of an Event of Default, the Bank may require the Borrower to notify such account debtors and obligors that payment thereof is to be made directly to the Bank, and, if the Borrower does not promptly so notify such account debtors and obligors, the Bank may itself without further notice to or demand upon the Borrower, so notify such account debtors and obligors. The making of such a request or the giving of any such notification shall not affect the duties of the Borrower described above with respect to proceeds received by the Borrower. The Bank shall apply the proceeds of such collection received by the Bank to the Obligations in accordance with §3 of this Agreement. The application of the proceeds of such collection shall be conditional upon final payment in cash or solvent credits of the items giving rise to them. If any item is not so paid, the Bank in its discretion, whether or not such item is returned, may either reverse any credit given for the item or charge it to any deposit account maintained by the Borrower with the Bank.

§7. REMEDIES. If an Event of Default shall have occurred and be continuing, the Bank may, without notice to or demand upon the Borrower, declare this Agreement to be in default, and the Bank shall thereafter have in any

jurisdiction in which enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the Uniform Commercial Code, including, without limitation, the right to take possession of the Collateral, and for that purpose the Bank may, so far as the Borrower can give authority therefor, enter upon any premises on which the Collateral may be situated and remove the same therefrom. The Bank may in its discretion require the Borrower to assemble all or any part of the Collateral at such location or locations within the state(s) of the Borrower's principal office(s) or at such other locations as the Bank may designate. Unless the Collateral threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Bank shall give to the Borrower at least ten Business Days prior written notice of the time and place of any public sale of Collateral or of the time after which any private sale or any other intended disposition is to be made. The Borrower hereby acknowledges that ten Business Days prior written notice of such sale or sales shall be reasonable notice. In addition, the Borrower waives any and all rights that it may have to a judicial hearing in advance of the enforcement of any of the Bank's rights hereunder, including, without limitation, its right following an Event of Default to take immediate possession of the Collateral and to exercise its rights with respect thereto.

§8. MARSHALLING. The Bank shall not be required to marshal any present or future security for (including but not limited to this Agreement and the Collateral subject to the security interest created hereby), or guaranties of, the Obligations or any of them, or to resort to such security or guaranties in any particular order; and all of its rights hereunder and in respect of such securities and guaranties shall be cumulative and in addition to all other rights, however existing or arising. To the extent that it lawfully may, the Borrower hereby agrees that it will not invoke any law relating to the marshalling of collateral which might cause delay in or impede the enforcement of the Bank's rights under this Agreement or under any other instrument evidencing any of the Obligations or under which any of the Obligations is outstanding or by which any of the Obligations is secured or guaranteed and, to the extent that it lawfully may, the Borrower hereby irrevocably waives the benefits of all such laws. Except as otherwise provided by applicable law, the Bank shall have no duty as to the collection or protection of the Collateral or any income thereon, nor as to the preservation of rights against prior parties, nor as to the preservation of any rights pertaining thereto beyond the safe custody thereof.

§9. BORROWER'S OBLIGATIONS NOT AFFECTED. To the extent permitted by law, the obligations of the Borrower under this Agreement shall remain in full force and effect without regard to, and shall not be impaired by (a) any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or the like of the Borrower, to the extent permitted by law; (b) any exercise or nonexercise, or any waiver, by the Bank of any right, remedy, power or privilege under or in respect of any of the Obligations or any security

therefor (including this Agreement) other than in the specific instance and for the specific purpose for which such exercise, nonexercise or waiver was given; (c) any amendment to or modification of this Agreement or any instrument evidencing any of the Obligations or pursuant to which any of them were issued, other than in the specific instance and for the specific purpose for which such amendment or modification was given; (d) any amendment to or modification of any instrument or agreement (other than this Agreement) securing any of the Obligations other than in the specific instance and for the specific purpose for which such amendment or modification was given; or (e) the taking of additional security for or any guaranty of any of the Obligations or the release or discharge or termination of any security or guaranty for any of the Obligations other than in the specific instance and for the specific purpose for which such release or discharge was given; and whether or not the Borrower shall have notice or knowledge of any of the foregoing.

§10. NO WAIVER. No failure on the part of the Bank to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the Bank of any right, remedy or power hereunder preclude any other or future exercise of any other right, remedy or power. Each and every right, remedy and power hereby granted to the Bank or the future holders of any of the Obligations or allowed to any of them by law or other agreement, including, without limitation, the Credit Agreement, either Note or any other Security Document, shall be cumulative and not exclusive of any other, and, subject to the provisions of this Agreement, may be exercised by the Bank or the future holders of any of the Obligations from time to time.

§11. PROCEEDS OF DISPOSITIONS; EXPENSES; OVERDUE AMOUNTS. Any proceeds of collection or sale of the Obligations or Collateral shall, to the extent actually received in cash, be applied to the payment of the Obligations in such order or preference as is provided in the Credit Agreement, proper allowance being made for Obligations not then due. Upon the final payment and satisfaction in full of all of the Obligations, any excess shall be returned to the Borrower and the Borrower shall remain liable for any deficiency in the payment of the Obligations.

§12. CONSENTS, AMENDMENTS, WAIVERS. Any term of this Agreement may be amended, and the performance or observance by the Borrower of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the prior written consent of the Bank, except that amendments to this Agreement that solely add items of Rolling Stock to Schedule 4(a) hereto and are substantially in the form of Exhibit A hereto do not require the Bank's prior written consent.

§13. GOVERNING LAW; CONSENT TO JURISDICTION. Except as otherwise required by the laws of any jurisdiction in which any Collateral is located, this Agreement shall be deemed to be a contract under seal and shall for all

purposes be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. The Borrower agrees that any suit for the enforcement of this Agreement may be brought in the courts of the Commonwealth of Massachusetts or any federal court sitting therein and consents to the non-exclusive jurisdiction of such court and to service of process in any such suit being made upon the Borrower by mail at the address specified in §18 of the Credit Agreement. The Borrower hereby waives any objection that it may now or hereafter have to the venue of any such suit or any such court or that such suit is brought in an inconvenient court.

§14. WAIVER OF JURY TRIAL. THE BORROWER WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THE PERFORMANCE OF ANY SUCH RIGHTS OR OBLIGATIONS. Except as prohibited by law, the Borrower waives any right which it may have to claim or recover in any litigation referred to in the preceding sentence any special, exemplary, punitive or consequential damages other than, or in addition to, actual damages. The Borrower (a) certifies that neither the Bank nor any representative, agent or attorney of the Bank has represented, expressly or otherwise, that the Bank would not, in the event of litigation, seek to enforce the foregoing waivers and (b) acknowledges that, in entering into the Credit Agreement and the other Loan Documents to which the Bank is a party, the Bank is relying upon, among other things, the waivers and certifications contained in this §14.

§15. PARTIES IN INTEREST. All terms of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto, provided that the Borrower may not assign or transfer its rights hereunder. Any transfer or assignment by the Borrower of its rights hereunder shall be void.

§16. COUNTERPARTS. This Agreement and any amendment hereof may be executed in several counterparts and by each party on a separate counterpart, each of which when so executed and delivered shall be an original, but all of which together shall constitute one instrument. In proving this Agreement it shall not be necessary to produce or account for more than one such counterpart signed by the party against whom enforcement is sought.

§17. TERMINATION. Upon the indefeasible payment in full in cash of the Obligations and the termination of the Commitment to lend under the Credit Agreement, this Agreement shall terminate, the Borrower shall be entitled to the prompt return, at the Borrower's expense, of such Collateral in the possession or control of the Bank as has not theretofore been disposed of pursuant to the provisions hereof, and the Bank shall execute and file, at the Borrower's expense,

all documents and instruments necessary to terminate of record the security interest granted herein.

§18. NOTICES. Except as otherwise expressly provided herein, all notices and other communications made or required to be given pursuant to this Agreement shall be given in accordance with §18 of the Credit Agreement.

§19. MISCELLANEOUS. The headings of each section of this Agreement are for convenience only and shall not define or limit the provisions thereof. If any term of this Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby, and this Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. The Borrower acknowledges receipt of a copy of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed as an instrument under seal by their authorized representatives as of the date first written above.

[Corporate Seal]

RAILCAR, LTD.

By: 
Title: Vice President

**THE FIRST NATIONAL BANK
OF BOSTON**

By: _____
Title: Assistant Vice President

all documents and instruments necessary to terminate of record the security interest granted herein.

§18. **NOTICES.** Except as otherwise expressly provided herein, all notices and other communications made or required to be given pursuant to this Agreement shall be given in accordance with §18 of the Credit Agreement.

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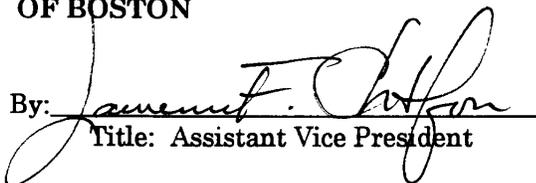
IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed as an instrument under seal by their authorized representatives as of the date first written above.

[Corporate Seal]

RAILCAR, LTD.

By: _____
Title: Vice President

**THE FIRST NATIONAL BANK
OF BOSTON**

By: 
Title: Assistant Vice President

State/~~Commonwealth~~ of Georgia)
) ss.
County of Fulton)

On this 14th day of July, 1994, before me personally appeared Eugene N. Martini, to me personally known, who, being by me duly sworn, says that he is a Vice President of Railcar, Ltd., that the seal affixed to the foregoing instrument beside his signature is the corporate seal of said corporation and that the said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledges that the execution of the foregoing instrument was the free act and deed of said corporation.


Notary Public

My commission expires:
Notary Public, Clayton County, Georgia
My Commission Expires July 9, 1996

Commonwealth of Massachusetts)
) ss.
County of Suffolk)

On this __ day of July, 1994, before me personally appeared Lawrence F. Christofori, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of The First National Bank of Boston, and that he is duly authorized to sign the foregoing instrument on behalf of said banking association, and he acknowledges that the execution of the foregoing instrument was the free act and deed of said banking association.

Notary Public

My commission expires:

State/Commonwealth of)
) ss.
County of)

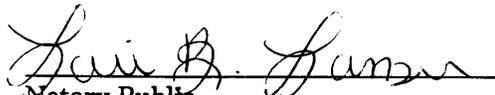
On this __ day of July, 1994, before me personally appeared Eugene N. Martini, to me personally known, who, being by me duly sworn, says that he is a Vice President of Railcar, Ltd., that the seal affixed to the foregoing instrument beside his signature is the corporate seal of said corporation and that the said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledges that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

My commission expires:

Commonwealth of Massachusetts)
) ss.
County of Suffolk)

On this 14th day of July, 1994, before me personally appeared Lawrence F. Christofori, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of The First National Bank of Boston, and that he is duly authorized to sign the foregoing instrument on behalf of said banking association, and he acknowledges that the execution of the foregoing instrument was the free act and deed of said banking association.


Notary Public

My commission expires:

LORI B. LANGER
Notary Public
My Commission Expires Feb. 24, 2000

EXHIBIT A TO
SECURITY
AGREEMENT

FORM OF
 AMENDMENT TO
SECURITY AGREEMENT

This AMENDMENT TO SECURITY AGREEMENT, dated as of , 199 , is by RAILCAR, LTD. (the "Borrower"), a Georgia corporation having its principal place of business at Suite 315, 1819 Peachtree Road, N.E., Atlanta, Georgia 30309-1847, for the benefit of THE FIRST NATIONAL BANK OF BOSTON (the "Bank").

WHEREAS, the Borrower and the Bank are parties to, inter alia, (a) that certain Revolving Credit and Discretionary Loan Agreement, dated as of July , 1994, as the same may be amended, restated, modified or supplemented from time to time (such agreement, as in effect from time to time, the "Credit Agreement") and (b) that certain Security Agreement, dated as of July , 1994, as the same may be amended, restated, modified or supplemented from time to time (such agreement, as in effect from time to time, the "Security Agreement"; capitalized terms which are used herein without definition and which are defined in the Security Agreement shall have the same meanings herein as in the Security Agreement); and

WHEREAS, in accordance with §4(a) of the Security Agreement, the Security Agreement is to be amended as hereinafter set forth;

NOW THEREFORE, in consideration of the premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

§1. AMENDMENT TO THE SECURITY AGREEMENT. Schedule 4(a) to the Security Agreement is hereby amended by adding thereto the following items of Rolling Stock listed on Schedule 4(a) attached hereto to reflect the addition to the Borrowing Base by the Borrower of additional Rolling Stock.

§2. EFFECTIVENESS. The amendment to the Security Agreement to be made pursuant to §1 of this Amendment shall become effective as of the date first above written when the Bank shall have received this Amendment signed by the Borrower.

§3. OWNERSHIP OF ADDITIONAL ROLLING STOCK. The Borrower represents and warrants that it is the owner of the Rolling Stock,

including, without limitation, the additional Rolling Stock added pursuant to Schedule 4(a) hereto, free from any adverse lien, security interest or encumbrance, except for the security interest created by the Security Agreement, as amended by this Amendment, and Permitted Liens (as defined in the Credit Agreement).

§4. FILING OF AMENDMENT WITH ICC. The Borrower shall promptly file two original fully executed, notarized copies of this Amendment with the Interstate Commerce Commission (the "ICC") accompanied by a transmittal letter substantially in the form of Exhibit A attached hereto and, promptly upon its receipt thereof, deliver to the Bank copies of such letter and this Amendment stamped by the ICC acknowledging the recordation thereof pursuant to Section 11303 of Title 49 of the U.S. Code.

§5. REFERENCE TO AND EFFECT ON THE SECURITY AGREEMENT.

(a) Upon the effectiveness of this Amendment, each reference in the Security Agreement to "this Agreement", "hereunder", "hereof", "herein" or words of like import shall mean and be a reference to the Security Agreement as amended hereby.

(b) Except as specifically amended hereby, the Security Agreement shall remain in full force and effect and is hereby ratified and confirmed by the Borrower.

(c) The execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of the Bank under the Security Agreement.

(d) The execution, delivery and effectiveness of this Amendment shall not operate to release any previously given pledge of Collateral under the Security Agreement.

§6. GOVERNING LAW. Except as otherwise required by the laws of any jurisdiction in which any Collateral is located, this Amendment shall be deemed to be a contract under seal and shall for all purposes be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

§7. MISCELLANEOUS. The headings of each section of this Amendment are for convenience only and shall not define or limit the provisions thereof. If any term of this Amendment shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby, and this Amendment shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. The Borrower acknowledges receipt of a copy of this Amendment.

EXHIBIT A TO
AMENDMENT TO
SECURITY AGREEMENT

_____, 199_

BY MESSENGER

Interstate Commerce Commission
Room 2303
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423

Attention: Ms. Mildred Lee

Ladies and Gentlemen:

Enclosed for recording with the Commission pursuant to Section 11303 of Title 49 of the U.S. Code are two original fully executed, notarized documents described below.

This document is a _____ Amendment to Security Agreement (the "Amendment"), a secondary document dated as of _____, 199_, by Railcar, Ltd., as the debtor (the "Debtor"), for the benefit of The First National Bank of Boston, as the secured party (the "Secured Party"), covering certain of the Debtor's rolling stock now owned and related interests. A description of the rolling stock is attached to the Amendment as Schedule 4(a). The Amendment amends a Security Agreement, a primary document dated as of July __, 1994 and recorded with the Commission pursuant to Section 11303 of Title 49 of the U.S. Code on July __, 1994 and assigned recordation number _____, between the Debtor and the Secured Party, covering certain of the Debtor's rolling stock now owned or hereafter acquired and related interests (such Security Agreement, as amended and in effect on the date hereof, is referred to herein as the "Security Agreement") and Schedule 4(a) to the Amendment amends Schedule 4(a) to the Security Agreement by adding thereto additional items of Debtor's rolling stock.

The names and addresses of the parties to the Security Agreement, as amended by the Amendment, are as follows: the Debtor is Railcar, Ltd., whose chief executive office is located at Suite 315, 1819 Peachtree Road, N.E., Atlanta, Georgia 30309-1847; the Secured Party is The First National Bank of Boston whose head office is located at 100 Federal Street, Boston, Massachusetts 02110.

WAS:10557.4

Included in the property covered by the aforesaid Security Agreement, as amended by the Amendment, are railroad cars, locomotives and other rolling stock intended for use related to interstate commerce, or interests therein (including, without limitation, interests of the Debtor under acquisition agreements, letters of intent to sell or lease, sale or lease agreements or repair or rebuilding agreements relating to such rolling stock), owned by the Debtor at the date of said Security Agreement or thereafter acquired by it.

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

"A _____ Amendment to Security Agreement, dated as of _____, 199_, by Railcar, Ltd., as the debtor, in favor of The First National Bank of Boston, as the secured party, covering certain of the debtor's rolling stock and related interests. A description of the rolling stock is attached to the Amendment as Schedule 4(a)."

Also enclosed is a check in the amount of \$18.00, payable to the Interstate Commerce Commission, to cover the recording fee prescribed by the Commission in its rules and regulations.

Please acknowledge receipt of the enclosed documents by stamping and mailing to us in the enclosed stamped, self-addressed envelope the enclosed copy of this letter together with the Amendment as filed.

If you have any questions with respect to the enclosed documents, please call me.

Sincerely,

Enclosures

cc: Lawrence F. Christofori,
Assistant Vice President

SCHEDULE 4(a)

Rolling Stock

NS 258054 - NS 258075

MSDR 1101 - MSDR 1107

GNRR 10076 - GNRR 10079

RMMX 6000 - RMMX 6099

CNA 549315

5022A/4

SCHEDULE 4(b)

Rolling Stock

Location

RMMX 6000 - RMMX 6099

Mexico or enroute
from U.S. to Mexico

CNA 549315

U.S./Canada

Other Collateral

Georgia

5022A/5