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19817

December 19, 1995

VIA FEDERAL EXPRESS

Ms. Janice Fort
c/o Interstate Commerce Commission
12th and Constitution Avenue, N.W.
Room 2311
Washington, DC 20423

8100896022

Dear Ms. Fort:

Enclosed are the following:

1. Release and Satisfaction of a certain Security Agreement to be recorded with the ICC. The original Security Agreement was recorded on December 4, 1993 having a recordation number of 18082. Enclosed is our check in the amount of \$21.00 to cover the recording fee; and

2. Security Agreement dated December 15, 1995 between Housatonic Railroad Company, Inc., Housatonic Track Company, Inc. and The Pittsfield Cooperative Bank to be recorded with the ICC upon release of the previous Security Agreement referred to above. Enclosed is our check in the amount of \$21.00 to cover the recording fee.

If you have any questions regarding the enclosed, please contact me.

Sincerely,

CAIN, HIBBARD, MYERS & COOK

Bonnie J. Sumner

Bonnie J. Sumner
Paralegal

BJS/lar
Enclosures
BPARA/9726
8099-002

Counterparts - Same stuff



Interstate Commerce Commission
Washington, D.C. 20423-0001

12/20/95

Office Of The Secretary

BonnieJ. Sumner
Cain, Hibbard, Myers & Cpk
66 West Street
Pittsfield, Massachusetts 01201-5764

Dear Madam:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 12/20/95 at 2:35PM, and assigned recordation number(s). 19817 and 18082-A.

Sincerely yours,

Vernon A. Williams
Secretary

Enclosure(s)

(0100896022)
(0100896023)

\$ ~~52.00~~ ^{# 42.00} 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 typed 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 your document.

Signature

SECURITY AGREEMENT

SECURITY AGREEMENT dated December 15, 1995 among HOUSATONIC RAILROAD COMPANY, INC., a Connecticut and Massachusetts corporation ("Borrower"), HOUSATONIC TRACK COMPANY, INC., a Massachusetts corporation ("Guarantor"), each with a principal place of business in Canaan, Connecticut and a mailing address of Canaan Union Station, P.O. Box 1146, Canaan, Connecticut (jointly and severally "Obligors" and each individually an "Obligor") and THE PITTSFIELD COOPERATIVE BANK, a Massachusetts banking corporation with a principal place of business at 70 South Street, Pittsfield, Massachusetts ("Bank").

PRELIMINARY STATEMENT

Simultaneously with the execution of this Agreement, Bank is advancing loans to Borrower evidenced by (a) a promissory note of even date in the original principal amount of \$400,000, and (b) a line of credit promissory note of even date in the original principal amount of \$200,000 (collectively, the "Notes"). Guarantor is guaranteeing all obligations of Borrower to Bank. In order to secure the Notes and all other obligations and liabilities of Obligors to Bank, Obligors grant to Bank a security interest in certain property on the terms and conditions described herein.

AGREEMENT

IT IS THEREFORE AGREED AS FOLLOWS:

1. Grant of Security Interest. To secure the Notes, including all principal and interest payments thereon, together with all other obligations of Obligors under the Loan Agreement (the "Loan Agreement") of even date among Borrower, Guarantor and Bank and all other Loan Documents (as defined in the Loan Agreement), as well as all other obligations, debts and liabilities from Obligors to Bank, plus interest and charges thereon, as well as all claims by Bank against Obligors (collectively, the "Secured Indebtedness"), Obligors grant to Bank security interests as follows:

1.1 Borrower's Security Interest. Borrower hereby grants to Bank a security interest in accounts, accounts receivable, contract rights, work-in-progress, chattel paper, the following locomotives:

1. GP35 locomotive number HRRC3600 f/k/a as Conrail locomotive number 2250;
2. GP35 locomotive number HRRC3601 f/k/a as Conrail locomotive number 2312;
3. GP35 locomotive number HRRC3602 f/k/a as Conrail locomotive number 2254;
4. GP35 locomotive number HRRC3603 f/k/a as Conrail locomotive number 2336;
5. GP35 locomotive number HRRC3604 f/k/a as Conrail locomotive number 2314;
6. GP-9 locomotive number HRRC 7324 f/k/a Conrail locomotive number CR 7324; and
7. RS-3M locomotive number HRRC 9935 f/k/a Conrail locomotive number CR 9935.

all accessions thereto, substitutions therefor, additions, renewals or replacements thereof, and all proceeds and products from the sale, exchange, collection, foreclosure of, liquidation or other disposition of any of the foregoing (collectively, "Borrower's Collateral").

1.2 Guarantor's Security Interest. Guarantor hereby grants to Bank a security interest in the following described property:

All furniture, fixtures, equipment, machinery, leasehold improvements, inventory, supplies, raw materials, work-in-process, accounts receivable, contract rights, chattel paper, customer lists, general intangibles, including, without limitation, all rolling stock, all rail and other track materials, ties, wires, pipes, conduits, electrical or mechanical signal devices, all patents, copyrights, licenses, trademarks and all other business assets of Obligors of every kind wherever located now in existence or hereafter created, and now owned or hereafter acquired by Obligors, together with all accessions thereto, substitutions therefor, additions, renewals or replacements thereof, and all proceeds and products from the sale, exchange, collection, foreclosure of, liquidation or other disposition of any of the foregoing (collectively, "Guarantor's Collateral" and together with Borrower's Collateral, the "Collateral").

1.3 Continuing Agreement. This is a continuing security agreement and shall continue in effect even though all or any part of the Secured Indebtedness shall be paid in full and

even though for period of time Obligors may not be indebted to Bank.

2. Financing Statements; Other Documents. Obligors shall execute such financing statements and take whatever actions are requested by Bank to perfect and continue Bank's security interest in the Collateral. Upon request of Bank, Obligors shall deliver to Bank any and all documents or instruments evidencing or constituting the Collateral, and Obligors shall note Bank's security interest upon any and all chattel paper if not delivered to Bank for possession by Bank. Obligors hereby irrevocably appoint Bank as Obligors' attorney-in-fact for the purpose of executing any documents necessary to perfect or to continue the security interest granted by this Agreement. Bank may at any time and without further authorization from Obligors file a reproduction of any financing statement or of this Agreement for use as a financing statement. Obligors shall promptly notify Bank of any change in Obligors' name, including any change to the assumed business names of Obligors.

3. Obligors' Representations and Warranties. Obligors represent and warrant to Bank as follows:

3.1 Obligors' Authority; No Violation of Agreements. Borrower is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Massachusetts and the State of Connecticut. Guarantor is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Massachusetts. Obligors are also duly qualified as a foreign corporation and are in good standing in all states in which the failure to so qualify would have a material adverse effect on their business or financial condition. Each Obligor has the power and authority to (a) own its properties and (b) execute, deliver and perform this Agreement. The execution, delivery and performance of this Agreement does not and will not constitute a breach or violation of any instrument or contract or any law, administrative regulation or court decree or any obligation by which Obligors are bound. Each Obligor is not in default under any indenture, mortgage, deed of trust, agreement or other instrument to which it is a party or by which it may be bound.

3.2 Enforceability of Collateral. To the extent the Collateral consists of accounts, contract rights, chattel paper, or general intangibles, the Collateral is enforceable in accordance with its terms, is genuine, and complies with applicable laws concerning form, content and manner of preparation and execution, and all persons appearing to be obligated on the Collateral have authority and capacity to contract and are in fact obligated as they appear to be on the Collateral. At the time any account becomes subject to a security interest in favor of Bank, or shall be included in information

presented by Obligors to Bank for the purposes of determining amounts available under any line of credit, the account shall be a good and valid account representing an undisputed, bona fide indebtedness incurred by the account debtor, for merchandise held subject to delivery instructions or previously shipped or delivered pursuant to a contract of sale, or for services previously performed by Obligors with or for the account debtor; there shall be no setoffs or counterclaims against any such account; there shall be no prohibition on assignment or grant of security interest to Bank; and no agreement under which any deductions or discounts may be claimed shall have been made with the account debtor except those disclosed to Bank in writing.

3.3 Title. The Obligors represent and warrant to Bank that they holds good and marketable title to the Collateral, free and clear of all liens and encumbrances except for the lien of this Agreement or liens permitted by the Loan Agreement. No financing statement covering any of the Collateral is on file in any public office other than those which reflect the security interest created by this Agreement or liens permitted by the Loan Agreement. Obligors shall defend Bank's rights in the Collateral against the claims and demands of all other persons.

4. Location of Collateral. Obligors shall keep the Collateral (or to the extent the Collateral consists of intangible property such as accounts, the records concerning the Collateral) at Obligors' address shown above, or at such other locations as are acceptable to Bank; provided that the foregoing restriction is not intended to limit the movement of Borrower's locomotives in the ordinary course of business or for customary repairs. Except in the ordinary course of their business, including the sales of inventory, Obligors shall not remove the Collateral from its existing locations without the prior written consent of Bank. To the extent that the Collateral consists of vehicles, or other titled property, Obligors shall not take or permit any action which would require registration of the vehicles outside the Commonwealth of Massachusetts, without the prior written consent of Bank. Obligors, upon request of Bank, shall deliver to Bank in form satisfactory to Bank a schedule of real properties and Collateral locations relating to Obligors' operations, including without limitation the following: (a) all real property owned or being purchased by Obligors, (b) all real property being rented or leased by Obligors, (c) all storage facilities owned, rented, leased, or being used by Obligors; and (d) all other properties where Collateral is or may be located.

5. Transactions Involving Collateral. Except for inventory sold or accounts collected in the ordinary course of Obligors' business, Obligors shall not sell, offer to sell, or otherwise transfer or dispose of the Collateral. A sale in the ordinary course of Obligors's business does not include a transfer in partial or total satisfaction of a debt or any bulk sale.

Obligors shall not pledge, mortgage, encumber or otherwise permit the Collateral to be subject to any lien, security interest, encumbrance, or charge, other than the security interest provided for in this Agreement or permitted by the Loan Agreement, without the prior consent of Bank.

6. Collateral Schedules. As often as Bank shall require, Obligors shall deliver to Bank schedules of such Collateral, including such information as Bank may require. Insofar as the Collateral consists of accounts and general intangibles, such schedules shall contain names and addresses of account debtors and agings of accounts and general intangibles. Insofar as the Collateral consists of inventory and equipment such schedules shall contain such lists, descriptions, and designations of such Collateral as Bank may require to identify the nature, extent, and location of such Collateral.

7. Maintenance and Inspection of Collateral. Obligors shall maintain all tangible Collateral in good condition and repair. Obligors shall not commit or permit damage to or destruction of the Collateral or any part of the Collateral. Bank and its designated representatives and agents shall have the right at all reasonable times to examine, inspect, and audit the Collateral wherever located.

8. Taxes and Claims. Obligors shall duly pay and discharge (a) all taxes, assessments and governmental charges upon or against them or their properties or assets prior to the date on which penalties attach thereto, unless and to the extent that such taxes are being diligently contested in good faith by appropriate proceedings, and appropriate reserves therefor have been established, and (b) all lawful claims, whether for labor, materials, supplies, services or anything else which could, if unpaid, become a lien or charge upon the Collateral, unless and to the extent that the same are being diligently contested in good faith and by appropriate proceedings and appropriate reserves therefor have been established.

9. Compliance with Governmental Requirements. Obligors shall comply promptly with all laws, ordinances and regulations of all governmental authorities applicable to the production, disposition, or use of the Collateral.

10. Hazardous Substances. Obligors represent and warrant that except as previously disclosed to Bank, the Collateral has not been, and shall not be so long as this Agreement remains a lien on the Collateral, used for the generation, manufacture, storage, transportation (except as a common carrier in compliance with all applicable laws and regulations), treatment, disposal, release or threatened release of any hazardous waste or substance, as those terms are defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

as amended, 42 U.S.C. Section 9601 et seq. ("CERCLA") the Superfund Amendments and Reauthorization Act of 1986 Pub. L. No. 99-499 ("SARA") the Hazardous Materials Transportation Act 49 U.S.C. Section 1801 et seq., the Resource Conservation and Recovery Act 49 U.S.C. Section 6901 et seq., the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, Massachusetts General Laws c. 21E, § 1 et seq. or other applicable state or Federal laws rules or regulations adopted pursuant to any of the foregoing. Obligors hereby (a) release and waive any future claims against Bank for indemnity or contribution in the event Obligors become liable for cleanup or other costs under any such laws and (b) agree to indemnify and hold harmless Bank against any and all claims and losses resulting from a breach of this provision of this Agreement. This obligation to indemnify shall survive the payment of the Secured Indebtedness and the satisfaction of this Agreement.

11. Hazard Insurance. Obligors shall keep all Collateral insured against loss by fire, hazards included within the term "extended coverage" and such other hazards as Bank may from time to time require, in such amounts and form for such periods and with such companies as shall be satisfactory to Bank. All such insurance policies shall, in the case of loss, be first payable to Bank. Duplicate originals or copies of all such policies, acceptable to Bank, shall be deposited with Bank. Obligors shall pay all premiums for such insurance when due, and Obligors shall furnish Bank with evidence of payment. In the event of loss, Obligors shall give immediate notice thereof by certified mail, return receipt requested, to the insurance company and Bank. Bank may make proof of loss if not made promptly by Obligors. Each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Bank instead of to Obligors and Bank, jointly, and Bank is hereby appointed attorney-in-fact of Obligors to sign any and all documents, checks, drafts and other instruments that may be required in connection with the adjustment and collection of such loss or damage. In the event of loss, all insurance proceeds, or any part thereof, shall be applied, as Bank shall specify, to the reduction of the Secured Indebtedness, and otherwise to the restoration or repair of the damaged property. In the event of exercise of Bank's rights in the Collateral, (a) all right, title and interest in such insurance policies and the proceeds thereof shall pass to Bank, and (b) Bank shall have full authority to deal with such policies in any way, including, without limitation, the right either to cancel such policies and apply any premium refund to Obligors' indebtedness or to transfer such policies to the purchaser at a foreclosure sale.

12. Obligors's Right to Possession and to Collect Accounts. Until default and except as otherwise provided below with respect to accounts, Obligors may have possession of the tangible personal property and beneficial use of all the Collateral and

shall be entitled to use it in any lawful manner not inconsistent with this Agreement or the Loan Agreement provided that Obligors's right to possession and beneficial use shall not apply to any Collateral where possession of the Collateral by Bank is required by law to perfect Bank's security interest in such Collateral. Until otherwise notified by Bank, Obligors may collect any of the Collateral consisting of accounts receivable. At any time and even though no Event of Default exists Bank may exercise its rights to collect the accounts and to notify account debtors to make payments directly to Bank for application to the Secured Indebtedness. If Bank at any time has possession of any Collateral whether before or after an Event of Default, Bank shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral if Bank takes such action for that purpose as Obligors shall request or as Bank in Bank's sole discretion shall deem appropriate under the circumstances, but failure to honor any request by Obligors shall not of itself be deemed to be a failure to exercise reasonable care.

13. Expenditures by Bank. Obligors shall reimburse Bank for all costs and expenses incurred in connection with the perfection and the continuation of the perfection of Bank's security interest in the Collateral. If not discharged or paid when due Bank may (but shall not be obligated to) discharge or pay any amounts required to be discharged or paid by Obligors under this Agreement including without limitation all taxes, liens, security interests, encumbrances and other claims at any time levied or placed on the Collateral. Bank also may (but shall not be obligated to) pay all costs for insuring maintaining and preserving the Collateral. All such expenditures incurred or paid by Bank for such purposes will then bear interest at the rate charged under the Notes from the date incurred or paid by Bank to the date of repayment by Obligors.

14. Events of Default. Each of the following shall constitute an Event of Default under this Agreement:

14.1 Default on Indebtedness. Failure of Obligors to make any payment when due on the Secured Indebtedness.

14.2 Other Defaults. Failure of Obligors to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement, the Loan Agreement or in any other agreement between Bank and Obligors.

14.3 False Statement. Any warranty representation or statement made or furnished to Bank by or on behalf of Obligors under this Agreement is false or misleading in any material respect either now or at the time made or furnished.

14.4 Defective Collateralization. This Agreement ceases to be in full force and effect (including failure of any

collateral documents to create a valid and perfected security interest or lien) at any time and for any reason.

14.5 Insecurity. Bank, in good faith, deems itself insecure.

15. Rights and Remedies on Default. If an Event of Default occurs under this Agreement, at any time thereafter, Bank shall have all the rights a secured party under the Uniform Commercial Code as in effect in the Commonwealth of Massachusetts from time to time (the "UCC"). In addition and without limitation, Bank may exercise any one or more of the following rights and remedies:

15.1 Accelerate Indebtedness. Bank may declare the entire Secured Indebtedness immediately due and payable, without notice.

15.2 Assemble Collateral. Bank may require Obligors to deliver to Bank all or any portion of the Collateral and any and all certificates of title and other documents relating to the Collateral. Bank may require Obligors to assemble the Collateral and make it available to Bank at a place to be designated by Bank. Bank also shall have full power to enter upon the property of Obligors to take possession of and remove the Collateral.

15.3 Sell the Collateral. Bank shall have full power to sell, lease, transfer, or otherwise deal with the Collateral or proceeds thereof in its own name or that of Obligors. Bank may sell the Collateral at public auction or private sale. Bank shall give Obligors reasonable notice of the time after which any private sale or any other intended disposition of the Collateral is to be made. The requirements of reasonable notice shall be met if such notice is given at least five (5) days before the time of the sale or disposition. All expenses relating to the disposition of the Collateral, including without limitation the expenses of retaking, holding, insuring, preparing for sale and selling the Collateral, shall become a part of the Secured Indebtedness secured by this Agreement and shall be payable on demand, with interest at 18% per annum or the rate of interest charged on the Notes whichever is greater from date of expenditure until repaid.

15.4 Appoint Receiver. To the extent permitted by applicable law, Bank shall have the following rights and remedies regarding the appointment of a receiver: (a) Bank may have a receiver appointed as a matter of right, (b) the receiver may be an employee of Bank and may serve without bond, and (c) all fees of the receiver and his or her attorney shall become part of the Secured Indebtedness secured by this Agreement.

15.5 Collect Revenues, Apply Accounts. Bank, either itself or through a receiver, may collect the payments, rents, income, and revenues from the Collateral. Bank may at any time in

its discretion transfer any Collateral into its own name or that of its nominee and receive the payments, rents, income, and revenues therefrom and hold the same as security for the Secured Indebtedness or apply it to payment of the Secured Indebtedness in such order of preference as Bank may determine. Insofar as the Collateral consists of accounts, general intangibles, insurance policies, instruments, chattel paper, choses in action, or similar property, Bank may demand, collect, receipt for, settle, compromise, adjust, sue for, foreclose, or realize on the Collateral as Bank may determine, whether or not Secured Indebtedness or Collateral is then due. For these purposes, Bank may, on behalf of and in the name of Obligors, receive, open and dispose of mail addressed to Obligors; change any address to which mail and payments are to be sent; and endorse notes, checks, drafts, money orders, documents of title, instruments and items, pertaining to payment, shipment, or storage of any Collateral. To facilitate collection, Bank may notify account debtors and obligors on any Collateral to make payments directly to Bank.

15.6 Other Rights and Remedies. Bank shall have all the rights and remedies of a secured creditor under the provisions of the UCC. In addition, Bank shall have and may exercise any or all other rights and remedies it may have available at law, in equity, or otherwise.

15.7 Cumulative Remedies. All of Bank's rights and remedies, whether evidenced by this Agreement or by any other writing, shall be cumulative and may be exercised singularly or concurrently. Election by Bank to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Obligors under this Agreement, after Obligors's failure to perform, shall not affect Bank's right to declare a default and to exercise its remedies.

16. Power of Attorney. Each Obligor hereby appoints Bank as its true and lawful attorney-in-fact, irrevocably, with full power of substitution to do the following (a) to demand, collect, receive, receipt for, sue and recover all sums of money or other property which may now or hereafter become due, owing or payable from the Collateral; (b) to execute, sign and endorse any and all claims, instruments, receipts, checks, drafts or warrants issued in payment for the Collateral; (c) to settle or compromise any and all claims arising under the Collateral, and, in the place and stead of Obligors, to execute and deliver its release and settlement for the claim, and (d) to file any claim or claims or to take any action or institute or take part in any proceedings, either in its own name or in the name of Obligors, or otherwise, which in the discretion of Bank may seem to be necessary or advisable. This power is given as security for the Secured Indebtedness, and the authority hereby conferred is and shall be

irrevocable and shall remain in full force and effect until renounced by Bank.

17. Governing Law; Effect. This Agreement shall be governed by and construed in accordance with the substantive law of the Commonwealth of Massachusetts, without giving effect to the conflicts or choice of law provisions of Massachusetts or any other jurisdiction, and shall have the effect of a sealed instrument.

18. Notice. Any notice, approval, consent or other communication under this Agreement shall be in writing and shall be considered given when (1) delivered personally, or (2) mailed by registered or certified mail, return receipt requested or (3) received by telecopy with a confirming copy sent by overnight mail or courier service, to the parties at the addresses indicated below (or at such other address as a party may specify by notice to the others pursuant hereto). Notice given by a party's counsel shall be considered notice given by that party.

(a) If to Borrower, to it at:

Canaan Union Station
P.O. Box 1146
Canaan, CT 06018

(b) If to Guarantor, to it at:

Canaan Union Station
P.O. Box 1146
Canaan, CT 06018

(c) If to Bank, to it at:

70 South Street
Pittsfield, MA 01201
Attention: Henry L. Ervin, Vice President

(d) In each case, with a copy to:

Steven Taylor Smith, Esq.
Cain, Hibbard, Myers & Cook
66 West Street
Pittsfield, MA 01201
Telecopy No. 413-443-7694

and

Edward J. Rodriguez, Esquire
P.O. Box 537
Old Saybrook, CT 06475

19. Severability. If any provision of this Agreement shall be deemed invalid or unenforceable, the balance of this Agreement shall remain in effect, and if any provision shall be deemed inapplicable to any person or circumstances it shall nevertheless be construed to apply to all other persons and circumstances.

20. Integration. This Agreement contains a complete statement of all representations, warranties, covenants and agreements by and between the parties with respect to its subject matter.

21. Successors. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, successors, legal representatives and assigns.

22. Captions. The captions of the various sections of this Agreement have been inserted only for the purpose of convenience; such captions are not a part of this Agreement and shall not be deemed in any manner to modify, explain, enlarge or restrict any of the provisions of this Agreement.

WITNESS:

HOUSATONIC RAILROAD COMPANY, INC.

Edward J. Rodriguez

By: [Signature]

Its: PRES.

WITNESS:

HOUSATONIC TRACK COMPANY, INC.

Edward J. Rodriguez

By: [Signature]

Its: PRES.

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS.

December 15, 1995

Then personally appeared the above-named John R. Hanlon, Jr., President of Housatonic Railroad Company, Inc. and acknowledged the foregoing instrument to be its free act and deed, before me,

[Signature]
Notary Public

11/6/98
Commission Expiration Date

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS.

December 15, 1995

Then personally appeared the above-named John R. Hanlon, Jr., President of Housatonic Track Company, Inc. and acknowledged the foregoing instrument to be its free act and deed, before me,



Notary Public

u/s/98

Commission Expiration Date