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May 27, 1994

RECORDATION NO. 10398-H FILED 1425

MAY 27 1994-12 45 PM

INTERSTATE COMMERCE COMMISSION

Direct Dial: (202)466-6532

Honorable Sidney L. Strickland, Jr.  
Secretary  
Interstate Commerce Commission  
Washington, DC 20423

Dear Secretary Strickland:

I have enclosed three originals and two certified copies of each of the three documents described below, to be recorded pursuant to 49 U.S.C. § 11303.

I. The first document is a Security Agreement, a secondary document, dated May 27, 1994. The primary documents to which this is connected are recorded under Recordation Nos. 10398 and 10621. We request that this document be recorded under Recordation Nos. 10398-G and 10621-D.

The names and addresses of the parties to the Security Agreement are:

Debtor:

Investors Asset Holding Corp.  
Exchange Place  
Boston, MA 02109

Debtor:

American Financial Group  
Exchange Place  
Boston, MA 02109

*Christine Smith McDonald*

Honorable Sidney L. Strickland, Jr.  
May 27, 1994  
Page 2

Debtor:

First Security Bank of Utah, National Association  
79 South Main Street  
Salt Lake City, UT 84111

Agent:

National Westminster Bank USA  
175 Water Street  
New York, NY 10038

A description of the equipment covered by the document consists of 149 100-ton 4,650 cubic foot lined covered hopper cars numbered ATSF 317500-317572, and 317574-317649, all inclusive, previously numbered KPLX 20000-20072, and 20074-20149, all inclusive, respectively.

II. The second document is an Assignment of Lease, a secondary document, dated May 27, 1994. The primary documents to which this is connected are recorded under Recordation Nos. 10398 and 10621. We request that this document be recorded under Recordation Nos. 10398-H and 10621-E.

The names and addresses of the parties to the Assignment of Lease are:

Assignor:

First Security Bank of Utah, National Association  
79 South Main Street  
Salt Lake City, UT 84111

Assignee:

National Westminster Bank USA  
175 Water Street  
New York, NY 10038

Honorable Sidney L. Strickland, Jr.  
May 27, 1994  
Page 3

A description of the equipment covered by the document consists of 149 100-ton 4,650 cubic foot lined covered hopper cars numbered ATSF 317500-317572, and 317574-317649, all inclusive, previously numbered KPLX 20000-20072, and 20074-20149, all inclusive, respectively.

III. The third document is a Guaranty, a secondary document, dated May 27, 1994. The primary documents to which this is connected are recorded under Recordation Nos. 10398 and 10621. We request that this document be recorded under Recordation Nos. 10398-I and 10621-F.

The names and addresses of the parties to the Guaranty are:

Guarantor:

First Security Bank of Utah, National Association  
79 South Main Street  
Salt Lake City, UT 84111

Agent:

National Westminster Bank USA  
175 Water Street  
New York, NY 10038

A description of the equipment covered by the document consists of 149 100-ton 4,650 cubic foot lined covered hopper cars numbered ATSF 317500-317572, and 317574-317649, all inclusive, previously numbered KPLX 20000-20072, and 20074-20149, all inclusive, respectively.

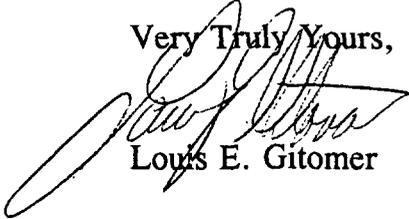
A fee of \$108.00 is enclosed. Please return three originals of each document to:

Honorable Sidney L. Strickland, Jr.  
May 27, 1994  
Page 4

Louis E. Gitomer  
Ball, Janik & Novack  
Suite 1035  
1101 Pennsylvania Avenue, N.W.  
Washington, DC 20004

A short summary of the documents to appear in the index follows: (I) a Security Agreement between Investors Asset Holding Corp., Exchange Place, Boston, MA 02109, American Financial Group, Exchange Place, Boston, MA 02109, First Security Bank of Utah, National Association, 79 South Main Street, Salt Lake City, UT 84111, and National Westminster Bank USA, 175 Water Street, New York, NY 10038, covering 149 100-ton 4,650 cubic foot lined covered hopper cars numbered ATSF 317500-317572, and 317574-317649, all inclusive, previously numbered KPLX 20000-20072, and 20074-20149, all inclusive, respectively; (II) an Assignment of Lease between First Security Bank of Utah, National Association, 79 South Main Street, Salt Lake City, UT 84111, and National Westminster Bank USA, 175 Water Street, New York, NY 10038, covering 149 100-ton 4,650 cubic foot lined covered hopper cars numbered ATSF 317500-317572, and 317574-317649, all inclusive, previously numbered KPLX 20000-20072, and 20074-20149, all inclusive, respectively; and (III) a Guaranty between First Security Bank of Utah, National Association, 79 South Main Street, Salt Lake City, UT 84111, and National Westminster Bank USA, 175 Water Street, New York, NY 10038, covering 149 100-ton 4,650 cubic foot lined covered hopper cars numbered ATSF 317500-317572, and 317574-317649, all inclusive, previously numbered KPLX 20000-20072, and 20074-20149, all inclusive, respectively.

Very Truly Yours,



Louis E. Gitomer

Enclosures

RECORDATION NO. 10398-H FILED 1425  
MAY 27 1994-12 45 PM  
INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF LEASE

ASSIGNMENT OF LEASE dated as of May 27, 1994 made by **FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION**, with an office at 79 South Main Street, Salt Lake City, Utah 84111 ("First Security"), not in its individual capacity but solely as Owner Trustee (hereinafter in such capacity referred to as the "Trustee") under the Koppel Inc. (1979) Equipment Trust No. 1 created as of May 31, 1979 (the "Railcar Trust") pursuant to that certain Master Trust Agreement, dated as of October 31, 1978, between First Security, as Owner Trustee, and ITEL Corporation, Equipment Finance Corporation ("ITEL"), as Trustor, and the Authorization and Direction under the Master Trust Agreement (the "Railcar Equipment Trust Authorization") dated as of May 15, 1979 between INVESTORS ASSET HOLDING CORP., a Massachusetts corporation ("IAHC"), as Trustee (the "Owner Participant") under the AFG/AT&SF 1994-1 Trust created pursuant to that certain Trust Agreement dated as of May 24, 1994 by and between American Finance Group, as Trustor, and IAHC, as Trustee, as assignee of Residual Based Finance Corporation (assignee of Commerce Bank of Kansas City, N.A. and Commerce Bank of St. Louis, N.A.) (such Master Trust Agreement and Authorization and Direction being collectively referred to as the "First Security Trust Agreement") in favor of **NATIONAL WESTMINSTER BANK USA**, as agent (the "Assignee") under that certain Credit Agreement dated as of October 7, 1993 (together with all amendments, supplements and modifications thereto, the "Credit Agreement") among the Borrower, the lenders signatory thereto (the "Lenders") and the Agent.

W I T N E S S E T H:

**WHEREAS**, pursuant to the Credit Agreement, the Lenders have made and have agreed to make, from time to time, loans (the "Loans") to the Borrower, such Loans being evidenced by a secured promissory note of the Borrower, to bridge finance the purchase of equipment to be sold to certain investment funds and for other working capital purposes, including the cost of operation and management of such funds;

**WHEREAS**, the Borrower, the Agent and certain affiliates of the Borrower have entered into a Security and Pledge Agreement dated as of October 7, 1993 pursuant to which, among other things, the Borrower granted the Agent, as security for the obligations of the Borrower under the Credit Agreement, a lien on all of the assets of the Borrower, including all of the beneficial interest of the Borrower in the Railcar Trust (as hereinafter defined) upon its acquisition thereof;

**WHEREAS**, simultaneously herewith the Owner Participant has acquired all of the beneficial interest in the Railcar Trust, which trust owns certain assets consisting of 149 100-ton 1979-built 4,650 CF Lined steel covered hopper cars bearing original marks KPLX numbers 20000 through 20149, inclusive, but excluding number

20073 (and new marks ATSF 317500 through 317649, inclusive, but excluding number 317573) and that certain Equipment Lease (the "Lease"), dated as of May 15, 1979 with The Atchison, Topeka and Santa Fe Railway Company (the "Lessee"), successor in interest to Mitsubishi International Corporation, successor in interest to Agrex, Inc. (formerly known as Koppel Inc.);

**WHEREAS**, the Borrower has requested that the Lenders make a Loan to it under the Credit Agreement in the amount of \$4,562,750.00 (the "Railcar Loan"), the proceeds of which are being used to enable the Owner Participant to acquire all of the beneficial interest in the Railcar Trust;

**WHEREAS**, in consideration of the Railcar Loan to the Borrower, the Trustee is entering into a certain Guaranty of even date herewith (the "Guaranty") pursuant to which the Trustee has guaranteed payment and performance of the Railcar Loan and the other Obligations and is entering into a Security Agreement of even date herewith (the "Security Agreement") pursuant to which, among other things, the Trustee is granting to the Assignee a first security interest on the Railcar Collateral (as defined in the Security Agreement); and

**WHEREAS**, it is a condition precedent to the obligation of the Assignee to make the Railcar Loan that the Trustee shall execute and deliver this Assignment of Lease;

**NOW, THEREFORE**, in confirmation of and in addition to the terms and conditions of the Security Agreement, the Trustee, in consideration of One Dollar (\$1.00) lawful money of the United States of America and other good and valuable consideration, the receipt of which is hereby acknowledged, by this instrument does hereby grant to the Assignee a lien on and security interest in, and do sell, assign, transfer and set over, unto the Assignee, and unto each of the Assignee's successors and assigns, to its and to its successors' and assigns' own proper use and benefits, all the right, title and interest of the Trustee under, in and to that certain Equipment Lease (the "Lease"), dated as of May 15, 1979 with The Atchison, Topeka and Santa Fe Railway Company (the "Lessee"), successor in interest to Mitsubishi International Corporation, successor in interest to Agrex, Inc. (formerly known as Koppel Inc.), including, without limitation, all of its rights any riders, addenda and other supplements, as any such documents may from time to time be amended or supplemented, (the foregoing are hereinafter collectively referred to as the "Lease") and including, without limitation, the following (capitalized terms which are not defined in this Assignment shall have the meaning given thereto in the Security Agreement):

(a) all rental payments and other moneys, including all insurance payments and claims for losses, due and to become due

to the Trustee under, and all claims for damages arising out of the breach of, the Lease;

(b) the rights of the Trustee to terminate the Lease;

(c) the rights of the Trustee to perform thereunder;

(d) the rights of the Trustee to compel performance of the terms thereof;

(e) any guarantee of the Lease and any rights of Trustee in respect of any subleases permitted under the Lease; and

(f) all proceeds of the foregoing.

This Assignment is granted and delivered as security for the prompt and full payment and performance, as and when due and payable, of all of the Obligations. All rights granted to the Assignee under or in connection with any other agreements or other documents executed and delivered hereunder or in connection with the Credit Agreement are in addition to all rights granted to the Assignee hereunder. Notwithstanding anything in the foregoing to the contrary, the Assignee shall have no recourse to any collateral owned by the Railcar Trust to the extent that such collateral shall secure Obligations of any Permitted Transferee (as defined in the Credit Agreement) except to the extent that a Default or Event of Default shall have occurred with respect to any of the Obligations of such Permitted Transferee.

The Trustee does hereby agree as follows:

1. The Trustee shall remain liable under the Lease to perform all the obligations to be performed by them thereunder, all in accordance with and pursuant to the terms and provisions of the Lease, and the Assignee shall have no obligation or liability under the Lease by reason of or arising out of this Assignment, nor shall the Assignee be required or obligated in any manner to perform or fulfill any of the obligations of the Trustee under or pursuant to the Lease, or to make any payment, or to make any inquiry as to the nature or the amounts which may have been assigned to it or to which it may be entitled at any time or times.

2. The obligations of the Trustee under the Lease may be performed by the Assignee or its nominee, but only at the option of the Assignee, without releasing the Trustee therefrom and without providing for or resulting in any assumption of liability thereunder.

3. The Trustee does hereby constitute the Assignee the Trustee's true and lawful attorney, irrevocably, with full power (in the name of the Trustee or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all moneys and claims for moneys due and to become due under or arising out of the Lease or any guarantee thereof or sublease permitted thereunder, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Assignee may deem to be necessary or advisable.

4. The Trustee agrees that at any time and from time to time, upon the written request of the Assignee and at the expense of the Borrower, it will promptly and duly execute and deliver any and all such further instruments and documents and take such further action as the Assignee may reasonably deem desirable in obtaining the full benefits of this Assignment and of the rights and powers herein granted, including, without limitation:

(a) the filing or recording of this Assignment (or any amendment or supplement thereto) with the United States Interstate Commerce Commission or a financing or continuation statement or statements with respect hereto or thereto in accordance with the laws of any applicable jurisdiction, and the Trustee hereby authorizes the Assignee to effect any such filing or recording as aforesaid (including the filing of any such financing statements or amendments thereto without the signature of the Trustee), and the Assignee's costs and expenses with respect thereto shall be payable by the Borrower on demand; and

(b) the taking of such further action as the Assignee may deem desirable to protect fully the Assignee's interest hereunder in accordance with the Uniform Commercial Code or any other applicable law.

5. In any suit, proceeding or action brought by the Assignee under the Lease, any guarantee thereof or sublease permitted thereunder, for any installment of, or interest on, any rental or other sum owing thereunder, or to enforce any provisions of the Lease, any guarantee thereof or sublease permitted thereunder, the Borrower and the Trustee, jointly and severally, will save, indemnify and keep the Assignee harmless from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim, recoupment or reduction of liability whatsoever of any lessee under the Lease, or any guarantor or sublessee thereunder or its successors, arising out of a breach by the Trustee of any obligation under the Lease or in respect of any assets covered by the Security Agreement or owned by the Railcar Trust (the "Railcar Collateral") or any sublease permitted thereunder or arising out of any other agreement, indebtedness or liability at any time owing to or in favor of the Lease or any such

guarantor or sublessee or its successors from the Trustee, and all such obligations of the Borrower and the Trustee shall be and remain enforceable against the Trustee or any party or parties in whom any of the rights of the Trustee under the Lease shall vest by reason of the successive assignments or transfers thereof.

6. (a) Each of the Borrower and the Trustee hereby represents and warrants that the Trustee is the sole owner of the Lease, free and clear of any liens, claims or encumbrances (the "Liens") and the Trustee, both in its individual capacity and as Owner Trustee, has not conveyed any interest in the Lease to any Person or subjected the Lease to any Lien except pursuant to the Security Documents. The Trustee shall, at the expense of the Borrower, promptly take such action as may be necessary to duly discharge any Liens on the Lease. Without limiting the foregoing, each of the Borrower and the Trustee represents and warrants that (i) there is no financing statement or other filed or recorded instrument signed by the Trustee on file in any public office covering any of the Railcar Collateral, except for the financing statements or other instruments filed or to be filed in favor of the Assignee pursuant to the Security Documents and (ii) the Lease is a valid obligation of the parties thereto, in full force and effect and enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency and similar laws affecting the enforcement of creditors' rights generally and to general principles of equity.

(b) Except as otherwise specifically permitted by the Credit Agreement, the Trustee covenants that it will not take any action, the taking of which could result in an alteration or impairment of the Lease or of this Assignment or of any of the rights created by the Lease or any guarantee thereof or this Assignment. Each of the Borrower and the Trustee further represents and warrants that they have not assigned or pledged, and covenants that, so long as this Assignment shall remain effect, it shall not, except as specifically permitted by the Credit Agreement, assign or pledge, any of its right, title or interest under, in or to any Lease or any guarantee thereof to anyone other than the Assignee, nor shall the Trustee deliver possession of the Lease to any person except as provided in the Credit Agreement or the Loan Documents.

7. It is expressly understood and agreed that all agreements, representations, warranties and undertakings of the Trustee in this Assignment shall be binding upon the Trustee only in its capacity as successor trustee under the First Security Trust Agreement and the Trustee shall not be personally liable for or on account of, nor shall the Assignee have any recourse against the Trustee or its assets with respect to, any statements, representations, warranties, covenants or obligations stated to be those of the Trustee hereunder except the Trustee (or any successor Trustee) shall be personally liable for its gross negligence or

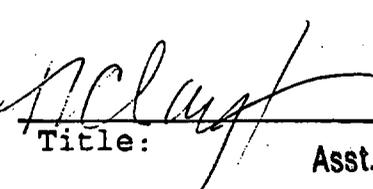
willful misconduct. Notwithstanding the foregoing, First Security makes the agreements, representations, warranties and covenants in Section 4 and the first sentence of Section 6(a) of this Assignment personally, and its personal liability attaches in respect of any breaches thereof.

8. This Assignment shall be binding upon the Trustee and its successors, and shall inure to the benefit of the Assignee. The Trustee may not assign or delegate any of its rights or obligations hereunder or, except as permitted by the Credit Agreement, under the Lease without the prior written consent of the Assignee and any such assignment in the absence of such consent shall be null and void. This Assignment may be executed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

9. This Assignment shall be governed by and construed and conformed in accordance with the laws of the State of New York applicable to contracts made and wholly performed in that state.

IN WITNESS WHEREOF, the Trustee has caused this Assignment to be duly executed on the date first above written.

First Security Bank of Utah,  
National Association, in its  
individual capacity only as  
expressly set forth herein, and  
otherwise solely as Owner Trustee  
under the First Security Trust  
Agreement

By: 

Title: \_\_\_\_\_

Asst. Vice President

The undersigned hereby confirms, acknowledges and covenants and agrees to the provisions of of the Assignment of Lease to the extent applicable to it, including that it shall pay the cost of any items to be at the expense of the undersigned

AMERICAN FINANCE GROUP

By: \_\_\_\_\_

IN WITNESS WHEREOF, the Owner Trustee has caused this Assignment to be duly executed on the date first above written.

<sup>BANK</sup>  
FIRST SECURITY A OF UTAH, NATIONAL ASSOCIATION, in its individual capacity, only as expressly set forth herein, and otherwise solely as Owner Trustee under the First Security Trust Agreement

By: \_\_\_\_\_ Title

The undersigned hereby acknowledges and covenants and agrees to the provisions of of the Assignment of Lease to the extent applicable to it, including that it agrees to pay the cost of any items to be at the expense of the undersigned

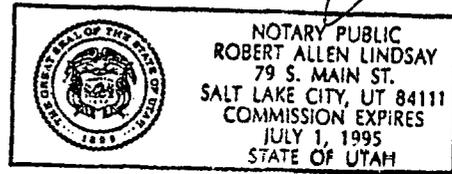
AMERICAN FINANCE GROUP

By: Dud \_\_\_\_\_ Title  
TREASURER

STATE OF UTAH                    )  
  )  SS.:  
COUNTY OF SALT LAKE        )

On the 27<sup>th</sup> day of May, 1993<sup>4</sup>, before me personally came  
Tanta Lisa Clayton, to me known, who, being by me duly sworn, did  
depose and say: that he/she is a ~~Asst. Vice President~~ of FIRST  
SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, a national banking  
association described in and which executed the foregoing  
instrument as Owner Trustee; and that he/she signed his/her name  
thereto by order of the Board of Directors of said corporation.

  
\_\_\_\_\_  
Notary Public



COMMONWEALTH OF MASSACHUSETTS)

) ss.:

COUNTY OF SUFFOLK . )

On the 13th day of May, 1994, before me personally came D.R. Dugan, to me known, who, being by me duly sworn, did depose and say: that he is the Vice President and Treasurer of AMERICAN FINANCE GROUP, a Massachusetts general partnership described in and which executed the foregoing instrument; and that he signed his name thereto by order of the Executive Committee of said partnership.

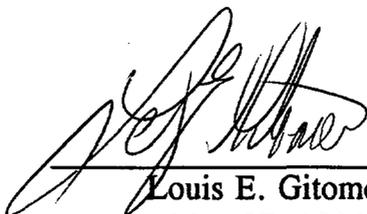
Maureen A. Madden

Notary Public

Commission Expires: 9/22/2000

**CERTIFICATION**

I, LOUIS E. GITOMER, have compared this copy to the original Assignment of Lease, dated May 27, 1994, and found the copy to be complete and identical in all respects to the original document. I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read 'Louis E. Gitomer', is written over a horizontal line.

Louis E. Gitomer

May 27, 1994