

20359

ALVORD AND ALVORD
ATTORNEYS AT LAW
918 SIXTEENTH STREET, N W
SUITE 200
WASHINGTON, D C
20006-2973

(202) 393-2266
FAX (202) 393-2156

ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

OF COUNSEL
URBAN A. LESTER

20359 - A
NOV 11 1996

Countersparts - Edward W. Linn

November 6, 1996

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a), are two (2) copies of a Equipment Mortgage, dated as of November 1, 1996, a primary document as defined in the Board's Rules for the Recordation of Documents, and two (2) copies of an Assignment of Rents and Leases, a secondary document related thereto.

The names and addresses of the parties to the enclosed documents are:

Equipment Mortgage

Borrower: Compass Rail II
555 California Street
San Francisco, California 94104

Lender: Mitsui Leasing (U.S.A.), Inc.
200 Park Avenue
New York, New York 10166

Mr. Vernon A. Williams
November 6, 1996
Page 2

Assignment of Rents and Leases

Borrower/Assignor: Compass Rail II
555 California Street
San Francisco, California 94104

Lender/Assignee: Mitsui Leasing (U.S.A.), Inc.
200 Park Avenue
New York, New York 10166

A description of the railroad equipment covered by the enclosed documents is set forth on Schedule I attached to the Equipment and the Assignment. The Lease of said railroad equipment is being filed concurrently herewith under Recordation Number 20358.

Also enclosed is a check in the amount of \$22 00 payable to the order of the Surface Transportation Board covering the required recordation fee

Kindly return stamped copies of the enclosed document to the undersigned

Very truly yours,



Robert W. Alvord

RWA/bg
Enclosures

20359 -A
NOV 8 1996 -1 10 PM

ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT OF RENTS AND LEASES ("Assignment") is granted as of November 1, 1996, by COMPASS RAIL II, a California corporation ("Borrower"), to MITSUI LEASING (U.S.A.), INC., a Delaware corporation ("Lender").

WHEREAS, (i) Lender extended certain credit and other financial accommodations to Borrower pursuant to that certain Loan and Security Agreement of even date herewith (as amended, the "Loan Agreement") to be secured by, among other things, the railcars described on Schedule 1 hereto (collectively, the "Railcars"), (ii) Borrower has agreed to grant to Lender the liens and security interests in the Lease described on Schedule 2 hereto (the "Lease") and other personal property described herein, and (iii) Borrower has agreed to assign to Lender its right under the Lease to receive payments, as more fully described below.

NOW, THEREFORE, it is agreed:

SECTION 1. ASSIGNMENT.

Section 1.1 Capitalized Terms. All capitalized terms used in this Assignment, and not otherwise defined, shall have the meanings ascribed thereto in the Loan Agreement.

Section 1.2 Assignment of Rent. Assignor hereby assigns, conveys, transfers and sets over ABSOLUTELY to Assignee all rights to the Rent (as defined in the Lease) and hereby constitutes Lender as its attorney, in its name to take all legal measures which may be proper or necessary for the complete recovery of the Rent, and hereby authorizes, empowers and directs Lessee (as defined in the Lease) to pay the Rent to Lender during the term of the Lease, without notice or demand and without abatement, reduction, deduction, counterclaim, recoupment, defense or setoff of any amount whatsoever.

Section 1.3 Direction to Pay. Borrower hereby directs Less to pay the Rent to or at the direction of Lender, and acknowledges that such direction shall remain in full force and effect until Lessee is otherwise instructed in writing by Lender.

Section 1.4 Grant of Security Interest. As security for the Borrower's payment and performance obligations of the Liabilities, as defined in the Loan Agreement, Borrower hereby grants to Lender a security interest in and chattel mortgage on all of the following (the "Collateral"):

(a) All of Borrower's leases, assignments, usage agreements, management agreements, bailment agreements and any other arrangements to deliver possession relating to the Equipment, including, without limitation, the Lease (as defined herein) (collectively, the "Leases"), whether now or hereafter existing, between the Borrower as lessor and other parties as lessees, users or otherwise (the "Lessees"), including, without limitation, (i) all rents thereunder, (ii) all claims for damages arising out of the breach of any Lease, (iii) the right, if any, to terminate any Lease, to perform thereunder and to compel performance of the terms thereof, (iv) the right to take possession of the Equipment and to use any and all of the Equipment, subject to the right of the

Lessees therein, (v) the right to make all waivers and agreements and to enter into any amendments relating to any Lease or any provision thereof, (vi) the right to take such action upon the occurrence of an event of default under any Lease, including, without limitation, the commencement, conduct and consummation of legal, administrative or other proceedings, as shall be permitted by any Lease or by law, and (vii) all other rights, claims, causes of action, if any, which Borrower may have against any Lessee with respect to any Lease including, without limitation, the right to exercise any options or remedies under such Leases and the right to enforce any indemnification provision under the Lease; and

(b) All books, records, reports and documents, in whatever form and wherever located relating in any way to the foregoing, including, without limitation, all lease records and reports (the "Records").

Section 1.5. Borrower's Agreements with Respect to the Leases. To protect the grant of security interest to Lender in the Leases, Borrower hereby agrees as follows:

(a) Borrower shall faithfully abide by, perform and discharge each and every material obligation, covenant, condition, duty and agreement which the Lease provides is to be performed by Borrower.

(b) Borrower will deliver to Lender the chattel paper counterpart of the Lease.

Section 1.6. Loan Agreement. Borrower agrees to perform each and every obligation of Borrower under or pursuant to the Loan Agreement. To the extent there is a conflict between the terms of the Loan Agreement and the terms of this Assignment, the terms of the Loan Agreement shall control.

SECTION 2. DEFAULT

Section 2.1. Event of Default. The occurrence of any Event of Default under the Loan Agreement or the Equipment Mortgage, shall constitute an Event of Default hereunder.

SECTION 3. REMEDIES

Section 3.1. Remedies. Upon the occurrence and during the continuance of any Event of Default hereunder, Lender may do any one or more of the acts set forth in the Loan Agreement following an Event of a Default thereunder or hereunder (but shall be under no obligation to do so), regarding the Collateral, or any portion thereof. In the event that Lender exercises any of its rights under this Assignment, all payments or proceeds received by Lender resulting from such exercise shall be applied in accordance with the terms of the Notes.

SECTION 4. GENERAL

Section 4.1. Rights Cumulative. Each and every power and remedy hereby specifically given to Lender shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time

simultaneously and as often and in such order as may be deemed expedient by Lender. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of Lender in the exercise of any such power or remedy and no renewal or extension of any payments due under the Loan Agreement or hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment or other indulgence duly granted to Borrower shall not otherwise alter or affect Lender's rights or the Liabilities. Lender's acceptance of any payment after it shall have become due shall not be deemed to alter or affect the Liabilities or Lender's rights hereunder with respect to any subsequent payments or default therein.

Section 4.2. Waiver. Except as otherwise provided in this Assignment or the Loan Agreement, Borrower, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, or any other requirements with respect to the enforcement of Lender's rights under this Assignment.

Section 4.3. Termination of Security Interest; Reconveyance of Assigned Rents. When all the Liabilities have been paid in full, at the request and expense of Borrower, Lender shall release the lien of this Assignment with respect to the Leases and reconvey to Borrower Lender's interest in the Rent by an appropriate document or documents and thereupon this Assignment shall be satisfied and void.

Section 4.4. Section Headings, Effect and Modification of Agreement. All section headings are inserted for convenience only and shall not affect any construction or interpretation of this Assignment.

Section 4.5. Modifications. No variation or modification of this Assignment and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of Lender and Borrower.

Section 4.6. Notices. Except as otherwise expressly herein, any notice required or desired to be served, given or delivered hereunder shall be in writing, and shall be deemed to have been validly served, given or delivered (i) three (3) days after deposit in the United States mails, with proper postage prepaid, (ii) when sent after receipt of confirmation or answerback if sent by telecopy, telex or other similar facsimile transmission, (iii) one (1) Business Day after deposited with a reputable overnight courier with all charges prepaid, or (iv) when delivered, if hand-delivered by messenger, all of which shall be properly addressed to the party to be notified and sent to the address or number indicated as follows:

(i) If to Lender at:

MITSUI LEASING (U.S.A.), INC.
200 Park Avenue
New York, New York 10166
Attention: Lease Marketing Manager
Fax Number: 212-490-1684

with a copy to:

Seyfarth, Shaw, Fairweather & Geraldson
55 East Monroe Street, Suite 4200
Chicago, Illinois 60603
Attention: Richard Demarest Yant
Fax Number: 312-269-8869

(ii) If to Borrower at:

Compass Rail II
555 California Street, Suite 2810
San Francisco, CA 94104
Attention: President
Fax Number: 415-392-9142

or to such other address or number as either party designates to the other in the manner herein prescribed.

Section 4.7. Law Governing. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of New York without regard to conflicts of laws rules; provided, however, that Lender shall be entitled to file, record or deposit this Assignment in the appropriate office(s) pursuant to Section 11303 of the Interstate Commerce Act or in such other offices as may be appropriate in the jurisdiction in which the Equipment is operated.

Section 4.8. Successors and Assigns. This Assignment shall be binding upon Borrower and inure to the benefit of Lender and its successors and assigns.

Section 4.9. Severability. The provisions of this Assignment are severable and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction or any other clause or provision of this Assignment in any jurisdiction. Without limiting the generality of the foregoing, the parties hereto intend that the security interest created by this Assignment and securing the Liabilities shall be severable, and if any portion of the Liabilities shall be invalid, unenforceable or void under applicable law, then the security interest created by this Assignment shall be invalid, unenforceable or void solely to the extent of such invalidity, unenforceability or voidance of such portion of the Liabilities without rendering the remainder of the security interest created by this Assignment unenforceable, invalid or void.

4.10. Further Assurances. Borrower will, from time to time, do and perform any other act or acts and will execute, acknowledge, and deliver, and file, register, and record (and will re-file, re-register and re-record whenever required) any further instrument, including any extensions and renewals thereof, required by law or reasonably requested by Lender in order to confirm or further assure the interests of Lender hereunder.

4.11 Non-Recourse. Borrower shall not be personally liable for payment of any liabilities secured by this Assignment, and any action to enforce the obligations of Borrower to pay such liabilities shall be enforceable against Borrower only to the extent of its interest in the Collateral, and as described in the Loan Agreement.

IN WITNESS WHEREOF, Borrower has caused this Assignment to be duly executed all as of the date first above written, and the undersigned hereby declares pursuant to 28 U.S.C. Section 1746 under penalty of perjury that the foregoing is a true and correct document and was executed on the date indicated below its signature.

COMPASS RAIL II

By: 
Title: President
Date: November 6, 1996

ATTEST:

By: 
Title: Executive Vice President
Date: November 6, 1996

STATE OF California)
COUNTY OF San Francisco)

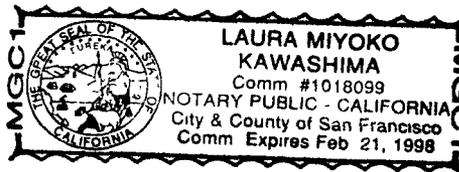
) SS:

On this 6th day of November, 1996, before me personally appeared Stephen C. Beneman to me personally known who, being by me duly sworn, says that he is the _____ President of Compass Rail II, a California corporation, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Laura Miyoko Kawashima

Notary Public

(NOTARIAL SEAL)



My Commission Expires: _____

SCHEDULE I

EQUIPMENT

<u>NUMBER OF UNITS</u>		<u>CAR NUMBERS</u>		
72 Series 1100	BAR	1106	1178	1229
flatcars (built 1964)		1107	1179	1234
(convertible to log cars)		1108	1182	1235
		1109	1185	1237
		1110	1187	1238
		1116	1188	1239
		1120	1189	1240
		1121	1191	1243
		1123	1192	1247
		1124	1193	1248
		1128	1194	1249
		1130	1195	1252
		1131	1197	1253
		1143	1198	1255
		1144	1199	1256
		1147	1201	1257
		1151	1203	1259
		1153	1205	1261
		1156	1206	1263
		1158	1209	1264
		1165	1216	1266
		1169	1217	1267
		1172	1218	
		1173	1224	
		1176	1226	

<u>NUMBER OF UNITS</u>		<u>CAR NUMBERS</u>
13 Series 1268	BAR	1268
flatcars (built 1968)		1269
(convertible to log cars)		1270
		1271
		1272
		1273
		1274
		1275
		1276
		1277
		1281
		1282
		1283
25 Series 1268	BAR	1284
flatcars (built 1968)		1285
(convertible to log cars)		1287
(interchange condition)		1288
		1290
		1292
		1293
		1294
		1296
		1297
		1298
		1299
		1300
		1301
		1303
		1305
		1306
		1307
		1308
		1311
		1313
		1314
		1317
		1318
		1319

SCHEDULE 2

LEASE

'That certain Railroad Equipment Lease Agreement dated as of November 1, 1996 between Borrower, as Lessor and Bangor & Aroostook Railroad Company, as Lessee.