LAW OFFICES
SCHWARTZ, COOPER, KOLB & GAYNOR
CHARTERED
TWO FIRST NATIONAL PLAZA
CHICAGO ILLINOIS 60603

TELEPHONE
(312) 726 0845

TELECOPIER
(312) 726 0886

WRITER S DIRECT DIAL NUMBER
845-3031

August 31, 1990

VIA FEDERAL EXPRESS

0-248A015

16989
RECORDATION NO. FILED 1425

SEP 5 1990 -12 10 PM

INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission
12th and Constitutional Avenue N.W.
Washington, D.C. 20423

Attention: Mildred Lee
Room 2303

Re: **Recording pursuant to Section 11303 of the Interstate Commerce Act (49 U.S.C. §11303)**

Dear Ms. Lee:

Enclosed please find an original and copy of a Security Agreement to be filed with the Interstate Commerce Commission in accordance with 49 U.S.C. §11303.

The debtor is International Capital Equipment, Inc. (the "Debtor"), which is located at 1890 Palmer Avenue, Suite 303, Larchmont, New York 10538. The secured party is the Exchange National Bank of Chicago which is located at 120 South LaSalle Street, Chicago, Illinois 60603.

The collateral under the Security Agreement is 20 G.E. U-30-C 300 HP Locomotives described more fully on Exhibit A attached to the Security Agreement.

I am also enclosing a check in the amount of $15.00 payable to the Interstate Commerce Commission to cover the recording fees.

SCHWARTZ, COOPER, KOLB & GAYNOR
CHARTERED

Upon recordation of the Security Agreement, please send the originally executed copy, stamped as filed, to me at the above address.

Thank you for your attention in this matter.

Sincerely,

Richard M. Tomkins

RMT/kam

cc: Steven Cohen

Interstate Commerce Commission

Washington, D.C. 20423

9/5/90

OFFICE OF THE SECRETARY

Richard M. Tomkine
Schwartz Cooper, Kolb & Gaynor
Two First National Plaza
Chicago,Illinois 60603

Dear Sir:

The enclosed dcoument(s) was recorded pursuant to the provisions of Section 11303 of the Insterstate Commerce Act, 49 U.S.C. 11303, on 9/5/90 at 12:10pm , and assigned recordation number(s). 16989

Sincerely yours,

Sidney L. Strickland, Jr.

Sidney L. Strickland, Jr.
Secretary

15989

FILED 1425

SEP 5 1990 -12 10 PM

INTERSTATE COMMERCE COMMISSION

June 29, 1990

0517f
6/29/90

SECURITY AGREEMENT

INTERNATIONAL CAPITAL EQUIPMENT, INC. whose chief place of business is 1890 Palmer Avenue, Suite 303, Larchmont, New York 10538, (herein the "Debtor"), in consideration of a loan made by EXCHANGE NATIONAL BANK OF CHICAGO, the Secured Party (herein the "Bank"), as security for the payment of that certain Installment Note of even date in the principal amount of $230,000 made by Debtor and International Capital Equipment Limited, as co-borrowers, and any modifications, extensions, renewals or substitutions thereof (herein the "Note"), Debtor does hereby pledge, assign, transfer and deliver to Bank and does hereby grant to Bank a continuing security interest in and to the property of Debtor set forth below, all proceeds and products thereof, accessions thereto and substitutions therefore and Debtor's policies of insurance covering any or all of said property, to-wit:

> Certain locomotives described more fully in Exhibit A attached hereto and made a part hereof.

All of the aforesaid property and the products and proceeds therefrom are herein individually and collectively called the "Collateral." The terms used herein to identify the Collateral shall have the respective meanings assigned to such terms as of the date hereof in the Illinois Uniform Commercial Code.

Debtor shall, at Bank's request, at any time and from time to time, execute and deliver to Bank such financing statements and other documents and do such acts as Bank may deem necessary in order to establish and maintain a valid, attached and perfected security interest in the Collateral in favor of Bank, free and clear of all liens, claims and rights of third parties whatsoever. Debtor hereby irrevocably appoints any officer of Bank (designated by Bank for such purpose) its attorney-in-fact, in Debtor's name, place and stead, to execute such financing statements and other documents and to do such other acts as Bank may require to perfect and preserve the Bank's security interest in, and to enforce such interest in, the Collateral, hereby ratify and confirming all that said attorney-in-fact may do or cause to be done by virtue hereof.

Debtor agrees to deliver to Bank forthwith upon its demand, such other collateral as Bank may request from time to time should the value of the Collateral decline, deteriorate, depreciate or become impaired, or should Bank deem itself insecure for any reason whatsoever, including, but not limited

to, a change in the financial condition of Debtor, or any other party liable with respect to any obligations of Debtor to Bank (herein "Obligations"), and does hereby grant to Bank a continuing security interest in such other Collateral, which, when pledged, assigned and transferred to Bank shall be and become part of the Collateral.

The Bank's security interests in each of the foregoing Collateral shall be valid, complete and perfected whether or not the same shall be covered by a specific assignment. Until default hereunder, Debtor shall be entitled to possession of the Collateral set forth above.

The Bank shall have exercised reasonable care in the custody and preservation of the Collateral if it takes such action for that purpose as Debtor shall reasonably request in writing, provided that such request shall not be inconsistent with Bank's status as the Secured Party, but failure to comply with any such request shall not be deemed a failure to exercise reasonable care. Debtor shall keep the Collateral in good order and repair and exercise reasonable care. Debtor shall keep the Collateral in good order and repair and shall have sole responsibility for taking such steps as may be necessary from time to time to preserve all rights of Debtor and Bank in the Collateral against third parties. Debtor shall permit Bank to examine and inspect the Collateral at all reasonable times. Debtor, at its principal place of business set forth above, shall keep accurate and complete books and records in accordance with sound and generally accepted accounting principles applied on a basis consistent with prior years. Bank shall have the right at all times during business hours to inspect said books and records and make extracts therefrom.

Debtor covenants with and warrants to Bank that (1) Debtor is the sole owner of the Collateral free from any lien, security interest or encumbrances of any kind; (2) Debtor will not sell, lease or grant any further security interest in the Collateral and will not part with possession of the same, except in the usual and ordinary course of Debtor's business; (3) Debtor will not use or permit the Collateral to be used in violation of any law or ordinance; (4) Debtor will procure and maintain insurance on the Collateral for the full term of this Security Agreement against reasonable risks of loss, damage and destruction (such insurance shall be reasonable in relation to the amount and term of the Obligations and the type and value of the Collateral), and shall deliver to Bank within 10 days from date a fully paid policy of insurance containing a Lender's Loss Payable clause in favor of Bank; (5) If the collateral is to be attached to Real Estate, or if Collateral is crops, a written legal description of said Real Estate along with the name of the record owner thereof shall be attached as an Exhibit to this Agreement and incorporated by reference herein. If any

Collateral is attached to Real Estate prior to perfection of the security interest created herein, Debtor will furnish Bank with all necessary disclaimers of interest to that Collateral (which interest is or may be prior to the Bank's interest) executed by all persons interested in said Real Estate.

The Bank may, but is not required to, take such action from time to time as it deems appropriate to maintain or protect the Collateral, and in particular may at any time (1) transfer the whole or any part of the Collateral into the name of itself or its nominee; (2) collect any amounts due on the Collateral directly from persons obligated thereon; (3) vote the Collateral; (4) take control of any proceeds and products of the Collateral; (5) sue or make any compromise or settlement with respect to any of the Collateral; or (6) make an election with respect to the Collateral under § 1111 of the U.S. Bankruptcy Code, now existing or hereafter amended; provided, however, that any such action of Bank as in this paragraph set forth shall not in any manner whatsoever, impair or affect any liability hereunder, nor prejudice or waive nor be construed to impair, affect, prejudice or waive Bank's rights and remedies at law, in equity or by statute, nor release or discharge, nor be construed to release or discharge, Debtor or any guarantor or other person, firm or corporation liable to Bank for the Obligations herein (herein "Obligor"), whether now existing or hereafter created or arising, howsoever evidenced.

Debtor shall be in default, without notice to or demand on Debtor, hereunder if: (1) any amount payable on any of the obligations of Debtor to Bank is not paid when due; or (2) Debtor shall otherwise fail to perform any of the promises to be performed by Debtor hereunder or under any other security agreement or other agreement with Bank; or (3) there shall be a breach of any warranty or falsity of any representation of Debtor to Bank hereunder or under any other security agreement or other agreement with Bank; or (4) any Obligor who is a natural person dies; or (5) loss, theft, destruction, attachment, levy upon, seizure or forfeiture of the Collateral shall occur; or (6) any proceeding by or against Debtor under any bankruptcy or insolvency statute or by law, shall have been instituted; or (7) Bank shall deem itself insecure for any reason whatsoever, including but not limited to, a change in the financial condition of Debtor, or any other party liable with respect to the Obligations.

Upon the occurrence of default hereunder: (1) all Obligations may, at the option of Bank, and without demand, notice or legal process of any kind, be declared, and immediately shall become, due and payable, and Bank may exercise from time to time any rights and remedies available to it under the Uniform Commercial Code and any other applicable law in addition to, and not in lieu of, any rights and remedies expressly granted in this

Agreement or in any other agreements, (2) without notice, demand or legal process of any kind, Bank may take the possession of any or all of the Collateral (in addition to Collateral of which it already has possession), wherever it may be found, and for that purpose may pursue the same wherever it may be found, and may enter into any of Debtor's premises where any of the Collateral may be or supposed to be, and search for, take possession of, remove, keep and store any of the Collateral until the same shall be sold or otherwise disposed of, and Bank shall have the right to store the same in any of Debtor's premises without costs to Bank, and (3) at Bank's request, Debtor will, at Debtor's expense, assemble the Collateral and make it available to Bank at a place or places to be designated by Bank which is reasonably convenient to Bank and Debtor. Debtor recognizes that in the event Debtor fails to perform, observe or discharge any of its Obligations or liabilities under this Agreement or the other agreements, no remedy at law will provide adequate relief to Bank, and agrees that Bank shall be entitled to temporary and permanent injunctive relief in any such case without the necessity of proving actual damages. Any notification of intended disposition of any of the Collateral required by law shall be deemed reasonably and properly given if given at least five calendar days before such disposition. Any proceeds of any disposition by Bank of any of the Collateral may be applied by Bank to the payment of expenses in connection with the Collateral, including reasonable attorneys' fees and legal expenses, and any balance of such proceeds may be applied by Bank toward the payment of such of the Obligations, and in such order of application, as Bank may from time to time elect.

Debtor waives every defense, cause of action, counterclaim, or set-off which Debtor may now have or hereafter may have to any action by Bank in enforcing payment of the Obligations or the Collateral and ratifies and confirms whatever Bank may do pursuant to the terms hereof and with respect to the Collateral and agrees that Bank shall not be liable for any error of judgment or mistakes of fact or law.

Debtor waives all notices and demands in connection with the enforcement of Bank's rights hereunder, and hereby consents to, and waives notice of the release with or without consideration of any Debtor hereunder or of any Collateral. Any failure of Bank to exercise any right available hereunder or otherwise shall not be construed as a waiver of the right to exercise the same or any other right at any other time.

Debtor hereby irrevocably appoints any officer of Bank (designated by Bank for such purpose) its attorney-in-fact, in Debtor's name, place and stead, and hereby authorizes said attorney-in-fact to execute change of address forms with the Postmaster of the U.S. Post Office serving the address of Debtor, to change the address of Debtor to that of Bank, to open all

envelopes addressed to Debtor and apply any payments therein contained to the Obligations, all of which the Bank may, after default, do at its option.

Debtor agrees to pay all expenses of collection, attorneys' fees and court costs, paid or incurred in enforcing any of Bank's rights hereunder or under any other agreement with Bank, or in connection with the Collateral, promptly on demand of Bank or other person paying or incurring the same.

The Bank may at any time assign the Obligations, or any part thereof, and transfer Bank's rights in any or all of the Collateral, and Bank thereafter shall be relieved from all liability with respect to such Collateral.

The Bank shall have the exclusive right to determine how, when and what application of payments and credits, if any, whether derived from the Debtor, the Collateral, or any other source, shall be made on the Obligations, and such determination shall be conclusive upon the Debtor.

This Agreement shall be governed and construed in accordance with the laws of Illinois and shall be binding upon Debtor and its respective heirs, legal representatives, successors and assigns. If this Agreement contains any blanks when executed by Debtor, Bank is hereby authorized, without notice to Debtor, to complete any such blanks according to the terms upon which any loan or loans have been granted. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or be invalid under such law, such provision shall be severable, and be ineffective to the extent of such prohibition or invalidity, without invalidating the remaining provisions of this Agreement.

To the extent that Debtor is either a partnership or a corporation, all references herein to Debtor shall be deemed to include any successors or assigns, whether immediate or remote, to such partnership or corporation. In the case of a joint venture or partnership, the term "Debtor" shall be deemed to include all joint ventures or partners thereof who shall be jointly and severally liable hereunder.

Any notice to be given hereunder shall be in writing and served by certified mail, first class mail, or telegram, postage prepaid, addressed to Debtor at the address set forth above, or at such other address designated by Debtor in writing. Any notice to Bank shall be addressed to it to the attention of the officer who has executed this Agreement, for the Bank, at LaSalle and Monroe Streets, Chicago, Illinois 60603, or such other address as may be designated by it in writing. A notice given as in this paragraph provided shall be presumed to have been received on the business day next following the mailing thereof.

This Agreement and any other written agreement or document executed in connection herewith contain the entire agreement between the parties hereto and no oral representations, promises, agreement or statements of any kind have been made by the parties, or either of them in negotiations leading to this Agreement or otherwise which are not expressed and contained herein or in said other written agreements or documents.

Neither this Agreement nor any term hereof may be orally changed, discharged, terminated or waived but only by an instrument in writing, signed by the party against which enforcement of the change, discharge, termination or waiver is sought.

If Debtor is a corporation, Debtor represents and warrants to Bank that the execution and delivery of this Agreement has been duly authorized by resolutions heretofore adopted by its Board of Directors and Shareholders in accordance with law and its by-laws, that said resolutions have not been amended nor rescinded, are in full force and effect, that the officers executing and delivering this agreement for and on behalf of Debtor are duly authorized so to act. Bank, in executing this Agreement, is expressly relying upon the aforesaid representations and warranties.

As used herein, all provisions shall include the masculine, feminine, neuter, singular and plural thereof, wherever the context and facts require such construction and in particular the word "Debtor" shall be so construed.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date above set forth.

DEBTOR:

INTERNATIONAL CAPITAL EQUIPMENT, INC.

ATTEST: _____ By: _____

Its: Treasurer

SECURED PARTY:

EXCHANGE NATIONAL BANK OF CHICAGO

By: _____

Its: COMMERCIAL LOAN OFFICER

STATE OF NEW YORK)
) SS
COUNTY OF WESTCHESTER

I, Susan K. Simmons, a Notary Public in and for and residing in said County, in the state aforesaid, do hereby certify, that RICHARD KENYON, appeared before me this day in person and acknowledged that (s)he signed and delivered the said instrument as his(her) own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 2ND day of JULY, 19~~89~~ 90.

Susan K. Simmons
Notary Public

My commission expires 12-11-91.

SUSAN K. SIMMONS
Notary Public, State of New York
No. 60-4959864
Qualified in Westchester County
Commission Expires 12-11-91

EXHIBIT A

20 G.E. U-30-C 300 HP Locomotives described below:

<u>Serial Numbers</u>

5339
5341
5342
5343
5344
5345
5348
5349
5350
5351
5900
5901
5903
5904
5905
5907
5908
5909
5910
5911

INTERNATIONAL CAPITAL EQUIPMENT, INC.
By: Richard Kenyon
Richard Kenyon - Treasurer

INTERNATIONAL CAPITAL EQUIPMENT LIMITED
By: Richard Kenyon
Richard Kenyon - Treasurer