

RECORDATION NO. 20846-J FILED

OCT 27 '00

2-47 PM

TS
SURFACE TRANSPORTATION BOARD

ALVORD AND ALVORD
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ELIAS C. ALVORD (1942)
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OF COUNSEL
URBAN A. LESTER

October 27, 2000

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 three (3) copies of an Amendment Number 3 to Lease Agreement, dated as of September 28, 2000, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed relates to the Memorandum of Lease Agreement which was previously filed with the Board under Recordation Number 20846.

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

Lessor: First Bank, N.A.
425 Walnut Street
Cincinnati, OH 45202

Lessee: Power Flats, Ltd.
320 East Cherry Street
New Castle, PA 16102

Mr. Vernon A. Williams
October 27, 2000
Page Two

A description of the railroad equipment covered by the enclosed document is:

there is no additional equipment related to this filing

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

Amendment Number 3 to Lease Agreement, between First Bank, N.A., Lessor, and Power Flats, Ltd., Lessee, in which the Lessor's name is changed from "Star Bank, N.A." and OPM Services, Inc. is released as a Gurantor.

Also enclosed is a check in the amount of \$26.00 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/anm
Enclosures

RECORDATION NO. 20846-J FILED
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SURFACE TRANSPORTATION BOARD

AMENDMENT NUMBER 3 TO LEASE AGREEMENT

THIS AMENDMENT NUMBER 3 TO LEASE AGREEMENT (this "Amendment") is made and entered into as of September 28, 2000 among **FIRSTAR BANK, N.A.**, a national banking association formerly known as Star Bank, National Association ("Lessor"), **POWER FLATS, LTD.**, a Kentucky limited partnership ("Lessee"), and **OPM SERVICES, INC.**, a Kentucky corporation ("Guarantor").

RECITALS:

I. Lessor, Lessee, and Guarantor are parties to that certain Lease Agreement dated as of September 2, 1997 as heretofore supplemented and/or amended by Amendments Number 1 and Number 2 dated as of December 21, 1998 and July 27, 1999, respectively (as so amended, the "Lease").

II. Lessor, Lessee, and Guarantor now mutually desire to further amend the Lease in part, as specified in this Amendment.

NOW, THEREFORE, in consideration of the recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor, Lessee, and Guarantor agree as follows:

A. Capitalized terms used, but not otherwise defined, in this Amendment shall have the meanings provided in the Lease unless the context clearly requires otherwise.

B. The name of the Lessor shall be deemed changed throughout the document wherever appearing from "Star Bank, N.A., a national banking association" to Firstar Bank, N.A., a national banking association."

C. The Lessor acknowledges and consents to the acquisition by Kasgro Leasing, LLC of Lessee's general partnership interest.

D. OPM Services, Inc. is hereby released from its obligations as guarantors under the Lease. Such release shall be further evidenced by and subject to a General Release of even date hereof and in the form attached hereto.

E. On page 4 of the Lease, the definition of "Guarantor" shall be and hereby is changed so that it now reads in its entirety: "'Guarantor" or "Guarantors" shall mean Kasgro Leasing, LLC, a Pennsylvania limited liability company ("Kasgro Leasing") and/or Kasgro Rail Corp., a Pennsylvania corporation ("Kasgro Rail"), jointly and severally and together with their successors and permitted assigns.

F. Section 15 on page 24 of the Lease shall be changed so that it now reads:

SECTION 15. NOTICES. All notices, demands, declarations and other communications required under the terms and provisions hereby shall be in writing, and shall be addressed (1) if to Power Flats, Ltd. or Kasgro

Leasing LLC or Kasgro Rail Corp. all at their same address at 320 East Cherry Street, New Castle, Pennsylvania 16102 Attention: Gabe Kassab; or (2) if to Lessor, at its address at 425 Walnut Street, Mail Location 8135, 8th Floor, Cincinnati, Ohio 45202, Attention: Matthew F. Iacobucci, or to such other address as any party may from time to time designate in writing to the other party. Notice shall be effective on receipt.

G. A new subsection (d) in Section 16 on page 25 of the Lease shall be added which states as follows:

(d) Guaranty. Guarantors, jointly and severally and in consideration of the benefits to them under the Lease, which benefits the parties hereto agree are good and sufficient collateral, hereby guaranty irrevocably, absolutely and unconditionally the performance of all obligations of Lessee to Lessor and the prompt payment when due of each and every liability of Lessor to Lessee under the Lease, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and whether incurred alone or with others. Guarantors' obligations shall be further evidenced and subject to a Business Guaranty dated the date of this Amendment and in the form attached hereto.

H. Subsections (b) and (c) of Section 22 of the Lease are hereby restated in their entirety to read as follows:

(b) Information As to Lessee. Each Guarantor agrees to furnish to Lessor in quantities reasonably requested, the following with respect to each of them:

(i) Within 120 days after the end of each fiscal year, an audited balance sheet as of the end of the year, and an audited statement of income, shareholders' or members' equity, as the case may be, and cash flows for the year, setting out in each case, in comparative form, the figures for the previous fiscal year all in reasonable detail and accompanied by the opinion of independent public accountants selected by the Guarantor and reasonably acceptable to Lessor stating that (i) the financial statements were prepared in accordance with generally accepted accounting principles and practices applied on a basis consistent with prior practices and present fairly the financial condition of Guarantor, as of the end of such fiscal year and the results of operations for the period then ended, and (ii) the audit by such accountants was made in accordance with generally accepted audited standards. Kasgro Leasing's financial statements shall be consolidated with those of Lessee.

(ii) Within 30 days after the end of each month, an unaudited balance sheet as of the end of such month, and statements of income and shareholders' or members' equity and cash flows for such monthly period, setting out in each case, in comparative form, the figures for the corresponding period of the previous fiscal year, all in reasonable detail

and certified, subject to changes resulting from year-end adjustments, by the principal financial or accounting officer of the Guarantor, as applicable.

(iii) Within 30 days after the end of each quarterly period of each fiscal year, a utilization summary with respect to each railcar subject to this Lease.

(iv) Promptly upon request, such other information relating to Guarantor's financial condition, or the railcars or other Collateral as may reasonably be requested by the Lessor.

(c) Financial Covenants.

(i) Guarantors agree that they shall on a combined basis maintain a fixed charge coverage ratio of not less than 1.00 to 1.0 as of the last day of each fiscal year, beginning with the fiscal year ending December 31, 2000. For purposes of this Lease, "fixed charge coverage ratio" shall mean the ratio of Cash Flow to Fixed Charges where (i) "Cash Flow" is the sum of net earnings, plus depreciation, plus interest expense and operating lease expense, minus member distributions and/or dividends, and (ii) "Fixed ?charges" is the sum of the current portion of all long term debt, plus interest expense, plus operating lease expense, and plus non-financed capital expenditures. Such covenants shall be tested using the combined audited financial statements of Kasgro Rail and Kasgro Leasing (and Kasgro Leasing's financial statements shall be consolidated with those of Power Flats).

(ii) Kasgro Leasing shall not declare or make any distribution of its assets or to its members other than distributions of cash payable to Kasgro Leasing's members in an aggregate amount equal to the sum of (i) such aggregate amount as is necessary to meet such members' tax liabilities for the taxable income of Kasgro Leasing being attributed to them, including separately stated items (based on the highest combined individual federal and state tax rate applicable to any member of Kasgro Leasing) (the amount specified in this clause (i) being referred to herein as the "Tax Distribution"), plus (ii) 50% of Kasgro Leasing's annual earnings minus the Tax Distribution Amount; provided, however, that such distributions may be made only as long as Kasgro Leasing is a limited liability company taxable as a partnership or other similar tax pass-through entity, and provided further, however, that no distributions in excess of the Tax Distribution Amount may be made if any Event of Default has occurred or to the extent that any Default or Event of Default would result from any such payment. Additional distributions may be made by Kasgro Leasing to its members upon the request of Kasgro Leasing and the prior written consent of Lessor (which will not be unreasonably withheld). Kasgro Leasing shall not make any payment, long, advance, and/or extension of credit to, or investment in, any Affiliate of Kasgro Leasing (other than its members, Kasgro Rail, Lessee or any entity controlled by Kasgro Leasing

and Kasgro Rail) or any payment, loan, advance, and/or extension of credit to, or investment in, any member of Kasgro Leasing, except (and then only so long as no Event of Default under the Lease, or any other lease arrangement between Kasgro Leasing and Lessor, has occurred and is continuing or would result from such payment) compensation and directors fees for services rendered, management fees to Antietam, LLC, advances to any member for travel and entertainment expenses incurred in the ordinary course of Kasgro Leasing' business and the payment of monies for the purchase of any member's interest in Kasgro Leasing.

(iii) Kasgro Rail shall not declare or make any distribution of its assets or pay any dividends to its shareholders other than distributions of cash payable to Kasgro Rail's shareholders in an aggregate amount equal to the sum of (i) such aggregate amount as is necessary to meet such shareholders' tax liabilities for the taxable income of Kasgro Leasing being attributed to them, including separately stated items (based on the highest combined individual federal and state tax rate applicable to any shareholder of Kasgro Rail) (the amount specified in this clause (i) being referred to herein as the "Tax Distribution"), plus (ii) 50% of Kasgro Rail's annual pre-tax earnings minus the Tax Distribution; provided, however, that such distributions may be made only as long as Kasgro Rail is an S corporation within the meaning of Section 1361(a) of the Internal Revenue Code of 1986, as now or hereafter amended; and provided further, however, that no distributions in excess of the Tax Distribution Amount may be made if any Event of Default has occurred or to the extent that any Default or Event of Default would result from any such payment. Additional distributions may be made by Kasgro Rail to its shareholders upon the request of Kasgro Rail and the prior written consent of Lessor (which will not be unreasonably withheld). Kasgro Rail shall not make any payment, loan, advance, and/or extension of credit to, or investment in, any Affiliate of Kasgro Rail (other than its shareholders, Kasgro Leasing, Lessee or any entity controlled by Kasgro Rail and Kasgro Leasing) or any payment, loan, advance, and/or extension of credit to, or investment in, any shareholder of Kasgro Rail, except (and then only so long as no Event of Default under the Lease, or any other lease arrangement between Kasgro Rail and Lessor, has occurred and is continuing or would result from such payment), compensation and directors fees for services rendered, management fees to Antietam, LLC, advances to any shareholder for travel and entertainment expenses incurred in the ordinary course of Kasgro Rail's business and the payment of monies for the purchase of any shareholder's common stock of Kasgro Rail.

I. The Lease is hereby amended to delete Section 24. The Lessor shall release its Assignment of Life Insurance Policies as Collateral in connection with the policy on the life of Kent Oyler in whatever normal commercial form requested by Mr. Oyler.

J. As amended by this Amendment, the Lease shall remain in full force and effect, and all references in the Lease or in any of the other Operative Documents to the Lease shall mean the Lease as amended by this Amendment.

IN WITNESS WHEREOF, each of the Lessor, the Lessee, and the Guarantor has caused this Amendment to be duly executed and delivered on its behalf by its respective representative thereunto duly authorized as of the date first set forth above.

FIRSTAR BANK, N.A., as Lessor

By: 
Matthew Iacobucci, Vice President

POWER FLATS, LTD., as Lessee

By: KASGRO LEASING LLC,
Its General Partner

By: 
John M. Silseth, Vice President

KASGRO LEASING LLC, as Guarantor

By: 
John M. Silseth, Vice President

KASGRO RAIL CORP., as Guarantor

By: 
John M. Silseth, Vice President

ACKNOWLEDGED AND APPROVED:

OPM FLATS, INC.

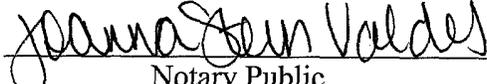
OPM SERVICES, INC.

By: 
Kent Oyler, President

By: 
Kent Oyler, President

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

On this 27 day of September, 2000 before me personally appeared Matthew F. Iacobucci, to me personally known, who being by me duly sworn, says that he is Vice President of Firststar Bank, N.A., a national banking association, that said instrument was signed on behalf of said national banking association 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 national banking association.


Notary Public

[Notary Seal]

JOANNA STERN VALDES, Attorney at Law
NOTARY PUBLIC - STATE OF OHIO
My Commission has no expiration
date. Section 147.03 O.R.C.

My commission expires: _____

STATE OF WISCONSIN)
) SS:
COUNTY OF MILWAUKEE)

On this 28 day of Sept, 2000, before me personally appeared John M. Silseth, to me personally known, who being by me duly sworn, says that he is the Vice President of Kasgro Leasing LLC, a Pennsylvania limited liability company, the general partner of Power Flats, Ltd., a Kentucky limited partnership, that said instrument was signed on behalf of said partnership by authority of said company's Board of Managers and he acknowledged that the execution of the foregoing instrument was the free act and deed of said partnership.

Michèle L. Zepherin
Notary Public

[Notary Seal]

My commission expires: 2/4/01

STATE OF WISCONSIN)
) SS:
COUNTY OF MILWAUKEE)

On this 28 day of Sept, 2000, before me personally appeared John M. Silseth, to me personally known, who being by me duly sworn, says that he is the President of Kasgro Leasing, LLC, a Pennsylvania limited liability company, that said instrument was signed on behalf of said company 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 company.

Michèle L. Zepherin
Notary Public

[Notary Seal]

My commission expires: 2/4/01

STATE OF WISCONSIN)
) SS:
COUNTY OF MILWAUKEE)

On this 28 day of Sept., 2000, before me personally appeared John M. Silseth, to me personally known, who being by me duly sworn, says that he is the President of Kasgro Rail Corp., a Pennsylvania corporation, 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.

Mike L. Zepherin
Notary Public

[Notary Seal]

My commission expires: 2/4/01

KASG-AMD.LS3