



P.O. Box 197, Ninth Street
Silvis, Illinois 61282
(309) 755-6800

14825
REGISTRATION NO. _____ Filed 1425

OCT 29 1985 - 1 05 PM
INTERSTATE COMMERCE COMMISSION

October 23, 1985

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

10/29/85
10.00
Washington, D.C.

Attention: Mildred Lee, Room 2303

Re: I.C.C. Filing

Dear Ms. Lee:

Enclosed please find one original and copy of a Lease Agreement which we request that you file and record with the Interstate Commerce Commission.

Parties

Lessor: Chrome Locomotive, Inc.
6010 South New England Avenue
Chicago, Illinois 60638

Lessee: New England Southern Railroad Company, Inc.
One Depot Lane
P. O. Box 958
Belcher Town, MA. 01007

We are enclosing our check #11505, in the amount of \$10.00 payable to the Interstate Commerce Commission, to cover the fee for filing and recording.

Kindly return a filed copy of the Leases and receipt for filing fees to us at your earliest convenience.

Very truly yours,

Stephen R. Meindl

[Handwritten signature]

LOCOMOTIVE LEASE AGREEMENT

OCT 29 1985 1 05 PM

INTERSTATE COMMERCE COMMISSION

THIS LOCOMOTIVE LEASE AGREEMENT (hereinafter referred to as the "Lease"), is made and entered into as of the 9th day of September, 1985, by and between CHROME LOCOMOTIVE, INC. a corporation (hereinafter referred to as "Lessor"), and New England Southern Railroad Co. Inc., a Nevada Corporation (hereinafter referred to as "Lessee").
(corporation, partnership, sole proprietorship)

Lessor and Lessee hereby agree as follows:

1. LEASE AND LEASED PROPERTY.

Subject to the terms and conditions hereinafter set forth, Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the locomotive(s) (hereinafter sometimes collectively referred to as the "Locomotives" and individually as a "Locomotive"), together with the parts, accessories, attachments and devices, if any, now or hereafter affixed thereto, described in Schedule "A" attached to and hereby made an integral part of this Lease.

2. TERM.

The term of this Lease for each Locomotive shall be the fixed term set forth in Schedule "A" with respect to such Locomotive, commencing on the date said Locomotive is made available by Lessor for Lessee's pick-up at Lessor's plant in Silvis, Illinois (the "Commencement Date").

3. RENTAL.

A. The rental payable by Lessee to Lessor for use of each Locomotive shall be the sum of \$ See Schedule A per calendar day for each Locomotive, payable in advance monthly installments of \$ See Schedule A during the term of this Lease, commencing on the Commencement Date for each Locomotive set forth in Schedule "A". If the Commencement Date for any Locomotive does not fall on the first day of the month, the first rental payment shall be prorated accordingly and shall be due and payable on the Commencement Date.

B. The amount of any installment of rental payable hereunder which remains past due for more than five (5) days shall bear interest from and after such due date until paid at the rate of Eighteen (18%) percent per annum, or the maximum legal rate of interest, whichever is less.

C. All rentals payable by Lessee hereunder shall be paid to Lessor at One Crossroads of Commerce, Rolling Meadows, Illinois 60008, or at such other place as Lessor from time to time may direct in writing.

D. The obligation of Lessee to pay rental is absolute and unconditional and shall not be subject to any abatement, defense, set-off, counterclaim or recoupment whatsoever, whether by reason of any defect in, damage to, loss or destruction of the Locomotives from any cause, or by reason of any interruption in the use, operation or possession of the Locomotives, or for any other reason.

4. TAXES.

A. Lessee shall pay all use, excise, ad valorem, stamp, documentary and similar taxes on or relating to this Lease or the Locomotives, or the use, registration, rental, maintenance, possession or operation thereof, and shall file any returns required therefor.

B. Lessee agrees to and shall indemnify and hold harmless Lessor, its successors and assigns, from and against any liabilities and expenses (including attorneys' fees and costs) incurred by them on account of Lessee's failure to make any such payments or file any such reports.

5. OWNERSHIP AND LESSOR'S INSPECTION.

A. The Locomotives leased hereunder shall at all times be and remain the sole and exclusive property of Lessor, and Lessee shall have no rights or proprietary interests therein, but Lessee shall have the right only to use the same in the regular course of its business as herein provided.

B. Upon reasonable notice to Lessee, Lessor or its agents shall have free access to the Locomotives at reasonable times for the purpose of inspection, or for any other purpose contemplated by this Lease.

C. Any and all accessions, additions, alterations and improvements to the Locomotives of any nature, whether or not made with Lessor's consent, immediately shall become part of the Locomotives and shall become Lessor's property under this Lease.

D. It is the intention and understanding of Lessor and Lessee that all Locomotives leased hereunder shall be and at all times remain personal property.

E. Lessee shall keep the Locomotives at all times free and clear from all claims, liens, encumbrances, security interests, levies, seizures and attachments.

F. The parties hereby acknowledge that this Lease is intended to be a true lease of the Locomotives, and is not and in no way shall be construed as creating a sale of the Locomotives to Lessee.

6. DELIVERY/RETURN.

Delivery of the Locomotives shall be accepted by Lessee and shall be considered completed by Lessor at Lessor's plant in Silvis, Illinois. Unless Lessee shall have exercised its purchase option in accordance with the terms of paragraph 11, upon expiration or other termination of this Lease for any reason whatsoever, it shall be the obligation of Lessee to return said Locomotives to Lessor at said delivery location in good order and condition, reasonable wear and tear excepted. Lessee shall pay or reimburse Lessor for any reasonable and ordinary expenses incurred by Lessor in delivering the Locomotives to Lessee or accepting return of the Locomotives from Lessee as provided herein.

7. LESSEE'S INSPECTION/WARRANTY DISCLAIMER.

A. i. Lessee hereby acknowledges that Lessee has had or will have the opportunity to inspect the Locomotives to Lessee's satisfaction prior to accepting delivery of same, and that acceptance of the Locomotives by Lessee constitutes acknowledgement that they have been received in good condition and repair.

ii. Lessor shall not be responsible for any repairs or maintenance of the Locomotives during the term of this Lease. In no event shall any defect in the Locomotives relieve Lessee of the obligation to pay rent or make any other payments required hereunder, or relieve Lessee of any other obligation hereunder. Without limiting the generality of the foregoing, Lessor shall not be liable on account of any defects, either patent or latent, in any Locomotives, for direct or consequential damages arising therefrom, for any loss of use thereof, or for any interruption in Lessee's business occasioned by Lessee's inability to use any Locomotives for any reason whatsoever.

B. Delivery to and acceptance of the Locomotives by, and execution of a Schedule with respect thereto by Lessee shall constitute Lessee's acknowledgement that the Locomotives are of the manufacture, design and utility, quality and capacity selected by Lessee, that Lessee is satisfied that the same is suitable for Lessee's purposes and that, LESSOR MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE LOCOMOTIVES, AND LESSOR HEREBY DISCLAIMS ALL SUCH REPRESENTATIONS AND WARRANTIES.

8. USE AND MAINTENANCE.

Lessee agrees that:

A. The Locomotives will be used solely in the conduct of Lessee's business for the purpose and in the manner for which it was designed.

B. Lessee shall be responsible and pay for all registrations, certificates, and permits, and all other similar requirements of governmental authorities, whether required to be obtained in the name of Lessor or Lessee. Lessor shall issue to Lessee specifically and solely for such purposes, all necessary powers-of-attorney or similar authorities.

C. The Locomotives shall be used and operated only by properly qualified, trained, licensed and registered personnel authorized by Lessee.

D. Lessee shall comply with all federal, state, municipal and local laws, ordinances and rules and regulations relating to the lease, possession, insuring, use and operation of the Locomotives.

E. Lessee shall be solely responsible for the payment of any and all fines, penalties or forfeitures (including without limitation the confiscation of the Locomotives) levied upon or arising out of the use, operation, maintenance or insuring of the Locomotives in violation of any law, ordinance, rule or regulation of any governmental authority.

F. Lessee will not permit any material change to be made to the Locomotives.

G. Lessee shall pay all costs, expenses and charges incurred in connection with the maintenance, lease, use and operation of the Locomotives, including but not limited to the cost of fuel, oil, lubricants, parts, supplies, tolls, fares, etc.

H. Lessee shall maintain the Locomotives in good mechanical condition and running order and in compliance with all safety rules and regulations now or hereafter promulgated by applicable governmental authorities. Lessee shall take all actions necessary to assure that the Locomotives are not abused or misused in any manner.

I. Lessee shall keep and maintain any and all books and records and make any and all filings required by any government authority with respect to the possession, lease, use or operation of the Locomotives.

9. INSURANCE/INDEMNIFICATION.

A. Public liability insurance providing coverage in an amount not less than Three Million (\$3,000,000.00) Dollars combined single limit per occurrence shall be provided by Lessee at Lessee's sole expense throughout the term of this Lease as to each Locomotive. The insurance policy or policies providing the foregoing coverage shall:

i. be written by an insurance company or companies satisfactory to Lessor and authorized to transact business in all of the states in which the Locomotives will be used or operated.

ii. name Lessor and Lessee as insured parties.

iii. protect the interests of Lessor and Lessee, including Lessee's authorized operators, with respect to liability for injuries to or the death of third persons and damage to or loss of use of property of third persons resulting from the ownership, maintenance, use or operation of the Locomotives.

iv. provide by endorsement or otherwise that the coverage shall be primary coverage as to Lessor.

v. provide that the insurance company or companies issuing such policy or policies shall notify Lessor of any cancellation thereof at least thirty (30) days prior thereto.

Upon request Lessee shall furnish Lessor with a certificate(s) of insurance or other evidencing said insurance coverage.

B. Notwithstanding that Lessee shall provide certain insurance hereunder and irrespective of any responsibility for negligence, Lessee does hereby agree to defend, indemnify, protect and hold harmless Lessor and any assignees or successors of Lessor, and their respective employees and agents, from and against any and all losses, liabilities (including without limitation strict liability imposed by law), damages, injuries, claims, demands and expenses (including legal expenses) of whatsoever kind and nature, resulting from or arising out of the use, condition (including without limitation latent and other defects whether or not discoverable by Lessor), operation or ownership of any Locomotive. This covenant of indemnity shall continue in full force and effect notwithstanding the termination of this Lease or the termination of the lease of any Locomotive.

C. Lessee, at Lessee's sole expense, shall provide collision and comprehensive physical damage insurance on each Locomotive. The insurance policy or policies providing the foregoing coverages shall:

i. be written in standard form by an insurance company acceptable to Lessor.

ii. provide coverage in an amount not less than the replacement value of the Locomotives.

iii. provide for losses to be payable to Lessor and Lessee as their respective interests may appear.

D. Lessee assumes and agrees to indemnify, protect and hold free and harmless Lessor, any assignee or successor of Lessor, and their respective employees or agents, irrespective of any responsibility for negligence, from any loss, damage, theft or destruction of any Locomotive.

E. If Lessee shall fail to obtain or maintain the insurance coverage required in this Lease, or shall fail to furnish Lessor with evidence thereof, Lessor at its option, may obtain such required insurance coverage on behalf of Lessee and at Lessee's expense, in which event the expense thereof shall be additional rental due and payable to Lessor with the next succeeding rental payment due hereunder.

10. ASSIGNMENT AND LIENS.

Lessor shall have the unconditional right to assign this Lease, in whole or in part. Lessee shall have no right to assign this Lease or any of the Locomotives or any interest therein. Lessee shall not sublease, mortgage, grant a security interest in or otherwise encumber or part with possession of any Locomotive or any part thereof, or permit to attach or exist any mortgagee's, mechanic's, judgment creditor's or other lien on any Locomotive (except as may be placed thereon by Lessor). If any such lien is alleged to have attached or to exist, Lessor may, but is not obligated, to discharge the same, and Lessee agrees to reimburse Lessor the amount so paid. Lessee hereby subordinates Lessee's rights under this Lease to the lien of any lender of Lessor.

11. PURCHASE OPTION.

Provided Lessee is not then in default under this Lease, Lessee is hereby given the right, at the expiration of the term of this Lease, to purchase any Locomotive provided hereunder for the sum of See Attached Schedule A
(\$ _____) Dollars.

12. FINANCIAL DATA.

Upon the written request of Lessor, Lessee shall furnish to Lessor, when reasonably available, copies of Lessee's financial statements and such other reports and statements concerning this Lease and the Locomotives as Lessor reasonably may request.

13. DEFAULT.

A. Lessee shall be in default under this Lease upon the happening of any of the following events or conditions (each hereinafter referred to as an "Event of Default"):

i. Default in the payment when due of any installment of rental hereunder or of any other obligation for the payment of money now or hereafter owed by Lessee to Lessor.

ii. Default in the timely performance of any other liability, obligation, covenant or agreement hereunder of Lessee.

14. REMEDIES UPON DEFAULT.

A. Upon the occurrence of any Event of Default or at any time or from time to time thereafter (subject to any applicable grace provisions), Lessor, in its sole discretion to the extent permitted by and subject to compliance with mandatory requirements of applicable law, may take any one or more of the following actions with respect to the Locomotives:

i. Declare all unpaid amounts of rental to be immediately due and payable.

ii. Terminate the lease of any or all Locomotives by written notice to Lessee.

iii. Whether or not the lease thereof is terminated, take possession of any or all Locomotives wherever found, and for this purpose Lessor may at Lessor's option (so far as Lessee can lawfully give authority therefor), enter upon the premises where such Locomotives are located and take immediate possession of and remove the same, all without liability to Lessee for damage to property or otherwise.

iv. Require that Lessee shall (and Lessee hereby agrees that Lessee shall), upon written demand by Lessor and at Lessee's expense, promptly make available to Lessor any or all Equipment at a place designated by Lessor which is reasonably convenient to both parties.

v. Use, hold, sell, lease or otherwise dispose of any or all such Locomotives as Lessor in its sole discretion may decide, without affecting the obligations of Lessee as provided in this Lease.

vi. Sell or lease any of all Locomotives, at public or private sales or proceedings, at such time or times and upon such terms as Lessor may determine, free and clear of any rights of Lessee (but not free of any duty to account therefor to Lessee imposed upon Lessor by applicable law) and, if notice thereof is required by applicable law, any notice in writing of any such sale or lease by Lessor to Lessee not less than five (5) days prior to the date thereof shall constitute reasonable notice to Lessee.

vii. Proceed by appropriate action either at law or in equity to enforce performance by Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof or to rescind the lease hereunder of any or all Locomotives.

viii. Exercise any and all rights and remedies available to Lessor under any applicable law. In addition, Lessee shall be charged with and shall pay to Lessor all reasonable costs and expenses of Lessor incurred as a result of each Event of Default by Lessee or as a result of Lessor's exercise of any or all of the foregoing rights and remedies, including but not limited to costs and expenses of repossessing, repairing, using and holding the Locomotives, preparing the Locomotives for sale, lease or other disposition, costs and expenses of sale, and reasonable attorneys' fees and legal expenses. Further, Lessee acknowledges and agrees that Lessor shall be entitled to recover from Lessee any deficiency as between the aggregate of all Lessee's remaining indebtedness to Lessor under this Lease and the net proceeds to Lessor of any Locomotives actually returned to or repossessed by Lessor.

B. None of the rights and remedies under or referred to in this paragraph 14 is intended to be exclusive but each such right or remedy shall as to each Locomotive be cumulative and may be availed of separately or concurrently with or in addition to any other right or remedy provided or referred to herein or otherwise available to Lessor at law or in equity. Any repossession or subsequent sale or lease by Lessor of any Locomotives shall not bar an action against Lessee for a deficiency, and the bringing of any action or the entry of judgment against Lessee shall not bar Lessor's right to repossess any or all of the Locomotives. Lessor shall not be obligated to sell, lease or otherwise dispose of any repossessed Locomotives hereunder if it would impair the sale, lease or other disposition of similar equipment acquired in the ordinary course of Lessor's business or which was previously repossessed by Lessor from any party. To the extent permitted by applicable law, LESSEE WAIVES ANY AND ALL RIGHTS TO NOTICE AND TO A JUDICIAL HEARING WITH RESPECT TO THE REPOSSESSION OF EQUIPMENT BY LESSOR AS A RESULT OF ANY EVENT OF DEFAULT HEREUNDER BY LESSEE.

C. Without limitation of any rights of Lessor otherwise existing or otherwise available to Lessor, it is expressly covenanted and agreed by the parties hereto that in the event of any assignment by operation of law of this Lease or of any lease hereunder, or of a bankruptcy of Lessee within the meaning of the Federal Bankruptcy Act, then Lessor may, at Lessor's election, terminate this Lease or any one or more leases hereunder.

15. RECORDATION OF LESSOR'S INTEREST.

Notwithstanding the parties' intention that this Lease be considered a true lease, Lessee hereby authorizes Lessor to execute and file financing statements or other documents evidencing Lessor's interest in the Locomotives at any time with respect to the Locomotives, without Lessee's signature. At Lessor's request, Lessee shall execute one or more financing statements pursuant to the Uniform Commercial Code or other documents permitted to be filed under the Interstate Commerce Commission Act in form satisfactory to Lessor, and shall pay or reimburse Lessor for all costs and fees for filing any such documents wherever and whenever Lessor deems it desirable or necessary to file same.

16. NO ACCORD AND SATISFACTION.

No payment by Lessee to Lessor of any lesser amount than that due to Lessor with respect to any and all obligations of Lessee hereunder shall be deemed to be other than a payment on account, and no endorsement or statement on any check or other medium of payment or in any letter or other writing accompanying any payment shall be deemed an accord and satisfaction. Lessor may accept any such payment without prejudice to its rights to recover any remaining balance or to pursue any other remedy provided in this Lease or by applicable law.

17. MISCELLANEOUS.

A. This Lease and all rights and obligations hereunder shall be governed by and construed in accordance with the laws of the State of Illinois.

B. This Lease contains the entire understanding of the parties with respect to the subject matter hereof.

C. Lessor and Lessee agree that this Lease is and is intended to be construed as a lease, and that the relationship between Lessor and Lessee shall be and remain that of a lessor and lessee, and Lessee shall not be or be construed to be the agent or an assignee of Lessor. None of Lessee's agents, servants or employees shall be deemed to be the agents, servants or employees of Lessor or an assignee of Lessor, and Lessor shall not be responsible for the acts or omissions of Lessee, its agents, servants or employees.

D. Neither this Lease nor any Schedule shall be amended, and no provision hereof or of any Schedule shall be waived or varied unless by a writing signed by the parties.

E. No delay or omission by Lessor in exercising any right hereunder shall operate as a waiver of such right or any other right. A waiver by Lessor of any Event of Default by Lessee shall not be construed as a waiver of any future occasion.

F. In case any provision (or portions thereof) in this Lease shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions (or portions thereof) hereof shall not in any way be affected or impaired thereby.

G. Time is of the essence with respect to this Lease and each and all of its provisions.

H. This Lease shall be binding upon and inure to the benefit of Lessor and Lessee and their respective successors.

I. All notices permitted or required to be given pursuant to this Lease shall be delivered personally or mailed by Certified or Registered Mail, Return Receipt Requested, to the parties at the following addresses or at such other addresses as each party may notify the other:

If to Lessor:

CHROME LOCOMOTIVE, INC.
P.O. BOX 197, 9TH STREET
SILVIS, ILLINOIS 61282

If to Lessee:

New England Southern Railroad Co. Inc.
One Depot Lane
P. O. Box 958
Belcher Town, MA 01007

Notices forwarded by mail shall be deemed to have been received two (2) days after the date postmarked thereon.

J. Whenever the context of this Lease permits or requires, the number and gender of words shall be interchangeable.

IN WITNESS WHEREOF, the parties have executed this Lease in multiple counterparts, each of which shall be deemed an original without the production of the others of them, the day and year first above written.

LESSOR:

CHROME LOCOMOTIVE, INC.

By: Ray C. Hill

LESSEE:

New England Southern Railroad Co. Inc.

W. U. James
Name

By: President & Gen. Mgr.

Title

SCHEDULE "A"
TO
LOCOMOTIVE LEASE AGREEMENT

Dated September 9, 1985 (THE "LEASE")
BETWEEN
CHROME LOCOMOTIVE, INC.
AND
New England Southern Railroad Co. ("LESSEE")

1. Locomotive:

<u>Unit #</u>	<u>Manufacturer</u>	<u>Model/Feature</u>	<u>Serial No.</u>	<u>Term</u>
438	EMD	GP-7	11690	36 Months
		<u>Rental Per Calendar Day</u>	<u>Rental Per Month</u>	<u>Purchase Option</u>
1st - 3rd Month		\$ 0.00	\$ 0.00	\$ 0.00
4th - 36th Month		\$38.14	\$1160.00	\$ 0.00
36th Month				\$2500.00

<u>Unit #</u>	<u>Manufacturer</u>	<u>Model/Feature</u>	<u>Serial No.</u>	<u>Term</u>
1341	EMD	GP-18	25458	36 Months
		<u>Rental Per Calendar Day</u>	<u>Rental Per Month</u>	<u>Purchase Option</u>
1st - 3rd Month		\$ 0.00	\$ 0.00	\$ 0.00
4th - 36th Month		\$70.68	\$2150.00	\$ 0.00
36th Month				\$5000.00

2. Equipment Lease Agreement: All of the terms, covenants and conditions set forth in the Lease are incorporated herein by reference as if the same had been set forth herein full.

LESSOR:

CHROME LOCOMOTIVE, INC.

By: Ray C. Hill

Dated: Sept. 19, 1985

LESSEE:

New England Southern Railroad Co.

By: W. H. Chomess
Name

By: President & Gen. Mgr.
Title