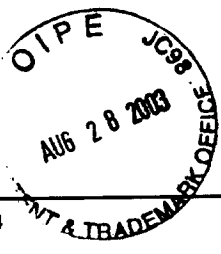


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U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): Fleet Capital Corporation
Individual(s) Association General Partnership Limited Partnership Corporation-State Rhode Island Other
Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies) Name: BNY Asset Solutions LLC Internal Address: Street Address: 600 East Las Colinas Boulevard City: Irving State: TX Zip: 75039
Individual(s) citizenship Association General Partnership Limited Partnership Corporation-State Other Limited Liability Company - Delaware
If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? Yes No

3. Nature of conveyance: Assignment Merger Security Agreement Change of Name Other Successor Agent Agreement
Execution Date: May 1, 2003

4. Application number(s) or registration number(s): A. Trademark Application No.(s) 76-017,569 B. Trademark Registration No.(s) 1,536,775
Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed: Name: Daniel Stolarsky, Esq. Internal Address: Kaye Scholer LLC
Street Address: Three First National Plaza, Suite 4100 70 West Madison Street
City: Chicago State: IL Zip: 60602-4231

6. Total number of applications and registrations involved: 6
7. Total fee (37 CFR 3.41): \$ 165.00
Enclosed Authorized to be charged to deposit account

8. Deposit account number:
(Attach duplicate copy of this page if paying by deposit account)

09/02/2003 6TON11 00000058 76017569
01 FC:8521 40.00 DP
02 FC:8522 125.00 DP

DO NOT USE THIS SPACE

9. Statement and signature. To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.
Paul Somelofske Signature Date August 27, 2003
Name of Person Signing Signature Date

Total number of pages including cover sheet, attachments, and document: 16

Mail documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

**CONTINUATION OF SECTION 4**

**TRADEMARK APPLICATION**

<b><u>Trademark Application</u></b>	<b><u>Application Date</u></b>	<b><u>Application No.</u></b>
INTERMODAL EXPEDITOR	April 4, 2000	76-017,569

**REGISTERED TRADEMARKS**

<b><u>Trademark</u></b>	<b><u>Registration Date</u></b>	<b><u>Registration No.</u></b>
NEOPLAN	April 25, 1989	1,536,775
NEOPLAN	February 21, 1989	1,525,522
[DESIGN ONLY]	August 2, 1983	1,246,983
NEOPLAN	September 29, 1981	1,171,133
NEOPLAN	December 1, 1981	1,180,506

## SUCCESSOR AGENCY APPOINTMENT

**THIS SUCCESSOR AGENCY APPOINTMENT ("Appointment")** is entered into by and among (i) BNY Asset Solutions LLC ("**BNYAS**"), (ii) Fleet Capital Corporation ("**Fleet**"), (iii) NEOPLAN-USA-CORPORATION and IAP INTERMODAL LLC (singly and collectively, the "**Borrower**"), and (iv) the various Lenders signatory hereto. This Appointment is effective as of the Effective Date, as defined below.

### RECITALS

A. The Borrower, Fleet and the Lenders signatory hereto are each a party to that certain Loan and Security Agreement (the "**Loan Agreement**") dated as of May 29, 1998, as amended by Amendment No. 1 to Loan and Security Agreement dated June 29, 1998 ("Amendment No. 1"), Fixed Rate Agreement dated June 29, 1998 ("Fixed Rate Agreement"), Amendment No. 2 to Loan and Security Agreement dated as of September 29, 1999 ("Amendment No. 2"), Amendment No. 3 to Loan and Security Agreement dated March 31, 2000 ("Amendment No. 3"), Joinder and Amendment No. 4 to Loan and Security Agreement dated as of June 20, 2000 ("Amendment No. 4"), Forbearance Letter Agreement No. 1 dated August 29, 2000 ("Forbearance No. 1"), Forbearance Letter Agreement No. 2 dated February 9, 2001 ("Forbearance No. 2"), Amendment No. 5 to Loan and Security Agreement dated July 31, 2001 ("Amendment No. 5") and Amendment No. 6 to Loan and Security Agreement dated April 12, 2002 ("Amendment No. 6") (Amendment No. 1, Fixed Rate Agreement, Amendment No. 2, Amendment No. 3, Amendment No. 4, Forbearance No. 1, Forbearance No. 2, Amendment No. 5 and Amendment No. 6, collectively, the "**Loan Agreement**"). The Loan Agreement and all other agreements, documents and instruments relating thereto or executed in connection therewith are referred to collectively herein as the "**Loan Documents**".

B. Fleet serves as the current administrative agent, documentation agent and collateral agent (such capacities collectively, the "**Agent**").

C. Fleet, BNYAS, the Borrower and the Lenders signatory hereto now desire to have BNYAS replace Fleet as the Agent and serve as the successor Agent under the Loan Agreement and the Loan Documents.

**NOW, THEREFORE**, in consideration of the agreements contained herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties, the parties hereby agree as follows:

**1. Defined Terms.** The following terms shall have the definitions indicated:

**"BNYAS"** means BNY Asset Solutions LLC, a Delaware limited liability company and first-tier, wholly-owned subsidiary of The Bank of New York.

**"Effective Date"** means the date set forth in a notice from BNYAS delivered to the Majority Lenders stating that the condition of Section 5 of this Appointment has been satisfied.

**"Fee Letter"** shall mean that letter agreement, dated of even date herewith, between Borrower and BNYAS, setting forth the terms for the payment of certain fees, as provided in Section 2 of the Loan Agreement, attached hereto as **EXHIBIT A** and incorporated herein.

Capitalized terms not otherwise defined in this Appointment shall have the meanings set forth in the Loan Agreement or, if not defined in the Loan Agreement, the applicable Loan Documents.

## **2. Resignation of Current Agent and Appointment of Successor**

2.1 Pursuant to the provisions of Section 10.10 of the Loan Agreement, as may have been amended, Fleet resigns from its position as the Agent ("**Retiring Agent**"), effective as of the Effective Date. Pursuant to the terms of Section 10.10 of the Loan Agreement, the Lenders signatory hereto consent to Fleet's resignation and appoint BNYAS as the successor Agent ("**Successor Agent**") under the Loan Agreement and each other Loan Document, and the Borrower confirms its consent to such appointment. BNYAS accepts such appointment as the Agent, and agrees to serve in such capacity pursuant to the Loan Documents.

2.2 In connection with the agency succession described in the foregoing Section 2.1, on the Effective Date (i) without the need for further action, Successor Agent shall succeed to and become vested with all of the rights, powers, and duties of the Agent and the term "Agent" shall mean Successor Agent, (ii) Retiring Agent's rights, powers and duties as Agent shall terminate without any other or further act or deed on the part of any of the parties hereto; (iii) the provisions of the Loan Agreement intended to survive Agent's resignation, which shall include Sections 10 and 11.2 of the Loan Agreement, shall inure to Retiring Agent's benefit, (iv) each of Retiring Agent, Borrower and the Lenders signatory hereto authorizes Successor Agent to file any Uniform Commercial Code assignments or amendments that Successor Agent deems necessary or desirable to evidence Successor Agent's succession as Agent under the Loan Agreement and the other Loan Documents, (v) Retiring Agent agrees to use reasonable efforts to promptly deliver to Successor Agent any tangible personal Collateral securing the Obligations that is currently in the possession of the Retiring Agent (such as stock certificates, notes and the like) and (vi) each of Retiring Agent, the Borrower and the Lenders agree, upon the reasonable request of Successor Agent, to take such additional actions and to execute and deliver such other documents and instruments as Successor Agent may reasonably request to effect Successor Agent's succession as Agent under the Loan Documents. Without limiting the generality of the foregoing, Retiring Agent hereby assigns to the Successor Agent without representation

or warranty and without recourse, all liens and security interests in the Collateral, all of which shall remain in full force and effect.

2.3 Notwithstanding anything herein or anywhere else to the contrary, to the extent that there is any demand, draw, presentment or other request for payment on or in connection with that certain Standby Letter of Credit No. ASL-3009105-130NEO issued to the United States Fire Insurance Company for the account of Neoplan – USA – Corporation in the face amount of \$6,000,000 (the "Fire Insurance Letter of Credit"), Fleet and/or any affiliated entities shall be deemed to have maintained any and all rights and remedies under the Loan Agreement and Loan Documents with respect thereto including, without limitation, any and all rights to immediate reimbursement, and which rights shall include, without limitation, the right to receive direct reimbursement. Amounts due and owing to Fleet and/or any affiliated entities with respect to the Fire Insurance Letter of Credit will be deemed to have been satisfied to the extent already funded (or pre-funded) by the Lenders and applied to such amounts. All parties hereto shall cooperate and assist with such reimbursement in all respects.

2.4. Notwithstanding anything herein or anywhere else to the contrary, even if this Agreement is not signed by all of the parties listed on the signature pages hereto, this Agreement shall be binding on the parties who have executed this Agreement below.

### **3. Fees, Costs and Expenses.**

The Borrower and Fleet agree that Fleet is entitled to the fees and reimbursable expenses incurred prior to the Effective Date, as provided for under the relevant Loan Documents, or pursuant to the terms of the Fee Letter between them dated as of July 12, 2001 described in the Loan Agreement, as may have been amended. The Majority Lenders and BNYAS agree that BNYAS is and shall be entitled to the fees and reimbursable expenses from and including the Effective Date of this Appointment as provided for under the relevant Loan Documents, or pursuant to the terms of the Fee Letter attached hereto as **EXHIBIT A**.

### **4. Indemnification.**

The Borrower and Lenders signatory hereto agree that the indemnification and limitation of liability provisions of each of the underlying Loan Documents (including but not limited to Section 10.5 of the Loan Agreement) that heretofore applied to Fleet in its prior role as Agent shall apply to and include BNYAS, from and including the Effective Date.

### **5. Condition Precedent**

BNYAS shall have received original executed counterparts of this Appointment from Fleet and the Majority Lenders.

**6. Miscellaneous.**

**6.1 Notices.** Any notice or other communication given or required to be given under this Appointment or any Loan Document shall be sent to the address set forth below, or such other address as shall be designated in a written notice delivered to the other parties hereto:

If to BNYAS:

BNY Asset Solutions LLC  
600 East Las Colinas Boulevard, Suite 1300  
Irving, Texas 75039  
Attention: Risk Management  
Telephone: 972/401-8500  
Facsimile: 972/401-8554

With a copy to:

Kaye Scholer LLP  
Three First National Plaza  
70 West Madison Street, Suite 4100  
Chicago, Illinois 60602  
Attention: Michael Messersmith  
Facsimile: 312/583-2360

If to Fleet:

Walter Schuppe, Senior Vice President  
Fleet Bank  
777 Main Street  
Hartford, CT 06115  
Facsimile: 860-952-6775

and

Brown Rudnick Berlack Israels LLP  
One Financial Center  
Boston, MA 02111  
Attention: Jeffrey L. Jonas, Esq.  
Mary Bucci, Esq.  
Facsimile: 617-856-8201

If to Borrower:

Neoplan USA Corporation  
700 Gottlob Auwaerter Drive  
Lamar, Colorado 81052  
Attention: Harold Goade

Facsimile: 719/336-4201

With copies to:

Willis Stein & Partners, L.P.  
227 West Monroe Street, Suite 4300  
Chicago, Illinois 60606  
Attention: Daniel H. Blumenthal  
Facsimile: 312/422-2424

and

Kirkland & Ellis  
200 East Randolph Drive  
Chicago, Illinois 60614  
Attention: Margaret A. Gibson, Esq.  
Facsimile: 312/861-2200

**6.2 Headings.** Section and subsection headings included herein are for convenience of reference only and shall not constitute a part of this Appointment for any other purpose or be given any substantive effect.

**6.3 Counterparts.** This Appointment may be executed in counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Appointment by telecopier shall be effective as delivery of a manually executed counterpart of this Appointment.

**6.4 Governing Law.** THIS APPOINTMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

The remainder of this page is intentionally left blank.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have executed this Appointment to be effective as of the Effective Date. Each person signing below represents that he or she is authorized to execute and deliver this Appointment on behalf of the party for whom he or she has signed.

Approved - Legal / Risk Management

  
Initials

5-1-2003  
Date

**BNY ASSET SOLUTIONS LLC**

By: Loree Conrad  
Loree Conrad  
Managing Director

**FLEET CAPITAL CORPORATION**

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

**NEOPLAN-USA-CORPORATION**

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

**IAP INTERMODAL LLC**

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



FROM

(THU) 5. 1' 03 15:25/ST. 15:24/NO. 4864861761 P 6

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have executed this Appointment to be effective as of the Effective Date. Each person signing below represents that he or she is authorized to execute and deliver this Appointment on behalf of the party for whom he or she has signed.

Approved - Legal / Risk Management

**BNY ASSET SOLUTIONS LLC**

By: \_\_\_\_\_  
James D. Vincent  
President and CEO

Initials

Date

**FLEET CAPITAL CORPORATION**

By: \_\_\_\_\_  
Name: James D. Vincent  
Title: CEO

**NEOPLAN-USA-CORPORATION**

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

**IAP INTERMODAL LLC**

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

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have executed this Appointment to be effective as of the Effective Date. Each person signing below represents that he or she is authorized to execute and deliver this Appointment on behalf of the party for whom he or she has signed.

Approved - Legal / Risk Management

[Signature]  
Initials

5-1-2003  
Date

**BNY ASSET SOLUTIONS LLC**

By: [Signature]  
Loree Conrad  
Managing Director

**FLEET CAPITAL CORPORATION**

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

**NEOPLAN-USA-CORPORATION**

By: [Signature]  
Name: Harold R. Beade  
Title: Chief Financial Officer

**IAP INTERMODAL LLC**

By: [Signature]  
Name: Harold R. Beade  
Title: Chief Financial Officer

**LENDERS:**

**MERRILL LYNCH BUSINESS  
FINANCIAL SERVICES, INC.**

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

**ING PRIME RATE TRUST**

By: \_\_\_\_\_  
Name: Robert L. Wilson  
Title: Vice President

**ING SENIOR INCOME FUND**

By: \_\_\_\_\_  
Name: Robert L. Wilson  
Title: Vice President

**VAN KAMPEN SENIOR INCOME  
TRUST**

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

**VAN KAMPEN PRIME RATE INCOME  
TRUST**

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

**VAN KAMPEN CLO II, LIMITED**

LENDERS:

MERRILL LYNCH BUSINESS  
FINANCIAL SERVICES, INC.

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

ING PRIME RATE TRUST

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

ING SENIOR INCOME FUND

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

VAN KAMPEN SENIOR INCOME  
TRUST

By: Van Kampen Investment Advisory Corp.

By: Brian Buscher  
Name: BRIAN BUSCHER  
Title: MANAGER

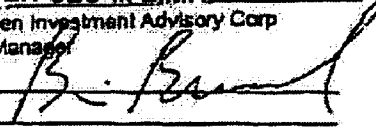
VAN KAMPEN PRIME RATE INCOME  
TRUST

By: Van Kampen Investment Advisory Corp.

By: Brian Buscher  
Name: BRIAN BUSCHER  
Title: MANAGER

VAN KAMPEN CLO II, LIMITED

By: Van Kampen Investment Advisory Corp  
As Collateral Manager

By: 

Name: \_\_\_\_\_

Title: **BRIAN BUSCHER**  
**MANAGER**

51188501 v2 - 12/02/02

EXHIBIT A

**FEE LETTER**

# BNY ASSET SOLUTIONS LLC

A Bank of New York Company

## IAP NEWSUB, INC.

### Loan and Security Agreement dated as of May 29, 1998

May 1, 2003

The following are the proposed terms and conditions under which BNY Asset Solutions LLC ("BNYAS") will act as successor Administrative Agent for IAP Newsub, Inc. (the "Client") with respect to a Term and Revolving Credit Facility, ("Credit Facility").

BNYAS relied on the following assumptions in determining the proposed fees:

1. The Credit Facility consists of One Term Facility and One Revolving Facility with an approximate aggregate outstanding balance of \$49.24mm with a current syndicated bank group of 5 lenders.
2. BNYAS will act as Collateral Agent and Secured Party to the Lenders. Cost, (Including Fees and Legal Fees) associated with perfection or continuation of security interest shall be reimbursable to BNYAS.
3. BNYAS can service but not issue Letters of Credit in it's own capacity.

### FEE PROPOSAL

Initialization Payment..... **\$2,500**

This payment is payable upon execution of this letter and is not refundable. Services provided under this fee are for successor documentation preparation, documentation review, account set-up, reconciliation of outstanding balances, conversion of existing records and other responsibilities in conjunction with the closing of the contemplated transaction. It is anticipated that BNYAS will be involved in certain transactions to effectuate the reorganization of the Client and the restructuring of its current credit facility. If BNYAS is engaged by the Client or Lender in any capacity during this reorganization and restructuring process, BNYAS shall credit one-half of the Annual Administration Fee (\$17,500.00) against any fees assessed by BNYAS against the Client/Lenders for any services to be rendered as part of the reorganization and restructuring of the Client or its current credit facility.

Annual Administration Fee ..... **\$35,000**

100% of this fee is payable in advance on the closing date and on each anniversary of the closing date until BNYAS's obligations under the loan documents have been discharged or otherwise terminated.

Annual Collateral Agent Fee ..... **\$5,000**

100% of this fee is payable in advance on the closing date and on each anniversary of the closing date until BNYAS's obligations under the loan documents have been discharged or otherwise terminated. Limited duties to include safekeeping of UCC's, Stock Certificates/Powers and Notes.

### SCOPE OF SERVICES

BNYAS will provide the following Loan Servicing duties for the Portfolio:

1. Preparing and distributing notices to the borrower and each syndicate lender as required by the loan documents, including reminders, rollovers, rate sets, commitment fees, letter of credit fees, annual fees and any other notices.
2. Calculating interest rates for each accrual period and distributing rate set notices.

- 3. Billing and collecting principal, interest, and fee payments from borrowers. Distributing all funds collected to the syndicate lenders.
- 4. Reasonable efforts in collecting financial statements and compliance requirements from each borrower as required by the loan documents and forwarding such information to each syndicate lender.
- 5. Processing Lender Assignments and maintaining the official Lender Register.
- 6. Hold and maintain for safekeeping any pledged collateral for the benefit of the lenders plus any other duties assigned to the collateral agent under the loan documents.

**ADDITIONAL CONDITIONS TO THE BID FOR SERVICES**

This proposal is conditioned upon BNYAS review of the underlying transaction documents. Further, the terms and conditions outlined in this proposal shall be of no force or effect should BNYAS not receive (i) a fully executed original of this proposal, (ii) the Initialization Fee referenced above within thirty days from the first date stated above and (iii) a Successor Agency Agreement in terms and conditions reasonably acceptable to both BNYAS and Client and their respective legal counsel. This bid shall be deemed terminated if BNYAS and Client do not enter into a written Successor Agency Agreement within three months from the date of transmittal. This bid letter is proprietary and confidential. Neither LAP Newsb, Inc., nor any other party to the credit agreement may reproduce or distribute this bid letter to any third parties without BNYAS's express written authorization.

BNY Asset Solutions LLC

By: *Loree Conrad*  
Print name: Loree Conrad  
Managing Director

APPROVED - LEGAL  
*[Signature]* S-1-2003  
initials date

AGREED AND ACCEPTED THIS 1<sup>st</sup> DAY OF May, 2003

~~LAP Newsb, Inc~~ Neoplan USA Corporation

BY: *Harold R. Boade*  
Name: Harold R. Boade  
Title: CFO