

RECORDATION NO. 8887 Filed

CRAVATH, SWAINE & MOORE

RECORDATION NO. 8887 Filed & Recorded

JUL 15 1977 - 2 15 PM

ONE CHASE MANHATTAN PLAZA

RECEIVED JUL 15 1977 - 2 15 PM

- MAURICE T. MOORE
- BRUCE BROMLEY
- ROBERT PATRICK
- ALBERT R. CONNELLY
- FRANK H. DETWEILER
- GEORGE G. TYLER
- CHARLES R. LINTON
- WILLIAM B. MARSHALL
- RALPH L. MCAFEE
- ROYALL VICTOR
- ALLEN H. MERRILL
- HENRY W. DEKOSMIAN
- ALLEN F. MAULSBY
- STEWART R. BROSS, JR.
- HENRY P. RIORDAN
- JOHN R. HUPPER
- SAMUEL C. BUTLER
- WILLIAM J. SCHRENK, JR.
- BENJAMIN F. CRANE
- FRANCIS F. RANDOLPH, JR.
- JOHN F. HUNT, JR.
- GEORGE J. GILLESPIE, III
- RICHARD S. SIMMONS
- WAYNE E. CHAPMAN
- THOMAS D. BARR
- MELVIN L. BEDRICK
- GEORGE T. LOWY
- ROBERT ROSENMAN
- JAMES J. ...
- ALAN J. HRUSKA
- JOHN E. YOUNG
- JAMES M. EDWARDS
- DAVID G. ORMSBY
- DAVID L. SCHWARTZ
- RICHARD J. HIEGEL
- FREDERICK A. ...
- CHRISTINE BESAAR
- ROBERT S. RIFKIND
- DAVID BOIES
- DAVID O. BROWNWOOD
- PAUL M. BODYK
- RICHARD M. ALLEN
- THOMAS R. BROME
- ROBERT D. JOFFE
- ROBERT F. MULLEN
- ALLEN FINKELSON
- RONALD S. ROLF
- JOSEPH R. SAHID
- PAUL C. SAUNDERS
- MARTIN L. SENZEL

NEW YORK, N.Y. 10005

212 HANOVER 2-3000

INTERNATIONAL TELEX: 620978

TELETYPE: 710-581-0338

TELEX: 125547

JUL 15 2 1977

CARLYLE E. MAW  
HAROLD R. MEDINA, JR.  
COUNSEL

I.C.C.  
FEE OPERATION BR. - A

4, PLACE DE LA CONCORDE  
75008 PARIS, FRANCE  
TELEPHONE: 265-81-54  
TELEX: 290530

RECORDATION NO. 8887 Filed & Recorded

JUL 15 1977 - 2 15 PM

TERMINAL HOUSE  
52, GROSVENOR GARDENS  
LONDON, SW1W 0AU, ENGLAND  
TELEPHONE: 01-730-5203  
TELEX: 917840

INTERSTATE COMMERCE COMMISSION

CABLE ADDRESSES  
CRAVATH, N. Y.  
CRAVATH, PARIS  
CRAVATH, LONDON S.W.1

106A051

JUL 15 1977

Date \_\_\_\_\_  
Fee \$ 2.00

ICC Washington D.C.

RECORDATION NO. 8887 Filed & Recorded

JUL 15 1977 - 2 July 15, 1977

Dear Sirs:

INTERSTATE COMMERCE COMMISSION

Pursuant to Section 20c of the Interstate Commerce Act and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of First Security Bank of Utah, National Association, for filing and recordation counterparts of the following documents:

- (1) Hulk Purchase Agreement dated as of July 1, 1977, between Illinois Central Gulf Railroad Company, Seller, and First Security Bank of Utah, National Association, Buyer;
- (2) Rehabilitation Agreement dated as of July 1, 1977, between Illinois Central Gulf Railroad Company, Contractor, and First Security Bank of Utah, National Association, Company;
- (3) Lease Agreement dated as of July 1, 1977, between Illinois Central Gulf Railroad Company, Lessee, and First Security Bank of Utah, National Association, Lessor; and
- (4) Trust Indenture and Mortgage dated as of July 1, 1977, between First Security Bank of Utah, National Association, Owner Trustee, and First Security Bank of Utah, National Association, Indenture Trustee.

The names and addresses of the parties to the aforementioned Agreements are as follows:

(a) Buyer-Company-Lessor-Owner Trustee-Indenture Trustee:

First Security Bank of Utah, National Association,  
79 South Main Street,  
Salt Lake City, Utah 84111; and

*Handwritten signatures and notes:*  
- A large signature on the left side.  
- The word "Counterpart" written vertically on the left side.

## (b) Seller-Contractor-Lessee:

Illinois Central Gulf Railroad,  
233 North Michigan Avenue,  
Chicago, Illinois 60601.

Please file and record the documents referred to above and cross-index them under the names of the Buyer-Company-Lessor-Owner Trustee-Indenture Trustee and Seller-Contractor-Lessee.

Equipment covered by the Lease Agreement and the Trust Indenture and Mortgage consists of the following units of Illinois Central Gulf Railroad Equipment:

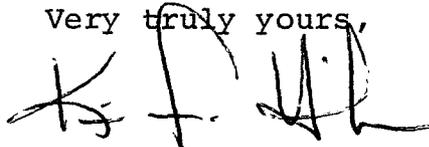
- 70 ' 70-ton Insulated Box Cars bearing identifying numbers ICG 150325-150394
- 250 ' 70-ton CUF Box Cars bearing identifying numbers ICG 593000-593099; ICG 593200-593349
- 200 ' 70-ton CUF Box Cars bearing identifying numbers ICG 593500-593699
- 10 ' 70-ton Woodchip Hopper Cars bearing identifying numbers ICG 866400-866409
- 20 ' 70-ton 41' Covered Hopper Cars bearing identifying numbers ICG 705100-705119
- 25 ' 70-ton 65' Gondola Cars bearing identifying numbers ICG 247100-247124
- 25 ' 100-ton Covered Hopper Cars bearing identifying numbers ICG 729000-729024
- 50 ' 70-ton CUF D/D Box Cars bearing identifying numbers ICG 593800-593849
- 50 ' 70-ton SUF D/D Box Cars bearing identifying numbers ICG 569000-569049
- ✓ 50 ' 70-ton 60' Flat Cars bearing identifying numbers ICG 910300-910349

Equipment covered by the Rehabilitation Agreement, the Hulk Purchase Agreement and the Trust Indenture and Mortgage consists of the following units of Illinois Central Gulf Railroad (ICG) equipment:

70 70-ton Insulated Box Cars  
250 70-ton CUF Box Cars  
200 70-ton CUF Box Cars  
10 70-ton Woodchip Hopper Cars  
20 70-ton 41' Covered Hopper Cars  
25 70-ton 65' Gondola Cars  
25 100-ton Covered Hopper Cars  
50 70-ton CUF D/D Box Cars  
50 70-ton SUF D/D Box Cars  
50 70-ton 60' Flat Cars

Enclosed is a check for \$200 for the required recordation fee pursuant to 49 CFR 1116.1. Please accept for recordation one counterpart of each of the enclosed documents, stamp the remaining counterparts with your recordation number and return them to the delivering messenger along with your fee receipt.

Very truly yours,



Kris F. Heinzelman

Robert L. Oswald, Esq., Secretary,  
Interstate Commerce Commission,  
Washington, D. C. 20423

Encls.

G

BY HAND

**Interstate Commerce Commission**  
Washington, D.C. 20423

7/15/77

OFFICE OF THE SECRETARY

**Kris F. Heinzelman**  
**Cravath, Swaine & Moore**  
**One Chase Manhattan Plaza**  
**New York, N.Y. 10005**

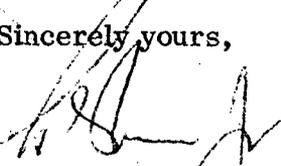
Dear Sir:

The enclosed document(s) was recorded pursuant to the  
provisions of Section 20(c) of the Interstate Commerce Act,

49 U.S.C. 20(c), on **7/15/77** at **2:15pm**,

and assigned recordation number(s) **8887, 8887-A, 8887-B, 8887-C**

Sincerely yours,

  
H.G. Homme, Jr.  
Acting Secretary

Enclosure(s)

SE-30-T  
(6/77)

**Interstate Commerce Commission**  
Washington, D.C. 20423

1/13/78

OFFICE OF THE SECRETARY

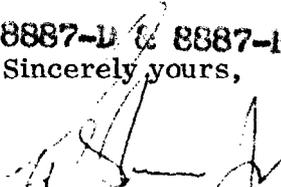
Kris F. Heinzelman  
Cravath, Swaine & Moore  
One Chase Manhattan Plaza  
New York, N.Y. 10005

Dear

**Sir:**

The enclosed document(s) was recorded pursuant to the  
provisions of Section 20(c) of the Interstate Commerce Act,  
49 U.S.C. 20(c), on 1/13/78 at 5:45pm  
and assigned recordation number(s)

8887-D & 8887-E  
Sincerely yours,

  
H.G. Homme, Jr.  
Acting Secretary

Enclosure(s)

SE-30-T  
(6/77)

SCHEDULE C

Type	Quantity	Hulk Purchase Price		Rehabilitation Cost		Total Cost		Schedule of Delivery
		Per Unit	Total	Per Unit	Total	Per Unit	Total	
70-ton Insulated Box	70	\$6,250	\$437,500	\$17,250	\$1,207,500	\$23,500	\$1,645,000	August-December 1977
70-ton CUF Box	250	6,000	1,500,000	14,000	3,500,000	20,000	5,000,000	August-December 1977
70-ton CUF Box	200	5,200	1,040,000	14,900	2,980,000	20,100	4,020,000	August-December 1977
70-ton Woodchip Hopper	10	4,900	49,000	9,800	98,000	14,700	147,000	August-December 1977
70-ton 41' Covered Hopper	20	5,100	102,000	9,100	182,000	14,200	284,000	August-December 1977
70-ton 65' Gondola	25	4,500	112,500	11,000	275,000	15,500	387,500	August-December 1977
100-ton Covered Hopper	25	6,000	150,000	14,100	352,500	20,100	502,500	August-December 1977
70-ton CUF D/D Box	50	5,500	275,000	16,900	845,000	22,400	1,120,000	August-December 1977
70-ton SUF D/D Box	50	5,000	250,000	19,000	950,000	24,000	1,200,000	August-December 1977
70-ton 60' Flat	50	4,200	210,000	9,000	450,000	13,200	660,000	August-December 1977
	<u>750</u>		<u>\$4,126,000</u>		<u>\$10,840,000</u>		<u>\$14,966,000</u>	

CUF--Cushioned Underframe  
 SUF--Standard Underframe  
 D/D--Double Door

Set

8887-A

RECORDATION NO. .... Filed & Recorded

JUL 15 1977 -2 15 PM

INTERSTATE COMMERCE COMMISSION

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REHABILITATION AGREEMENT

dated as of July 1, 1977

between

ILLINOIS CENTRAL GULF RAILROAD COMPANY

and

FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION,  
not in its individual capacity, but solely  
as Owner Trustee under a Trust Agreement  
dated as of July 1, 1977,  
with

NB5 Financial Services and The Budd Leasing Corp.

---

REHABILITATION AGREEMENT dated as of July 1, 1977, between ILLINOIS CENTRAL GULF RAILROAD COMPANY (hereinafter called the Contractor) and FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, a national banking association (hereinafter called the Company), not in its individual capacity but solely as owner trustee under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with NB5 Financial Services and The Budd Leasing Corp. (hereinafter called the Owners).

WHEREAS the Company has acquired right, title and interest in certain units of used railroad equipment (hereinafter called the Hulks), generally described in Schedule A hereto, and more specifically to be described in the Bills of Sale relating thereto, from the Contractor pursuant to a Hulk Purchase Agreement dated as of July 1, 1977 (hereinafter called the Hulk Purchase Agreement);

WHEREAS the Company desires to rehabilitate the Hulks from materials acquired and owned by the Company or to be purchased by the Contractor, as an independent contractor acting on behalf of the Company and owned by the Company, and with materials, labor and other services to be paid for by the Company to the Contractor in accordance with the terms and subject to the conditions set forth herein, such Hulks as so rehabilitated and at all stages during the rehabilitation thereof (the rehabilitated equipment being hereinafter called the Equipment) to be the property of the Company;

WHEREAS the Company intends to lease the Equipment to the Contractor as lessee (hereinafter sometimes referred to as the Lessee) pursuant to a Lease Agreement dated as of July 1, 1977, substantially in the form of Annex B to the Hulk Purchase Agreement (hereinafter called the Lease); and

WHEREAS the Company has requested the Contractor to rehabilitate the Hulks into units of the Equipment in accordance with the specifications set forth in Schedule B hereto, title thereto and to all materials heretofore and hereafter used in connection therewith to remain in the Company throughout the period of rehabilitation and thereafter, and the Contractor desires to perform such work for the Company;

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. Rehabilitation of the Hulks. Subject to the terms and conditions hereinafter set forth, the Contractor, as an independent contractor, agrees to rehabilitate the Equipment for the Company as its property and agrees to deliver the Equipment as hereinbelow provided, and the Company agrees that it will pay the Contractor the Rehabilitation Cost (as hereinafter defined) of the Equipment, each Hulk of which will be rehabilitated in accordance with the specifications referred to in Schedule B hereto and in accordance with such modifications thereof as may have been agreed upon in writing by the Contractor and the Company (which specifications and modifications, if any, are hereinafter called the Specifications) and will, at or before delivery thereof to the Company or its duly appointed representative pursuant to Article 2 hereof, have the following ownership markings stencilled on each side thereof in a conspicuous place in letters not less than one inch in height:

"OWNED BY A BANK OR TRUST COMPANY, AS TRUSTEE,  
UNDER A TRUST AGREEMENT AND SUBJECT TO A  
LEASE FILED UNDER THE INTERSTATE  
COMMERCE ACT, SECTION 20c"

The Contractor agrees that the design, quality and component parts of the Equipment will conform, on the date of completion of rehabilitation thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to the Equipment; provided, however, that if any such requirements, specifications or standards shall have been promulgated or amended after the respective dates on which the Equipment was ordered, the Rehabilitation Cost (as hereinafter defined) of the Equipment affected thereby may be appropriately adjusted by written agreement of the Contractor and the Company.

The Contractor agrees that in the rehabilitation of the Hulks there shall be used exclusively articles, supplies, materials and parts (hereinafter collectively called materials) acquired and owned by the Company and furnished to the contractor as an independent contractor acting on behalf of the Company.

The Company hereby authorizes the Contractor to act for the Company in the purchase, for the account of the Company, of all materials necessary in the rehabilitation of the Hulks, and the Contractor, as an independent contractor, agrees to enter into appropriate contracts, at the lowest practicable prices, with the sellers of materials necessary for the rehabilitation of the Hulks, the cost of such materials to be part of the Rehabilitation Cost (as hereinafter defined). Complete legal title to such materials, free and clear of any liens, claims or charges of any nature whatsoever, shall be vested in the Company prior to the delivery to the Company for acceptance of any unit of Equipment of which such materials shall be a part. Every contract for the purchase of such materials shall be entered into by the Contractor as independent contractor and shall expressly recite that the purchase is for the Company and that title to the materials upon purchase shall be vested directly and solely in the Company. The Company agrees that all title to and property in the materials purchased for the rehabilitation of the Hulks shall be vested in the Company free and clear of all liens, charges and other encumbrances of any other kind and nature, whether of the Contractor or others, and, except as specifically provided herein, the Contractor hereby specifically waives any right it has or may have to claim any lien or charges for any purpose whatsoever upon the Hulks or upon any materials used in the rehabilitation thereof.

ARTICLE 2. Delivery. The Contractor will deliver the Equipment to the Company, freight charges, if any, prepaid, at such point or points within the United States of America as shall be determined by the mutual agreement of the Contractor and the Company and in accordance with the delivery schedule set forth in Schedule C hereto; provided, however, that no unit of Equipment shall be delivered under this Agreement until the Lease shall have been filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act.

The Contractor represents and warrants that, at the time of delivery, the Equipment will be railroad equipment free and clear of all liens, claims or charges of any nature whatsoever arising from acts of the Contractor and that no amortization or depreciation will have been claimed by any person with respect thereto.

The Contractor's obligation as to time of delivery is subject to delays resulting from causes beyond the Contractor's reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, labor shortages, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities or delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 2, any unit of Equipment not delivered and accepted on or before December 31, 1977, shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement, and the Company shall be relieved of its obligation to pay for such Equipment. In the event of any such exclusion, the Contractor and the Company shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom and providing for the assignment to the Contractor of all right, title and interest of the Company in and to the materials owned by the Company and furnished to the Contractor (including the Hulks) or purchased by the Contractor on behalf of the Company for utilization in the rehabilitation of the excluded Equipment, and the Company shall take such other steps, including the execution of instruments of transfer, as may reasonably be requested by the Contractor for the purpose of acknowledging and perfecting the interest of the Contractor in any Hulk or partially rehabilitated unit of Equipment so excluded from this Agreement or such materials and the Company shall have no further obligation or liability in respect of such Hulks or partially rehabilitated units of Equipment so excluded or such materials.

The Equipment shall be subject to inspection and approval prior to delivery by an officer of the Lessee designated by the Company as its authorized representative for such purpose, and the Contractor shall grant to any such representative reasonable access to its plant. From time to time upon the completion of the rehabilitation of each unit or a number of units of Equipment, each such unit shall thereupon be presented to an authorized representative of the Company for inspection at the Contractor's plant and, if each such unit conforms to the Specifications and the other requirements, specifications and standards set forth or referred to in Article 1 hereof, such authorized representative shall promptly execute and deliver to the Contractor, in

such number of counterparts or copies as may be reasonably requested, a certificate of acceptance (hereinafter called a Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Company and are marked in accordance with Article 1 hereof; provided, however, that the Contractor shall not thereby be relieved of its warranty and indemnities contained in Articles 5 and 6 hereof.

On acceptance of each of the units of Equipment, pursuant to this Article 2 on behalf of the Company as aforesaid, the Company assumes with respect thereto the responsibility and risk of loss or damage. Prior to such acceptance, the Contractor shall have responsibility for and bear risk of loss of or damage to the units of Equipment.

ARTICLE 3. Cost of Rehabilitation. The cost of rehabilitation per unit of Equipment is set forth in Schedule C hereto. Such cost is subject to such increase or decrease as may be or has been agreed to by the Contractor and the Company. The term "Rehabilitation Cost" as used herein shall mean the cost or costs as so increased or decreased. The term "Cost of the Equipment" for any unit of Equipment shall be deemed to constitute the Rehabilitation Cost and the Hulk Purchase Price (as defined in the Hulk Purchase Agreement) of such unit.

The Equipment shall be delivered and settled for on one or more Closing Dates, on or prior to December 31, 1977, fixed as hereinafter provided (the Equipment being settled for on a Closing Date being hereinafter called a Group); provided, however, that each Group other than the Group for which settlement shall be made on the final Closing Date shall contain at least 10 units of Equipment. Subject to the provisions of Article 4 hereof, the Company hereby promises to pay or cause to be paid, in immediately available funds to the Contractor, at such place in Chicago, Illinois, or New York, New York, as the Contractor may designate, on the Closing Date with respect to a Group, an amount equal to the Rehabilitation Cost of all units of Equipment in such Group as set forth in the invoices therefor; provided, however, that at no time shall the aggregate Rehabilitation Cost theretofore paid to the Contractor plus the Rehabilitation Cost which is required to be paid on such Closing Date exceed \$11,000,000.

The term "Closing Date" with respect to a Group of

Equipment shall mean each date specified by the Contractor for settlement of a Group of Equipment, in a written notice to the Company specifying the Rehabilitation Cost of such Group.

If on any Closing Date the aggregate Rehabilitation Cost of the Equipment for which settlement has theretofore been and is then being made under this Agreement would, but for the provisions of this sentence, exceed \$11,000,000 (hereinafter called the Maximum Rehabilitation Cost) (or such higher amount as the Company may at its option agree to prior to delivery of any unit of Equipment that, but for such agreement, would otherwise be excluded from this Agreement), the Contractor will, upon request of the Company, execute an agreement supplemental hereto excluding from this Agreement such unit or units then proposed to be settled for and specified by the Company as will, after giving effect to such exclusion, reduce such aggregate Rehabilitation Cost to not more than the Maximum Rehabilitation Cost (or such higher amount as aforesaid) and the Company shall take such other steps, including the execution of instruments of transfer, for the purpose of assigning to the Contractor all right, title and interest of the Company in and to the materials owned by the Company and furnished to the Contractor or purchased by the Contractor on behalf of the Company for utilization in the rehabilitation of the excluded Equipment, and the Company shall take such other steps, including the execution of instruments of transfer, as may reasonably be requested by the Contractor for the purpose of acknowledging and perfecting the interest of the Contractor in any unit of Equipment so excluded from this Agreement or such materials and the Company shall have no further obligation or liability in respect of units of Equipment so excluded or such materials.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for payment of public and private debts.

ARTICLE 4. Conditions to Obligations of the Company. The obligation of the Company to pay the Contractor the Rehabilitation Cost for any unit of Equipment is subject to (i) satisfaction of the conditions set forth in Sections 2 and 3 of the Hulk Purchase Agreement and (ii) satisfaction of the conditions set forth in Section 25 of the Lease and (iii) receipt by the Company on or before, but not more than 10 days before, the first delivery date (hereinafter the "First Delivery Date") of any of the Hulks for rehabilitation of the following:

(a) an opinion of counsel for the Contractor, dated such date, to the effect that:

(i) this Agreement has been duly authorized, executed and delivered by the Contractor, and constitutes a legal, valid, binding and enforceable agreement of the Contractor;

(ii) the Contractor has the full corporate power, authority and legal right to enter into and perform its obligations under this Agreement, and the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate action on the part of the Contractor, does not require any stockholder approval or approval or consent of any trustee or holders of any indebtedness or obligations of the Contractor, or such required approvals and consents have heretofore been duly obtained;

(iii) the Contractor is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware and is duly qualified to do business and in good standing in all other jurisdictions in which the business, properties and activities of the Contractor require such qualification;

(iv) neither the execution and delivery of this Agreement nor the consummation of the transactions herein contemplated or the fulfillment of, or compliance with, the terms and provisions hereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of the certificate of incorporation (as amended) or the by-laws (as amended) of the Contractor or of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which it or its property may be bound, or constitute (with the giving of notice or the passage of time or both) a default thereunder;

(v) neither the execution and delivery by the Contractor of this Agreement nor the consummation of the transactions herein contemplated nor the fulfillment of, or compliance with, the terms and provisions hereof will conflict with, or result in

a breach of, any of the terms, conditions or provisions of any law, or any regulation, order, injunction or decree of any court or governmental instrumentality or arbitrator;

(vi) no mortgage, deed of trust, claim, lien, security interest or other encumbrance of any nature whatsoever which now covers or affects any property or interest therein of the Contractor now attaches or hereafter will attach to any unit of Equipment or in any manner affects or will affect adversely the right, title and interest of the Company therein;

(vii) neither the execution and delivery by the Contractor of this Agreement, nor the consummation of any of the transactions by the Contractor contemplated hereby requires the consent or approval of, the giving of notice to, or the registration with, or the taking of any other action in respect of, the Interstate Commerce Commission or any other Federal, state, foreign or other governmental authority or agency;

(viii) to the knowledge of such counsel, there are no pending or threatened actions or proceedings before any court, arbitrator, administrative agency or governmental body which will materially adversely affect the condition, business or operations of the Contractor or the ability of the Contractor to perform its obligations under this Agreement.

(b) A certificate of an officer of the Contractor, dated as of such date, to the effect that the Contractor is not in default under, and to his knowledge there is no event which with the passage of time would place the Contractor in default under, this Agreement, and to the further effect that the representations and warranties of the Contractor contained in Article 11 of this Agreement are true and correct as of the date of such certificate with the same effect as if made on such date.

The obligation of the Company to pay to the Contractor the amounts required to be paid pursuant to the second paragraph of Article 3 hereof on each Closing Date with respect to the Group of Equipment for which settlement

is then being made is subject to the receipt by the Company on or prior to such Closing Date of the following documents with respect to the units of Equipment being settled for on such Closing Date:

(i) an opinion of counsel for the Contractor, dated such Closing Date, to the effect that at the time of delivery to the Company of such units of Equipment, title to such units was free from all claims, liens, security interests and other encumbrances of the Contractor or of any one claiming through the Contractor;

(ii) a statement from the Contractor to the Company warranting to the Company that, at the time of delivery of such units of Equipment, title to such units was free of all claims, liens, security interests and other encumbrances of the Contractor or of anyone claiming through the Contractor; and covenanting to defend the title to such units against demands of all persons whomsoever based on claims of the Contractor or anyone claiming through the Contractor;

(iii) a Certificate or Certificates of Acceptance with respect to such units of Equipment as contemplated by Article 2 hereof and Section 5 of the Lease; and

(iv) an invoice of the Contractor for such units of Equipment accompanied by or having endorsed thereon a certification by the Company as to its approval thereof.

In addition to the foregoing conditions, the Contractor shall not commence rehabilitation of any unit of Equipment hereunder subsequent to, and the Company shall have no obligation to pay the Rehabilitation Cost of any unit of Equipment the rehabilitation of which has not commenced prior to, receipt of a written notice from the Company notifying the Contractor of (i) the occurrence of any Event of Default, as defined in the Lease, or event which with lapse of time and/or demand, could constitute such Event of Default and (ii) the material falseness of any of the representations and warranties of the Contractor made by it in Article 11 of this Agreement at and as of the time such representations and warranties were so made.

ARTICLE 5. Contractor's Warranty of Materials and Workmanship. The Contractor warrants that the units of Equipment will be rehabilitated in accordance with the Specifications and with the other requirements, specifications and standards set forth or referred to in Article 1 above and warrants that the Equipment will be free from defects in material and workmanship or design under normal use and service for a period of one year from the date of delivery thereof.

The Contractor further agrees that neither the inspection as provided in Article 2 of this Agreement, nor any examination or acceptance of any units of Equipment as provided in said Article 2, shall be deemed a waiver or modification by the Company of any of its rights under this Article or Article 6.

ARTICLE 6. Indemnities. The Contractor agrees to indemnify, protect and hold harmless the Company from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent, trademark and copyright liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of this Agreement or the ordering, acquisition, ownership, rehabilitation, assembly or delivery of any unit of Equipment or any material utilized in connection therewith or any accident in connection therewith resulting in damage to property or injury or death to any person or any breach of warranty relating thereto. The indemnities arising under this Article shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the expiration or other termination of this Agreement.

ARTICLE 7. Notice. Any notice hereunder to the party designated below shall be deemed to be properly served if delivered or mailed to it at the following specified addresses:

(a) to the Company, at 79 South Main Street, Salt Lake City, Utah 84111, attention of Corporate Trust Division, with a copy to ITEL Capital Services Corporation, One Embarcadero Center, San Francisco, California 94111, attention of Contract Administration; and

(b) to the Contractor, at 233 North Michigan Avenue, Chicago, Illinois 60601, attention of Treasurer, or such other addresses as may have been furnished in writing by such party to the other party to this Agreement.

ARTICLE 8. Assignments by the Contractor. All or any of the rights, benefits or advantages of the Contractor under this Agreement, including the right to receive the Rehabilitation Cost of all units of Equipment, may be assigned by the Contractor and reassigned by any assignee at any time or from time to time; provided, however, that no such assignment shall subject any such assignee to, or relieve the Contractor from, any of the Contractor's warranties, indemnities or other obligations contained in this Agreement or relieve the Contractor or a successor or successors to its manufacturing property and business from any of its obligations to rehabilitate and deliver the Equipment in accordance with the Specifications or to respond to its warranties, indemnities or other obligations whether contained herein or created by law, or relieve the Company of its obligations to the Contractor under this Agreement, which, according to their terms and context, are intended to survive an assignment; provided, however, that except as otherwise provided in this Agreement any security interest in each Group of the Equipment assigned hereunder shall forthwith cease and terminate upon payment to the Contractor or the assignee, as applicable, by the Company of the amounts payable with respect to such Group pursuant to Article 3 hereof and the Contractor and such assignee will execute and deliver all documents and instruments as the Company may reasonably request.

Upon any such assignment, either the assignor or the assignee shall give written notice to the Company, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee (if not otherwise stated in the assignment), and such assignee shall by virtue of such assignment acquire all the Contractor's right, title and interest in and to the rights, benefits and advantages of the Contractor thereby assigned subject only to such reservation as may be contained in such assignment. From and after the receipt by the Company of the notification of any such assignment, all payments thereafter to be made by the Company hereunder shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

ARTICLE 9. Assignment by the Company. All or any portion of the rights, benefits or advantages of the Company under this Agreement, including, without limitation, (a) title to the materials utilized in the rehabilitation of the Equipment, (b) the right to accept delivery of the Equipment and to be named in the instrument of conveyance therefor to be delivered by the Contractor, (c) the right to receive any and all monies due or to become due to the Company in respect of the Equipment and for all claims for damages in respect of such Equipment arising as a result of any default by the Contractor or for indemnification under Article 6 hereof, and (d) all rights of the Company to perform under this Agreement and compel performance of the terms hereof, may be assigned by the Company and re-assigned by any assignee at any time or from time to time. Upon any such assignment, either the assignor or the assignee shall give written notice to the Contractor, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee (if not otherwise stated in the assignment), and such assignee shall by virtue of such assignment acquire all the Company's right, title and interest in and to the rights, benefits and advantages of the Company thereby assigned subject only to such reservation as may be contained in such assignment.

ARTICLE 10. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Company shall fail to pay in full, when due and payable hereunder, any sum payable by the Company as herein provided for the Rehabilitation Cost of the Equipment and such failure shall continue for more than 10 days following the final date for such payment;  
or

(b) the Company shall, for more than 30 days after the Contractor shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement on its part to be kept or performed or to make provision satisfactory to the Contractor for such compliance;  
or

(c) the Company shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the

right to possession of any unit of the Equipment;

then at any time after the occurrence of such an event of default under this Agreement the Contractor shall have the rights and remedies of a secured party provided in Article 9 of the Uniform Commercial Code as adopted by the State of Illinois, and, in addition, those provided in this Agreement.

In case the Contractor shall rightfully demand possession of the Equipment in pursuance of this Agreement upon an event of default and shall reasonably designate a point or points for the delivery of the Equipment to the Contractor, the Company shall forthwith and in the usual manner cause the Equipment to be moved to such point or points as shall be designated by the Contractor and shall there deliver the Equipment or cause it to be delivered to the Contractor, and, at the option of the Contractor, the Contractor may keep the Equipment on any lines or premises designated by the Contractor until the Contractor shall have leased, sold or otherwise disposed of the same. Additionally, the Company shall take such steps, upon the request of the Contractor, to confirm in the Contractor all right, title and interest of the Company in and to the materials owned by the Company and furnished to the Contractor but not yet paid for or purchased by the Contractor on behalf of the Company for utilization in the rehabilitation of the Hulks.

ARTICLE 11. Contractor's Representations and Warranties. The Contractor represents and warrants as follows:

(a) The Contractor is a corporation duly incorporated and validly existing and in good standing under the laws of the State of Delaware, is duly qualified to do business and is in good standing in such other jurisdictions in which the business and activities of the Contractor require such qualification.

(b) The Contractor has full power, authority and legal right to carry on its business as now conducted, and is duly authorized and empowered to execute and deliver this Agreement and to fulfill and comply with the terms, conditions and provisions hereof; this Agreement has been duly authorized, executed and delivered and, assuming due authorization, execution and delivery thereof by the Company, constitutes a valid, legal and binding agreement, enforceable in accordance with its terms.

(c) Neither the execution and delivery of this Agreement nor the consummation of the transactions herein contemplated or the fulfillment of, or compliance with, the terms and provisions hereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of the certificate of incorporation (as amended) or the by-laws (as amended) of the Contractor or of any bond, debenture, note, mortgage, indenture, agreement or other instrument to which the Contractor is now a party or by which it or its property may be bound, or constitute (with the giving of notice or the passage of time or both) a default thereunder, or result in the creation or imposition of any lien, charge, security interest or other encumbrance of any nature whatsoever upon any property of the Contractor or upon the Hulks or the units of Equipment pursuant to the terms of any such agreement or instrument.

(d) Neither the execution and delivery by the Contractor of this Agreement nor the consummation of the transactions herein contemplated nor the fulfillment of, or compliance with, the terms and provisions hereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of any law, or any regulation, order, injunction or decree of any court of governmental instrumentality or arbitration.

(e) No authorization or approval is required from any governmental or public body or authority in connection with the execution and delivery by the Contractor of this Agreement, or the fulfillment of or compliance with the terms, conditions and provisions hereof.

(f) The Contractor has not directly or indirectly offered or sold any interest in this Agreement or any securities to, solicited offers to buy any interest in this Agreement or any securities from, or otherwise approached or negotiated in respect of the purchase or sale or other disposition of any interest in this Agreement or securities with, any person so as to bring this transaction within the provisions of Section 5 of the Securities Act of 1933, as amended. The Contractor will not offer any interest in this Agreement or any securities to, or solicit any offer to buy any thereof from any other person or approach or negotiate with any other person in respect thereof, so as to bring this transaction within the provisions of Section 5 of said Securities Act.

ARTICLE 12. Article Headings. All article headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement.

ARTICLE 13. Effect and Modification of Agreement. This Agreement and the Schedules attached hereto, exclusively and completely state the rights and agreements of the Contractor and the Company with respect to the rehabilitation of the Hulks and supersede all purchase agreements, purchase orders and other agreements, oral or written, with respect to the rehabilitation of the Hulks. No variation of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and duly executed on behalf of the Company and the Contractor.

ARTICLE 14. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Illinois.

ARTICLE 15. Successors and Assigns. As used herein the terms Contractor and Company shall be deemed to include the successors and assigns of the Contractor and the Company, as the case may be.

ARTICLE 16. Execution. This Agreement may be simultaneously executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated for convenience as of the date specified in the introductory paragraph of this Agreement, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

ARTICLE 17. Immunities. No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

It is expressly understood and agreed by and between the parties hereto, anything in this Agreement to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Company are each and every one of them made and intended not as personal representations, undertakings and agreements by First Security Bank of Utah, National Association, or for the purpose or with the intention of binding the said bank personally but are made and intended for the purpose of binding only the Trust Estates as such term is used in the Trust Agreement, and this Agreement is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon the said bank as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the said bank (except for the willful misconduct or gross negligence of said bank) or on account of any representation, undertaking or agreement of the Company or the Owners, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Contractor and by all persons claiming by, through or under the Contractor; provided, however, that the Contractor or any person claiming by, through or under the Contractor, making claim hereunder, may look to said Trust Estates for satisfaction of the same.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, all as of the day, month and year first above written.

ILLINOIS CENTRAL GULF RAILROAD  
COMPANY,

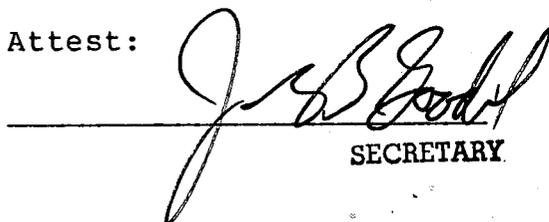
[Corporate Seal]

by



VICE PRESIDENT

Attest:



SECRETARY

STATE OF ILLINOIS, )  
                          ) ss.:  
COUNTY OF COOK,     )

On this 8<sup>th</sup> day of July 1977, before me personally appeared G. E. KONKOR, to me personally known, who being by me duly sworn, says that he is VICE PRESIDENT of ILLINOIS CENTRAL GULF RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed 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.

*Robert H. Hughes*  
\_\_\_\_\_  
Notary Public

My commission expires NOV 23 1980

[NOTARIAL SEAL]

STATE OF UTAH, )  
 ) ss.:  
COUNTY OF SALT LAKE, )

On this            day of            1977, before me personally appeared            , to me personally known, who being by me duly sworn, says that he is of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, a national banking association, that one of the seals affixed to the foregoing is the seal of said association, that said instrument was signed and sealed on behalf of said 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 association.

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Notary Public

My commission expires

[NOTARIAL SEAL]

SCHEDULE A

<u>Quantity</u>	<u>Description</u>
70	Insulated Box
250	Cushioned Underframe Box
200	Cushioned Underframe Box
10	Woodchip Hopper
20	41' Covered Hopper
25	65' Gondola
25	Covered Hopper
50	Cushioned Underframe Double Door Box
50	Standard Underframe Double Door Box
50	60' Flat

SCHEDULE C

Type	Quantity	Hulk Purchase Price		Rehabilitation Cost		Total Cost		Schedule of Delivery
		Per Unit	Total	Per Unit	Total	Per Unit	Total	
70-ton Insulated Box	70	\$6,250	\$437,500	\$17,250	\$1,207,500	\$23,500	\$1,645,000	August-December 1977
70-ton CUF Box	250	6,000	1,500,000	14,000	3,500,000	20,000	5,000,000	August-December 1977
70-ton CUF Box	200	5,200	1,040,000	14,900	2,980,000	20,100	4,020,000	August-December 1977
70-ton Woodchip Hopper	10	4,900	49,000	9,800	98,000	14,700	147,000	August-December 1977
70-ton 41' Covered Hopper	20	5,100	102,000	9,100	182,000	14,200	284,000	August-December 1977
70-ton 65' Gondola	25	4,500	112,500	11,000	275,000	15,500	387,500	August-December 1977
100-ton Covered Hopper	25	6,000	150,000	14,100	352,500	20,100	502,500	August-December 1977
70-ton CUF D/D Box	50	5,500	275,000	16,900	845,000	22,400	1,120,000	August-December 1977
70-ton SUF D/D Box	50	5,000	250,000	19,000	950,000	24,000	1,200,000	August-December 1977
70-ton 60' Flat	50	4,200	210,000	9,000	450,000	13,200	660,000	August-December 1977
	<u>750</u>		<u>\$4,126,000</u>		<u>\$10,840,000</u>		<u>\$14,966,000</u>	

CUF--Cushioned Underframe  
SUF--Standard Underframe  
D/D--Double Door



[Seal]

FIRST SECURITY BANK OF UTAH,  
NATIONAL ASSOCIATION, not in its  
individual capacity, but solely  
as Owner Trustee,

by

Authorized Officer

Attest:

Authorized Officer

STATE OF UTAH, )  
 ) ss.:  
COUNTY OF SALT LAKE, )

On this *10<sup>th</sup>* day of *July* 1977, before me personally appeared *Robert S. Clark*, to me personally known, who being by me duly sworn, says that he is *Authorized Officer* of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, a national banking association, that one of the seals affixed to the foregoing is the seal of said association, that said instrument was signed and sealed on behalf of said 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 association.

*Hazel V. Lloyd*  
\_\_\_\_\_  
Notary Public

My commission expires *June 10, 1980*

[NOTARIAL SEAL]