

UNION PACIFIC RAILROAD COMPANY

345 PARK AVENUE



NEW YORK, N.Y. 10022

8-1001015

JAMES V. FAULKNER, JR.
ASSISTANT EASTERN GENERAL COUNSEL

RECORDATION NO. 5730

APR 10 1978 - 9 23 AM

APR 10 1978

April 7
CC Washington, D.C. 1978

The Hon. ^{INTERSTATE COMMERCE COMMISSION}
W. G. Honne, Jr.
Acting Secretary
Interstate Commerce Commission
Washington, D. C. 20423

Conditional Sale Agreement and Agreement and Assignment, Dated as of May 1, 1970, Between and Among Pacific Fruit Express Company, Pacific Car and Foundry Company and The Chase Manhattan Bank, N.A., as Agent, Filed and Recorded with the Interstate Commerce Commission on May 27, 1970 and as Supplemented and Amended by an Agreement Filed and Recorded with the Interstate Commerce Commission on July 2, 1970, Recordation Nos. 5730 and 5730-A, Respectively.

Dear Sir:

I enclosed herewith nine executed counterparts for each Investor of a supplemental Agreement, dated as of March 31, 1978, by and among Pacific Fruit Express Company, Union Pacific Fruit Express Company, Union Pacific Railroad Company, Southern Pacific Transportation Company, certain Investors, and The Chase Manhattan Bank, N.A., as Agent for such Investors, amending and supplementing the above-captioned Conditional Sale Agreement, as previously amended between the parties.

Numbers one through seven of the enclosed counterparts after stamping of recordation date should be returned to James V. Faulkner, Jr., Esq., 345 Park Avenue, New York, New York 10022, or given to the bearer of this letter.

The fee of \$20.00 for filing and recordation is enclosed herewith.

Very truly yours,

James V. Faulkner, Jr.

CERTIFICATION UNIT

APR 10 9 10 AM '78

RECEIVED

Enclosures

Paul Snyder
James V. Faulkner, Jr.

RECORDATION NO. 3756-1 Filed & Recorded

AGREEMENT

APR 10 1978 9 22 AM

INTERSTATE COMMERCE COMMISSION

THIS AGREEMENT, dated as of March 31, 1978, by

and among Union Pacific Railroad Company, a Utah corporation ("Union Pacific"), a 50% shareholder of Pacific Fruit Express Company, a Utah corporation ("PFE"); Southern Pacific Transportation Company, a Delaware corporation ("Southern Pacific"), a 50% shareholder of PFE; PFE; Union Pacific Fruit Express Company, a Utah corporation ("UPFE"); The Chase Manhattan Bank (National Association), a national banking association organized and existing under the laws of the United States of America, as Agent (the "Agent") under (i) an Agreement (the "Finance Agreement"), (ii) an Agreement and Assignment (the "Assignment") and (iii) a Guaranty Agreement (the "Guaranty Agreement"), each dated as of May 1, 1970; and the parties named in Schedule A hereto, investors (the "Investors") under the Finance Agreement pursuant to which the Investors provided financing for the purchase by PFE from Pacific Car and Foundry Company (the "Vendor") of certain railroad rolling stock under a Conditional Sale Agreement dated as of May 1, 1970, as supplemented (the "Conditional Sale Agreement"):

W I T N E S S E T H:

WHEREAS, the Vendor and PFE have entered into the Conditional Sale Agreement covering the construction, sale

and delivery by the Vendor and purchase by PFE of certain railroad rolling stock;

WHEREAS, as further security for payment by PFE of its obligations under the Conditional Sale Agreement and Finance Agreement, Southern Pacific and Union Pacific have entered into the Guaranty Agreement with the Agent pursuant to which Southern Pacific and Union Pacific severally agreed to guarantee the obligations of PFE (each to the extent of 50% of the total of such obligations) under the Conditional Sale Agreement and the Finance Agreement;

WHEREAS, Union Pacific, Southern Pacific and PFE, pursuant to an Agreement and Plan of Reorganization for the Corporate Division of PFE (the "Plan of Reorganization"), dated as of November 1, 1977, have agreed that PFE will convey to UPFE, among other things, 50% of PFE's railroad rolling stock in return for all of UPFE's authorized stock; all the shares of stock of UPFE will then be exchanged by PFE for the shares of stock of PFE owned by Union Pacific. UPFE and PFE would thereupon be wholly owned subsidiaries of Union Pacific and Southern Pacific, respectively;

WHEREAS, Union Pacific, Southern Pacific and PFE have agreed that (i) all right, title and interest of PFE in and to the equipment specified in Exhibit A attached hereto (the "Transferred Equipment") shall be conveyed to UPFE, subject to the Transferred Equipment's proportionate

share of the outstanding indebtedness due under the Conditional Sale Agreement; (ii) the Transferred Equipment, following such conveyance, shall not be subject to any indebtedness owed by PFE under the Conditional Sale Agreement with respect to the equipment of PFE not transferred to UPFE (the "Retained Equipment") and that, pursuant to the terms of this Agreement, the Retained Equipment shall not be subject to any indebtedness to be owed by UPFE under the Conditional Sale Agreement with respect to the Transferred Equipment; and (iii) accordingly, after the conveyance of the Transferred Equipment to UPFE, (a) Union Pacific shall no longer be liable under the Guaranty Agreement for any of the indebtedness owed by PFE under the Conditional Sale Agreement and Finance Agreement, but rather shall guarantee the obligations of UPFE with respect to the indebtedness UPFE has assumed under the Conditional Sale Agreement and Finance Agreement by reason of this Agreement, and (b) Southern Pacific shall no longer be liable under the Guaranty Agreement for any of the indebtedness owed by UPFE under the Conditional Sale Agreement and Finance Agreement by reason of this Agreement, but rather shall guarantee only the obligations of PFE with respect to the indebtedness owed by PFE under the Conditional Sale Agreement and Finance Agreement;

WHEREAS, legal title to the Transferred and Retained Equipment is vested in the Agent by virtue of the Assignment;

WHEREAS, PFE desires to assign, transfer and convey, all of its right, title and interest in and to the Transferred Equipment to UPFE in such manner so that the Transferred Equipment, following such conveyance, shall not be subject to any indebtedness owed by PFE under the Conditional Sale Agreement with respect to the Retained Equipment, and PFE desires, after conveyance of the Transferred Equipment, to be released from the terms of the Conditional Sale Agreement insofar as such terms would render PFE liable for indebtedness to be owed by UPFE with respect to the Transferred Equipment, and UPFE is willing to assume the remaining obligations of PFE with respect to the Transferred Equipment, including specifically the obligation to pay the remaining principal balance and interest due thereon in the amounts, at the rates and on the dates shown in Exhibit A; and the Investors are willing to permit such assignment, accept such assumption and agree to such release, and hereby direct the Agent to permit such assignment, accept such assumption and agree to such release.

NOW, THEREFORE, in consideration of the premises and of the payment by each, PFE and UPFE, of the sum of Ten Dollars (\$10.00) to the Agent and Investors, receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. PFE hereby assigns, transfers and conveys all of its right, title and interest in and to the Transferred Equipment to UPFE and agrees to execute a Conveyance of Title in substantially the form attached hereto. Following such conveyance, the Transferred Equipment shall not be subject to any indebtedness owed by PFE under the Conditional Sale Agreement with respect to the Retained Equipment;

2. UPFE hereby accepts the assignment, transfer and conveyance of all of PFE's right, title and interest in and to the Transferred Equipment upon the terms and conditions specified above, and hereby assumes, covenants and agrees to and with the Agent and the Investors that, with respect to the Transferred Equipment, it will keep, perform and observe, subject to the conditions thereof, all the terms, covenants and conditions contained in the Conditional Sale Agreement which, but for this Agreement, were to be kept, performed and observed during the remainder of the term of the Conditional Sale Agreement by PFE, including payment of the remaining balance of principal and interest due on the Transferred Equipment, punctually as and when due, and covenants and agrees that the Agent may enforce against UPFE the rights and remedies provided in the Conditional Sale Agreement with respect to the Transferred Equipment whether or not it chooses to enforce its rights and remedies against PFE with respect to the Retained Equipment, provided, however, that in no event shall the Agent be entitled to enforce its rights and remedies

against UPFE unless UPFE shall have failed to perform its obligations under the Conditional Sale Agreement with respect to the Transferred Equipment. In furtherance of the foregoing, the Conditional Sale Agreement is hereby amended to provide that all references in the Conditional Sale Agreement to PFE shall, insofar as they relate to the Transferred Equipment, be deemed to be references to UPFE, and all references in the Conditional Sale Agreement to the term "Equipment" shall, insofar as they relate to equipment transferred to UPFE hereby, be deemed to be references to Transferred Equipment.

3. Southern Pacific and Union Pacific hereby agree to the amendment of the Guaranty Agreement, and the Guaranty Agreement is hereby amended, to provide that Southern Pacific and Union Pacific shall severally unconditionally guarantee to the Agent the due and punctual payment by PFE and UPFE, respectively, when due, of that portion of (i) the Purchase Price of the Equipment (as those terms are defined in the Conditional Sale Agreement) payable pursuant to subparagraph (c) of the third paragraph of Article 4 of the Conditional Sale Agreement; (ii) any and all sums payable under the Finance Agreement and Conditional Sale Agreement; and (iii) the due and punctual performance of all other obligations due under the Assignment, 50% of each of which is hereby assumed by PFE and UPFE, respectively, pursuant to the terms of this Agreement;

4. The Investors hereby consent and agree to, and direct the Agent to consent and agree to, (i) the assignment, transfer and conveyance by PFE of all its right, title and interest in and to the Transferred Equipment to UPFE; (ii) the amendment of the Conditional Sale Agreement as specified in paragraph 2 above; (iii) the amendment of the Guaranty Agreement as specified in paragraph 3 above; and (iv) the release of PFE from the terms of the Conditional Sale Agreement insofar as they apply to the Transferred Equipment, all upon the terms and conditions specified above;

5. Federal, state or local taxes, if any, which may become due upon the conveyance to UPFE by PFE of the Transferred Equipment shall be apportioned equally between, and paid by, UPFE and PFE.

6. Nothing herein shall be construed as relieving PFE of any of its obligations undertaken in the Conditional Sale Agreement with respect to the Retained Equipment;

7. This Agreement may be executed in as many counterparts as may be deemed necessary or convenient, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument which shall be sufficiently evidenced by any such original counterpart; and

8. This Agreement shall be binding upon Southern Pacific, Union Pacific, PFE and UPFE and their successors and

assigns, and shall be binding upon and shall inure to the benefit of the Agent and the Investors and their respective successors and assigns.

9. The parties hereto agree that Union Pacific shall file this Agreement with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act.

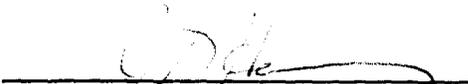
10. All the terms, covenants and conditions herein contained shall be deemed in all respects contained in the Guaranty Agreement and the Conditional Sale Agreement as supplemented and modified, and any breach of any such term, covenant or condition shall have the same effect as the breach of any like term, covenant or condition contained in the Guaranty Agreement and the Conditional Sale Agreement as supplemented and modified.

11. The Guaranty Agreement and the Conditional Sale Agreement as supplemented and modified are in all respects confirmed.

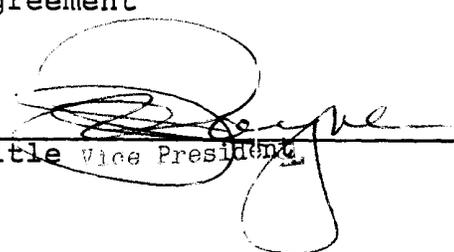
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

THE CHASE MANHATTAN BANK
(NATIONAL ASSOCIATION), as
Agent under the Finance
Agreement

ATTEST:


Assistant Secretary

By:


Title Vice President

PACIFIC FRUIT EXPRESS COMPANY

ATTEST:



By: J. E. Kriebel
Title Vice President

UNION PACIFIC FRUIT EXPRESS COMPANY

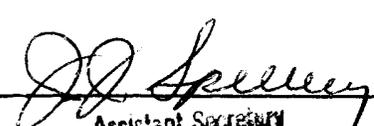
ATTEST:


Secretary

By: A. A. Keogh
Title Vice President

UNION PACIFIC RAILROAD COMPANY

ATTEST:


Assistant Secretary

By: A. A. Keogh
Title Vice President

SOUTHERN PACIFIC TRANSPORTATION COMPANY

ATTEST:



By: Robert J. McLean
Title ROBERT J. McLEAN, Executive Vice President-Finance

CONTRA COSTA COUNTY EMPLOYEES
RETIREMENT ASSOCIATION,
Investor

ATTEST:

By: _____
Title

COMMONWEALTH LIFE INSURANCE COMPANY,
Investor

ATTEST:

By: _____
Title

GUARANTEE MUTUAL LIFE COMPANY,
Investor

ATTEST:

By: _____
Title

INDIANAPOLIS LIFE INSURANCE COMPANY,
Investor

ATTEST:

By: _____
Title

NABANK AND COMPANY
~~BANK OF OKLAHOMA, Investor~~

ATTEST:

Mary Apton

By: Melbank and Company
Title
for W. W. Reynolds a partner

NATIONAL TRUST LIFE INSURANCE
COMPANY, Investor

ATTEST:

By: _____
Title

STATE OF WASHINGTON LAW ENFORCE-
MENT OFFICERS' AND FIRE
FIGHTERS' RETIREMENT BOARD,
Investor

ATTEST:

By: _____
Title

STATE OF WASHINGTON PUBLIC
EMPLOYEES' RETIREMENT BOARD,
Investor

ATTEST:

By: _____
Title

SCHEDULE A

Contra Costa County Employees Retirement Association
Attention: E. W. Leal, Jr., Assistant County Treasurer
Tax Collector, Finance Building (Room 102)
Martinez, California 94553

Commonwealth Life Insurance Company
Attention: Secretary Department
Commonwealth Building
Louisville, Kentucky 40202

Guarantee Mutual Life Company
Attention: Investment Department
8721 Indian Hills Drive
Omaha, Nebraska 68114

Indianapolis Life Insurance Company
Attention: Securities Department
P. O. Box 1230B
Indianapolis, Indiana 46206

Bank of Oklahoma
Attention: William G. Bequette, Vice President
Treasury Department
Box 2300
Tulsa, Oklahoma 74102

National Trust Life Insurance Company
Attention: Executive Vice President and Treasurer
2701 Union Avenue Extended
Memphis, Tennessee 38112

State of Washington
Law Enforcement Officers' and Fire Fighters' Retirement Board
Attention: Lloyd G. Baker, Director
201 General Administration Building
Box 918
Olympia, Washington 98501

State of Washington
Public Employees' Retirement Board
Attention: Lloyd G. Baker, Director
201 General Administration Building
Box 918
Olympia, Washington 98501

EXHIBIT A

CONDITIONAL SALE 5/1/70

SCHEDULE OF PFE EQUIPMENT TO BE TRANSFERRED TO UPFE

DESCRIPTION OF EQUIPMENT	PRESENT CAR NUMBERS	ASSIGNED UPFE CAR NUMBERS	TOTAL PRINCIPAL DUE ON EQUIP. TRANS. AT	RATE OF INTEREST	PAYMENT DATES
130,000 pound nominal capacity steel-sheathed Refrigerator Cars, Class R-70-23, with Mechanical Refrigeration Systems and Load Protection Devices. PFE Specification No. 100, dated August 1, 1968.	PFE 459401 - PFE 459500 Less Destroyed: PFE 459406 459421 459433* 459474* 459486* 95 Cars Total	UPRX 459401 - UPRX 459500 Less Destroyed: UPRX 459406 459421 459433* 459474* 459486* 95 Cars Total	\$ 1,652,730.80	9.875 % per annum	Final payment due 7-1-85
		Contract Bal. (Prin.) #Cars Subj. to Bal. Bal. owing per car #Cars Assigned UPRX Total Assigned Prin.	1-31-78 \$3,305,460.98 1-31-78 196 1-31-78 16,864.60 1-31-78 98 1-31-78 \$1,652,730.80		Interest paid semiannually January 1 and July 1. Principal paid annually on July 1.

*No financial settlement with balance of 1/31/78.

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS

I, DELLA M. KILLETT, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that J. A. Payne and J. D. Heaney, personally known to me to be Vice President and ^{Assistant} Secretary of The Chase Manhattan Bank (National Association), and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Vice President and ^{Assistant} Secretary they signed said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this th 24 day of March, 1978.

Della M. Killett
Notary Public

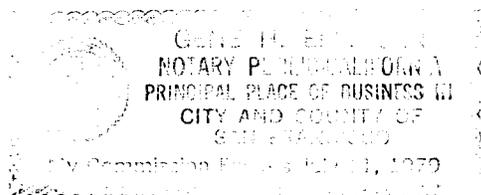
DELLA M. KILLETT
NOTARY PUBLIC, State of New York
No. 24-4689667
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1979

My Commission expires: _____

STATE OF California)
) SS
COUNTY OF San Francisco)

I, Gene H. Ellinger, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that F. E. Kriebel and A. G. Richards personally known to me to be Vice President and Assistant Secretary of Pacific Fruit Express Company, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Vice President and Assistant Secretary they signed said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 28th day of March, 1978.



Gene H. Ellinger
Notary Public

My Commission expires: July 11, 1979

STATE OF NEBRASKA)
) SS
COUNTY OF DOUGLAS)

I, R. E. ANDREASEN, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that C. B. SCHAEFFER and J. J. SPELLECY, personally known to me to be Vice President and Secretary of Union Pacific Fruit Express Company, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such

Vice President and Secretary they signed said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 27th day of March, 1978.



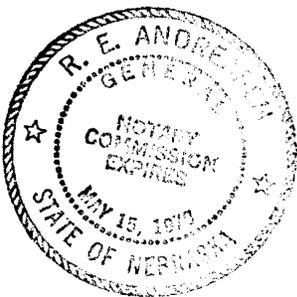
R. E. Andreason
Notary Public

My Commission expires: May 15, 1979

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) SS

I, R. E. ANDREASEN, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that C. B. SCHAEFER and J. J. SPELLECY, personally known to me to be Vice President and Assistant and Secretary of Union Pacific Railroad Company, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Vice President and Assistant and Secretary they signed said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 27th day of March, 1978.



R. E. Andreason
Notary Public

My Commission expires: May 15, 1979

STATE OF California)
COUNTY OF San Francisco) SS

I, Gene H. Ellinger, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Robert J. McLean and T. F. O'Donnell, personally known to me to be Executive Vice President-Finance Assistant and/Secretary of Southern Pacific Transportation Company, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Executive Vice President-Finance and Assistant Secretary they signed said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 28th day of March, 1978.

[Faint notary seal impression]

Gene H. Ellinger
Notary Public

My Commission expires: July 11, 1979

STATE OF Oklahoma)
) SS
COUNTY OF Tulsa)

I, Becky J. Hopkins, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that William C. Bequette and Mary Axton personally known to me to be a Partner of Nabank and Company and Secretary of Bank of Oklahoma, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such a Partner and Secretary they signed said instrument ~~and caused the corporate seal of said corporation to be affixed thereto,~~ pursuant to authority given by the ~~Board of Partners~~ Partnership ~~Directors~~ of said ~~corporation~~ as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 5th day of April, 1978.

Becky J. Hopkins
Notary Public

My Commission expires: October 7, 1981

CONVEYANCE OF TITLE

FROM

PACIFIC FRUIT EXPRESS COMPANY

TO

UNION PACIFIC FRUIT EXPRESS COMPANY

* * * * *

KNOW ALL MEN BY THESE PRESENTS:

In consideration of the issuance by Union Pacific Fruit Express Company, a Utah corporation ("UPFE") of all its shares of authorized stock to Pacific Fruit Express Company, a Utah corporation ("PFE"), and the assumption by UPFE of the obligations of PFE under the Conditional Sale Agreement and Agreement and Assignment, each dated as of May 1, 1970 (the "Conditional Sale Agreement" and "Assignment", respectively), with respect to the Transferred Equipment (as hereinafter defined) pursuant to the Agreement and Plan of Reorganization for the Corporate Division of PFE, dated as of November 1, 1977, and other good and valuable consideration, receipt of which is hereby acknowledged, PFE hereby grants, bargains, assigns, transfers, conveys, quitclaims and sets over unto UPFE all of PFE's right, title and interest in and to those units of railroad equipment (the "Transferred Equipment") which are enumerated on Exhibit A attached hereto, subject to the right, title and interest of The Chase Manhattan Bank, N.A., in and to the Transferred Equipment (as defined below).

TO HAVE AND TO HOLD the Transferred Equipment unto UPFE, its successors and assigns, to its and their own use, benefit and behoof forever.

PFE warrants to UPFE, its successors and assigns, that except for the right, title and interest in the Transferred Equipment which remains in The Chase Manhattan Bank (National Association) by virtue of the Conditional Sale Agreement and the Assignment, the Transferred Equipment is free and clear of all liens and encumbrances of any nature except the liens of taxes payable in and for the year of execution hereof.

IN WITNESS WHEREOF, PFE has caused these presents to be executed in its behalf and its corporate seal to be affixed by its officers thereunto duly authorized, as of this day of _____, 1978.

PACIFIC FRUIT EXPRESS COMPANY

ATTEST:

By: _____
Title

Secretary

