



**PULLMAN-STANDARD**

A Division of *Pullman Incorporated*

200 SOUTH MICHIGAN AVENUE, CHICAGO, ILLINOIS • 60604

David R. Wood  
Attorney

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322-7316

RECORDATION NO. *2769* Filed & Recorded

JUL 22 1977 - 10 05 AM

INTERSTATE COMMERCE COMMISSION

July 21, 1977

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

Dear Sir:

Will you please record, as provided in Section 20c of the Interstate Commerce Act, the Agreement and Assignment dated as of July 20, 1977, assigning rights under the Conditional Sale Agreement dated as of October 9, 1972, among the parties set forth below. Four counterpart originals of the document are enclosed with this letter of transmittal, together with a check in the amount of \$50.00.

The information required for such recordation by order of the Interstate Commerce Commission is as follows:

Section 1116.4(b). The names and addresses of the parties to the transaction:

Builder - Pullman Incorporated  
(Pullman Standard Division)  
200 S. Michigan Ave.  
Chicago, Ill. 60604

Assignee - Citicorp Leasing, Inc.  
399 Park Avenue  
New York, New York 10022

*7-20 3A011*  
date **JUL 22 1977**  
fee \$ *50.00*

CC Washington, D.

Section 1116.4(c). Description of the equipment:

Type	Quantity	Lessee's Car Numbers	Marked *
50' 6" 70-Ton Box cars	499	168000-168162 inclusive 168164-168499 inclusive	CR

\* Each unit will have stenciled on each side thereof the following legend:

JUL 22 10 02 AM '77

RECEIVED

*Country - Springfield*

Mr. Robert L. Oswald

2.

July 21, 1977

"OWNED BY CFSC LEASING CORPORATION TITLE TO THIS CAR IS SUBJECT TO A SECURITY INTEREST FILED UNDER THE INTERSTATE COMMERCE ACT SECTION 20c".

Section 1116.4(e) - The Lease dated October 9, 1972 and the Conditional Sale Agreement dated October 9, 1972, were filed with the Interstate Commerce Commission at 10:00 A.M. on October 11, 1972, and assigned recordation numbers 6769 and 6769-A respectively.

Section 1116.4(f) - Two counterpart originals of the document being recorded should be returned to the undersigned at Pullman Standard, 1616 H Street, N.W., Washington, D.C. 20006.

Very truly yours,



DRW:L

JUL 22 1977 - 10 05 AM

AGREEMENT AND ASSIGNMENT, dated INTERSTATE COMMERCE COMMISSION of July 20, 1977, between PULLMAN INCORPORATED (Pullman Standard Division) (hereinafter called the Builder), and CITICORP LEASING, INC. (hereinafter called the Assignee), whose address is 399 Park Avenue, New York, New York, 10022.

WHEREAS, the Builder and the CITY NATIONAL BANK OF CONNECTICUT (hereinafter called the Vendee) have entered into a Conditional Sale Agreement dated as of October 9, 1972 said Agreement, as amended by an Amendatory Agreement dated as of October 15, 1972, an Amendatory Agreement dated as of November 15, 1972, and an Amendatory Agreement dated as of December 29, 1972, being hereinafter called the Conditional Sale Agreement), covering the construction, sale and delivery, on the conditions therein set forth, by the Builder and the purchase by the Vendee of the railroad equipment described in Annex B to the Conditional Sale Agreement (said equipment being hereinafter called the Equipment); and

WHEREAS, the Vendee and CONSOLIDATED RAIL CORPORATION (hereinafter called the Lessee) have entered into a Lease of Railroad Equipment dated October 9, 1972 (said Lease as assigned to the Lessee on April 1, 1976 mandated by an order of the Special United States District Court established pursuant to Section 209(b) of the Regional Rail Reorganization Act of 1973, as amended, which order was made pursuant to a certification to such Court by the United States Railway Association pursuant to Section 209(c) of the abovementioned Act, being hereinafter called the Lease) providing for the leasing by the Vendee to the Lessee of the Equipment, and the Vendee and the Builder have entered into a Collateral Assignment of Lease and Agreement dated as of October 9, 1972 (hereinafter called the Lease Assignment), providing for the assignment of the Lease to the Builder;

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (hereinafter called this Assignment) WITNESSETH: That, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by the Assignee to the Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. The Builder hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

- (a) all the right, security title and interest of the Builder in and to each unit of the Equipment;

(b) all the right, title and interest of the Builder in and to the Conditional Sale Agreement (except the right to construct and deliver the Equipment and the right to receive the payments specified in subparagraph (a) of the third paragraph of Article 4 thereof and reimbursements for taxes paid or incurred by the Builder as provided in Article 6 thereof), and except as aforesaid in and to any and all amounts which may be or become due or owing to the Builder under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment, and interest thereon, and in and to any other sums becoming due from the Vendee under the Conditional Sale Agreement, other than those hereinabove excluded;

(c) except as limited by subparagraph (b) hereof, all the Builder's rights, powers, privileges and remedies under the Conditional Sale Agreement; and

(d) all the right, title and interest of the Builder in and to the Lease and the payments due and to become due thereunder; and

(e) all the Builder's rights, titles, powers, privileges and remedies under the Lease Assignment;

without any recourse against the Builder for or on account of the failure of the Vendee or the Lessee to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement or Lease, or the Lease Assignment; provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Builder to deliver the Equipment in accordance with the Conditional Sale Agreement, or with respect to its warranties and agreements contained or referred to in Article 14 of the Conditional Sale Agreement, or relieve the Vendee from its obligations to the Builder contained or referred to in Articles 2, 3, 4, 6 and 14 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 15 of the Conditional Sale Agreement, all obligations of the Builder to the Vendee with respect to the Equipment shall be and remain enforceable by the Vendee, its successors and assigns, against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder hereby authorizes and empowers the Assignee, in the Assignee's own name or in the name of the Assignee's nominee, or in the name of and as attorney hereby irrevocably constituted for the Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this

Assignment and to ask, demand, sue for and enforce compliance by the Vendee and the Lessee with the terms and agreements on its part to be performed under the Conditional Sale Agreement, the Lease, and the Lease Assignment, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. The Builder agrees to direct the Lessee, pursuant to Section 2 of the Lease, to make all payments provided for in the Lease to the Assignee. Such payments shall be applied by the Assignee to satisfy the obligations of the Vendee under the Conditional Sale Agreement and, so long as no event of default under the Conditional Sale Agreement shall have occurred and be continuing, any balance shall be paid to the Vendee.

SECTION 3. The Builder represents and warrants (i) that it has constructed the Equipment in full accordance with the Conditional Sale Agreement and delivered the same to the Vendee in accordance with the provisions of the Conditional Sale Agreement, (ii) notwithstanding this Assignment, it will perform and fully comply with each of and all the covenants and conditions of the Conditional Sale Agreement set forth to be performed and complied with by the Builder, (iii) the Conditional Sale Agreement and the Lease were filed and recorded in accordance with Article 19 of the Conditional Sale Agreement prior to the delivery to the Vendee of the Equipment under the Conditional Sale Agreement.

SECTION 4. The Builder agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any instalment of, or interest on, the remaining outstanding indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment or to enforce any provisions of the Conditional Sale Agreement, or under the Lease or Lease Assignment for payments due thereunder or to enforce any provision of the Lease or Lease Assignment, the Builder will indemnify, protect and hold harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever claimed by the Vendee or the Lessee arising out of a breach by the Builder of any obligation with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee or the Lessee by the Builder. The Builder's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action to strike any defense,

setoff, counterclaim or recoupment asserted by the Vendee or the Lessee in any such suit, proceeding or action and (b) if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Assignee's prompt notification to the Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving the Builder the right, at the Builder's expense, to compromise, settle or defend against such defense, setoff, counterclaim or recoupment.

Except in cases of articles or materials specified by the Vendee or the Lessee and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Vendee or the Lessee and not developed or purported to be developed by the Builder, the Builder agrees to indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Assignee will give notice to the Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give the Builder the right, at the Builder's expense, to compromise, settle or defend against such claim. The Builder agrees that any amounts payable to it by the Vendee or the Lessee with respect to the Equipment, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof.

SECTION 5. The Assignee, on August 1, 1977 or such earlier date as shall be fixed by the Builder by written notice thereof delivered to the Assignee prior thereto (such date being hereinafter called the closing date), shall pay to the Builder the amount of \$5,857,779.18, provided that there shall have been delivered to the Assignee prior to such closing date, the following documents in form and substance satisfactory to it in such number of counterparts as may be reasonably requested by the Assignee:

(a) A bill of sale from the Builder to the Assignee transferring to the Assignee security title to the units of the Equipment, warranting to the Assignee and to the Vendee that, at the time of delivery of such units under the Conditional Sale Agreement, the Builder had legal title to such units and good and lawful right to sell the Equipment and that title to such units was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendee under the Conditional Sale Agreement and the rights of the Lessee under the Lease, and covenanting to defend the title to the Equipment against the demands of all persons based on claims

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originating prior to the delivery of such units by the Builder under the Conditional Sale Agreement;

(b) A Certificate or Certificates of Acceptance with respect to the units of the Equipment as contemplated by Article 3 of the Conditional Sale Agreement, and a Certificate or Certificates of Delivery with respect to such units as contemplated by the Lease;

(c) An invoice of the Builder for the Equipment, such invoice to be in the amount of \$5,857,779.18.

(d) An opinion of counsel for the Vendee, dated as of such Closing Date, stating that the Conditional Sale Agreement and the Lease and the Lease Assignment, have been duly authorized, executed and delivered by the Vendee and are legal and valid instruments binding upon the Vendee and enforceable against the Vendee in accordance with their terms;

(e) An opinion of Counsel for the Lessee, dated as of such Closing Date, as specified in §14 of the Lease, but addressed to the Assignee;

(f) An opinion of counsel for the Builder, dated as of such Closing Date, stating that (i) the Builder is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Builder and is a legal and valid instrument binding upon the Builder and enforceable against the Builder in accordance with its terms, and (iii) this Assignment has been duly authorized, executed and delivered by the Builder and is a legal and valid instrument binding upon the Builder (iv) the Lease has been duly authorized, executed and delivered and is a legal, valid and binding instrument, (v) the Assignee is vested with all the rights, titles, interests, powers and privileges purported to be assigned to it by this Assignment, and (vi) security title to the units of the Equipment is validly vested in the Assignee and such units, at the time of delivery thereof to the Vendee under the Conditional Sale Agreement, were free from all claims, liens, security interests and other encumbrances (other than those created by the Conditional Sale Agreement and the rights of the Lessee under the Lease).

6.

(g) Such other documents as the Assignee may reasonably request.

In giving the opinions specified in this Section 5, counsel may qualify any opinion to the effect that any agreement is a legal, valid and binding instrument enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. In giving the opinions specified in said subparagraph (d) of this Section 5, counsel may rely (i) as to authorization, execution and delivery by the Builder of the documents executed by the Builder and title to the Equipment at the time of delivery thereof under the Conditional Sale Agreement, on the opinion of counsel for the Builder and (ii) to the extent appropriate, as to any matter governed by the law of any jurisdiction other than Illinois or the United States (including the Conditional Sale Agreement, the Lease, the Lease Assignment and this Assignment), on the opinion of counsel for the Builder, the Lessee or the Vendee, as the case may be.

The obligation of the Assignee hereunder to make payment for any of the Equipment assigned hereunder is hereby expressly conditioned upon the Assignee having on deposit, sufficient funds available to make such payment. The Assignee shall not be obligated to make any abovementioned payment at any time while an event of default or Event of Default, as the case may be, or any event which with the lapse of time and/or demand would constitute an event of default or Event of Default, shall be subsisting under the Conditional Sale Agreement or the Lease, as the case may be, nor after the occurrence of any event specified in clause (c) of Article 16 of the Conditional Sale Agreement or in clause D or E of Section 9 of the Lease, whether or not such event is continuing and regardless of the occurrence of any assumption or other event specified in any such clause. In the event that the Assignee shall not make payment for any Group of the Equipment, the Assignee shall re-assign to such Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of the Equipment with respect to which payment has not been made by the Assignee.

It is understood and agreed that the Assignee shall not be required to make any payment with respect to, and shall have no right or interest in, any Equipment excluded from the

Conditional Sale Agreement pursuant to Article 3 thereof or which shall have suffered a Casualty Occurrence (as defined in Article 7 of the Conditional Sale Agreement).

SECTION 6. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, the Lease, or the Lease Assignment, including its right to receive any payments due or to become due to it from the Vendee or the Lessee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment and upon giving the written notices required in Article 15 of the Conditional Sale Agreement and Section 11 of the Lease, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 7. The Builder hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement, the Lease and the Lease Assignment are in full force and effect without amendment thereto and that said instruments are genuine, enforceable and the only ones executed with respect to said property;

(b) agrees that it will from time to time and at all times, at the request of the Assignee, or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be; and

(c) agrees that, upon request of the Assignee, its successors and assigns, it will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement, the Lease, the Lease Assignment or any other instrument evidencing any interest of the Builder therein or in the Equipment.

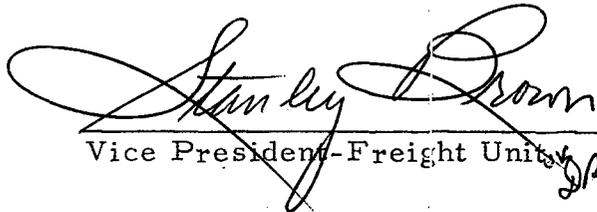
SECTION 8. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all the rights conferred by Section 20c of the Interstate Commerce Act, the applicable recording laws of Canada and of the Provinces and Territories thereof and such additional rights arising out of the filing, recording, registering or depositing hereof and of any assignment hereof and out of the marking on the Equipment as shall be conferred by the laws of the several jurisdictions in which the Equipment may be located and in which this Agreement or any assignment hereof shall be filed, recorded, registered or deposited.

SECTION 9. This Assignment may be executed in any number of counterparts, each of which so executed shall be deemed to be the original counterpart, and such counterparts together shall constitute but one and the same instrument. Although this Assignment is dated as of the date first above written, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements hereto annexed.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officials, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

PULLMAN INCORPORATED  
(Pullman Standard Division)

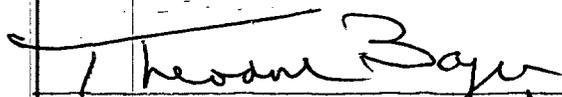
Attest:

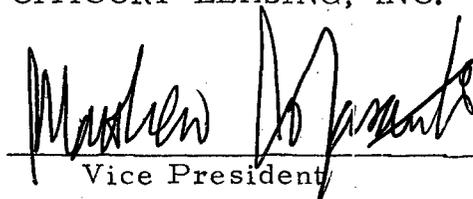
  
\_\_\_\_\_  
Vice President-Freight Unit *SBW*

  
\_\_\_\_\_  
Assistant Secretary

CITICORP LEASING, INC.

Attest:

  
\_\_\_\_\_  
Asst Secy.

  
\_\_\_\_\_  
Vice President

STATE OF ILLINOIS )  
 ) SS:  
COUNTY OF COOK )

On this <sup>21<sup>st</sup></sup> day of July, 1977, before me personally appeared Stanley Brown, to me personally known, who, being by me duly sworn, said that he is Vice President-Freight Unit of PULLMAN INCORPORATED (Pullman Standard Division), that the seal affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on this day 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.

Christine Shier  
My commission expires  
9-3-79

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK )

On this <sup>30</sup> day of JULY, 1977, before me personally appeared MATTHEW COLASANTI, to me personally known, who, being by me duly sworn said that he is VICE PRESIDENT OF CITICORP LEASING INC, that the seal affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on this day 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.

Lucile Julien

LUCILE JULIEN  
Notary Public, State of New York  
No. 31-2010070  
Qualified in New York County  
Commission Expires March 30, 19 79