



**Illinois
Central
Gulf**

An **IC Industries** Company

William H. Sanders
Corporate Counsel

**Illinois Central
Gulf Railroad**
Two Illinois Center
233 N. Michigan Avenue
Chicago, IL 60601
312 565 1600

May 21, 1979

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No. **9-142A030**

Honorable H. Gordon Homme, Jr.
Secretary
Interstate Commerce Commission
Washington, D. C. 20423

10388

Date **MAY 22 1979**

RECORDATION NO. Filed 1425

Fee \$ *50.00*

MAY 22 1979 - 1 25 PM

ICC Washington, D. C.

Dear Sir:

INTERSTATE COMMERCE COMMISSION

Pursuant to the provisions of former Section 20(c) of the Interstate Commerce Act (now 49 U.S.C. Sec. 11303) and the applicable regulations of the Interstate Commerce Commission, there are herewith transmitted for filing and recording a number of counterparts of a Storage Agreement dated as of May 16, 1979 between Pullman Incorporated (Pullman Standard Division) and Illinois Central Gulf Railroad Company.

A draft payable to the order of the Interstate Commerce Commission for the recording fee applicable to this filing is enclosed herewith. The name of the Owner-Bailor is:

Pullman Incorporated
(Pullman Standard division)
200 South Michigan Avenue
Chicago, Illinois 60604

The name of the Bailee is:

Illinois Central Gulf Railroad Co.
233 N. Michigan Avenue
Chicago, Illinois 60601

The equipment covered by this Agreement is 500 new 100-ton covered hopper cars, Nos. ICG-766700 through 767199, inclusive. This Agreement has not previously been recorded with the Interstate Commerce Commission.

It is respectfully requested that all counterparts not needed for the Commission's files be returned to the bearer of this letter with the Commission's recordation stamp shown thereon.

Very truly yours,

William H. Sanders
William H. Sanders

Enc.

RECEIVED
MAY 22 1 20 PM '79
I.C.C.
FEE OPERATION BR.

Handwritten signature/initials on the left margin

RECORDATION NO. 10388 Filed 1425

MAY 22 1979 - 1 25 PM

INTERSTATE COMMERCE COMMISSION

STORAGE AGREEMENT

THIS AGREEMENT made this 16th day of May, 1979, by and between PULLMAN INCORPORATED (Pullman Standard Division), (hereinafter called the "Manufacturer"), and ILLINOIS CENTRAL GULF RAILROAD COMPANY, (hereinafter called the "Railroad")

W I T N E S S E T H:

The Manufacturer and the Railroad heretofore entered into a Purchase Agreement consisting of the Railroad's letters dated May 19, 1978 and August 2, 1978, and the Manufacturer's proposal dated May 19, 1978 and letter dated August 8, 1978, (Manufacturer's Lot Nos. 1021 and 1021-A), wherein the Railroad agreed to accept and pay for the following railroad equipment, (hereinafter called the "Cars"):

500 - 100-Ton Covered Hopper Cars,
4750 Cubic Foot Capacity,
numbered ICG 766700-767199
inclusive

The Purchase Agreement is by reference made a part of this Agreement as fully as though expressly set forth herein.

Delivery of the Cars is scheduled to begin on or about May 22, 1979. However, inasmuch as the Railroad has not as yet consummated financing arrangements, it is not in a position to accept delivery of, place in service, and pay for the Cars under the terms of the Purchase Agreement at this time. The Railroad represents

that such financing arrangements will be consummated, however, on or before August 31, 1979. The Railroad (in order that it may store the Cars pending completion of the above financing arrangements) has arranged with the Manufacturer to give it temporary custody and care of the Cars upon their completion, solely as a bailee of such Cars, and the Manufacturer is willing to do so upon the terms and conditions hereinafter stated.

The Railroad agrees to pay the Manufacturer \$14.15 per day per Car for the Manufacturer's cost of capital for the period such shall be payable with respect to each Car. Such period for each Car shall not commence until 20 days after delivery of each Car to the Railroad under the terms of this Agreement and shall cease on the day of termination. The Termination Date of this period shall be such date when the railroad's financing arrangements have been concluded and payment of the purchase price has been rendered to the Manufacturer; provided, however, that such Termination Date shall be no later than August 31, 1979.

The payment for each Car shall be due and payable to the Manufacturer in cash upon termination of this Agreement as to such Car.

After the Railroad's representative finds that each Car upon completion has been built in accordance with the requirements of the Purchase Agreement, he will, as agent for the eventual Lessor/Owner, yet to be determined, execute and deliver to the Manufacturer

at its plant a Certificate of Inspection and Acceptance in the form annexed hereto as Exhibit A, certifying to that effect. Title to the Cars shall remain in the Manufacturer and the Railroad's right and interest therein is and shall be solely that of possession and custody as bailee under this Agreement. Transfer of title shall be effected only at the time of delivery of the bills of sale. The Manufacturer agrees not to claim, for Federal income tax purposes, either depreciation or investment tax credit on the Cars.

The Railroad, without expense to the Manufacturer, will promptly cause this Agreement to be filed with the Interstate Commerce Commission. In addition, the Railroad shall do such other acts as may be required by law, or reasonably requested by the Manufacturer, for the protection of the Manufacturer's title to and interest in the Cars.

The Railroad agrees that it will permit no liens of any kind to attach to the Cars; and that it will

- (a) indemnify and save harmless the Manufacturer from any and all claims, expenses or liabilities of whatsoever kind; and
- (b) pay any and all taxes, fines, charges and penalties that may accrue or be assessed or imposed upon the Cars of the Manufacturer because of its ownership or because of the use, operation, management or handling of the Cars by the Railroad during the term of this lease.

The Railroad's obligations contained in this paragraph

shall cover any such obligations that may accrue or be assessed or imposed during the term of this agreement. The foregoing item (a) shall not apply to any claim, expense or liability which results from a condition of manufacture of any car or from the acts or omissions of the Manufacturer; its employees, or agents.

The Railroad will, at its own expense, keep and maintain the Cars in good order and running condition and will at its option repair or replace or promptly pay to Manufacturer the purchase price in cash of those Cars which may be damaged or destroyed by any cause (except when caused by the Manufacturer) during the term of this Agreement. If payment is made in cash for a damaged or destroyed Car as aforesaid, an appropriate reduction shall be made in the purchase price of the Cars.

Prior to the delivery of each Car to the Railroad, it will be numbered with a car number as hereinbefore indicated, and there shall be plainly, distinctly, permanently, and conspicuously placed and fastened upon each side of each Car a metal plate bearing the following legend, or shall be otherwise plainly, distinctly, permanently, and conspicuously marked on each side of each Car, in either case in letters not less than one-half inch in height:

"OWNED BY A LESSOR AND SUBJECT TO A LEASE AGREEMENT FILED AND RECORDED WITH THE INTERSTATE COMMERCE COMMISSION PURSUANT TO SECTION 11303 OF THE REVISED INTERSTATE COMMERCE ACT."

The Railroad hereby agrees to indemnify the Manufacturer against any liability, loss or expense incurred by it as a result of the placing

and fastening of the aforementioned plates or markings on said Cars.

In case, during the continuance of this Agreement, such name plate or mark shall at any time be removed, defaced or destroyed on any Car, the Railroad shall immediately cause the same to be restored or replaced.

All or any of the rights, benefits or advantages of the Manufacturer, including the right to receive the payments provided for herein, or the right to receive the purchase price of the Cars as provided in the Purchase Agreement, may be assigned by Manufacturer 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 any of Manufacturer's guarantees, warranties, indemnities, or any other obligations contained in this Agreement or in the Purchase Agreement relating to the Cars. In the event Manufacturer assigns its rights to receive the payments herein and/or under the Purchase Agreement, and the Railroad receives written notice thereof from the Manufacturer, together with a counterpart of such assignment stating the identity and the post office address of the assignee, all payments thereafter to be made by the Railroad under this Agreement or under the Purchase Agreement shall, to the extent so assigned, be made to the assignee against proper receipt therefor in form satisfactory to the Railroad.

In the event of any assignment of the Manufacturer of its rights to receive any payments under this Agreement or under the

Purchase Agreement, the rights of such assignee to such payments as may be assigned together with any other rights hereunder which can be and are so assigned, shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Manufacturer in respect to the Cars, nor subject to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Manufacturer. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Railroad, its successors and assigns, only against the Manufacturer and its successors and assigns (other than assignees as such of rights, benefits or advantages assigned pursuant to this Agreement).

The Railroad agrees with the Manufacturer that the execution by the Manufacturer of this Agreement or the delivery by the Manufacturer to the Railroad of the Cars, as contemplated by this Agreement, shall not relieve the Railroad of its obligations to accept, take and pay for the Cars in accordance with the terms of the Purchase Agreement, or impair any of the Manufacturer's rights under the Purchase Agreement.

ATTEST:

Margaret M. Keenan
Assistant Secretary

PULLMAN INCORPORATED
(Pullman Standard Division)

By Stanley Brown
Vice President-Freight Unit

ATTEST:

J. B. Goodil
Assistant Secretary

ILLINOIS CENTRAL GULF RAILWAY COMPANY

By R. A. Lewis
Vice President

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 16th day of May, 1979,
before me personally appeared Stanley Brown to me
personally known, who, being by me duly sworn, says that he is a
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 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.

David R. Wood
Notary Public

My commission expires: August 24, 1981

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 18TH day of MAY, 1979,
before me personally appeared R.A. IRVINE to me
personally known, who, being by me duly sworn, says that he is a
VICE PRESIDENT of Illinois Central Gulf Railroad
Company, that the seal 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

(SEAL)

CERTIFICATE OF INSPECTION AND ACCEPTANCE
UNDER STORAGE AGREEMENT

TO: PULLMAN INCORPORATED (Pullman Standard Division)

I, a duly appointed inspector and authorized representative of ILLINOIS CENTRAL GULF RAILROAD COMPANY (hereinafter called the "Railroad"), for the purpose of the Storage Agreement dated as of May 16, 1979, between you, as Manufacturer, and the Railroad, do hereby certify that I have received, inspected, approved and accepted delivery under said Storage Agreement on behalf of the Railroad acting as an Agent for a Lessor/Owner of the following units of railroad equipment:

Type of Cars:

Place Accepted:

Date Accepted:

Number of Units:

Numbered:

I do further certify that the foregoing cars are in good order and condition and conform to the Purchase Agreement consisting of the Railroad's letters dated May 19, 1978, and August 2, 1978, and the Manufacturer's proposal dated May 19, 1978, and letter dated August 8, 1978, and the specifications applicable thereto, and to all applicable Interstate Commerce Commission requirements and specifications and to all standards of the Association of American Railroads. The execution of this certificate will in no way relieve you of your duty or decrease your responsibility (1) to produce and deliver the railroad equipment indicated above in accordance with the terms of the Storage Agreement or (2) to warrant the foregoing cars to be of good workmanship, constructed with quality materials, and to be free of defects, as set forth in the aforesaid Purchase Agreement.

I do further certify that there was plainly, distinctly, permanently and conspicuously marked on each side of each unit of equipment at the time of delivery the following legend in letters not less than one-half inch in height:

OWNED BY A LESSOR AND SUBJECT TO A LEASE
AGREEMENT FILED AND RECORDED WITH THE
INTERSTATE COMMERCE COMMISSION PURSUANT
TO SECTION 11303 OF THE REVISED INTERSTATE
COMMERCE ACT.

Inspector and Authorized
Representative of
ILLINOIS CENTRAL GULF RAILROAD COMPANY