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JUN 1 1977-12 20 PM

CRAVATH, SWAINE & MOORE

RECORDATION NO. Filed & Recorded

JUN 1 1977-12 20 PM

ONE CHASE MANHATTAN PLAZA

MAURICE T. MOORE  
 BRUCE BROMBERG  
 ROSWELL L. GILPATRICK  
 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  
 STEWARD R. BROSS, JR.  
 HENRY P. RIORDAN  
 JOHN R. HUPPER  
 SAMUEL C. BUTLER  
 WILLIAM J. SCHRENK, JR.  
 BENJAMIN R. CRANE  
 FRANCIS F. RANDOLPH, JR.  
 JOHN F. HUNT, JR.  
 GEORGE J. GILLESPIE, III  
 RICHARD S. SIMMONS

INTERSTATE COMMERCE COMMISSION

THOMAS D. BARR  
 MELVIN L. BEDRICK  
 GEORGE T. LOWY  
 ROBERT ROSENMAN  
 JAMES H. DUFFY  
 ALAN J. HRUSKA  
 JOHN E. YOUNG  
 JAMES M. EDWARDS  
 DAVID G. ORMSBY  
 DAVID L. SCHWARTZ  
 RICHARD J. HIEGEL  
 FREDERICK A. O. SCHWARZ, JR.  
 CHRISTINE BESHAR  
 ROBERT S. RIFKIND  
 DAVID EDIES  
 DAVID O. BROWNWOOD  
 PAUL M. DODYK  
 RICHARD M. ALLEN  
 THOMAS R. BROME  
 ROBERT D. JOFFE  
 ROBERT F. MULLEN

NEW YORK, N.Y. 10005

212 HANOVER 2-3000

INTERNATIONAL TELEX: 620976

TELETYPE: 710-581-0338

TELEX: 125547

INTERSTATE COMMERCE COMMISSION

CARLYLE E. MAW

LEON BRESLIN, JR.  
COUNSEL

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75008 PARIS, FRANCE  
TELEPHONE: 265-81-54  
TELEX: 290530

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

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

JUN 1 1977  
JUN 8 1977

2941 l ICE Washington, D.C.

June 1 1977  
2941 A

JUN 1 1977-12 20 PM

RECORDATION NO. Filed & Recorded

JUN 1 1977-12 20 PM

Dear Sir: INTERSTATE COMMERCE COMMISSION

INTERSTATE COMMERCE COMMISSION

Herewith for recordation pursuant to Section 20c of the Interstate Commerce Act, on behalf of Consolidated Rail Corporation, are counterparts of the following:

(1) Conditional Sale Agreement dated as of May 1, 1977, between United States Trust Company of New York, Trustee, as vendee, and Fruit Growers Express Company, as builder, vendor;

(2) Lease of Railroad Equipment dated as of May 1, 1977, between Consolidated Rail Corporation, as lessee, and United States Trust Company of New York, Trustee, as lessor;

(3) Assignment of Lease and Agreement dated as of May 1, 1977, between United States Trust Company of New York, Trustee, as lessor, vendee, and First Security Bank of Utah, National Association, as agent, vendor; and

(4) Agreement and Assignment dated as of May 1, 1977, between Fruit Growers Express Company, as builder, and First Security Bank of Utah, National Association, as agent, assignee.

The addresses of the parties to the aforementioned agreements are:

*Counterparts*

FEE OPERATING OR  
I.C.C.  
JUN 1 12 18 PM '77

Vendee-Lessor:

United States Trust Company of New York, Trustee,  
130 John Street,  
New York, N.Y. 10038

Builder-Vendor:

Fruit Growers Express Company,  
1101 Vermont Avenue, N.W.,  
Washington, D.C. 20005

Lessee:

Consolidated Rail Corporation,  
Six Penn Center Plaza,  
Philadelphia, Pennsylvania 19104.

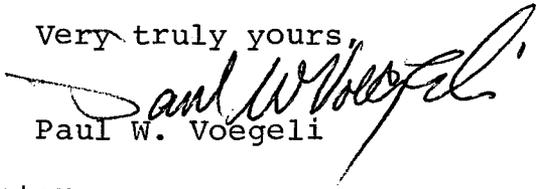
Agent-Vendor-Assignee: ✓

First Security Bank of Utah,  
National Association,  
P. O. Box 3007,  
79 South Main Street,  
Salt Lake City, Utah 84125.

The Equipment covered by the aforementioned agreements consists of 88 100-ton 60' RBL insulated Box Cars bearing the road numbers CR376103 through 376190 (both inclusive) of Consolidated Rail Corporation, and also bearing the legend "Ownership subject to a Security Agreement filed under the Interstate Commerce Act, Section 20c".

Enclosed is this firm's check for \$100 for the required recordation fee. Please accept for recordation one counterpart of each of the enclosed agreements, stamp the remaining counterparts with your recordation number and return them to the delivering messenger along with your fee receipt, addressed to the undersigned.

Very truly yours,

  
Paul W. Voegeli

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

Encls.  
41A  
BY HAND

RECORDATION NO. 2841-B Filed & Recorded

JUN 1 1977-12 20 PM

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF LEASE AND AGREEMENT dated as of May 1, 1977 (hereinafter called this Assignment), by and between UNITED STATES TRUST COMPANY OF NEW YORK, acting as Trustee (hereinafter called the Lessor or the Vendee) under a Trust Agreement dated as of the date hereof with J.P. Morgan Interfunding Corp. (hereinafter called the Beneficiary), and FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, not individually but solely as Agent (hereinafter called the Vendor) under a Participation Agreement dated as of the date hereof.

WHEREAS the Vendee is entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Security Documentation) with Fruit Growers Express Company (hereinafter called the Builder), providing for the sale to the Vendee of such units of railroad equipment (hereinafter called the Units) described in Annex B thereto as are delivered to and accepted by the Vendee thereunder;

WHEREAS the Lessor and Consolidated Rail Corporation (hereinafter called the Lessee) have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease), providing for the leasing by the Lessor to the Lessee of the Units;

WHEREAS, pursuant to a Substitute Lessee Agreement (hereinafter called the Substitute Lessee Agreement) dated as of the date hereof, Itel Capital Services Corporation (hereinafter called the Substitute Lessee) will agree, upon the terms and conditions set forth therein, to become substituted as the lessee under the Lease and Itel Corporation (hereinafter called the Guarantor) will guarantee the obligations of the Substitute Lessee; and

WHEREAS, in order to provide security for the obligations of the Lessor under the Security Documentation and as an inducement to the Vendor to invest in the Conditional Sale Indebtedness (as that term is defined in the Security Documentation), the Lessor agrees to assign for security purposes its rights in, to and under the Lease to the Vendor;

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, and intending to be legally bound, the parties hereto agree as follows:

1. The Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor as Vendee under the Security Documentation, all the Lessor's right, title and interest, powers, privileges, and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise but excluding, however, amounts payable directly to the Beneficiary pursuant to § 6 of the Lease and all amounts payable pursuant to § 16 of the Lease (such moneys, with the exception of such excluded amounts, being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Lessor hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Lessor or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which the Lessor is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Lessor pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Lessor under the Security Documentation, and, so long as no event of default or event which with the lapse of time and/or demand provided for in the Security Documentation could constitute an event of default thereunder shall have occurred and be continuing, any balance shall be paid to the Lessor on the same date such Payment is applied to satisfy such obligations of the Lessor payable in immediately available funds to the Lessor at such address as may be specified to the Vendor in writing, and such balance shall be retained by the Lessor. If the Vendor shall not receive any rental payment under the first paragraph of § 3 of the Lease when due, the Vendor shall

notify the Lessor at the address set forth in the Lease; provided, however, that the failure of the Vendor to so notify the Lessor shall not affect the obligations of the Lessor hereunder or under the Security Documentation.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Vendor to, or transfer, or pass, or in any way affect or modify the liability of the Lessor under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Vendor.

3. The Lessor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides is to be performed by the Lessor; without the written consent of the Vendor, the Lessor will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee thereunder, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void; provided, however, that the Lessor may, upon the occurrence of an Event of Default under the Lease, exercise its right pursuant to the Substitute Lessee Agreement to require the Substitute Lessee to enter into the New Lease (as defined in the Substitute Lessee Agreement), subject to the Lessor's compliance with the pertinent provisions of Article 15 of the Security Documentation.

4. The Lessor does hereby constitute the Vendor the Lessor's true and lawful attorney, irrevocably, with full power (in the name of the Lessor, or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Lessor is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which to the Vendor may seem to be necessary

or advisable in the premises.

5. Upon the full discharge and satisfaction of all sums due from the Lessor under the Security Documentation, this Assignment and all rights herein assigned to the Vendor shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Lessor.

6. The Lessor will pay and discharge any and all claims, liens, charges or security interests (other than those created by the Security Documentation) on the Lease or the rentals or other payments due or to become due thereunder claimed by any party from, through or under the Lessor, or its successors and assigns (other than the Vendor), not arising out of the transactions contemplated by the Security Documentation or the Lease (but including tax liens arising out of the receipt of the income and proceeds from the Units) which, if unpaid, might become a claim, lien, charge or security interest on or with respect to the Lease or such rentals or other payments equal or superior to the Vendor's interest therein, unless the Lessor shall be contesting the same in good faith by appropriate proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect such interests of the Vendor.

7. The Lessor will, from time to time, execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Vendor in order to confirm or further assure the interest of the Vendor hereunder.

The Lessor will not assign its interests in and to the Lease or the Units without the prior written consent of the Vendor, which consent shall not be unreasonably withheld.

8. The Vendor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Vendor hereunder.

9. This Assignment shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

10. The Lessor shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or made to the Vendor at its address set forth in Article 20 of the Security Documentation, or at such other address as the Vendor shall designate.

11. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no event of default under the Security Documentation has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Lessor to the Vendor by this Assignment and which are for the sole benefit of the Lessor, without the prior consent of the Lessor.

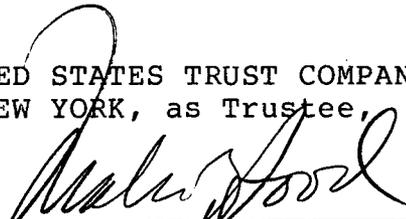
12. It is expressly understood and agreed by and between the parties hereto, anything in this Agreement to the contrary notwithstanding, that each and all of the representations, undertakings and agreements in this Agreement made on the part of the Vendee are each and every one of them made and intended not as personal representations, undertakings and agreements by United States Trust Company of New York 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 Estate 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 liability under the proviso contained in the last paragraph of Article 12 of the Security Documentation) or the Beneficiary (except liability pursuant to the last paragraph of Section 5.01 of the Trust Agreement) or on account of any representation, undertaking or agreement of the Vendee or the Beneficiary, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under the Vendor, making claim hereunder, may look to said Trust Estate for the satisfaction of the same.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate

names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

UNITED STATES TRUST COMPANY  
OF NEW YORK, as Trustee,

by



Assistant Vice President

[Corporate Seal]

Attest:

  
Assistant Secretary

FIRST SECURITY BANK OF UTAH,  
NATIONAL ASSOCIATION, not  
individually but solely as Agent,

by



Authorized Officer

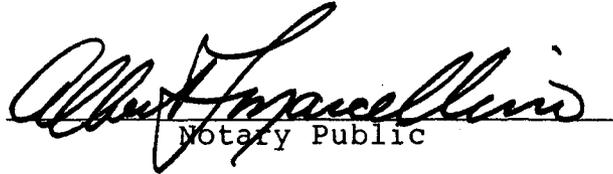
[Seal]

Attest:

  
Authorized Officer

STATE OF NEW YORK, )  
 ) ss.:  
COUNTY OF NEW YORK, )

On this <sup>31<sup>st</sup></sup> day of <sup>May</sup>, 1977, before me personally appeared <sup>Albert F. Marcellino</sup> ~~IRENE R. SCOCCA~~, to me personally known, who, being by me duly sworn, says that ~~she~~ he is an ~~Assistant~~ Vice President of UNITED STATES TRUST COMPANY OF NEW YORK, that one of the seals affixed to the foregoing instrument is the corporate seal of said bank, and that said instrument was signed and sealed on behalf of said bank by authority of its Board of <sup>Directors</sup> ~~Directors~~, and ~~she~~ he acknowledged that the execution of the foregoing instrument was the free act and deed of said bank.

  
Notary Public

[Notarial Seal]

My Commission expires

ALBERT F. MARCELLINO  
Notary Public, State of New York  
No. 43-2519700  
Qualified in Richmond County  
Certificate filed in New York County  
Commission Expires March 30, 1979

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

On this 31<sup>st</sup> day of *May* 1977, before me personally appeared *John A. Beckstead*, to me personally known, who, being by me duly sworn, says that he is an *Auth Officer* of FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, that one of the seals affixed to the foregoing instrument is the seal of said national bank, and that said instrument was signed and sealed on behalf of said national bank 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 national bank.

*Frank B. Eicher*  
\_\_\_\_\_  
Notary Public

[Notarial Seal]

My Commission expires *November 21, 1979*



## CONSENT AND AGREEMENT

The undersigned, CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation (hereinafter called the Lessee), the lessee named in the Lease (hereinafter called the Lease) referred to in the foregoing Assignment of Lease and Agreement (hereinafter called the Lease Assignment), hereby (a) acknowledges receipt of a copy of the Lease Assignment and (b) consents to all the terms and conditions of the Lease Assignment and agrees that:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease (which moneys are hereinafter called the Payments) due and to become due under the Lease or otherwise in respect of the Units leased thereunder, directly to First Security Bank of Utah, National Association, as Agent (hereinafter called the Vendor), the assignee named in the Lease Assignment, at 79 South Main Street, Salt Lake City, Utah 84111, Attention of Corporate Trust Division (or at such other address as may be furnished in writing to the Lessee by the Vendor);

(2) the Vendor shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Lessee under the Lease as though the Vendor were named therein as the Lessor;

(3) the Vendor shall not, by virtue of the Lease Assignment, be or become subject to any liability or obligation under the Lease or otherwise; and

(4) the Lease shall not, without the prior written consent of the Vendor, be terminated or modified, nor shall any action be taken or omitted by the Lessee the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof.

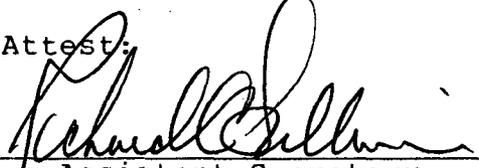
This Consent and Agreement, when accepted by the Vendor by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the Common-

wealth of Pennsylvania and, for all purposes, shall be construed in accordance with the laws of said State.

CONSOLIDATED RAIL CORPORATION,  
as Lessee,

by   
Assistant Treasurer-  
Cash Mobilization

[Corporate Seal]

Attest:  
  
Assistant Secretary



The foregoing Consent and Agreement is hereby accepted, as of the 1st day of May 1977.

FIRST SECURITY BANK OF UTAH,  
NATIONAL ASSOCIATION,  
not individually but solely  
as Agent,

by   
Authorized Officer