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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.
 CAROL B. MEDINA, JR.
 COUNSEL

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 75008 PARIS, FRANCE
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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
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2941 C ICE Washington, D.C.

June 1 1977
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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
 Consolidated Rail Corporation

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.

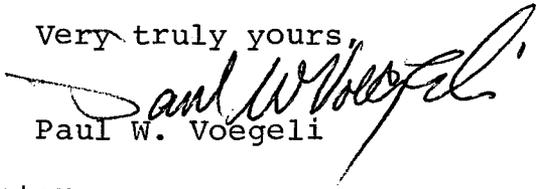
Agent-Vendor-Assignee: ✓

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

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RECORDATION NO. Filed & Recorded

JUN 1 1977 - 12 20 PM

INTERSTATE COMMERCE COMMISSION

AGREEMENT AND ASSIGNMENT

Dated as of May 1, 1977

between

FRUIT GROWERS EXPRESS COMPANY

and

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

AGREEMENT AND ASSIGNMENT dated as of May 1, 1977, between FRUIT GROWERS EXPRESS COMPANY (hereinafter called the Builder) and FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION, not individually but solely as Agent under a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement), a copy of which has been delivered to the Builder, said Agent, as so acting, being hereinafter called the Assignee.

WHEREAS the Builder and United States Trust Company of New York, acting as Trustee (hereinafter called the Vendee) under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with J.P. Morgan Interfunding Corp. (hereinafter called the Beneficiary), have entered into a Conditional Sale Agreement dated as of the date hereof (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);

WHEREAS the Vendee 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 lease to the Lessee of the Equipment; and

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;

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, and intending to be legally bound, the parties hereto agree as follows:

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

(a) all the right, title and interest of the Builder in and to each unit of the Equipment when and as severally delivered to and accepted by the Vendee, subject to payment by the Assignee to the Builder of the amount required to be paid pursuant to Section 4 hereof and of the amounts due from the Vendee to such Builder under the Conditional Sale Agreement;

(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 reimbursement for taxes paid or incurred by the Builder), 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; and

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

without any recourse hereunder, however, against the Builder for or on account of the failure of the Vendee to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement, 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 referred

to in Article 13 of the Conditional Sale Agreement or relieve the Vendee from its obligations to the Builder contained in Articles 2, 3, 4, 6 and 13 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Agreement, or any subsequent assignment pursuant to the provisions of Article 14 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 compliance by the Vendee with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. The Builder agrees that the warranty provisions contained in Item 3 of Annex A to the Conditional Sale Agreement shall also be for the benefit of the Assignee. The Builder further agrees that it will warrant to the Assignee and the Vendee that at the time of delivery of each unit of Equipment under the Conditional Sale Agreement it had legal title to such unit and good and lawful right to sell such unit and that such unit 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 the Builder further agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Builder under the Conditional Sale Agreement; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Vendee thereunder.

SECTION 3. 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, indebtedness in respect of the Purchase Price of the Equipment or to enforce any provision of the Conditional Sale Agreement, the Builder will indemnify,

protect and hold harmless the Assignee from and against all expenses, 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, on the basis of Article 14 of the Conditional Sale Agreement, 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 Lessee and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Lessee and not developed or purported to be developed by the Builder, the Builder agrees, except as otherwise specifically provided in Annex A to the Conditional Sale Agreement, 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 prompt notice to the Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give to 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 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the Conditional Sale Agreement, shall pay to the Builder, in immediately available funds, an amount equal to the Purchase Price of the Equipment as shown on the invoice therefor then being settled for which, under the terms of subparagraph (b) of the third paragraph of said Article 4, is payable in instalments, provided that there shall have been delivered to the Assignee (with a copy to the Vendee) on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to Messrs. Cravath, Swaine & Moore, special counsel to the Assignee, in such number of counterparts as may be reasonably requested by said special counsel:

(a) a bill or bills of sale from the Builder to the Assignee dated the date of delivery thereof and transferring to the Assignee the Builder's security title to and its security interest in such units, 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 such units and such units were 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 such units against demands of all persons whomsoever based on claims 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 § 2 of the Lease;

(c) an invoice of the Builder for the units of Equipment accompanied by or having endorsed thereon a certification by the Vendee and the Lessee as to their approval thereof;

(d) an opinion of counsel for the Builder, dated

as of the Closing Date, addressed to the Assignee and the Vendee, to the effect that the aforesaid bill or bills of sale have been duly authorized, executed and delivered by the Builder and, assuming that the Conditional Sale Agreement and this Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, are valid and effective to vest in the Assignee the Builder's security interest in the units of Equipment, 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) arising from, through or under the Builder; and

(e) a receipt from the Builder for any payment (other than the payment being made by the Assignee pursuant to the first paragraph of this Section 4) required to be made on such Closing Date to the Builder with respect to the Equipment, unless such payment is made by the Assignee with funds furnished to it for that purpose by the Vendee.

The obligation of the Assignee hereunder to make payment for any of the Equipment assigned hereunder is hereby expressly conditioned upon the Assignee's having on deposit, pursuant to the terms of the Participation Agreement, sufficient funds immediately available to make such payment and upon payment by the Vendee of the amount required to be paid by it pursuant to subparagraph (a) of the third paragraph of Article 4 of the Conditional Sale Agreement. In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of Equipment with respect to which payment has not been made by the Assignee.

SECTION 5. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Vendee 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 notice required in Article 14 of the Conditional Sale Agreement, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. The Builder hereby:

(a) represents and warrants to the Assignee, the Vendee and their successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the Vendee, the Conditional Sale Agreement is, in so far as the Builder is concerned, a legal, valid and existing agreement binding upon the Builder in accordance with its terms and that it is now in force without amendment thereto;

(b) agrees that it will from time to time, 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 all such further acts and things as may be necessary or 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 or any other instrument evidencing any interest of the Builder therein or in the Equipment.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the District of Columbia, provided, however, that the parties shall be entitled to all the rights conferred by Section 20c of the Interstate Commerce Act, such additional rights arising out of the filing, recording or depositing of the Conditional Sale Agreement and this Assignment as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement or this Assignment shall be filed, recorded or deposited, or in which any unit of the Equipment shall be located, and any rights arising out of the marking on the units of Equipment.

SECTION 8. This Assignment may be executed in any number of counterparts, but the counterpart delivered to

the Assignee shall be deemed to be the original counterpart. Although for convenience this Assignment is dated as of the date first above written, 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.

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.

FRUIT GROWERS EXPRESS COMPANY,

by

[Corporate Seal]

President

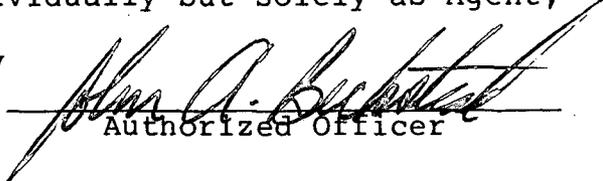
Attest:

Assistant Secretary

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

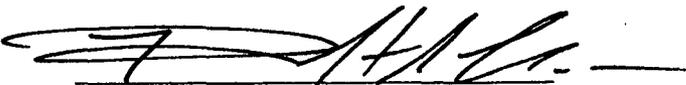
by

[Seal]



Authorized Officer

Attest:

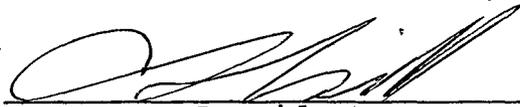


Authorized Officer

the Assignee shall be deemed to be the original counterpart. Although for convenience this Assignment is dated as of the date first above written, 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.

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.

FRUIT GROWERS EXPRESS COMPANY,

by 

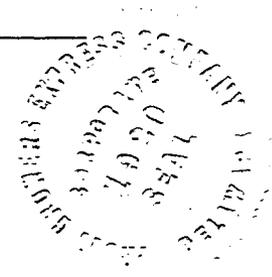
President

[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

COMMONWEALTH OF VIRGINIA,)
COUNTY OF *Sarasota* ,) ss.:

On this *31st* day of *May* 1977, before me personally appeared C.S. HILL, to me personally known, who, being by me duly sworn, says that he is President of FRUIT GROWERS EXPRESS COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, and 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.

Betty E. Dawson

Notary Public

[Notarial Seal]

My Commission expires

8/20/79

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

On this 31st 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 Authorized 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.

Richard B. Eubank
Notary Public

[Notarial Seal]

My Commission expires December 21, 1979

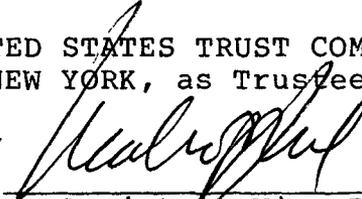


ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged as of May 1, 1977.

UNITED STATES TRUST COMPANY
OF NEW YORK, as Trustee,

by



~~Assistant~~ Vice President