

**CONRAIL**



8863

RECORDATION NO. .... Filed & Recorded

**JUN 24 1977 -7 15 PM**

RECORDATION NO. 8863<sup>B</sup> Filed & Recorded

**JUN 24 1977 -7 15 PM**

INTERSTATE COMMERCE COMMISSION June 23, 1977

INTERSTATE COMMERCE COMMISSION

Date 6/24/77  
Fee \$ 100.00

ICC Washington, D.C.

RECORDATION NO. 8863<sup>C</sup> Filed & Recorded

**JUN 24 1977 -7 15 PM**

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. .... Filed & Recorded

**JUN 24 1977 -7 15 PM**

8863-A

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

Dear Mr. Oswald:

INTERSTATE COMMERCE COMMISSION

Pursuant to Section 20c of the Interstate Commerce Act and as provided by Volume 49 Code of Federal Regulations Sections 1116.1 through 1116.4, we present the following documents, all dated as of April 15, 1977, for recordation:

- A) Interim Conditional Sale Agreement between *Vendor* General Motors Corporation and United States Trust Company, as Trustee, and

Interim Agreement and Assignment between General Motors Corporation, General Electric Credit Corporation and J.P. Morgan Interfunding Corp;

- B) Interim Lease of Railroad Equipment between Consolidated Rail Corporation and United States Trust Company, as Trustee, and

Interim Assignment of Lease and Agreement between United States Trust Company, as Trustee, General Electric Credit Corporation and J.P. Morgan Interfunding Corp.

The names and addresses of the parties to the documents are:

With respect to the documents described under A):

Vendor and Assignor	General Motors Corporation (Electro-Motive Division) LaGrange, Illinois
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Purchaser United States Trust Company ✓  
of New York, as Trustee  
45 Wall Street  
New York, New York 10005

Assignee J.P. Morgan Interfunding Co. ✓  
37 Wall Street  
New York, New York 10005

General Electric Credit Corporation ✓  
P.O. Box 8300  
Stanford, Connecticut 06904

With respect to the documents described under B):

Lessor United States Trust Company ✓  
of New York, as Trustee  
45 Wall Street  
New York, New York 10005

Lessee Consolidated Rail Corporation ✓  
1310 Six Penn Center Plaza  
Philadelphia, Pa. 19104

Guarantor General Motors Corporation and ✓  
General Electric Corporation

The equipment covered by the documents are:

<u>Type</u>	<u>AAR Mechanical Designation</u>	<u>No. of Units</u>	<u>Marked*</u>	<u>Numbers (Inclusive)</u>
3000 HP Model U23-B diesel- electric locomotive	CC	10	Conrail	2789-2798
3000 HP Model SD40-2 diesel- electric locomotive	CC	18	Conrail	6390-6407

Wrong #s  
see doc.

\*Each unit will have marked thereon the following legend:  
"Ownership subject to a Security Agreement filed  
under the Interstate Commerce Act, Section 20c".

Conditional Sale

Robert L. Oswald, Secretary  
June 23, 1977  
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<u>Type</u>	<u>AAR Mechanical Designation</u>	<u>No. of Units</u>	<u>Marked*</u>	<u>Numbers (Inclusive)</u>
2000 HP Model GP38-2 diesel- electric locomotive	BB	8.	Conrail	8173-8180

Two of our checks, in the amount of \$50.00 each, are enclosed to cover the recordation fees.

These documents have not been previously recorded with the Interstate Commerce Commission.

After retaining one counterpart original of the documents please return the remaining copy, stamped with your recordation number, to Consolidated Rail Corporation, Room 1138, Six Penn Center Plaza, Philadelphia, Pennsylvania, 19104, in the custody of the individual presenting them for recordation.

Sincerely,



A. Carl Kaseman, III  
Senior Tax & Finance Counsel

ACKIII/cmm

\*Each unit will have marked thereon the following legend:  
"Ownership subject to a ~~Security~~ Agreement filed  
under the Interstate Commerce Act, Section 20c".

Conditional Sale

8863 - C  
 RECORDATION NO. .... Filed & Recorded

**JUN 24 1977 -7 15 PM**  
**INLAND STATE COMMERCE COMMISSION**

INTERIM ASSIGNMENT OF LEASE AND AGREEMENT dated as of April 15, 1977 ("Assignment"), by and between UNITED STATES TRUST COMPANY OF NEW YORK, a New York trust company, acting as Trustee (the "Lessor" or the "Vendee") under a Trust Agreement dated as of the date hereof with General Electric Credit Corporation and J. P. Morgan Interfunding Corp. (collectively in the proportions described in Section 13 hereof, the "Beneficiary"), and GENERAL ELECTRIC CREDIT CORPORATION, a New York Corporation and J. P. MORGAN INTERFUNDING CORP., a Delaware corporation (collectively in the proportions described in Section 13 hereof, the "Vendor")

WHEREAS, the Vendee is entering into an Interim Conditional Sale Agreement dated as of the date hereof (the "Security Documentation") with General Motors Corporation (Electro-Motive Division), a Delaware corporation (the "Builder"), providing for the conditional sale to the Vendee of such units of railroad equipment (collectively, the "Units") described in Annex B thereto as are delivered to and accepted by the Vendee thereunder;

WHEREAS, the Lessor and Consolidated Rail Corporation (the "Lessee") are entering into an Interim Lease of Railroad Equipment dated as of the date hereof (the "Lease"), providing for the leasing by the Lessor to the Lessee of the Units;

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 defined in the Security Documentation), the Lessor agrees to assign for security purposes its rights in, to and under the Lease to the Vendor; and

WHEREAS, the Builder is willing to guarantee certain obligations of the Lessee under the Lease and of the Vendee under the Security Documentation pursuant to an Interim Guaranty Agreement (the "Guaranty Agreement") dated the date hereof;

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. Assignment for Security. 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 (such moneys 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 first, to satisfy the obligations of the Lessor under the Security Documentation, and second, to satisfy the obligations of the Vendee under the Guaranty Agreement, 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 by bank wire 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. No Liability of Vendors. 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. Certain Covenants of Lessor. 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 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.

4. Power of Attorney to Vendor. 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. Termination of Vendor's Estate. 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. Lessee to Discharge Certain Liens, Etc.

The Lessor will pay and discharge any and all claims, liens, charges or security interests (other than those created by the Security Documentation) created by the Lessor, or its successors and assigns (other than the Vendor) on the Lease or the rentals or other payments due or to become due thereunder claimed by any party 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. Lessor to Execute Instruments of Further Assurance; Limits on Assignment. 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; provided, however, that the Lessor may so assign its interests without such consent to (i) any bank or trust company incorporated under the National Bank Act or the laws of any state of the United States or (ii) any member of a group filing consolidated Federal tax returns that includes the Lessor, if, in each such case, such assignee assumes, in form and substance satisfactory to the Vendor, all obligations of the Lessor under the Security Documentation and this Assignment and, in the case of an assignee described in clause (ii), the Lessor guarantees, in form and substance satisfactory to the Vendor, all obligations of the Lessor under the Security Documentation and this Assignment.

8. Vendor May Assign. 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. Governing Law. 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. Notices. 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. Forebearance By Vendor. 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. No Recourse to Vendee. 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 or the Beneficiary 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.

13. Proportion of Participation. General Electric Credit Corporation and J. P. Morgan Interfunding Corp. are participating as "Beneficiary" and "Vendor" on the basis of an 81% participation by General Electric Credit Corporation and a 19% participation by J. P. Morgan Interfunding Corp. Whenever under any provision of this Assignment payment is to be made to or by the Beneficiary or Vendor or any property is to be owned by either of them, such payment or property shall be shared by such corporations in the proportion of their respective participations. Nevertheless, any discretionary action (including without limitation the giving of waivers and consents) to be taken by the Beneficiary or Vendor shall be effective only if taken by such corporations jointly.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, all as of the date first above written.

UNITED STATES TRUST COMPANY  
OF NEW YORK, as Trustee

By Irene R. Scocca

IRENE R. SCOCCA  
Asst. Vice President

GENERAL ELECTRIC CREDIT CORPORATION

By Arthur L. Gimpel

SENIOR LOAN OFFICER

J. P. MORGAN INTERFUNDING CORP.

By Howard P. K. Rees







## INTERIM CONSENT AND AGREEMENT

The undersigned, CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation (the "Lessee"), the Lessee named in the Lease (the "Lease") referred to in the foregoing Interim Assignment of Lease and Agreement (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 GENERAL ELECTRIC CREDIT CORPORATION, a New York corporation, and J. P. MORGAN INTERFUNDING CORP., a Delaware corporation (collectively in the proportions hereinafter described, the "Vendor"), the assignee named in the Lease Assignment, in federal or other immediately available funds in New York City to the account of the Vendor at Morgan Guaranty Trust Company of New York (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 Interim Consent and Agreement or of any of the rights created by any thereof.

General Electric Credit Corporation and J. P. Morgan Interfunding Corp. are participating as "Vendor" on the basis of an 81% participation by General Electric Credit Corporation and a 19% participation by J. P. Morgan Interfunding Corp. Any payment to be made to the Vendor hereunder shall be shared by such corporations in the proportion of their respective participations. Any consent to be given by the Vendor hereunder shall be effective only if given by such corporations jointly.

This Interim 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 State of

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

CONSOLIDATED RAIL CORPORATION,  
as Lessee,

By Richard T. F.

The foregoing Interim Consent and Agreement is hereby accepted, as of the 24<sup>th</sup> day of June 1977.

GENERAL ELECTRIC CREDIT CORPORATION

By Arthur L. Ginzold  
SENIOR LOAN OFFICER

J. P. MORGAN INTERFUNDING CORP.

By Thomas R. L. Sears





