

RECORDATION NO. 15013
 (Filed pursuant to the Provisions of Section 20c Interstate Commerce Act)
 CRAVATH, SWAIN & MOORE AUG 1 1986 4:40 PM

ONE CHASE MANHATTAN PLAZA
 NEW YORK, N. Y. 10005

INTERSTATE COMMERCE COMMISSION
 CRAWFORD MOORE

TELEPHONE
 212 422-3000
 TELEX
 RCA 233663
 WUD 125547
 WUI 620976
 TRT 177149

CABLE ADDRESSES
 CRAVATH, N. Y.
 CRAWATH, LONDON E. C. 2
 2 HONEY LANE, CHEAPSIDE
 LONDON EC2V 8BT, ENGLAND
 TELEPHONE: 1-606-1421
 TELEX: 8814901
 RAPID FAX/INFOTEC:
 1-800-1425

6-213A070

No. _____
 Date AUG 1 1986
 Fee \$ 20.00

ICC Washington, D. C.

July 30, 1986

- | | |
|--------------------------|------------------------|
| ALLEN F. MAULSBY | ROBERT F. MULLEN |
| STEWART R. BROSS, JR. | ALLEN FINKELSON |
| HENRY P. RIORDAN | RONALD S. ROLFE |
| JOHN R. HUPPER | JOSEPH R. SAHID |
| SAKUEL C. BUTLER | PAUL C. SAUNDERS |
| WILLIAM J. SCHRENK, JR. | MARTIN L. SENZEL |
| BENJAMIN F. CRANE | DOUGLAS D. BROADWATER |
| JOHN F. HUNT | ALAN C. STEPHENSON |
| GEORGE J. GILLESPIE, III | RICHARD L. HOFFMAN |
| WAYNE E. CHAPMAN | JOSEPH A. MULLINS |
| THOMAS D. BARR | MAX R. SHULMAN |
| MELVIN L. BEDRICK | STUART W. GOLD |
| GEORGE T. LOWY | JOHN W. WHITE |
| ROBERT ROSENMAN | JOHN E. BEERBOWER |
| JAMES H. DUFFY | EVAN R. CHESLER |
| ALAN J. HRUSKA | PATRICIA GEOGHEGAN |
| JOHN E. YOUNG | D. COLLIER KIRKHAM |
| JAMES M. EDWARDS | MICHAEL L. SCHLER |
| DAVID G. ORMSBY | DANIEL P. CUNNINGHAM |
| DAVID L. SCHWARTZ | KRIS F. HEINZELMAN |
| RICHARD J. HIEGEL | B. ROBBINS KIESSLING |
| CHRISTINE BESHAR | ROGER D. TURNER |
| ROBERT S. RIFKIND | PHILIP A. GELSTON |
| DAVID BOIES | RORY O. MILLSON |
| DAVID O. BROWNWOOD | NEIL P. WESTREICH |
| PAUL M. DODYK | FRANCIS P. BARRON |
| RICHARD M. ALLEN | RICHARD W. CLARY |
| THOMAS R. BROME | WILLIAM P. ROGERS, JR. |
| ROBERT D. JOFFE | JAMES D. COOPER |

MOTOR OPERATING UNIT

AUG 1 4 36 PM '86

OFFICE OF THE SECRETARY

Proctor
Handoff

Counterparts -
New Number

Consolidated Rail Corporation
Lease Financing Dated as of July 15, 1986
8-7/8% Conditional Sale Indebtedness Due April 1, 1998

Dear Ms. McGee:

Pursuant to 49 U.S.C. § 11303 and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Consolidated Rail Corporation, for filing and recordation, counterparts of each of the following documents:

1. (a) Conditional Sale Agreement dated as of July 15, 1986, among Consolidated Rail Corporation, Thrall Car Manufacturing Company and Greenville Steel Car Company, as Builders, and Whirlpool Acceptance Corporation, as Vendee; and

(b) Agreement and Assignment dated as of July 15, 1986, among Consolidated Rail Corporation, Thrall Car Manufacturing Company and Greenville Steel Car Company, as Builders, and Mercantile-Safe Deposit and Trust Company, as Agent.

2. (a) Lease of Railroad Equipment dated as of July 15, 1986, between Consolidated Rail Corporation, as Lessee, and Whirlpool Acceptance Corporation, as Vendee; and

(b) Assignment of Lease and Agreement dated as of July 15, 1986, between Whirlpool Acceptance

- A
- B
- C

Corporation, as Vendee, and Mercantile-Safe Deposit and Trust Company, as Agent.

The names and addresses of the parties to the aforementioned agreements are as follows:

1. Agent:

Mercantile-Safe Deposit and Trust Company
Two Hopkins Plaza
Baltimore, Maryland 21203

2. Vendee:

Whirlpool Acceptance Corporation
17177 N. Laurel Park Drive,
Livonia, Michigan 48152

3. Builders-Vendors:

Consolidated Rail Corporation
1310 Six Penn Center Plaza
Philadelphia, Pennsylvania 19103

Thrall Car Manufacturing Company
26th and State Streets
Chicago Heights, Illinois 60411

Greenville Steel Car Company
Union Street
Greenville, Pennsylvania 16125

4. Lessee:

Consolidated Rail Corporation
1310 Six Penn Center Plaza
Philadelphia, Pennsylvania 19104

Please file and record the documents referred to in this letter and index them under the names of the Agent, the Vendee, the Builders-Vendors and the Lessee.

The equipment covered by the aforementioned documents is listed on Exhibit A attached hereto.

The equipment bears the legend "Ownership Subject to Documents Filed with The Interstate Commerce Commission".

There is also enclosed a check for \$20 payable to the Interstate Commerce Commission, representing the fee for recording the Conditional Sale Agreement and related Agreement and Assignment (together constituting one document), and the Lease of Railroad Equipment and related Assignment of Lease and Agreement (together constituting one document).

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of the instruments and this transmittal letter for your files. It is requested that the remaining counterparts of the documents be delivered to the bearer of this letter.

Very truly yours,



Henry P. Riordan,
as Agent for Consolidated Rail
Corporation

Noreta R. McGee, Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423

Encls.

ANNEX B

to

Conditional Sale Agreement

<u>Builder*</u>	<u>Type</u>	<u>Builder's Specifications</u>	<u>Plant</u>	<u>Quantity</u>	<u>Lessee's Identification Numbers (Both Inclusive)</u>	<u>Base Price per Unit</u>	<u>Total</u>	<u>Place of Delivery</u>
Thrall Car Manufacturing Company	Bi-level enclosed auto racks	FA	Chicago Heights, Illinois	83	CR 1416-1453 CR 1455-1499	\$25,596	2,124,468	Chicago Heights, Illinois
Thrall Car Manufacturing Company	Tri-level enclosed auto racks	FA	Chicago Heights, Illinois	150	CR 3550-3699	32,750	4,912,500	Winder, Georgia
Thrall Car Manufacturing Company	Tri-level enclosed auto racks	FA	Chicago Heights, Illinois	50	CR 3500-3549	32,665	1,633,250	Winder, Georgia
Greenville Steel Car Company	Bi-level enclosed auto racks	FA	Greenville, Pennsylvania	50	CR 1300-1349	25,750	1,287,500	Greenville, Pennsylvania
Greenville Steel Car Company	Bi-level enclosed auto racks	FA	Greenville, Pennsylvania	66	CR 1350-1415	26,225	1,730,850	Greenville, Pennsylvania
Greenville Steel Car Company	Tri-level enclosed auto racks	FA	Greenville, Pennsylvania	50	CR 3700-3749	32,200	1,610,000	Greenville, Pennsylvania
				449			\$13,298,568	

* To the extent Consolidated Rail Corporation ("Conrail") purchases units of Equipment from the other Builders before the first Closing Date, Conrail will be the Builder hereunder as to all such units and will sell such units hereunder at the same price it paid for them.

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Henry P. Riordan
One Chase Manhattan Plaza
New York, NY. 10005

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 8-1-86 at 4:40 PM, and assigned re-
recording number(s). 15013 A,B&C

Sincerely yours,

Noreta R. McGee
Secretary

Enclosure(s)

SE-30
(7/79)

15013-A

AUG 1 1986 -4 40 PM

INTERSTATE COMMERCE COMMISSION [B-026]

AGREEMENT AND ASSIGNMENT

Dated as of July 15, 1986

among

CONSOLIDATED RAIL CORPORATION,
THRALL CAR MANUFACTURING COMPANY,
GREENVILLE STEEL CAR COMPANY

and

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent.

AGREEMENT AND ASSIGNMENT dated as of July 15, 1986, among CONSOLIDATED RAIL CORPORATION and/or THRALL CAR MANUFACTURING COMPANY and GREENVILLE STEEL CAR COMPANY (collectively the "Builders" and severally the "Builders"), MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent (together with its successors and assigns called the "Assignee") under a Participation Agreement dated as of the date hereof (the "Participation Agreement").

WHEREAS each of the Builders and Whirlpool Acceptance Corporation (the "Vendee"), have entered into a Conditional Sale Agreement dated as of the date hereof (the "CSA") providing for the, conditional sale and delivery on the conditions therein set forth, by the Builders and the conditional purchase by the Vendee of the railroad equipment described in Annex B to the CSA (the "Equipment"); and

WHEREAS the Vendee and Consolidated Rail Corporation (the "Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease") providing for the lease to the Lessee of the Equipment.

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (this "Assignment") WITNESSETH: That in consideration of good and valuable consideration paid by the Assignee to each Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties hereto agree as follows:

SECTION 1. Each Builder hereby assigns, transfers and sets over unto the Assignee:

(a) all the right, title and interest of such Builder in and to each unit of its Equipment when and as severally delivered to and accepted by the Vendee, subject to payment by the Assignee to such 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 subparagraph (a) of the third paragraph of Article 4 of the CSA;

(b) all the right, title and interest of such Builder in and to the CSA (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 sales or use taxes paid or incurred by such Builder), and except as aforesaid in and to any and all amounts which may be or become due or owing to such Builder under the CSA on account of the indebtedness in respect to the Purchase Price (as defined in the CSA) of the Equipment and interest thereon, and in and to any other sums becoming due from the Vendee under the CSA, other than those hereinabove excluded; and

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

without any recourse hereunder, however, against such 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 CSA; 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 such Builder to deliver its Equipment in accordance with the CSA or with respect to its warranties and agreements referred to in Article 13 of the CSA or relieve the Vendee from its obligations to such Builder contained in Articles 2, 3, 4, 6 and 13 of the CSA, it being agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 14 of the CSA, all obligations of such 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 such Builder. In furtherance of the foregoing assignment and transfer, each 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 such 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 CSA, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. Each Builder agrees that the Equipment shall be constructed in full accordance with the CSA and will deliver the same upon completion to the Vendee in accordance with the provisions of the CSA; and that,

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notwithstanding this Assignment, it will perform and fully comply with each of and all the covenants and conditions of the CSA set forth to be performed and complied with by such Builder. Each Builder further agrees that it will warrant to the Assignee, the Vendee and the Lessee that at the time of delivery of each unit of the Equipment under the CSA 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 CSA and the rights of the Lessee under the Lease; and each 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 such Builder under the CSA; all subject, however, to the provisions of the CSA and the rights of the Vendee thereunder.

SECTION 3. Each Builder agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the CSA for any installment of, or interest on, indebtedness in respect of the Purchase Price of the Equipment or to enforce any provision of the CSA, such 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 such Builder of any obligation with respect to the Equipment or the 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 such Builder. Each 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 CSA, 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 such Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving such Builder the right, at such 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 such Builder and in cases of designs, systems, processes, formulae or combinations specified by the Lessee and not developed or purported to be developed by such Builder, such Builder agrees, except as otherwise specifically provided in Annex A to the CSA, 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 its 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 indemnities contained in this Section 3 shall survive the expiration or termination of this Assignment with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, the Assignee. The Assignee will give prompt notice to the appropriate Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give to such Builder the right, at Builder's expense, to compromise, settle or defend against such claim. Each Builder agrees that any amounts payable to it by the Vendee or the Lessee with respect to the Equipment, whether pursuant to the CSA 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 the Closing Date fixed as provided in Article 4 of the CSA, shall pay to each Builder an amount equal to the Purchase Price of its 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 of the CSA, is payable in installments, 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 Cravath, Swaine & Moore, special counsel to the Assignee:

(a) a bill or bills of sale from such Builder to the Assignee dated the date of delivery thereof and transferring to the Assignee such Builder's security interest in such units, warranting to the Assignee, the Vendee and the Lessee at the time of delivery of such units under the CSA, such 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 CSA 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 such Builder under the CSA (together with, if such Builder is not the manufacturer of such Equipment, a certified copy of a similar document from the manufacturer to such Builder);

(b) a Certificate or Certificates of Acceptance with respect to the units of the Equipment as contemplated by Article 3 of the CSA and Section 2 of the Lease (together with, if such Builder is not the manufacturer of such Equipment, a certified copy of a similar document from the manufacturer to such Builder);

(c) an invoice of such 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 if the Purchase Price is other than the base price or prices set forth in Annex B to the CSA (together with, if such Builder is not the manufacturer of such Equipment, a certified copy of a similar document from the manufacturer to such Builder);

(d) an opinion of counsel for such 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 such Builder and are valid and effective to vest in the Assignee such Builder's security interest in its units of Equipment, free from all claims, liens, security interests and other encumbrances (other than those created by the CSA and the rights of the Lessee under the Lease) arising from, through or under such Builder (together with, if such Builder is not the manufacturer of such Equipment, a certified copy of a similar document from the manufacturer to such Builder); and

(e) a receipt from such Builder for any payment (other than the payment being made by the Assignee) required to be made on such Closing Date to such

Builder with respect to its Equipment, unless such payment is made by the Assignee with funds furnished to it for that purpose by the Vendee (together with, if such Builder is not the manufacturer of such Equipment, a certified copy of a similar document from the manufacturer to such Builder).

The obligation of the Assignee hereunder to make payment for any units 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 available to make such payment. In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the appropriate 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 CSA, 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 CSA, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. Each Builder hereby:

(a) represents and warrants to the Assignee, the Vendee and their successors and assigns, that the CSA 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 CSA is, insofar as such Builder is concerned, a legal, valid and existing agreement binding upon such Builder in accordance with its terms, that it is now in force without amendment thereto and that no authorization or approval from, consent of or filing, registration or qualification with any governmental or public body or authority of the United States of America, or of any of the States thereof or the District of Columbia, is necessary for the execution, delivery and performance by such Builder of the CSA;

(b) agrees that it will from time to time, at the request of the Assignee 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 CSA or any other instrument evidencing any interest of such Builder therein or in its Equipment.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all the rights conferred by 49 U.S.C. § 11303, such additional rights arising out of the filing or depositing of the CSA and this Assignment or financing statements under the Uniform Commercial Code as shall be conferred by the laws of the several jurisdictions in which the same shall be filed 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. This Assignment shall be effective when counterparts hereof have been delivered to Cravath, Swaine & Moore at their office in New York, N.Y. This Assignment shall be effective when counterparts hereof have been delivered to Cravath, Swaine & Moore at their office in New York, N.Y. A Builder which shall execute and deliver this Agreement shall be bound hereunder notwithstanding the failure of any other Builder to execute and deliver this Agreement or to perform its obligations hereunder. 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. The rights and obligations under this Agreement of each Builder are several in accordance with its interests and not joint. Accordingly, whenever in this Agreement a right is conferred or an obligation is imposed on a Builder, such right shall be construed to accrue to or to be enforceable against only the

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY,
as Agent,

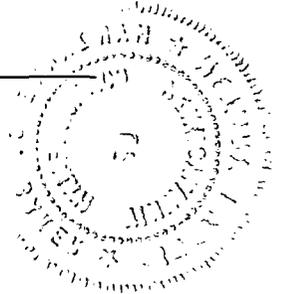
[Corporate Seal]

by

Attest:

Vice President

Assistant Corporate
Trust Officer



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 July 15, 1986.

WHIRLPOOL ACCEPTANCE
CORPORATION,

[Corporate Seal]

by

Attest:

Vice President

Assistant Secretary

COMMONWEALTH OF PENNSYLVANIA,)
) ss:
COUNTY OF PHILADELPHIA,)

On this 30th day of July 1986, before me personally appeared T. D. Schmidt, to me personally known, who, being by me duly sworn, says that he is the *Director - Financing* of CONSOLIDATED RAIL CORPORATION, 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.

Marianne C. Baker

Notary Public

[Notarial Seal]

My commission expires

MARIANNE C. BAKER
Notary Public, Phila., Phila. Co,
My Commission Expires Aug. 4, 1986

STATE OF ILLINOIS,)
) ss.:
COUNTY OF COOK,)

On this day of 1986, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a of THRALL CAR MANUFACTURING 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.

Notary Public

[Notarial Seal]

My Commission expires

