

13234

RECORDATION NO. Filed 1425

CRAVATH, SWAINE & MOORE

SEP 4 1981 - 11 10 AM

ONE CHASE MANHATTAN PLAZA

13234/B

NEW YORK, N. Y. 10005

INTERSTATE COMMERCE COMMISSION

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SEP 4 1981 - 11 10 AM
INTERSTATE COMMERCE COMMISSION

13234/C

SEP 4 1981 - 11 10 AM
INTERSTATE COMMERCE COMMISSION

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SEP 4 1981 - 11 10 AM
1-24-1981

INTERSTATE COMMERCE COMMISSION

SEP 4 1981
Date.....
Fee \$ 100.00

ICC Washington, D. C.

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August 25, 1981

Canadian National Railway Company
Lease Financing Dated as of July 1, 1981
15.50% Conditional Sale Indebtedness Due January 1, 1997

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. § 11303 and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Canadian National Railway Company for filing counterparts of the following documents:

New Number -

(1) (a) Conditional Sale Agreement dated as of July 1, 1981, between Marine Industrie Limitee and Exchange National Bank of Chicago, as Trustee; and

A -

(b) Agreement and Assignment dated as of July 1, 1981, between Marine Industrie Limitee and La Salle National Bank, as Agent.

B -

(2) (a) Lease of Railroad Equipment dated as of July 1, 1981, between Canadian National Railway and Exchange National Bank of Chicago, as Trustee; and

C -

(b) Assignment of Lease and Agreement dated as of July 1, 1981, between Exchange National Bank of Chicago, as Trustee and La Salle National Bank, as Agent.

Conveyance
David L. Egan

RECEIVED
SEP 4 11 02 AM '81
OPERATION DEPT.

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

(1) Vendor-Assignee-Agent:

La Salle National Bank,
135 South La Salle Street,
Chicago, Illinois 60690.

(2) Trustee-Owner Trustee:

Exchange National Bank of Chicago,
130 South La Salle Street,
Chicago, Illinois 60690.

(3) Builder-Vendor:

Marine Industrie Limitee,
Sorel (Tracy),
Quebec, Canada J3P 5P5.

(4) Lessee:

Canadian National Railway Company,
935 LaGauchetiere Street West,
Montreal, Quebec H3C 3N4,
Canada.

Please file and record the documents referred to
in this letter and index them under the names of the Vendor-
Assignee-Agent, the Trustee-Owner Trustee, the Builder-Vendor
and the Lessee.

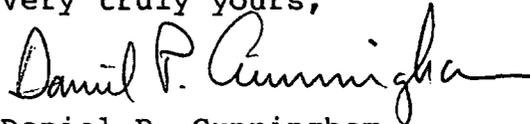
The equipment covered by the aforementioned docu-
ments is listed in Schedule A hereto:

There is also enclosed a check for \$100 payable to
the Interstate Commerce Commission, representing the fee for
recording the Conditional Sale Agreement and related Agree-
ment 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 docu-
ments with your official recording stamp. You will wish to

retain one copy of the instruments for your files. It is requested that the remaining counterparts be delivered to the bearer of this letter.

Very truly yours,



Daniel P. Cunningham
As Agent for
Canadian National Railway
Company

Agatha L. Mergenovich, Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423

Encls.

37

Type

Quantity

Lessee's
Road Numbers

CN 382431	CN 382534
CN 382432	CN 382535
CN 382433	CN 382536
CN 382434	CN 382537
CN 382435	CN 382538
CN 382437	CN 382539
CN 382438	CN 382540
CN 382439	CN 382542
CN 382440	CN 382543
CN 382441	CN 382545
CN 382444	CN 382546
CN 382445	CN 382547
CN 382446	CN 382548
CN 382447	CN 382549
CN 382448	CN 382550
CN 382453	CN 382551
CN 382469	CN 382552
CN 382494	CN 382553
CN 382495	CN 382556
CN 382496	CN 382558
CN 382501	CN 382559
CN 382502	CN 382560
CN 382503	CN 382563
CN 382504	CN 382564
CN 382505	CN 382565
CN 382506	CN 382566
CN 382514	CN 382581
CN 382515	CN 382582
CN 382516	CN 382585
CN 382519	CN 382586
CN 382520	CN 382611
CN 382524	CN 382612
CN 382525	CN 382618
CN 382526	CN 382622
CN 382531	CN 382623
CN 382532	CN 382625
CN 382533	CN 382626

SCHEDULE A

<u>Type</u>	<u>Quantity</u>	<u>Lessee's Road Numbers</u>	
Marine Industrie--			
One-hundred Ton Rotary Gondola Cars	300	CN 199600 through CN 199899 inclusive	
Marine Industrie--			
One-hundred Ton Steel Covered Hopper Cars	130	CN 382169	CN 382400
		CN 382362	CN 382401
		CN 382363	CN 382402
		CN 382364	CN 382403
		CN 382365	CN 382404
		CN 382366	CN 382405
		CN 382367	CN 382406
		CN 382368	CN 382407
		CN 382373	CN 382408
		CN 382374	CN 382409
		CN 382375	CN 382410
		CN 382376	CN 382411
		CN 382377	CN 382412
		CN 382379	CN 382413
		CN 382380	CN 382414
		CN 382381	CN 382415
		CN 382382	CN 382416
		CN 382383	CN 382417
		CN 382384	CN 382418
		CN 382386	CN 382419
		CN 382387	CN 382420
		CN 382389	CN 382421
		CN 382390	CN 382422
		CN 382391	CN 382423
		CN 382392	CN 382424
		CN 382394	CN 382427
		CN 382395	CN 382429
		CN 382399	CN 382430

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SEP 4 1981-11 10 AM

INTERSTATE COMMERCE COMMISSION

AGREEMENT AND ASSIGNMENT

Dated as of July 1, 1981

between

MARINE INDUSTRIE LIMITEE

and

LA SALLE NATIONAL BANK, as Agent

AGREEMENT AND ASSIGNMENT dated as of July 1, 1981, between MARINE INDUSTRIE LIMITEE (the "Builder") and LA SALLE NATIONAL BANK, a national banking association, acting as Agent under a Participation Agreement dated as of the date hereof ("Participation Agreement") (said Agent, as so acting, being hereinafter called "Assignee").

The Builder and EXCHANGE NATIONAL BANK OF CHICAGO, as Trustee ("Vendee") under a Trust Agreement dated as of the date hereof (the "Trust Agreement") with AMERICAN HOME ASSURANCE COMPANY and COMMERCE & INDUSTRY INSURANCE COMPANY, have entered into a Conditional Sale Agreement dated as of the date hereof (the "CSA") 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 CSA ("Equipment").

The Vendee and CANADIAN NATIONAL RAILWAY COMPANY ("Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof ("Lease") providing for the lease to the Lessee of the Equipment.

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT ("Assignment") WITNESSETH: that in consideration of the sum of One Dollar (\$1) 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, 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 to the Builder under the CSA;

(b) all the right, title and interest of the Builder in and to the CSA (except the right to 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 CSA on account of the indebtedness in respect of 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 the Builder's rights, titles, powers, privileges and remedies under the CSA;

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 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 the Builder to deliver the Equipment in accordance with the CSA or with respect to their respective warranties and agreements referred to in Article 13 of the CSA or relieve the Vendee from its obligations to the Builder contained in Articles 2, 3, 4, 6 and 13 of the CSA, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 14 of the CSA, 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 CSA, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. The Builder agrees that it shall construct the Equipment in full accordance with the CSA. The Builder agrees to deliver the Equipment to the Vendee in accordance with the provisions of the CSA; and that, 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 the Builder. The Builder further agrees that it will warrant to the Lessee, the Assignee and the Vendee 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, the Lessee and the Assignee and persons claiming by, through and under them; and the Builder further agrees that it will defend the title to such unit against the demands of all persons whomsoever, except the Lessee and the Assignee and persons claiming by, through and under them, based on claims originating prior to the delivery of such unit by the Builder under the CSA; all subject, however, to the provisions of the CSA and the rights of the Vendee thereunder. The Builder will not deliver any of the Equipment to the Vendee under the CSA until the CSA and the Lease have been filed in accordance with 49 U.S.C. § 11303 and deposited in the office of the Registrar General of Canada.

SECTION 3. The 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 or to enforce any provision of the CSA, 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 under the CSA or hereunder 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 (in which latter case the Builder will be subrogated to any claim of the Agent against the Trustee or Lessee, as the case may be, with respect to the matter indemnified against). 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 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 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 Vendee or 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 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 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 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 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 each Closing Date fixed as provided in Article 4 of the CSA with respect to a Group (as defined in said Article 4) of the Equipment, shall pay to the Builder by bank wire transfer at the Bank of Montreal, 119 Rue St. Jacques, Montreal, Quebec, Canada, for the account of Marine Industrie Limitee in Canadian dollars in immediately available funds an amount equal to the portion of the Purchase Price thereof which, under the terms of said Article 4, is payable in installments, provided that there shall have been delivered to the Assignee on or prior to such Closing Date, the following documents in form and substance satisfactory to it and to Messrs. Cravath, Swaine & Moore, its special counsel, 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 transferring to the Assignee the security interest of the Builder in such units and a bill or bills of sale from the Builder to the Vendee transferring to the Vendee and its successors and assigns all right, title and interest (other than the security interest assigned to the Assignee) of the Builder in such units, warranting to the Assignee and to the Vendee that, at the time of delivery of such units under the CSA, 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, the Lessee and the Assignee and persons claiming by, through and under them, and covenanting to defend the title to such units against demands of all persons whomsoever, to the extent of such warranty, based on claims originating prior to the delivery of such units by the Builder to the Vendee under the CSA;

(b) Certificates of Acceptance on behalf of the Vendee and the Lessee with respect to the units of the Equipment in such Group as contemplated by Article 3 of the CSA and § 2 of the Lease;

(c) the Builder's Invoice (as defined in the CSA) for the units of the Equipment in such Group 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 such Closing Date, addressed to the Assignee and the Vendee, to the effect that the bill or bills of sale described in clause (a) above have been duly authorized, executed and delivered by the Builder and are valid and effective to vest in the Assignee and the Vendee all right, title and interest of the Builder in the units of the Equipment in such Group free from all claims, liens, security interests and other encumbrances (other than those created by the CSA and the rights of the Lessee, the Vendee and the Assignee and persons claiming by, through and under them) 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 having on deposit, pursuant to the terms of the Participation Agreement, sufficient funds 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 CSA. 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 the 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. The Builder hereby represents and warrants to the Assignee, the Vendee and their respective successors and assigns, that the CSA and this Assignment were duly authorized by it and lawfully executed and delivered by it for a valid consideration, and that, assuming due authorization, execution and delivery by the Vendee and the Assignee, the CSA and this Assignment are, insofar as the Builder is concerned, legal, valid and binding agreements upon the Builder and, in the case of the CSA, enforceable in accordance with its terms and that it is now in force without amendment thereto.

The Builder agrees that:

(a) 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 and 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

(b) subsequent to the payment in full of the Purchase Price, upon request of the Assignee, its successors and assigns, each 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 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 State of Illinois; 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, recording or depositing of the CSA and this Assignment as shall be conferred by the laws of the several jurisdictions in which the CSA 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.

[Corporate Seal]

Attest:

Arnette Pines

MARINE INDUSTRIE LIMITEE,

by

[Signature]

Vice President, Railway Car
Division

by

[Signature]

LA SALLE NATIONAL BANK, as Agent,

by

[Signature]

Vice President

[Corporate Seal]

Attest:

[Signature]
Trust Officer and
Assistant Secretary

PROVINCE OF QUEBEC,)
) ss.:
CITY OF MONTREAL,)

On this 31st day of August 1981, before me personally appeared DONALD GUEVREMOUST and LAURENT HARCHAND, to me personally known, who, being by me duly sworn, say that they are Vice President, Railway Car Division and TREASURER, respectively, of MARINE INDUSTRIE LIMITEE, that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

U. A. Scibul - advocat
Commissioner for Oaths
District of Montreal

My Commission ^{FOR LIFE} expires

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

On this 25th day of August 1981, before me personally appeared R. K. WEBER, to me personally known, who, being by me duly sworn, says that he is VICE PRESIDENT of LA SALLE NATIONAL BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said national association, that said instrument was signed and sealed on behalf of said national association 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 association.

Loretta Harris
Notary Public

[Notarial Seal]

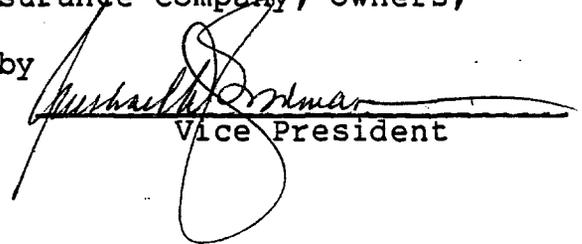
My Commission expires My Commission Expires July 12, 1984

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 1, 1981.

EXCHANGE NATIONAL BANK OF CHICAGO,
not in its individual capacity,
but solely as Trustee under a
Trust Agreement dated as of
July 1, 1981, among said Trustee
and American Home Assurance
Company and Commerce & Industry
Insurance Company, Owners,

by


Vice President