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# PEPPER, HAMILTON & SCHEETZ

ATTORNEYS AT LAW

1777 F STREET, N.W.  
WASHINGTON, D.C. 20006  
202-842-8100

10 SOUTH MARKET SQUARE  
HARRISBURG, PA 17108  
717-255-1155

100 RENAISSANCE CENTER  
DETROIT, MI 48243  
313-259-7110

20TH FLOOR  
THE FIDELITY BUILDING  
123 SOUTH BROAD STREET

PHILADELPHIA, PENNSYLVANIA 19109-1083

215-893-3000

CABLE ADDRESS "PEPFIL PHILADELPHIA"  
TELECOPIER (#485) 215-732-6029 • (#3600) 215-893-3000  
DEX (#3600) 215-545-3477 • TWX 711-490-2777

606 SOUTH OLIVE STREET  
LOS ANGELES, CA 90014  
213-617-8151

512 HAMILTON STREET  
ALLENTOWN, PA 18101  
215-434-0104

SIX CORPORATE PARK DRIVE  
WHITE PLAINS, NY 10604  
914-694-4500

RECORDATION NO. 10241-C Filed 12/25

APR 27 1984 11 20 AM

INTERSTATE COMMERCE COMMISSION

1-1184034

WRITER'S DIRECT DIAL NUMBER  
(215) 893-3084

April 26, 1984

HAND DELIVER

Interstate Commerce Commission  
Constitution Avenue and 12th Street, N.W.  
Washington, D.C. 20423

Attention: Ms. Mildred Lee,  
Office of the Secretary  
Public Records Section, Room 2303

Dear Ms. Lee:

Enclosed for filing in your office are two (2) originally executed and notarized copies and one (1) notarized photocopy of an Assignment of Lease and Agreement, dated as of April 25, 1984 between The Connecticut Bank and Trust Company, National Association, as Trustee under a Trust Agreement and Mercantile-Safe Deposit and Trust Company, as Agent, and this firm's check in the amount of \$50.00 to cover your office's filing fee therefor. The addresses of the parties to the agreement are as follows:

Mercantile-Safe Deposit and Trust Company  
2 Hopkins Plaza  
Post Office Box 2258  
Baltimore, Maryland 21203

The Connecticut Bank and Trust Company  
National Association  
1 Constitution Plaza  
Hartford, Connecticut 06115

The filing in question pertains to the assignment of the Lease and the Conditional Sale Agreement pertaining to forty (40) Model SD50 diesel-electric locomotives leased by Consolidated Rail Corporation from The Connecticut Bank and Trust Company, National Association.

No.  
Date ..... APR 27 1984 .....  
Fee \$ ..... 60.00 .....  
ICC Washington, D. C.

KEVIN L. SCOTT

*[Handwritten signature]*

RECEIVED  
APR 27 1984  
OPERATION 38

PEPPER, HAMILTON & SCHEETZ

Interstate Commerce Commission

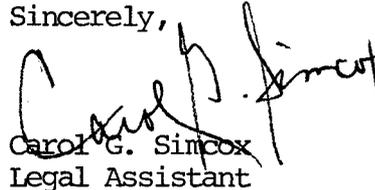
Page Two

April 26, 1984

Please provide the representative of this office who is delivering this package to you with a filing receipt of some sort for the documents described in the above.

Thanking you in advance for your attention to this matter, I am

Sincerely,



Carol G. Simcox  
Legal Assistant

CGS/im  
Enclosures



RECORDATION NO. 14241-C Filed 1425

APR 27 1984 - 11 20 AM

INTERSTATE COMMERCE COMMISSION

AL-1

Filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 on , 1984 at recordation number , and deposited in the Office of the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada on , 1984, at .

ASSIGNMENT OF LEASE AND AGREEMENT dated as of April 25, 1984 (this "Assignment"), between THE CONNECTICUT BANK AND TRUST COMPANY, NATIONAL ASSOCIATION, not individually but solely as Trustee (the "Lessor") under a Trust Agreement dated as of November 18, 1983 with J. P. Morgan Interfunding Corp., and as amended by Amendment, dated as of the date hereof, to said Trust Agreement, (the "Trust Agreement"), among the Lessor, J.P. Morgan Interfunding Corp. and Progress Leasing Corporation (the "Beneficiary"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent (the "Vendor") under a Participation Agreement dated as of November 18, 1983, and as amended as of the date hereof, (the "Participation Agreement").

WHEREAS the Lessor has entered into a Conditional Sale Agreement dated as of November 18, 1983, and as amended as of the date hereof, (the "CSA") with General Motors Corporation (Electro-Motive Division) (the "Builder"), providing for the sale to the Lessor of such units of railroad equipment (the "Units") described in Annex B thereto as are delivered to and accepted by the Lessor thereunder;

WHEREAS the Lessor and Consolidated Rail Corporation (the "Lessee") have entered into a Lease of Railroad Equipment dated as of November 18, 1983, and as amended as of the date hereof, (the "Lease") which provides for the leasing by the Lessor to the Lessee of the Units; and

WHEREAS, in order to provide security for the obligations of the Lessor under the CSA and as an inducement to the Vendor and the Investors (as defined in the Participation Agreement) for whom the Vendor is acting to invest in the CSA Indebtedness (as defined in the CSA), the Lessor has agreed to assign for security purposes certain of its rights in, to and under the Lease to the Vendor.

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

1. The Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor under the CSA, all the Lessor's rights, titles and interests, powers, privileges, and other benefits in, to and under the Lease (including those inuring to the benefit of the Beneficiary),

including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable from the Lessee by the Lessor under or pursuant to the provisions of the Lease (other than payments by the Lessee to the Lessor or the Beneficiary under Sections 6, 9 and 16 of the Lease and other than Interim Rent) whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the "Payments"), and the right to make all waivers, modifications 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 or with respect to 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 attorney for the Lessor 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 CSA which are due and payable on the date such Payments were required to be made pursuant to the Lease, and second, so long as no event of default or event which with the lapse of time and/or demand provided for in the CSA could constitute an event of default thereunder shall have occurred and be continuing, any balance shall be deemed to be held by the Vendor in trust for the Lessor and shall be paid immediately to 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 Section 3 of the Lease when due, the Vendor shall notify the Lessor and the Beneficiary at their addresses set forth in the Lease; provided, however, that the failure of the Vendor to so notify the Lessor and the Beneficiary shall not affect the obligations of the Lessor hereunder or under the CSA; except that the Vendor may not declare an event of default under subparagraph (a) or (f) of Article 15 of the CSA arising solely by reason of the failure of the Lessee to make any such rental payment which, pursuant to subparagraph (f) of Article 15 of the CSA, would not constitute an event of default thereunder if the Lessor complies with the provisions thereof, unless such event of

default is not remedied within 10 business days after notification is given as aforesaid.

2. The assignment made by the Lessor hereunder is executed only as security and, therefore, the execution and delivery of this Assignment by the Lessor 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 agreed that, notwithstanding this Assignment or any subsequent assignment, all obligations of the Lessor to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Lessor or persons other than the Vendor.

3. The Lessor represents and warrants to the Vendor that the Lessor has not entered into any assignment of its interests in the Lease other than this Assignment, has not entered into any amendment or modification of the Lease and has not created or incurred or suffered to exist with respect to the Lease or with respect to any of its interests therein any claim, lien or charge arising by, through or under the Lessor.

The Lessor agrees that it will from time to time and at all times, at the reasonable request of the Vendor or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions herein set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Vendor or intended so to be.

4. The Lessor will faithfully abide by, perform and discharge each and every obligation 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 of or from the obligations, covenants, conditions and agreements to be performed by the Lessee thereunder, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending, modifying or terminating the Lease and the Lessor agrees that any amendment, modification or termination thereof without such consent shall be void.

5. The Lessor does hereby constitute the Vendor its 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.

6. Upon the full discharge and satisfaction of all sums due from the Lessor under the CSA, the Lessor's assignment hereunder of its rights in, to and under the Lease shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Lessor. However, the Vendor, if so requested by the Lessor at that time, will (a) execute an instrument releasing its entire estate, right, title and interest in the Lease and transferring such estate, right, title and interest to the Lessor and (b) execute, acknowledge and deliver any and all further instruments required by law or reasonably requested by the Lessor in order to confirm or further assure the interest in the Lease which shall have reverted or been so transferred to the Lessor.

7. The Lessor will pay and discharge any and all taxes, claims, liens, charges or security interests (other than those created by the CSA) on the Lease or the rentals or other payments due or to become due thereunder claimed by any party from, through or under the Lessor, not arising out of the transactions contemplated by the CSA or the Lease (but including (to the extent it receives funds for such purpose) income taxes arising out of the receipt of rentals and other payments under the Lease and any other 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, 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 reasonable opinion of the Vendor, adversely affect such interests of the Vendor.

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

9. Subject to Section 12 of the Lease, 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.

10. 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 49 U.S.C. § 11303 and such additional rights arising out of the filing or deposit hereof, if any, as shall be conferred by the laws of the several jurisdictions in which this Assignment shall be filed or deposited.

11. The Lessor shall cause copies of all notices and other documents 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 CSA, or at such other address as the Vendor shall designate in writing.

12. The Vendor hereby agrees with the Lessor that the Vendor will not, so long as no event of default under Article 15 of the CSA 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, without the prior written consent of the Lessor, except the right to receive Payments under Paragraph 1 hereof and to enforce any right, power, agreement or indemnity under the Lease (other than (i) any rights, powers, privileges, authorizations or benefits under Sections 6, 9 and 16 of the Lease to the extent they inure to the benefit of the Lessor or the Beneficiary and (ii) the right to proceed under Section 10(a) or 10(b) of the Lease if an Event of Default under clause (A) of Section 10 of the Lease shall have occurred unless an event of default under Article 15(f) of the CSA shall also have occurred); provided, however, that if the Vendor does not seek to collect that portion of the Payments which would otherwise be paid to the Lessor pursuant to the second subparagraph of Paragraph 1 of this Assignment, the Lessor shall have the right, only so long as no event of default under Article 15 of the CSA has occurred and is continuing, to proceed by appropriate court action or actions, either at law

or in equity, to enforce performance by the Lessee of such obligations or to recover damages for the breach thereof as provided in Section 10(a) of the Lease, but may not, except as provided in Paragraph 13 of this Assignment, without the prior written consent of the holders of 66 2/3% in principal amount of the CSA Indebtedness, terminate the Lease; provided, further, however, that should the Lessee default in the observance or performance of any obligations contained in Sections 6, 9 or 16 of the Lease to the extent made for the benefit of the Lessor, and such default shall continue for 30 days after written notice thereof from the Lessor to the Lessee, the Lessor shall have the right (but, with respect to Sections 6 and 9 of the Lease, only so long as no event of default shall have occurred and be continuing under Article 15 of the CSA) to proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of such obligations or to recover damages for the breach thereof as provided in Section 10(a) of the Lease (which shall, except for any recovery in respect of the obligations of the Lessee under Section 16 of the Lease, constitute collateral security for the payment and performance of the obligations of the Lessor under the CSA pursuant to Paragraph 1 of this Assignment and shall be applied as therein provided), but may not, except as provided in Paragraph 13 of this Assignment, without the prior written consent of 66 2/3% in principal amount of the CSA Indebtedness, terminate the Lease. After the occurrence of an event of default under Article 15 of the CSA the Vendor agrees to (i) permit the Lessor (at Lessor's expense) to enforce performance by the Lessee or to seek to recover damages from the Lessee for the breach of any obligations of the Lessee contained in Sections 6 or 9 of the Lease to the extent made for the benefit of the Lessor (but, except as provided in Paragraph 13 of this Assignment, the Lessor shall not have the right to terminate the Lease without the prior written consent of the Vendor) or (ii) enforce (at Lessor's expense) such performance by, or seek to recover such damages from, the Lessee; provided, however, that Payments received pursuant to this sentence shall constitute collateral security for the payment and performance of the obligations of the Lessor under the CSA pursuant to Paragraph 1 of this Assignment and shall be applied as therein provided; and provided, further, however, that the foregoing provision shall not be deemed to prohibit or limit in any way the right of the Vendor to enforce any of the rights and remedies under Section 10(b) of the Lease. The right of the Lessor under the second preceding sentence shall not affect the rights of the Vendor, before or after the occurrence of an event of default

under Article 15 of the CSA, which arise under or with respect to Sections 6 or 9 of the Lease.

13. Notwithstanding any other provision of the Lease or of this Assignment, if an Event of Default has occurred under the Lease and the Vendor does not terminate the Lease within 120 days after written request to do so by the Beneficiary, the Beneficiary (on behalf of the Lessor) shall have the right during the next 30 days to terminate the Lease by written notice to the Vendor, each Investor and the Lessee.

14. It is expressly understood and agreed by and between the parties hereto, anything in this Assignment to the contrary notwithstanding, that each and all of the representations, warranties, undertakings and agreements in this Assignment made on the part of the Lessor are each and every one of them made and intended not as personal representations, warranties, undertakings and agreements by the Lessor, or for the purpose or with the intention of binding the Lessor 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 Assignment is executed and delivered by the Lessor solely in the exercise of the powers expressly conferred upon the said financial institution 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 Lessor or the Beneficiary (except as provided in the last paragraph of Article 12 of the CSA, Section 1.03 and the last sentence of Section 3.04 of the Trust Agreement and Paragraphs 7 and 13 hereof), 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.

15. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Vendor shall be deemed to be the original and all others shall be deemed to be duplicates thereof. It shall not be necessary that any counterpart be signed by both parties so long as each party shall sign at least one counterpart.

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

[Corporate Seal]

Attest:

*F. W. Kawam*

THE CONNECTICUT BANK AND TRUST COMPANY, NATIONAL ASSOCIATION,  
not individually but solely as Trustee,

by *F. W. Kawam*

F. W. Kawam, Vice President

[Corporate Seal]

Attest:

*Thomas A. Summerlin*

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,  
as Agent

by *Thomas A. Summerlin*

THOMAS A. SUMMERLIN  
VICE PRESIDENT

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

On this 20<sup>th</sup> day of April, 1984 before me personally appeared F. W. KAWAM, to me personally known, who, being by me duly sworn, says that he is an V. P. of The Connecticut Bank and Trust Company, National Association, 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.

Helen E Ferguson  
Notary Public

[Notarial Seal]

HELEN E. FERGUSON  
Notary Public, State of New York  
No. 31-4752849  
Qualified in New York County  
Commission Expires March 30, 1985

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

On this 25<sup>th</sup> day of April, 1984 before me personally appeared Thomas A. [unclear] to me personally known, who, being by me duly sworn, says that he is a V. P. of Mercantile-Safe Deposit and Trust 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.

Helen E Ferguson  
Notary Public

[Notarial Seal]

HELEN E. FERGUSON  
Notary Public, State of New York  
No. 31-4752849  
Qualified in New York County  
Commission Expires March 30, 1985