RECORDATION NO. 12014 25
JUL 17 1980 -3 00 PM
INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 12014-A Filed 1425
JUL 17 1980 -3 00 PM
INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 12014 25 B
JUL 17 1980 -3 00 PM
INTERSTATE COMMERCE COMMISSION

CRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N. Y. 10005

212 HANOVER 2-3000

TELEX
RCA 233663
WUD 125547
WUI 620976

RECORDATION NO. 12014-C Filed 1425
JUL 17 1980 -3 00 PM
INTERSTATE COMMERCE COMMISSION

No. 1-199A035
Date JUL 17 1980
Fee $ 100.00
ICC Washington, D. C.

MAURICE T. MOORE
WILLIAM B. MARSHALL
RALPH L. McAFEE
ROYALL VICTOR
HENRY W. deKOSMIAN
ALLEN F. MAULSBY
STEWARD R. BROSS, JR.
HENRY P. RIORDAN
JOHN R. HUPPER
SAMUEL C. BUTLER
WILLIAM J. SCHRENK, JR.
BENJAMIN F. CRANE
FRANCIS F. RANDOLPH, JR.
JOHN F. HUNT
GEORGE J. GILLESPIE, III
RICHARD S. SIMMONS
WAYNE E. CHAPMAN
THOMAS D. BARR
MELVIN L. BEDRICK
GEORGE T. LOWY
ROBERT ROSENMAN
JAMES H. DUFFY
ALAN J. HRUSKA
JOHN E. YOUNG
JAMES M. EDWARDS
DAVID G. ORMSBY

DAVID L. SCHWARTZ
RICHARD J. HIEGEL
FREDERICK A. O. SCHWARZ, JR.
CHRISTINE BESHAR
ROBERT S. RIFKIND
DAVID BOIES
DAVID O. BROWNWOOD
PAUL M. DODYK
RICHARD M. ALLEN
THOMAS R. BROME
ROBERT D. JOFFE
ROBERT F. MULLEN
ALLEN FINKELSON
RONALD S. ROLFE
JOSEPH R. SAHID
PAUL C. SAUNDERS
MARTIN L. SENZEL
DOUGLAS D. BROADWATER
ALAN C. STEPHENSON
RICHARD L. HOFFMAN
JOSEPH A. MULLINS
MAX R. SHULMAN
WILLIAM P. DICKEY
STUART W. GOLD
JOHN W. WHITE

COUNSEL
CARLYLE E. MAW
ALBERT R. CONNELLY
FRANK H. DETWEILER
GEORGE G. TYLER

ROSWELL L. GILPATRIC
L. R. BRESLIN, JR.
GEORGE B. TURNER
JOHN H. MORSE
HAROLD R. MEDINA, JR.
CHARLES R. LINTON
ALLEN H. MERRILL

4, PLACE DE LA CONCORDE
75008 PARIS, FRANCE
TELEPHONE: 265-81-54
TELEX: 290530

33 THROGMORTON STREET
LONDON, EC2N 2BR, ENGLAND
TELEPHONE 01-606-1421
TELEX: 881490I

CABLE ADDRESSES
CRAVATH, N. Y.
CRAVATH, PARIS
CRAVATH, LONDON E. C. 2

July 17, 1980

Consolidated Rail Corporation ("Conrail")
Lease Financing Dated as of June 15, 1980
13-1/8% Conditional Sale Indebtedness Due 1996

[CS&M Ref: 3909-202]

RECEIVED
JUL 17 2 56 PM '80
I.C.C.
FEE OPERATION BR.

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 Consolidated Rail Corporation ("Conrail"), for filing and recordation counterparts of the following:

New Number —

(1) (a) Conditional Sale Agreement dated as of June 15, 1980, between The Connecticut Bank and Trust Company and Consolidated Rail Corporation; and

— A

(b) Agreement and Assignment dated as of June 15, 1980, between Mercantile-Safe Deposit and Trust Company and Consolidated Rail Corporation.

— B

(2) (a) Lease of Railroad Equipment dated as of June 15, 1980, between Consolidated Rail Corporation and The Connecticut Bank and Trust Company; and

— C

(b) Assignment of Lease and Agreement dated as of June 15, 1980, between The Connecticut Bank and Trust Company and Mercantile-Safe Deposit and Trust Company.

Counterparts

The addresses of the parties to the aforementioned agreements are:

Vendee-Lessor-Trustee:

The Connecticut Bank and Trust Company,
One Constitution Plaza,
Hartford, Connecticut 06115.

Lessee-Builder-Vendor:

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

Agent-Vendor-Assignee:

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

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

The equipment covered by the aforementioned agreements consists of 556 100-ton general service gondola cars, AAR Mechanical Designation GB, bearing the road numbers of the Lessee CR581701-CR582256, both inclusive, and also bearing the legend "Owned by a Bank or Trust Company. Ownership Subject to a Conditional Sale Agreement Filed with the Interstate Commerce Commission".

Enclosed is our check for $100 for the required recordation fee. Please accept for recordation one counterpart of each of the enclosed agreements, stamp the remaining counterparts with your recordation number and return them to the delivering messenger along with your fee receipt addressed to the undersigned.

Very truly yours,

Kevin J. Grehan
As Agent for Consolidated
Rail Corporation.

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

Encls.

28

RECORDATION NO. 12014-A Filed 1425
JUL 17 1980 -3 00 PM
INTERSTATE COMMERCE COMMISSION

[CS&M Ref. 3909-202]

AGREEMENT AND ASSIGNMENT

Dated as of June 15, 1980

Between

CONSOLIDATED RAIL CORPORATION

and

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent

AGREEMENT AND ASSIGNMENT dated as of June 15, 1980, between CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation (the "Builder"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent (together with its successors and assigns, the "Assignee"), under a Participation Agreement dated as of the date hereof (the "Participation Agreement").

WHEREAS the Builder and The Connecticut Bank and Trust Company, acting as Trustee (together with its successors and assigns, the "Vendee") under a Trust Agreement dated as of June 15, 1980 (the "Trust Agreement"), with General Electric Credit Corporation, have entered into a Conditional Sale Agreement dated as of the date hereof (the "CSA") providing for the sale by the Builder and the purchase by the Vendee of the railroad equipment described in Annex B to the CSA (the "Equipment"); and

WHEREAS the Vendee and the Builder, as lessee (hereinafter in such capacity called 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 the sum of $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:

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

(b) all the right, title and interest of the Builder in and to the CSA (except the right to con-

struct and deliver the Equipment and the right to receive the payments specified in subparagraph (a) of the third paragraph of Article 4 thereof), 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 its 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 and 4 of the CSA, it being agreed that all obligations of the Builder to the Vendee with respect to the Equipment shall be and remain enforceable by the Vendee against and only against the Builder. 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 and will deliver the same upon completion 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.

SECTION 3. The Builder agrees 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, 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 arising out of a breach by the 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 by the Builder. The Builder's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 14 of the CSA, to strike any defense, setoff, counterclaim or recoupment asserted by the Vendee 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 and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Vendee 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 because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is

claimed to infringe on any patent or other right. The Assignee will give prompt notice to the Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give to the Builder the right, at the Builder's expense, to compromise, settle or defend against such claim. The Builder agrees that any amounts payable to it by the Vendee 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, shall pay to the Builder an amount equal to the Purchase Price of the Equipment as shown on the invoice therefor then being settled for which, under the terms of subparagraph (b) of the third paragraph of said Article 4, is payable in 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 Messrs. Cravath, Swaine & Moore, special counsel to the Assignee:

(a) a bill or bills of sale from the Builder to the Assignee dated the date of delivery thereof and transferring to the Assignee the Builder's security title to and its security interest in such units, warranting to the Assignee and to the Vendee that, at the time of delivery of such units under the 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 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 the Builder under the CSA;

(b) a Certificate or Certificates of Acceptance with respect to the units of the Equipment as contemplated by Article 3 of the CSA and § 2 of the Lease;

(c) an invoice of the Builder for the units of Equipment accompanied by or having endorsed thereon a certification by the Vendee as to its approval thereof if the Purchase Price is other than the base price or prices set forth in Annex B to the CSA;

(d) an opinion of counsel for the Builder, dated as of the Closing Date, addressed to the Assignee and the Vendee, to the effect that the aforesaid bill or bills of sale have been duly authorized, executed and delivered by the Builder and are valid and effective to transfer to the Assignee the Builder's security title to and its security interest in the 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 the Builder; and

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

The obligation of the Assignee hereunder to make payment for any of the Equipment assigned hereunder is hereby expressly conditioned upon the Assignee's having on deposit, pursuant to the terms of the Participation Agreement, sufficient funds 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, if any, 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. 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:

(a) represents and warrants to the Assignee and the Vendee that the CSA was duly authorized, 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 the Builder is concerned, a legal, valid and binding agreement enforceable against the Builder in accordance with its terms;

(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 as may be reasonably requested by the Assignee 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, subject to payment of the amounts referred to in Section 1(a) hereof, upon request of the Assignee, it will execute any and all instruments submitted by the Assignee 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 Commonwealth of Pennsylvania; 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 as shall be conferred by the laws of the several jurisdictions in which the CSA or this Assignment 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 and all other counterparts shall be deemed to be duplicates thereof. It shall not be necessary that any counterpart be signed by both the Assignee and the Builder so long as each such party has executed and delivered to the other one counterpart hereof. Although for convenience this Assignment is dated as of the date first above written, the actual dates

of execution hereof are the dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the date first above written.

CONSOLIDATED RAIL CORPORATION,

[Corporate Seal]

by _____
Vice President and Treasurer

Attest:

_____
Assistant Secretary

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent,

[Corporate Seal]

by _____
Assistant Vice President

Attest:

_____
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 June 15, 1980.

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

by _____
Authorized Officer

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

On this 15th day of July 1980, before me personally appeared H. W. Brown, to me personally known, who, being by me duly sworn, says that he is the Vice President and Treasurer 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.

Cheryl M. Heilbrunn
Notary Public

CHERYL M. HEILBRUNN
Notary Public, Phila., Phila. Co.
My Commission Expires June 25, 1984

[Notarial Seal]

My Commission expires:

STATE OF MARYLAND,)
) ss.:
CITY OF BALTIMORE,)

On this day of July 1980, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President 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.

Notary Public

[Notarial Seal]

My Commission expires:

[CS&M Ref. 3909-202]

AGREEMENT AND ASSIGNMENT

Dated as of June 15, 1980

Between

CONSOLIDATED RAIL CORPORATION

and

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent

AGREEMENT AND ASSIGNMENT dated as of June 15, 1980, between CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation (the "Builder"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent (together with its successors and assigns, the "Assignee"), under a Participation Agreement dated as of the date hereof (the "Participation Agreement").

WHEREAS the Builder and The Connecticut Bank and Trust Company, acting as Trustee (together with its successors and assigns, the "Vendee") under a Trust Agreement dated as of June 15, 1980 (the "Trust Agreement"), with General Electric Credit Corporation, have entered into a Conditional Sale Agreement dated as of the date hereof (the "CSA") providing for the sale by the Builder and the purchase by the Vendee of the railroad equipment described in Annex B to the CSA (the "Equipment"); and

WHEREAS the Vendee and the Builder, as lessee (hereinafter in such capacity called 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 the sum of $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:

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

(b) all the right, title and interest of the Builder in and to the CSA (except the right to con-

struct and deliver the Equipment and the right to receive the payments specified in subparagraph (a) of the third paragraph of Article 4 thereof), 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 its 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 and 4 of the CSA, it being agreed that all obligations of the Builder to the Vendee with respect to the Equipment shall be and remain enforceable by the Vendee against and only against the Builder. 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 and will deliver the same upon completion 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.

SECTION 3. The Builder agrees 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, 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 arising out of a breach by the 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 by the Builder. The Builder's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 14 of the CSA, to strike any defense, setoff, counterclaim or recoupment asserted by the Vendee 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 and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Vendee 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 because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is

claimed to infringe on any patent or other right. The Assignee will give prompt notice to the Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give to the Builder the right, at the Builder's expense, to compromise, settle or defend against such claim. The Builder agrees that any amounts payable to it by the Vendee 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, shall pay to the Builder an amount equal to the Purchase Price of the Equipment as shown on the invoice therefor then being settled for which, under the terms of subparagraph (b) of the third paragraph of said Article 4, is payable in 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 Messrs. Cravath, Swaine & Moore, special counsel to the Assignee:

(a) a bill or bills of sale from the Builder to the Assignee dated the date of delivery thereof and transferring to the Assignee the Builder's security title to and its security interest in such units, warranting to the Assignee and to the Vendee that, at the time of delivery of such units under the 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 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 the Builder under the CSA;

(b) a Certificate or Certificates of Acceptance with respect to the units of the Equipment as contemplated by Article 3 of the CSA and § 2 of the Lease;

(c) an invoice of the Builder for the units of Equipment accompanied by or having endorsed thereon a certification by the Vendee as to its approval thereof if the Purchase Price is other than the base price or prices set forth in Annex B to the CSA;

(d) an opinion of counsel for the Builder, dated as of the Closing Date, addressed to the Assignee and the Vendee, to the effect that the aforesaid bill or bills of sale have been duly authorized, executed and delivered by the Builder and are valid and effective to transfer to the Assignee the Builder's security title to and its security interest in the 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 the Builder; and

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

The obligation of the Assignee hereunder to make payment for any of the Equipment assigned hereunder is hereby expressly conditioned upon the Assignee's having on deposit, pursuant to the terms of the Participation Agreement, sufficient funds 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, if any, 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. 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:

(a) represents and warrants to the Assignee and the Vendee that the CSA was duly authorized, 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 the Builder is concerned, a legal, valid and binding agreement enforceable against the Builder in accordance with its terms;

(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 as may be reasonably requested by the Assignee 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, subject to payment of the amounts referred to in Section 1(a) hereof, upon request of the Assignee, it will execute any and all instruments submitted by the Assignee 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 Commonwealth of Pennsylvania; 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 as shall be conferred by the laws of the several jurisdictions in which the CSA or this Assignment 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 and all other counterparts shall be deemed to be duplicates thereof. It shall not be necessary that any counterpart be signed by both the Assignee and the Builder so long as each such party has executed and delivered to the other one counterpart hereof. Although for convenience this Assignment is dated as of the date first above written, the actual dates

of execution hereof are the dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the date first above written.

CONSOLIDATED RAIL CORPORATION,

[Corporate Seal]

by

Attest:

Vice President and Treasurer

Assistant Secretary

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent,

[Corporate Seal]

by

Assistant Vice President

Attest:

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 June 15, 1980.

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

by

Authorized Officer

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

On this day of July 1980, before me personally appeared H. W. Brown, to me personally known, who, being by me duly sworn, says that he is the Vice President and Treasurer 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.

Notary Public

[Notarial Seal]

My Commission expires:

STATE OF MARYLAND,)
) ss.:
CITY OF BALTIMORE,)

On this 16th day of July 1980, before me personally appeared R. E. Schreiber, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President 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.

Florence H Gilbert
Notary Public

[Notarial Seal]

My Commission expires: 7/1/82

[CS&M Ref. 3909-202]

AGREEMENT AND ASSIGNMENT

Dated as of June 15, 1980

Between

CONSOLIDATED RAIL CORPORATION

and

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent

AGREEMENT AND ASSIGNMENT dated as of June 15, 1980, between CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation (the "Builder"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent (together with its successors and assigns, the "Assignee"), under a Participation Agreement dated as of the date hereof (the "Participation Agreement").

WHEREAS the Builder and The Connecticut Bank and Trust Company, acting as Trustee (together with its successors and assigns, the "Vendee") under a Trust Agreement dated as of June 15, 1980 (the "Trust Agreement"), with General Electric Credit Corporation, have entered into a Conditional Sale Agreement dated as of the date hereof (the "CSA") providing for the sale by the Builder and the purchase by the Vendee of the railroad equipment described in Annex B to the CSA (the "Equipment"); and

WHEREAS the Vendee and the Builder, as lessee (hereinafter in such capacity called 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 the sum of $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:

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

(b) all the right, title and interest of the Builder in and to the CSA (except the right to con-

struct and deliver the Equipment and the right to receive the payments specified in subparagraph (a) of the third paragraph of Article 4 thereof), 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 its 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 and 4 of the CSA, it being agreed that all obligations of the Builder to the Vendee with respect to the Equipment shall be and remain enforceable by the Vendee against and only against the Builder. 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 and will deliver the same upon completion 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.

SECTION 3. The Builder agrees 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, 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 arising out of a breach by the 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 by the Builder. The Builder's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 14 of the CSA, to strike any defense, setoff, counterclaim or recoupment asserted by the Vendee 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 and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Vendee 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 because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is

claimed to infringe on any patent or other right. The Assignee will give prompt notice to the Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give to the Builder the right, at the Builder's expense, to compromise, settle or defend against such claim. The Builder agrees that any amounts payable to it by the Vendee 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, shall pay to the Builder an amount equal to the Purchase Price of the Equipment as shown on the invoice therefor then being settled for which, under the terms of subparagraph (b) of the third paragraph of said Article 4, is payable in 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 Messrs. Cravath, Swaine & Moore, special counsel to the Assignee:

(a) a bill or bills of sale from the Builder to the Assignee dated the date of delivery thereof and transferring to the Assignee the Builder's security title to and its security interest in such units, warranting to the Assignee and to the Vendee that, at the time of delivery of such units under the 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 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 the Builder under the CSA;

(b) a Certificate or Certificates of Acceptance with respect to the units of the Equipment as contemplated by Article 3 of the CSA and § 2 of the Lease;

(c) an invoice of the Builder for the units of Equipment accompanied by or having endorsed thereon a certification by the Vendee as to its approval thereof if the Purchase Price is other than the base price or prices set forth in Annex B to the CSA;

(d) an opinion of counsel for the Builder, dated as of the Closing Date, addressed to the Assignee and the Vendee, to the effect that the aforesaid bill or bills of sale have been duly authorized, executed and delivered by the Builder and are valid and effective to transfer to the Assignee the Builder's security title to and its security interest in the 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 the Builder; and

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

The obligation of the Assignee hereunder to make payment for any of the Equipment assigned hereunder is hereby expressly conditioned upon the Assignee's having on deposit, pursuant to the terms of the Participation Agreement, sufficient funds 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, if any, 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. 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:

(a) represents and warrants to the Assignee and the Vendee that the CSA was duly authorized, 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 the Builder is concerned, a legal, valid and binding agreement enforceable against the Builder in accordance with its terms;

(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 as may be reasonably requested by the Assignee 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, subject to payment of the amounts referred to in Section 1(a) hereof, upon request of the Assignee, it will execute any and all instruments submitted by the Assignee 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 Commonwealth of Pennsylvania; 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 as shall be conferred by the laws of the several jurisdictions in which the CSA or this Assignment 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 and all other counterparts shall be deemed to be duplicates thereof. It shall not be necessary that any counterpart be signed by both the Assignee and the Builder so long as each such party has executed and delivered to the other one counterpart hereof. Although for convenience this Assignment is dated as of the date first above written, the actual dates

of execution hereof are the dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the date first above written.

CONSOLIDATED RAIL CORPORATION,

[Corporate Seal]

by

Attest:

Vice President and Treasurer

Assistant Secretary

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent,

[Corporate Seal]

by

Attest:

Assistant Vice President

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 June 15, 1980.

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

by

Authorized Officer

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

On this day of July 1980, before me personally appeared H. W. Brown, to me personally known, who, being by me duly sworn, says that he is the Vice President and Treasurer 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.

_____
Notary Public

[Notarial Seal]

My Commission expires:

STATE OF MARYLAND,)
) ss.:
CITY OF BALTIMORE,)

On this day of July 1980, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President 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.

_____
Notary Public

[Notarial Seal]

My Commission expires: