

Countryparts - Edw. M. Lester

ALVORD AND ALVORD
ATTORNEYS AT LAW
918 SIXTEENTH STREET, N.W.
SUITE 200
WASHINGTON, D.C.
20006-2973
(202) 393-2266
FAX (202) 393-2156

ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

OF COUNSEL
URBAN A. LESTER

20314
RECORDATION NO. FILED 1425
OCT 21 1996 11:00 AM
INTERSTATE COMMERCE COMMISSION

RECEIVED
SURFACE TRANSPORTATION
BOARD

OCT 21 11 47 AM '96

October 18, 1996

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a), are two (2) copies of a Railroad Equipment Agreement, dated as of October 7, 1996, a primary document as defined in the Board's Rules for the Recordation of Documents.

The names and addresses of the parties to the enclosed document are:

Lessor: DJJ Leasing Ltd.
300 Pike Street
Cincinnati, Ohio 45202

Lessee: Consolidated Rail Corporation
2001 Market Street
Philadelphia, Pennsylvania 19101

A description of the railroad equipment covered by the enclosed document is:

300 gondola railcars bearing reporting marks and road numbers FCEN 96200 through FCEN 96499, inclusive.

Mr Vernon A. Williams
October 18, 1996
Page 2

Also enclosed is a check in the amount of \$22 00 payable to the order of the
Surface Transportation Board covering the required recordation fee

Kindly return one stamped copy of the enclosed document to the undersigned

Very truly yours,

A handwritten signature in cursive script, appearing to read "Robert W. Alvord".

Robert W Alvord

RWA/bg
Enclosures

**SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20427-0001**

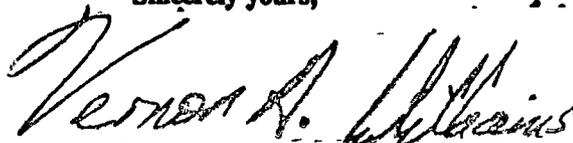
10/21/96

Robert W. Alvord
Alvord And Alvord
918 Sixteenth Street, NW, Ste. 200
Washington, DC., 20006-2973

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 10/21/96 at 11:50AM , and assigned recordation number(s). 20314 and 20270-C.

Sincerely yours,


Vernon A. Williams
Secretary

Enclosure(s)

\$ 44.00 The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid and in no way indicates acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one typed on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had an opportunity to examine your document.

Signature



20314

OCT 24 1996 11:11 AM

RAILROAD EQUIPMENT AGREEMENT

AMONG

DJJ LEASING LTD. (DJJ)

CONSOLIDATED RAIL CORPORATION (CR)

AND

DJJ TRANSPORTATION SERVICES, INC. (MANAGER)

DATED AS OF:

OCTOBER 7, 1996

COUNTERPART NO. 4 OF 5 EXECUTED COUNTERPARTS. THE EQUIPMENT IDENTIFIED IN THIS AGREEMENT OR EXHIBITS, AND ALL RIGHTS OF DJJ UNDER THIS AGREEMENT OR EXHIBITS ARE SUBJECT TO A LIEN AND SECURITY INTEREST GRANTED TO MEESPIERSON, N.V., AS AGENT (THE "AGENT"), UNDER A TERM LOAN AGREEMENT AMONG DJJ LEASING LTD., THE AGENT (OR, IF APPLICABLE, A SUCCESSOR AGENT) AND THE LENDERS PARTY THERETO, AND THE DOCUMENTS RELATED THERETO. TO THE EXTENT THAT THIS AGREEMENT OR EXHIBITS SHALL CONSTITUTE CHATTEL PAPER, NO SECURITY INTEREST HEREIN MAY BE CREATED THROUGH THE TRANSFER AND POSSESSION OF ANY COUNTERPART OTHER THAN COUNTERPART NO. 1.



The David J. Joseph Company

October 7, 1996

VIA Federal Express
Tel. (215) 209-7573

Mr Anthony L. Rosa, Jr
Consolidated Rail Corporation
2000 Market Street
Philadelphia, PA 19101

Dear Tony:

DJJ Leasing Ltd. ("DJJ"), an Ohio limited liability company, is pleased to enter into this agreement ("Agreement") to assign railcars to Consolidated Rail Corporation ("CR"), under the following terms and conditions agreed to by the parties.

Equipment: Three hundred (300) [REDACTED] railcars, [REDACTED], bearing reporting marks FCEN 96200-96499, inclusive (hereinafter collectively referred to as the "Units" and singularly referred to as a "Unit").

Term: The term shall commence on the first day of the calendar month following the date on which the last Unit is delivered to CR in accordance with the "Acceptance and Delivery" section of this Agreement (the "Commencement Date"). The term shall be effective as to each Unit for an initial term of [REDACTED] from the Commencement Date ("Expiration Date")

Option to Extend Term: In order for this Agreement to be extended for an additional period of [REDACTED] CR must give DJJ at least one hundred twenty (120) days notice of its intent to renew under the same terms and conditions as the existing Agreement.

Car Hire: The Units will be stenciled with FCEN reporting marks within the series 96200-96499. While the Units are on CR, the parties agree that CR will pay [REDACTED] for Units marked FCEN 96200-96349, inclusive, and [REDACTED] for Units marked FCEN 96350-96499, inclusive. These rates will be input into the industry's Car Hire Rate Master ("Charm File") utilizing the car hire ("Car Hire") deprecation bid and offer process. DJJ or the owner of the reporting marks will try to enter into bilateral agreements with other railroads for rates equal to, or greater than, the rates specified above [REDACTED]

In the event a Unit is returned to the shortline whose marks the Units bear: (1) CR will not be responsible for any Car Hire if the shortline loads a received empty or receives a load; (2) if the Unit is inadvertently received on the shortline empty, the shortline or DJJ must immediately notify [REDACTED] in writing, of this occurrence and DJJ and the shortline will be responsible for arranging for the movement of Units back to CR. For any occurrence where an empty is inadvertently received by the shortline and is properly documented as a received empty by DJJ or the shortline, CR will be responsible for [REDACTED] on the shortline at the above-specified hourly rate. DJJ will be responsible for providing documentation of the empty time on the shortline that CR is responsible for on a quarterly basis.

If requested by CR, DJJ will provide a coordinated effort to help arrange for inbound and outbound loadings. For any Unit not being utilized by CR, CR can request that DJJ remarket any such Unit elsewhere for use by another customer or in DJJ's private fleet. If DJJ locates such a use, DJJ shall delete the Unit for a specified period from the terms and conditions of this Agreement and CR shall have no obligation with respect to such Unit for the period specified. If DJJ cannot locate a use for such Unit, CR shall, at its own expense, place such Unit in storage and shall continue to be responsible for payment of Car Hire on such Unit at the rate of [REDACTED] for Units marked FCEN 96200-96349, inclusive, and [REDACTED] for Units marked FCEN 96350-96499, inclusive.

[REDACTED] while the Units are on CR's lines or track will the Units be subject to [REDACTED] reclaim or any other type of reclaim which could dilute the earnings of the units, except when a Unit is out of service for repair work for which DJJ has responsibility, in which case the provisions of Car Hire Rule 8 will apply.

[REDACTED]

DJJ, or its assigns, will be responsible for all Car Hire rate negotiations, administration and arbitration activities and the related expenses

Acceptance and Delivery: Within five (5) business days notice by DJJ to CR, CR will cause its authorized inspectors or representatives to inspect the Units at Thrall's manufacturing facility at Clinton, IL, and if such Units are found to be in good operating order and repair, to accept such Units (or so many of such Units as are acceptable to CR) and to execute and deliver to DJJ a certificate in the form of Exhibit A hereto, signed by a responsible officer of CR acknowledging the acceptance of the Units by CR, whereupon such Units shall be deemed to have been accepted by CR under this Agreement and shall be subject thereafter to all of the terms and conditions of this Agreement. If CR has not notified DJJ of any defect in any Unit within five (5) business days of the date such Unit was inspected by CR, such Unit or Units shall be conclusively deemed to be accepted by CR and to conform in all respects with the standards of condition set forth in this Agreement. If any Unit is not deemed by CR to be in good operating order and repair, CR shall so notify DJJ in a writing that specifies the nature of the defect in the Unit, and DJJ, at its sole option, may either (i) repair such Unit and immediately upon completion of such repairs, and subsequent inspection and acceptance by CR, the Unit shall be subject to all of the terms and provisions of this Agreement; or (ii) substitute a piece of equipment that is substantially similar to the acceptable Units delivered hereunder, in which case, and immediately upon CR's

satisfactory inspection and acceptance of same, such substituted equipment shall be a "Unit" and such Unit shall be subject to all of the terms and provisions of this Agreement

At DJJ's expense, all Units will be delivered to the nearest Conrail interchange with Thrall's manufacturing facility at Clinton, IL. A minimum of twenty-four (24) and a maximum of fifty (50) Units will be delivered no later than October 11, 1996; eight (8) Units the week of December 23rd; eight (8) Units the week of December 30th; and thereafter, a minimum of sixteen (16) Units per week shall be delivered until all three hundred (300) Units have been delivered. The number of Units and the delivery dates are based upon Thrall's production schedule given to DJJ, and may be subject to change.

Reporting Marks: DJJ shall be responsible for the cost and expense of stenciling the Units and the programming and application of AEI Tags. DJJ shall also be responsible for providing the letter of authorization necessary for CR to register the Units in the UMLER reporting system of the Association of American Railroads.

Modifications: Upon DJJ's prior approval, CR or one of its shippers, may, at CR's sole cost and expense, modify the Units, including but not limited to, installing troughs for coil/slab loading ("Modification"). At CR's sole expense, such Modification must be removed prior to the equipment being returned to DJJ, without diminishing or impairing the value that the Unit shall have had if such Modification had not occurred.

Use of Units: Except when a Unit has been deleted from this Agreement for a specified period of time pursuant to paragraph 3 of the Car Hire provision hereto, CR will be responsible for the use of the Units and shall indemnify and hold DJJ, its agents and assigns harmless from all liabilities relating to the use of the Units. Such indemnities and assumptions of liabilities and obligations herein provided for shall continue in full force and effect notwithstanding the expiration or other termination of this Agreement. CR will place the Units in CR-designated pool arrangements ("Arrangements") and will control the Units under applicable car service directives whereby the Units will not be returned to the shortline whose marks the Units bear. Such Arrangements shall not, in any way, be considered an assignment of this Agreement or any of CR's obligations hereunder, and shall only pertain to the assignment of Units to designated pools on CR's railroad.

CR agrees to use the Units in a careful and prudent manner, solely in the use, service and manner for which they were designed. It is understood and agreed to by both parties that CR intends to use the Units to primarily haul scrap metal and related metals products, as well as hazardous waste and other commodities commonly hauled in gondolas. CR shall, at all times, comply with all applicable statutes, laws, regulations, rules, directives and guidances of any regulatory agency with jurisdiction over their operations regarding the use of the Units, including but not limited to those related to environmental and hazardous substances.

Maintenance: Relative to all responsibilities in connection with maintenance and repair of the Units, DJJ Transportation Services, Inc., a Delaware corporation ("Manager"), shall perform and pay for all maintenance and repairs made necessary by ordinary wear and tear, excluding Rule 95 damage, damage caused by improper

methods used in the loading and unloading of the Units, and damage as a result of Modifications to the Units (hereinafter referred to as "Damage"), which is CR's responsibility, provided, however, that CR shall first be required to notify Manager of the location and condition of any Unit in need of repair. CR shall not repair, or authorize the repair of, any of the Units without Manager's prior written consent, except that running repairs, as specified in the Association of American Railroads Rules for Interchange and the Canadian Transport Commission regulations governing interchange (together "Interchange Rules") may be performed by railroads or hauling carriers without Manager's prior written consent. CR shall within five (5) business days of receipt of a payment by any third parties, pass through any such payment to Manager as reimbursement for costs or expenses which are the responsibility of Manager pursuant to this Agreement.

Insurance and Taxes: The Units shall be covered under CR's customary insurance coverage, which shall include property and general liability insurance. As soon as possible, but not exceeding ten (10) business days from delivery or use of the first Unit under this Agreement, CR shall and thereafter upon DJJ's request, furnish certificates or a letter of self-insurance to DJJ as proof of such insurance. Further, DJJ shall be responsible for, and shall indemnify and hold CR harmless from, all taxes due as a result of this Agreement, excluding only federal, state or local taxes imposed upon or measured by net income of CR.

DISCLAIMER OF WARRANTIES. DJJ, NOT BEING THE MANUFACTURER OF THE UNITS, NOR THE MANUFACTURER'S AGENT, HEREBY EXPRESSLY DISCLAIMS AND MAKES TO CR NO WARRANTY OR REPRESENTATION, EXPRESSED OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE FITNESS FOR USE, DESIGN OR CONDITION OF THE UNITS, THE QUALITY OR CAPACITY OF THE UNITS, THE WORKMANSHIP IN THE UNITS, THAT THE UNITS WILL SATISFY THE REQUIREMENT OF ANY LAW, RULE, SPECIFICATION OR CONTRACT PERTAINING THERETO, AND ANY GUARANTEE OR WARRANTY AGAINST PATENT INFRINGEMENT, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN DJJ AND CR, ARE TO BE BORNE BY CR. DJJ IS NOT RESPONSIBLE OR LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGE TO OR LOSSES RESULTING FROM THE INSTALLATION, OPERATION OR USE OF THE UNITS OR ANY UNIT. DJJ hereby acknowledges that any manufacturers' and/or sellers' warranties are for the benefit of both DJJ and CR. CR's acceptance of delivery of the Units shall be conclusive evidence as between DJJ and CR that each such accepted Unit is in all of the foregoing respects satisfactory to CR and that CR will not assert any claim of any nature whatsoever against DJJ based on all or any one or more of the foregoing matters.

Casualty Occurrence: In the event of a casualty occurrence to any Unit on CR, CR shall promptly notify DJJ, in writing, and if CR is responsible for such casualty, CR shall pay DJJ the settlement value for such Unit (as determined pursuant to Rule 107 of the Interchange Rules of the AAR) within sixty (60) days from date of invoice submitted to CR for such settlement value.

Return: At the expiration of this Agreement or any extension of the term, CR shall deliver possession of the Units to DJJ. Each Unit returned to DJJ pursuant to this Return section shall (i) meet the standards then in effect under the Interchange Rules of the Association of American Railroads; (ii) be free from any Damage which is CR's responsibility as defined in the Maintenance section above; and (iii) be jointly inspected by representatives of DJJ and CR. If any Unit is not delivered to DJJ on or before the Expiration Date or is so delivered, but not in compliance with this Return section, all obligations of CR under this Agreement with respect to each and every Unit shall remain in full force and effect.

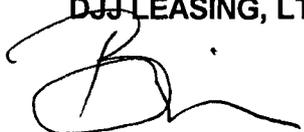
CR shall, at its own expense: (a) place the Units at up to six (6) locations on CR's lines for marshaling and joint inspection; (b) provide free storage at such locations for up to [REDACTED] following the arrival of at least [REDACTED] of the Units designated by CR for each storage location and thereafter, DJJ shall pay CR [REDACTED] per Unit, per day for storage until all Units are removed from CR's storage location, and, (c) provide a free move to any interchange point on CR's lines designated by DJJ.

Security Interest: CR may not, by operation of law or otherwise, assign, transfer, pledge, hypothecate or otherwise dispose of this Agreement or any interest herein, or sublet any of the Units, without DJJ's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding any provision contained herein to the contrary, CR acknowledges and agrees that DJJ may, upon prior written notice to CR, collaterally assign, pledge, transfer and grant to any financial institution, person, corporation or other entity (the "Assignee") providing financing to DJJ, a continuing security interest in, and lien upon, this Agreement. CR consents to the assignment, pledge, transfer, and grants to the Assignee a continuing security interest in, and lien upon, this Agreement and agrees that it shall remain obligated under this Agreement during the entire term hereof, provided however, no reduction in rights or increase in obligations shall be placed upon CR. The Assignee may assign all or part of DJJ's rights and interests to any other person, corporation or other entity without CR's consent, provided however, no reduction in rights or increase in obligations shall be placed upon CR. All of the obligations of CR under this Agreement shall be enforceable by the Assignee directly to CR, provided, however, the number of such assignments shall not exceed one (1) per calendar year during the term of this Agreement.

If this Agreement is acceptable to CR, please indicate CR's acceptance of the conditions by signing below and return via fax to (513) 345-4422. We will then follow-up by sending you two originals to be signed and one to be returned in overnight mail DJJ appreciates this opportunity to work with you, and looks forward to continuing our relationship

Sincerely,

DJJ LEASING, LTD.



Douglas F. McMillan
President

ACCEPTED:
CONSOLIDATED RAIL CORPORATION (CR)

BY Joseph C Osborne

NAME Joseph C Osborne

TITLE AVP - SERVICE, EQUIPMENT & SHORTLINE NETWORK

DATE October 9, 1996

ACCEPTED:
DJJ TRANSPORTATION SERVICES, INC.
(MANAGER)

BY. James H Goetz

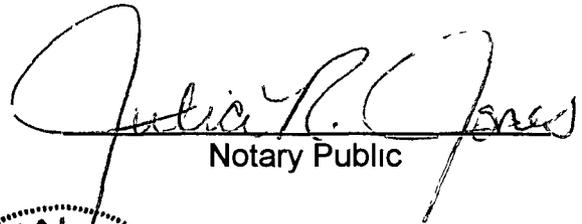
NAME: James H Goetz

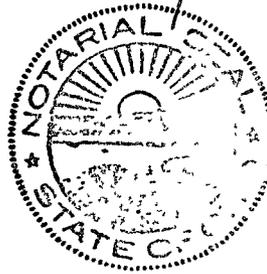
TITLE. Vice President

DATE October 7, 1996

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this 7th day of October, 1996, by Douglas F. McMillan, the President of DJJ Leasing Ltd., an Ohio limited liability company, on behalf of the company


Notary Public



JULIA R. JONES
Notary Public, State of Ohio
My Commission Expires Feb. 27, 2000

**EXHIBIT A
ACCEPTANCE CERTIFICATE**

The undersigned, _____, the duly authorized representative of Consolidated Rail Corporation (the "CR"), hereby certifies to DJJ Leasing, Ltd ("DJJ"), an Ohio limited liability company, that the _____ Railcar(s) bearing reporting mark(s) _____ (the "Unit(s)") has/have been inspected by CR and meet(s) all regulatory requirements, and is/are in all respects acceptable to CR. This certificate is being delivered pursuant to the Acceptance and Delivery section of that certain Agreement letter dated September ____, 1996, by and between CR and DJJ

IN WITNESS WHEREOF, the undersigned, being the _____ of CR, does hereunto set his hand as of this _____ day of _____, 1996, on behalf of CR

CONSOLIDATED RAIL CORPORATION

By: _____

Print Name. _____

Print Title _____