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**MORGAN, LEWIS & BOCKIUS**

RECORDATION NO. FILED 1425

PHILADELPHIA

COUNSELORS AT LAW

AUG 1 1990 - 2:30 PM

LOS ANGELES

2000 ONE LOGAN SQUARE

WASHINGTON

MIAMI

RECORDATION NO. FILED 1425

PHILADELPHIA, PENNSYLVANIA 19103-6900

INTERSTATE COMMERCE COMMISSION

NEW YORK

LONDON

TELEPHONE (215) 963-5000

16947

HARRISBURG

FRANKFURT

AUG 1 1990 - 2:30 PM

FAX (215) 963-5299

RECORDATION NO. FILED 1425

SAN DIEGO

REBECCA A CRAFT

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RECORDATION NO. FILED 1425

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BRUSSELS

DIAL DIRECT (215) 963-5257

RECORDATION NO. FILED 1425

AUG 1 1990 - 2:30 PM

INTERSTATE COMMERCE COMMISSION

TOKYO

AUG 1 1990 - 2:30 PM

July 31, 1990

0-213A012

Ms. ~~INTERSTATE~~ **Peta R. McGee**  
Secretary  
Interstate Commerce Commission  
Washington, DC

Re: Lease of Locomotives from NBB Allentown Lease Co., Ltd. to Consolidated Rail Corporation

Dear Ms. McGee:

Enclosed are an original and two originally executed counterparts of the primary document described below and four secondary documents related to the enclosed primary document, which secondary documents are also described below. All of the enclosed documents are to be recorded pursuant to Section 11303, Title 49, of the United States Code.

The enclosed primary document is:

Lease Agreement, dated as of July 31, 1990, between NBB Allentown Lease Co., Ltd., as lessor, and Consolidated Rail Corporation, as lessee.

The enclosed secondary documents are:

- (1) Lease Supplement No. 1, dated as of July 31, 1990, between NBB Allentown Lease Co., Ltd., as lessor, and Consolidated Rail Corporation, as lessee. The primary document to which this Lease Supplement is connected is being submitted for recording concurrently herewith.
- (2) Assignment Agreement, dated as of July 31, 1990, between Consolidated Rail Corporation, as assignor, and NBB

*Handwritten notes and signatures in the bottom left corner.*

Ms. Noreta R. McGee  
July 31, 1990  
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Allentown Lease Co., Ltd., as assignee. The primary document to which this Assignment Agreement is connected is being submitted for recording concurrently herewith.

- (3) Mortgage, Assignment and Security Agreement, dated as of July 31, 1990, between NBB Allentown Lease Co., Ltd., as mortgagor, and Barclays Bank PLC, Tokyo Branch, as mortgagee. The primary document to which this Mortgage is connected is being submitted for recording concurrently herewith.
- (4) Bank Security Agreement, dated as of July 31, 1990, between NBB Allentown Lease Co., Ltd., as debtor, and Barclays Bank PLC, Tokyo Branch, as secured party. The primary document to which this Bank Security Agreement is connected is being submitted for recording concurrently herewith.

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

Lease Agreement

Lessor:  
NBB Allentown Lease Co., Ltd.  
1-12-11 Nihonbashi, Chuo-ku  
Tokyo 103, Japan

Lessee:  
Consolidated Rail Corporation  
6 Penn Center Plaza, Room 1310  
Philadelphia, PA 19103

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Lease Supplement

Lessor:  
NBB Allentown Lease Co., Ltd.  
1-12-11 Nihonbashi, Chuo-ku  
Tokyo 103, Japan

Lessee:  
Consolidated Rail Corporation  
6 Penn Center Plaza, Room 1310  
Philadelphia, PA 19103

Assignment Agreement

Assignor:  
Consolidated Rail Corporation  
6 Penn Center Plaza, Room 1310  
Philadelphia, PA 19103

Assignee:  
NBB Allentown Lease Co., Ltd.  
1-12-11 Nihonbashi, Chuo-ku  
Tokyo 103, Japan

Mortgage, Assignment and Security Agreement

Borrower:  
NBB Allentown Lease Co., Ltd.  
1-12-11 Nihonbashi, Chuo-ku  
Tokyo 103, Japan

Agent:  
Barclays Bank PLC,  
Tokyo Branch  
CPO Box 466  
Tokyo 100-91, Japan

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Bank Security Agreement

Debtor:  
NBB Allentown Lease Co., Ltd.  
1-12-11 Nihonbashi, Chuo-ku  
Tokyo 103, Japan

Secured Party:  
Barclays Bank PLC,  
Tokyo Branch  
CPO Box 466  
Tokyo 100-91, Japan

The description of the equipment covered by the aforesaid Lease, Lease Supplement and Assignment is as follows:

Twenty-five (25) General Electric Dash 8-40CW diesel electric locomotives each marked on the sides in letters not less than one inch in height with the words "Ownership Subject to Documents Filed with the Interstate Commerce Commission" and bearing a nameplate with the legible inscription "TITLE TO THIS LOCOMOTIVE IS HELD BY NBB ALLENTOWN LEASE CO., LTD., THE LESSOR, WHICH HAS LEASED THIS LOCOMOTIVE TO CONSOLIDATED RAIL CORPORATION AND SUCH TITLE IS SUBJECT TO A MORTGAGE IN FAVOR OF BARCLAYS BANK PLC, AS AGENT" and bearing the road numbers 6050 through 6074 inclusive.

Included in the property covered by the Mortgage, Assignment and Security Agreement are twenty-five (25) General Electric Dash 8-40CW diesel electric locomotives and all additions, alterations and modifications thereto or replacements thereof and certain rights of NBB Allentown Lease Co., Ltd. in the Lease Agreement dated as of July 31, 1990 between NBB Allentown Lease Co., Ltd., as lessor, and

MORGAN, LEWIS & BOCKIUS

Ms. Noreta R. McGee  
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-Page 5

Consolidated Rail Corporation, as lessee, and the Assignment Agreement, dated as of July 31, 1990, between Consolidated Rail Corporation, as assignor, and NBB Allentown Lease Co., Ltd., as assignee.

Included in the collateral covered by the Bank Security Agreement are certain payments to be made in U.S. Dollars by Consolidated Rail Corporation, as lessee, to NBB Allentown Lease Co., Ltd., as lessor, in respect of twenty-five (25) General Electric Dash 8-40CW diesel electric locomotives.

A fee of Sixty Dollars (\$60.00) is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to:

Rebecca A. Craft, Esquire  
Morgan, Lewis & Bockius  
2000 One Logan Square  
Philadelphia, PA 19103

A short summary of each of the documents to appear in the index follows:

- 1) Lease Agreement:  
Lease Agreement between NBB Allentown Lease Co., Ltd., as lessor, 1-12-11 Nihonbashi, Chuo-ku, Tokyo 103, Japan and Consolidated Rail Corporation, as lessee, 6 Penn Center Plaza, Philadelphia, Pennsylvania, 19103, dated as of July 31, 1990, covering twenty-five (25) General Electric Dash 8-40CW diesel electric locomotives bearing road numbers 6050 through 6074 inclusive.
- 2) Lease Supplement No. 1:  
Lease Supplement No. 1 between NBB Allentown Lease Co., Ltd., as lessor, and having its principal office at 1-12-11 Nihonbashi, Chuo-ku, Tokyo 103, Japan and Consolidated Rail Corporation, as lessee, 6 Penn Center Plaza,

Ms. Noreta R. McGee  
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Philadelphia, Pennsylvania, 19103, dated as of July 31, 1990 covering twenty-five (25) General Electric 8-40CW diesel electric locomotives bearing road numbers 6050 through 6074 inclusive.

- 3) Assignment Agreement:  
Assignment between Consolidated Rail Corporation, as assignor, 6 Penn Center Plaza, Philadelphia, Pennsylvania, 19103 and NBB Allentown Lease Co., Ltd., assignee, 1-12-11 Nihonbashi, Chuo-ku, Tokyo 103, Japan, dated as of July 31, 1990 relating to the purchase of twenty-five (25) General Electric 8-40CW diesel electric locomotives bearing road numbers 6050 through 6074 inclusive.
- 4) Mortgage, Assignment and Security Agreement:  
Mortgage, Assignment and Security Agreement dated as of July 31, 1990 between NBB Allentown Lease Co., Ltd., as mortgagor, 1-12-11 Nihonbashi, Chuo-ku Tokyo 103, Japan and Barclays Bank PLC, Tokyo Branch CPO Box 466, Tokyo 100-91, Japan, securing mortgagor's obligations relating to twenty-five (25) General Electric Dash 8-40CW diesel electric locomotives.

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AUG 1 1990 - 2 30 PM  
INTERSTATE COMMERCE COMMISSION

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BANK SECURITY AGREEMENT

Between

NBB ALLENTOWN LEASE CO., LTD.,  
as Borrower

and

BARCLAYS BANK PLC,  
Tokyo Branch,  
as Agent

Dated as of July 31, 1990

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Filed with the Interstate Commerce Commission pursuant to 49 U.S.C. §11303  
on \_\_\_\_\_, 1990, at \_\_\_\_\_, recordation number \_\_\_\_\_, and deposited in the Office of  
the Registrar General of Canada pursuant to Section 90 of the Railway Act of Canada  
on \_\_\_\_\_, 1990, at \_\_\_\_\_.

## BANK SECURITY AGREEMENT

THIS BANK SECURITY AGREEMENT ("Agreement"), dated as of July 31, 1990, between NBB ALLENTOWN LEASE CO., LTD. (hereinafter called the "Borrower"), a corporation organized and existing under the laws of Japan, and BARCLAYS BANK PLC, a banking institution organized under the laws of England and acting through its branch in Tokyo, Japan, as Agent (hereinafter called the "Agent").

Now, it is hereby agreed as follows:

### Section 1. Definitions and Interpretation.

1.1 Definitions. Unless the context otherwise requires, all capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in Appendix X of this Agreement.

1.2 Interpretation. Unless the context otherwise requires, words importing the singular number shall include the plural and vice versa; persons shall include bodies corporate and vice versa; the headings are for convenience only and shall not affect the construction hereof; reference herein to any agreement, license or other instrument shall be deemed to include references to such agreement, license or other instrument as varied or replaced from time to time; references herein to any enactment shall be deemed to include references to such enactment as reenacted, amended or extended; references to sections and Exhibits are references, respectively, to sections of and Exhibits to this Agreement; and references to the Borrower, the Lenders, the Agent or the Lessee shall, where relevant, be deemed to be references to or to include, as appropriate, their respective successors or permitted assigns.

### Section 2. Security.

2.1 Pledge and Security Interest. In order to secure the payment by the Borrower to the Lenders of the Secured Obligations and the due and punctual performance by the Borrower of all of the terms, covenants, undertakings, conditions and provisions of this Agreement and the Loan Agreement, the Borrower hereby irrevocably and unconditionally pledges and grants to the Agent, for the ratable benefit of the Lenders, a security interest in the form of a pledge (shichiken) in all of the Borrower's right, title and interest in and to the following (collectively, the "Collateral"):

(a) all payments required to be paid in U.S. Dollars by Lessee under the Lease in respect of Basic Rent, Basic Termination Payment, Casualty Value Termination Payment and Purchase Price or Deficiency Payment, as the case may be;

(b) all payments required to be made by a Swap Party pursuant to a Swap Agreement;

(c) all amounts required to be paid to Lessor pursuant to Section 20(c)(iv), (vi) and (vii) of the Lease;

(d) all amounts (other than amounts payable in Yen) required by the terms of the Lease to be paid to Lessor to be held as security for the obligations of the Lessee under the Lease, including, without limitation, pursuant to Sections 10, 11 and 15 of the Lease; and

(e) the Dollar Account and all amounts from time to time credited thereto in favor of the Borrower

and any proceeds thereof or rights with respect to any of the foregoing, present and future.

2.2 Release and Discharge. The security interest granted pursuant to this Agreement shall not be released or discharged by payment or satisfaction of any part of the Secured Obligations but shall be a continuing security interest and shall extend to cover any sum or sums of money or other obligations which shall for the time being constitute the balance of the Secured Obligations until all of the Secured Obligations are paid or discharged in full, or until the Loan is assumed by the Lessee in accordance with Section 19 of the Participation Agreement and any Secured Obligations not so assumed are paid or discharged in full. Upon the payment or discharge in full of the Secured Obligations, or the assumption of the Loan by Lessee and payment or discharge of Secured Obligations as aforesaid, the security interest granted pursuant to this Agreement shall be released and discharged, the Agent shall execute and deliver to Borrower such instruments or documents as Borrower shall reasonably request to evidence (on the public record or otherwise) such release and discharge, and any amounts remaining in the Dollar Account shall be disposed of at the discretion of the Borrower.

2.3 Acknowledgment by Lessee. On the Delivery Date the Borrower shall deliver to the Agent and the Swap Party originally executed counterparts of each of the Acknowledgments in the forms attached hereto as Exhibits A and B.

Section 3. Representations, Warranties and Covenants.

3.1 No Other Liens. The Borrower hereby represents and warrants as of the date hereof and as of the Closing that it has not assigned or permitted any Lien to subsist over, and covenants and agrees that throughout the Security Period it shall not assign or cause any Lien to subsist over, the Collateral, save for the security interests hereby constituted.

3.2 Maintenance of Collateral. The Borrower hereby covenants and agrees throughout the Security Period (a) to maintain the Collateral as provided herein or in any other Operative Document, and (b) to take all reasonable actions to ensure that all amounts described in Section 2.1(a) through (d) above are paid into the Dollar Account; provided, however, that if no Bank Event of Default has occurred and is continuing (x) to the extent amounts paid to the Dollar Account on account of Basic Rent with respect to any Lease Period Date exceed the principal and accrued interest due on the Loan on such Lease Period Date, the Borrower may withdraw such excess amount or any portion thereof from the Dollar Account as required to make payments due any Swap Party under a Swap Agreement, (y) all amounts paid to the Dollar Account pursuant to Section 2.1 (c) or (d) hereof shall be retained in the Dollar Account until required to be released or applied as specified in the Lease or any other Operative Document, and (z) any amounts not of the nature described in Section 2.1 (a) through (d) hereof which may inadvertently be deposited in the Dollar Account may be released to Borrower. Except as provided in clause (x) above, amounts paid to the Dollar Account pursuant to Section 2.1(a) shall be paid out in accordance with Section 4.2 of the Loan Agreement.

3.3 Reports. The Borrower will promptly furnish to the Agent such information and reports concerning the Collateral as the Agent may from time to time reasonably require.

Section 4. Payments to Agent. Upon the occurrence and during the continuance of a Bank Event of Default all cash, proceeds, checks, drafts, orders and other instruments for the payment of money received by the Borrower on account of any Collateral shall be delivered promptly in the form received (properly endorsed but without recourse for collection where required) to the Agent, and the Borrower agrees not to commingle any such collections or proceeds with its other funds or property and

agrees to hold the same in trust for or on behalf of the Lenders until delivered to the Agent.

Section 5. Remedies; Application of Proceeds of Sale.

5.1 Remedies. If a Bank Event of Default shall have occurred and be continuing and repayment of the Loan shall have been accelerated pursuant to Section 5.1 of the Loan Agreement, the Agent shall have and may exercise, with respect to the Collateral, all the rights and remedies of a secured party under any applicable law in Japan (regardless of whether or not the same is in effect in the jurisdiction in which such exercise occurs); and in addition, the Agent may do any or all of the following: (a) instruct the Lessee or any other obligor with respect to all or any part of the Collateral to make payments thereunder directly to the Agent's account specified in such instruction or, to the fullest extent permitted by law upon reasonable notice to the Borrower, sell or transfer the Collateral or any interest therein at public or private sale, for cash or upon credit and for immediate or future delivery and for such price and on such terms as the Agent shall reasonably deem appropriate, and negotiate, endorse, assign, transfer and deliver to the purchaser or purchasers thereof (which may be the Agent or a Lender or Lenders) the Collateral so sold, each purchaser at any sale to hold the property sold absolutely free from any claim or right on the part of the Borrower; (b) retain the Collateral in satisfaction of the Secured Obligations by the giving of notice to such effect to the Borrower; or (c) upon reasonable notification to the Borrower, proceed by suit or suits to foreclose on the Collateral and sell or transfer the Collateral or any portion thereof pursuant to judgment or decree of a court or courts having jurisdiction. Notwithstanding anything herein to the contrary, in all events, recourse against the Borrower shall be limited to the Collateral and the Mortgaged Property as provided in Section 4.3 of the Loan Agreement.

5.2 Application of Proceeds. The proceeds of any sale or transfer or other application of the whole or any part of the Collateral, and any moneys collected in respect of the Collateral, shall be applied as follows:

First, against charges, costs, losses, expenses and indemnities payable to the Agent or the Lenders under the Operative Documents;

Second, to the payment of accrued and unpaid interest on the Loan;

Third, to the payment of principal of the Loan then due and unpaid; and

Fourth, to the payment in full of all other Secured Obligations.

Any surplus remaining after such applications shall be remitted to the Borrower or as a court of competent jurisdiction may otherwise direct.

5.3 Exercise of Remedies. No Lender shall have any right to pursue, or to request the Agent to pursue, any remedy hereunder unless the Required Lenders shall have approved such action or shall have directed the Agent to take such action.

Section 6. General Authority. The Borrower hereby constitutes and appoints the Agent, upon the occurrence and during the continuance of a Bank Event of Default (but, in the case of any action of the Agent under Section 5 hereof, only if repayment of the Loan shall have been accelerated pursuant to Section 5.1 of the Loan Agreement), as its true and lawful attorney-in-fact, with full power of substitution, in the Agent's name or otherwise, for the purposes of carrying out the provisions of this Agreement and taking any action or executing or filing any instrument, or any of the foregoing, necessary to accomplish the purposes hereof, which appointment is irrevocable and coupled with an interest. Without limiting the generality of the foregoing, the Agent shall have the right, in its own name or in the Borrower's name or otherwise from time to time to exercise any or all of the powers of the Borrower with respect to any of the Collateral; provided, however, that the Agent shall not have any obligation whatsoever to exercise any of such powers hereby conferred upon it or to make any demand or any inquiry as to the nature or sufficiency of any payment received by it, or to present or file any claim or notice or take any other action whatsoever with respect to the Collateral. No action taken by the Agent or omitted to be taken by it in good faith shall give rise to any defense, counterclaim or offset in favor of the Borrower or otherwise affect any of the Secured Obligations.

Section 7. Miscellaneous.

7.1 No Waiver, etc. No failure on the part of the Agent or any Lender to exercise, and no delay in exercising, and no course of dealing with respect to, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise of the same or any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

7.2 Documents, Records. The Borrower agrees to deliver to the Agent an original executed copy of the Lease and the passbook (if any) and any and all other documentary evidence or records in respect of the Dollar Account.

7.3 Security Interest. The security interest created by this Agreement shall be in addition to and without prejudice to any other securities or guarantees from time to time held by the Agent or any Lender in respect of the Secured Obligations and this Agreement shall remain in full force and effect until payment and discharge in full of the Secured Obligations or the assumption of the Loan by the Lessee pursuant to Section 19 of the Participation Agreement and the payment and discharge of any Secured Obligations not so assumed, notwithstanding the liquidation, bankruptcy, insolvency or reorganization of the Borrower or any other fact or contingency whatsoever.

7.4 Governing Law. This Agreement shall take effect under and be governed by and construed in accordance with the laws of Japan.

7.5 Notices. All notices, requests and demands hereunder shall be given or made in the manner provided for in Section 7.2 of the Loan Agreement.

7.6 Benefit of Agreement. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns, except that the Borrower may not assign its rights or obligations hereunder without the prior written consent of the Agent.

7.7 Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart shall for all purposes be deemed to be an original, and all such counterparts together shall constitute one and the same instrument.

7.8 Books of the Lenders. Subject to any evidence to the contrary and in the absence of manifest error, the books of each Lender shall be determinative of any amount owed to such Lender and of all matters relating to this Agreement with respect to such Lender.

7.9 Amendments. This Agreement may not be amended or modified except by an instrument in writing signed by each of the parties hereto and with the prior written consent of the Lessee.

7.10 Agent. The provisions of Article 8 of the Loan Agreement respecting the appointment, powers, etc. of the Agent shall apply with like effect in this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Bank Security Agreement to be executed by their respective duly authorized representatives as of the day and year first above written.

Borrower:

NBB ALLENTOWN LEASE CO., LTD.

By:

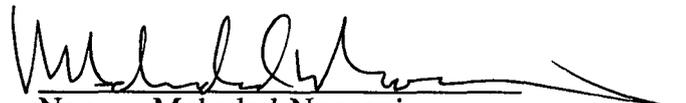


Name: Peter G. Turbott  
Title: Attorney-in-fact

Lender:

BARCLAYS BANK PLC  
Tokyo Branch  
in its capacity as Agent

By:



Name: Mehrdad Noorani  
Title: Vice President

Government or any other governmental authority; (iv) as a result of any rule, regulation, order or other action by the ICC, the Department of Transportation or other governmental body of the United States of America or Canada having jurisdiction, the use of such property in the normal course of rail transportation shall have been prohibited for a period of six consecutive months, unless Lessee, prior to the expiration of such six-month period, shall have undertaken and shall be diligently carrying forward all steps which in its judgment are necessary or desirable to permit the normal use of such property by Lessee or, in any event, if such use shall have been prohibited for a period of 12 consecutive months; (v) the operation or location of such property, while under requisition for use by the Government, in any area excluded from coverage by any insurance policy in effect with respect to such property required by the terms of Section 11 of the Lease, if Lessee shall be unable to obtain indemnity in lieu thereof from the Government; or (vi) the confiscation, seizure or requisition of use of such property by the Government or any other governmental authority for a period in excess of 12 consecutive months or for a period continuing beyond the Term.

"Excepted Interests" means (i) any indemnity payments and interest thereon paid or payable to Lessor under any Operative Document which do not constitute Collateral, (ii) proceeds of public liability insurance in respect of the Items of Equipment paid or payable as a result of insurance claims made, or losses suffered by, the Lessor, (iii) proceeds of insurance maintained in respect of the Items of Equipment by or for the benefit of the Lessor and not required under Section 11 of the Lease, (iv) any amounts paid or payable in Yen under any Operative Document, (v) any amounts paid or payable to the Lessor under any Operative Document to reimburse the Lessor for expenses incurred by it in exercising its rights under, or performing or complying with any of the obligations of the Lessee under, any Operative Document, (vi) any payments or other amounts which would otherwise constitute Mortgaged Property or Collateral, which have been released from the Lien of the Mortgage or the Bank Security Agreement, as the case may be, (vii) the right to exercise inspection rights pursuant to Section 12 of the Lease, (viii) the right to approve as satisfactory any accountants, engineers, counsel, or other Persons to render services for or issue opinions to the Lessor pursuant to express provisions of the Operative Documents, (ix) the right as Lessor to seek specific performance of the covenants of the Lessee under the Lease relating to the protection, insurance and maintenance of the Items of Equipment and to maintain separate insurance with respect to the Items of Equipment pursuant to Section 11 of the Lease; (x) the right to demand, collect, sue for or otherwise receive and enforce the payment of any Excepted Interests; and (xi) the right to amend, settle or reduce the amount of any claim payable to Lessor as an Excepted Interest.

"Government" means the government of the United States of America and any instrumentality, subdivision or agency thereof and the government of

Canada and any instrumentality, subdivision or agency thereof, except that for the purpose of the indemnity referred to in clause (v) of the definition of "Event of Loss," those instrumentalities, subdivisions and agencies included within the definition of "Government" shall be only those instrumentalities, subdivisions and agencies the obligations of which bear the full faith and credit of the United States of America or Canada.

"ICC" means the Interstate Commerce Commission and any agency or instrumentality of the United States government succeeding to its functions.

"Indemnified Person" means any Person identified as such in Section 20(b) of the Lease.

"Initial Storage Period" is defined in Section 5(d) of the Lease.

"Interest Payment Date" means the last day of a Lease Period.

"Item of Equipment" means (i) each of the General Electric Dash 8-40CW diesel electric locomotives (or an improved model of the same Manufacturer) listed by Lessee's road numbers 6050 through 6074 inclusive in the Lease Supplement executed and delivered on the Delivery Date; (ii) any Replacement Item of Equipment which may from time to time be substituted, pursuant to Section 8(a) or 10(a) of the Lease, for an Item of Equipment leased under the Lease; and (iii) any and all Parts incorporated or installed in or attached to such Item of Equipment and any and all Parts removed from such Item of Equipment so long as title thereto shall remain vested in Lessor in accordance with the terms of Section 8 of the Lease after removal from the Item of Equipment. The term "Items of Equipment" also means, as of any date of determination, all Items of Equipment then leased under the Lease.

"Japanese Tax Law" means the Tax Act and all official interpretations thereof, and published decisions and rulings (tsutatsu) and administrative guidance (gyoseishido) by the National Tax Administration Agency and other relevant government agencies and all judicial precedents and decisions of national or local offices of the National Tax Tribunal applicable thereto.

"Kumiai-in" means any Person who is a party to a Tokumei Kumiai Agreement with Lessor and any transferee of such Person entered on Lessor's Record of Ownership for the purposes of the Operative Documents and the transactions contemplated thereby.

"Lease Agreement" or "Lease" means the Lease Agreement, dated as of July 31, 1990, between Lessor and Lessee, and all annexes, supplements and exhibits thereto, all as amended, modified or supplemented from time to time.

"Lease Expiry Date" means the day immediately preceding the fourteenth anniversary of the Delivery Date; provided, that where any amount is expressed to be payable on the Lease Expiry Date, for such purposes only the Lease Expiry Date means the fourteenth anniversary of the Delivery Date.

"Lease Period" means each of (x) the period commencing on and including the Delivery Date and ending on and including the first Lease Period Date, and (y) each period commencing on and including the day immediately following the prior Lease Period Date (other than the last) and ending on and including the next subsequent Lease Period Date.

"Lease Period Date" means each of the Lease Period Dates listed on Schedule A to the Lease.

"Lease Supplement" means the Lease Supplement, substantially in the form of Exhibit A to the Lease, to be entered into between Lessor and Lessee on the Delivery Date for the purpose of leasing the Items of Equipment under and pursuant to the terms of the Lease, any amendment to the Lease Supplement and any subsequent Lease Supplement executed and delivered in connection with a Replacement Item of Equipment.

"Lenders" means (a) Barclays Bank PLC, a banking institution organized under the laws of England, acting through its branch in Tokyo, Japan, as long as such institution is registered pursuant to Section 7.11 of the Loan Agreement, and (b) any other Lender which is registered pursuant to Section 7.11 of the Loan Agreement, including, without limitation, Permitted Assigns.

"Lessee" means Consolidated Rail Corporation, a Pennsylvania corporation, and its successors and permitted assigns.

"Lessee's Record of Ownership" means the Lessee's record of ownership required to be kept by the Lessee pursuant to Section 13(c) of the Lease.

"Lessor" means NBB Allentown Lease Co., Ltd., a corporation organized under the laws of Japan, and its successors and permitted assigns.

"Lessor's Cost" for each Item of Equipment means an amount equal to \$1,332,488.00.

"Lessor's Event of Default" shall have the meaning set forth in Section 22(b) of the Lease Agreement.

"Lessor's Liens", with respect to any Operative Document except the Loan Agreement, the Mortgage and the Bank Security Agreement, means any Liens on or relating to or affecting any Item of Equipment or any Part arising as a result of (i) claims against or affecting Lessor or any Kumiai-in, other than claims arising solely from Lessor's participation in the transactions contemplated by the Lease, the Participation Agreement, or any other Operative Document; (ii) acts or omissions of Lessor or any Kumiai-in not expressly permitted under the terms of the Lease, the Participation Agreement or any other Operative Document; (iii) Taxes imposed against Lessor or any Kumiai-in which are not indemnified against by Lessee pursuant to the Participation Agreement; or (iv) claims against Lessor or any Kumiai-in arising out of the voluntary transfer (other than pursuant to Sections 9, 10, 15 or 19 of the Lease) by Lessor (without the consent of Lessee) of its interest in any Item of Equipment or the Lease or by such Kumiai-in of its interest in the Tokumei Kumiai Agreement to which it is a party or any right to receive payment thereunder or any interest in the business of the Tokumei Kumiai contemplated thereunder.

"Lessor's Liens", with respect to the Loan Agreement, the Mortgage and the Bank Security Agreement, means any Liens on or relating to or affecting the Collateral or the Mortgaged Property arising as a result of (i) claims against or affecting Lessor or any Kumiai-in, other than claims arising solely from Lessor's participation in the transactions contemplated by the Lease, the Participation Agreement, or any other Operative Document; (ii) acts or omissions of Lessor or any Kumiai-in not expressly permitted under the terms of the Lease, the Participation Agreement or any other Operative Document; (iii) Taxes imposed against Lessor or any Kumiai-in which are not indemnified against by Lessee pursuant to the Participation Agreement; or (iv) claims against Lessor or any Kumiai-in arising out of the voluntary transfer (other than pursuant to Sections 9, 10, 15 or 19 of the Lease) by Lessor (without the consent of Agent) of its interest in any Item of Equipment or the Lease or by such Kumiai-in of its interest in the Tokumei Kumiai Agreement to which it is a party or any right to receive payment thereunder or any interest in the business of the Tokumei Kumiai contemplated thereunder.

"Lessor's Record of Ownership" means the Lessor's record of ownership required to be kept by the Lessor pursuant to the Custodian Agreement.

"LIBOR Rate" for any Lease Period shall mean the average offered rate per annum for deposits in Dollars which appear on the Reuters Screen LIBO Page as of 11:00 a.m., London time, two Eurodollar Business Days before the first day of the applicable Lease Period for deposits of a duration equal to such Lease Period in an amount substantially equal to the aggregate principal amount of the Loan provided, however, if fewer than two offered rates appear, the "LIBOR Rate" for any Lease Period shall mean the rate per annum for deposits in Dollars which

appears on the Telerate Page 3750 as of 11:00 a.m., London time, two Eurodollar Business Days before the first day of the applicable Lease Period for deposits of a duration equal to such Lease Period in an amount substantially equal to the aggregate principal amount of the Loan; further provided, if such rate does not appear on the Telerate Page 3750, the "LIBOR Rate" for any Lease Period shall mean the rate per annum at which deposits in Dollars are offered by the Agent to prime banks in the London interbank market, at 11:00 a.m., London time, two Eurodollar Business Days before the first day of the applicable Lease Period for deposits of a duration equal to such Lease Period in an amount substantially equal to the aggregate principal amount of the Loan.

"Lien" means any mortgage, pledge, lien, charge, encumbrance, lease, assignment, exercise of rights, security interest or claim.

"Loan" means the loan made by Lender to Borrower pursuant to the Loan Agreement in an amount equal to U.S. \$26,649,760.00, which sum is 80% of the aggregate Lessor's Cost for all Items of Equipment, or the amount outstanding under the Loan Agreement at any time.

"Loan Agreement" means the Loan Agreement, dated as of July 31, 1990, between Borrower and Barclays Bank PLC, as Lender and as Agent, and all annexes, supplements and exhibits thereto, all as amended and supplemented from time to time pursuant to the Loan Agreement and Section 19 of the Participation Agreement.

"Loan Date" means the date upon which the Loan is made available to Borrower, which date shall be the Closing Date.

"Loan Guaranty" means the Loan Guaranty Agreement, dated as of July 31, 1990, between NBB and Barclays Bank PLC, as Agent, and all annexes, supplements and exhibits thereto, all as amended, modified or supplemented from time to time.

"Loan Payment Dates" means Lease Period Dates.

"Loan Payment Installment" means the amount of Dollars due and payable on the chronologically corresponding Loan Payment Date, as set forth on Schedule A to the Loan Agreement.

"Manufacturer" means General Electric Company, a New York corporation, and its successors and assigns.

"Monthly Date", with respect to Schedules B and D to the Lease and Schedule B to the Loan Agreement, means each date set forth in any such Schedule.

"Mortgage" means the Mortgage, Assignment and Security Agreement, dated as of July 31, 1990, between Lessor and Barclays Bank PLC, as Agent, and all annexes, supplements and exhibits thereto, all as amended, modified or supplemented from time to time.

"Mortgaged Property" shall have the meaning set forth in Section 2 of the Mortgage.

"National Tax Administration Agency" means the "National Tax Administration Agency" (Kokuzeicho) of Japan and includes any national tax administration regional bureau (Kokuzeikyoku) and national tax local office (Zeimusho) and any successor agencies.

"NBB" means Nomura Babcock & Brown Co., Ltd., a corporation organized under the laws of Japan, and its successors and permitted assigns.

"NBB Guaranty" means the Guaranty Agreement, dated as of July 31, 1990, between NBB and Lessee, and all annexes, supplements and exhibits thereto, all as amended, modified or supplemented from time to time.

"Officer's Certificate" means, with respect to any entity, a certificate signed by any Person authorized by or pursuant to the organizational documents, by-laws or any board resolution (in the case of a corporation), partnership agreement (in the case of a partnership), or trust agreement (in the case of a trust) to execute, deliver and take all actions on behalf of such entity in respect of any of the Operative Documents.

"Operative Document" means each of the Participation Agreement, the Lease, each Lease Supplement, the NBB Guaranty, the Loan Agreement, the Loan Guaranty, the Mortgage, the Bank Security Agreement, the Assignment Agreement, the Custodian Agreement, and the Bill of Sale.

"Overdue Rate" means (i) with respect to payments required to be made in U.S. Dollars or, if no currency is specified with respect to a payment, payments in fact made in U.S. Dollars, 10.66% per annum, and (ii) with respect to payments required to be made in Yen or, if no currency is specified with respect to a payment, payments in fact made in Yen, 7.42% per annum.

"Participation Agreement" means the Participation Agreement, dated as of July 31, 1990, among Lessee, Lessor and Barclays Bank PLC, as Lender and

"Special Termination Payment" means, with respect to any termination of the Lease with respect to all of the Items of Equipment pursuant to Section 9 or 15 thereof or any termination of the Lease with respect to one or more Items of Equipment pursuant to Section 10 thereof, the amount computed and payable as provided in Schedule D to the Lease.

"Specified Exchange Rate" means the exchange rate of U.S. \$1.00 equals 150.65 (Yen).

"Statement" means a Statement in the form of Exhibit F to the Participation Agreement.

"Supplemental Rent" means all amounts, liabilities and obligations (other than Basic Rent) which Lessee assumes or agrees to pay under the Lease, the Payment Acknowledgment or the Participation Agreement to Lessor or others, including, without limitation, Casualty Value Termination Payments, Basic Termination Payments, Special Termination Payments, Purchase Price or Deficiency Payment, as the case may be, and payment of indemnities (including, without limitation, under Section 11 of the Participation Agreement).

"Swap Agreement" means any interest rate swap agreement or similar arrangement acceptable to the Agent and the Lessee which is entered into by the Lessor and any Person on or after the Closing Date in connection with the transactions contemplated by the Operative Documents.

"Swap Party" means any Person acceptable to the Agent and the Lessee entering into a Swap Agreement with the Lessor.

"Tax Act" means the Corporation Tax Law of Japan (Law No. 34 of 1965, as amended) and the regulations implemented thereunder, the provisions of the Income Tax Law of Japan (Law No. 33 of 1965, as amended) concerning withholding tax and the regulations implemented thereunder, the Consumption Tax Act of Japan (Law No. 108 of 1988) and the regulations implemented thereunder, the provisions of the Local Tax Law of Japan (Law No. 276 of 1950, as amended) concerning corporate enterprise tax and inhabitants tax and the regulations implemented thereunder, the Special Taxation Measures Law of Japan (Law No. 26 of 1957, as amended), and treaties, laws and regulations which affect the application and interpretation of, or amend, supplement, or replace, any provision of the Corporation Tax Law of Japan, the Consumption Tax Law of Japan, the Income Tax Law of Japan, the Local Tax Law of Japan, or the Special Taxation Measures Law or any regulation implemented thereunder.

"Tax Indemnitee" means Lessor and each Kumiai-in and each of their respective Affiliates, directors, officers, employees, servants, agents, successors and

permitted assigns, and, solely for the purposes of Section 11(a) of the Participation Agreement and so much of Section 11(c) of the Participation Agreement as relates to Section 11(a) of the Participation Agreement, the term "Tax Indemnitee" also includes any Lender.

"Tax Ruling" means any tax ruling, tax assessment, notice, instruction, explanation or any other determination by the Japanese tax authorities given to Lessor or any Kumiai-in writing.

"Taxes" means all license, registration and filing fees and all taxes, withholdings, assessments, levies, imposts, duties or charges of any nature whatsoever, together with any penalties, fines or interest thereon or other additions thereto imposed, withheld, levied or assessed by any country or any taxing authority or governmental subdivision thereof or therein or by any international authority.

"Term" means the term for which the Items of Equipment are leased as provided in Section 3(a) of the Lease and Section 4 of the initial Lease Supplement relating to the Items of Equipment.

"Termination Date" means the date specified as such in Section 9 or 15 of the Lease with respect to all of the Items of Equipment, or the date specified as such in Section 10 of the Lease with respect to one or more Items of Equipment, each of which dates shall be a Business Day; provided, that only for purposes of determining the date on which the Basic Termination Payment is payable pursuant to Section 15(d) of the Lease, the Termination Date shall be the 10th day after the declaration referred in such Section 15(d).

"Tokumei Kumiai" means the tokumei kumiai, as such term is described in the Japanese Commercial Code (including, without limitation, Articles 535 through 542 thereof), created pursuant to the Tokumei Kumiai Agreements.

"Tokumei Kumiai Agreement" means each of the separate agreements entered into or to be entered into by Lessor, in its capacity as proprietor and manager of the investment made by its investors (or Kumiai-in) substantially the same, in form and substance, as the form of the Tokumei Kumiai Agreement attached as Exhibit G to the Participation Agreement and containing the covenants described in Section 8 of the Participation Agreement.

"Treaty" means the Convention between the United States of America and Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, as in effect on the Delivery Date.

"U.S. Dollars" or "U.S. \$" means lawful money of the United States of America.

"U.S. Withholding Taxes" has the meaning ascribed thereto in Section 3.8 of the Loan Agreement.

"United States Taxes" means any Taxes imposed, withheld, levied or assessed by any federal, state or local government or taxing authority of or in the United States of America.

"Unwind Events" has the meaning ascribed thereto in Section 9(e)(ii) of the Lease.

"Yen" (¥) means lawful money of Japan.

"Yen Account" means the account of Lessor, account no. 358681 JPYCURR1, with Barclays Bank PLC, Tokyo Branch.

Exhibit A  
to  
Bank Security Agreement

FORM OF ACKNOWLEDGMENT

Consolidated Rail Corporation  
Six Penn Center Plaza  
Philadelphia, Pennsylvania 19103

Date: July 31, 1990

To Those Concerned:

We hereby inform you by this letter that, pursuant to the terms of the Bank Security Agreement, dated as of July 31, 1990 (the "Agreement"), between Barclays Bank PLC, acting through its branch in Tokyo, Japan, as Agent ("Agent"), and NBB Allentown Lease Co., Ltd. ("Borrower"), which Agreement is governed by the laws of Japan, Borrower, among other things, has created and granted in favor of the Agent for the ratable benefit of the Lenders a pledge on all right, title and interest of Borrower in and to:

(i) all payments required to be made in U.S. Dollars due by Lessee under the Lease Agreement, dated as of July 31, 1990 (the "Lease"), between Borrower, as Lessor, and Consolidated Rail Corporation, as Lessee, in respect of Basic Rent, Basic Termination Payment, Casualty Value Termination Payment and Purchase Price or Deficiency Payment;

(ii) all amounts required to be paid to the Lessor pursuant to Section 20(c)(iv), (vi) and (vii) of the Lease; and

(iii) all amounts (other than amounts payable in Yen) required by the terms of the Lease to be paid to Lessor to be held as security for the obligations of the Lessee under the Lease, including, without limitation, pursuant to Sections 10, 11 and 15 of the Lease.

Capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in Appendix X to the Agreement.

Please acknowledge receipt of this notification by signing the enclosed copy of this letter. This acknowledgment evidences your unconditional consent to the foregoing creation of the pledge and irrevocable agreement with the Agent upon the written or telexed, telecopied, telefaxed, telegraphed or cabled request of the Agent to make all payments otherwise due in U.S. Dollars to the "Lessor" under the Lease as described in clauses (i), (ii) and (iii) above to the Agent as though the Agent were named as the "Lessor" under the Lease, to such account as the Agent shall so direct.

Yours faithfully,

NBB ALLENTOWN LEASE CO., LTD.

By \_\_\_\_\_  
Name: Peter G. Turbott  
Title: Attorney-in-fact

We hereby acknowledge receipt of the foregoing notification and unconditionally consent to the foregoing creation of the pledge.

CONSOLIDATED RAIL CORPORATION

By \_\_\_\_\_  
Name: Thomas J. McGraw  
Title: Director - Financing

Exhibit B  
to  
Bank Security Agreement

FORM OF ACKNOWLEDGMENT

The Sumitomo Bank, Limited

Date: July 31, 1990

To Those Concerned:

We hereby inform you by this letter that, pursuant to the terms of the Bank Security Agreement, dated as of July 31, 1990 (the "Agreement"), between Barclays Bank PLC, acting through its branch in Tokyo, Japan, as Agent ("Agent"), and NBB Allentown Lease Co., Ltd. ("Borrower"), which Agreement is governed by the laws of Japan, Borrower, among other things, has created and granted in favor of the Agent for the ratable benefit of the Lenders a pledge on all right, title and interest of Borrower in and to all payments required to be made by a Swap Party pursuant to a Swap Agreement (as defined in Appendix X to the Agreement), including payments to be made by you under the Interest Rate and Currency Exchange Agreement, dated as of July 31, 1990, between The Sumitomo Bank, Limited, as "Party A," and Borrower, as "Party B" (the "Sumitomo Swap Agreement").

Please acknowledge receipt of this notification by signing the enclosed copy of this letter. This acknowledgment evidences your unconditional consent to the foregoing creation of the pledge and irrevocable agreement with the Agent upon the written or telexed, telecopied, telefaxed, telegrammed or cabled request of the Agent to make all payments otherwise due to "Party B" under the Sumitomo Swap Agreement to the Agent as though the Agent were named as "Party B" thereunder, to such account as the Agent shall so direct.

Yours faithfully,

NBB ALLENTOWN LEASE CO., LTD.

By \_\_\_\_\_  
Name: Peter G. Turbott  
Title: Attorney-in-fact

We hereby acknowledge receipt of the foregoing notification and unconditionally consent to the foregoing creation of the pledge.

THE SUMITOMO BANK, LIMITED

By \_\_\_\_\_

Name:

Title: