

LAW OFFICES OF  
**LOUIS E. GITOMER**

LOUIS E. GITOMER  
LOU\_GITOMER@VERIZON.NET

THE ADAMS BUILDING, SUITE 301  
600 BALTIMORE AVENUE  
TOWSON, MARYLAND 21204-4022  
(202) 466-6532  
FAX (410) 332-0885

November 14, 2007

17892-II

RECORDATION NO. \_\_\_\_\_ FLUID

NOV 14 '07 -4 5 0 PM

Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, DC 20423

Dear Secretary Williams:

**SURFACE TRANSPORTATION BOARD**

I have enclosed for e-filing the document described below, to be recorded pursuant to 49 U.S.C. § 11301.

The document is a Head Lease 818 Assignment and Assumption Agreement, a secondary document, dated as of November 14, 2007. The primary document to which this is connected is recorded under Recordation No. 17892. We request that the copy of this document be recorded under Recordation No. 17892-II.

The names and addresses of the parties to the Head Lease 818 Assignment and Assumption Agreement are:

Assignor:

ConAgra Foods, Inc. (f/k/a ConAgra, Inc.)  
One Conagra Drive  
Omaha, NE 68102

Assignee:

GATX Corporation  
Four Embarcadero Center  
Suite 2200  
San Francisco, CA 94111

A description of the equipment covered by the Head Lease 818 Assignment and Assumption Agreement consists of 507 covered hopper cars numbered CAGX 1058, 1064, 1201-1205, inclusive, 1208-1219, inclusive, 1221-1255, inclusive, 1257-1260, inclusive, 1262-1271, inclusive, 1273-1321, inclusive, 1323-1328, inclusive, 1330-1336, inclusive, 1338-1346, inclusive, 1348, 1349, 1351-1363, inclusive, 1365-1399, inclusive, 1401-1418, inclusive, 1420, 1423, 1425-1436, inclusive, 1438-1443, inclusive, 1445-1479, inclusive, 1481-1493, inclusive, 1495, 1496, 1498-1518, inclusive, 1520-1528, inclusive, 1530-1545, inclusive, 1547-1553, inclusive, 1555, 1556, 1557, 1559-1580, inclusive, 1582-1585, inclusive, 1587-1637, inclusive, 1639-1649, inclusive, 1651, 1652, 1653, 1655-1665, inclusive, 1667, 1669-1674, inclusive,

Honorable Vernon A. Williams  
November 14, 2007  
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1679, 1692, 1693, 1696, 1699, 1704, 1707, 1711, 1726, 1731, 1733, 1734, 1735, 1737-1740, inclusive, 1742, 1748, 1750, 1752-1755, inclusive, 1759-1781, inclusive, and 1783-1800, inclusive.

A fee of \$35.00 is enclosed. Please return one copy to:

Louis E. Gitomer  
600 Baltimore Avenue  
Suite 301  
Towson, MD 21204

A short summary of the document to appear in the index follows: a Head Lease 818 Assignment and Assumption Agreement between ConAgra Foods, Inc. (f/k/a ConAgra, Inc.), One Conagra Drive, Omaha, NE 68102, and GATX Corporation, Four Embarcadero Center, Suite 2200, San Francisco, CA 94111, covering 507 covered hopper cars numbered CAGX 1058, 1064, 1201-1205, inclusive, 1208-1219, inclusive, 1221-1255, inclusive, 1257-1260, inclusive, 1262-1271, inclusive, 1273-1321, inclusive, 1323-1328, inclusive, 1330-1336, inclusive, 1338-1346, inclusive, 1348, 1349, 1351-1363, inclusive, 1365-1399, inclusive, 1401-1418, inclusive, 1420, 1423, 1425-1436, inclusive, 1438-1443, inclusive, 1445-1479, inclusive, 1481-1493, inclusive, 1495, 1496, 1498-1518, inclusive, 1520-1528, inclusive, 1530-1545, inclusive, 1547-1553, inclusive, 1555, 1556, 1557, 1559-1580, inclusive, 1582-1585, inclusive, 1587-1637, inclusive, 1639-1649, inclusive, 1651, 1652, 1653, 1655-1665, inclusive, 1667, 1669-1674, inclusive, 1679, 1692, 1693, 1696, 1699, 1704, 1707, 1711, 1726, 1731, 1733, 1734, 1735, 1737-1740, inclusive, 1742, 1748, 1750, 1752-1755, inclusive, 1759-1781, inclusive, and 1783-1800, inclusive.

Very Truly Yours,



Louis E. Gitomer

Enclosure

NOV 14 '07 -4 5 0 PM

SURFACE TRANSPORTATION BOARD

EXECUTION VERSION

**HEAD LEASE 818 ASSIGNMENT AND ASSUMPTION AGREEMENT**

This Head Lease 818 Assignment and Assumption Agreement, dated as of November 14, 2007 (this "Agreement"), is between CONAGRA FOODS, INC. (f/k/a ConAgra, Inc.), a Delaware corporation (the "Seller"), and GATX CORPORATION, a Delaware corporation (the "Buyer").

**Witnesseth:**

WHEREAS, the Buyer and the Seller have entered into that certain Purchase Agreement [818 Equipment] dated as of November 14, 2007 (the "Purchase Agreement"), providing for the purchase of the Schedule 818 Leasehold Interests by the Buyer from the Seller, subject to the terms and conditions set forth therein; and

WHEREAS, the Purchase Agreement contemplates the execution and delivery of this Agreement by the Seller and the Buyer on the date hereof;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows.

1. Definitions. Except as otherwise specified or as the context may otherwise require, the following terms have the respective meanings set forth below whenever used in this Agreement (terms defined in the singular to have a correlative meaning when used in the plural and vice versa).

Addendum No. 2: Addendum No. 2 to Master Equipment Lease Agreement No. 1801174 dated December 29, 1995, between the Seller and the Lessor.

BNSF 818 Equipment: the items of equipment listed on Exhibit A hereto under the heading "BNSF 818 Equipment", together with each and every part, accessory, component and any equipment installed therein or attached thereto.

BNSF 818 Interests: the Seller's rights and obligations under the BNSF 818 Operative Agreements, except the Existing BNSF 818 Obligations.

BNSF Operative Agreements: each of the agreements and documents listed on Exhibit B hereto under the heading "BNSF 818 Operative Agreements".

Closing Date: the date of this Agreement.

Equipment: the items of equipment listed on Exhibit A hereto under the heading "818 Equipment", together with each and every part, accessory, component and any equipment installed therein or attached thereto owned by M&T and leased to the Seller

pursuant to the Lease (as defined below) (individually such railcars shall be referred to as an "item" or "items of Equipment").

**Excluded 818 Obligations:** any and all obligations of the Seller under (a) Addendum No. 2 to MELA and (b) each of the 1996 Notice and the Head Lease 818 Notice, Acknowledgement and Amendment, as each relates to any Make Whole Premium (as defined in Addendum No. 2 to MELA), whether arising prior to or on or after the date hereof, as they relate to the Equipment.

**Existing BNSF 818 Obligations:** any and all liabilities and obligations of the Seller in respect to the BNSF 818 Interests, including under the BNSF Operative Agreements, or otherwise relating to the BNSF 818 Equipment, in each such case, to the extent arising or occurring prior to the Closing Date (whether or not asserted or assessed), and, with respect to the obligations, to have been performed by the Seller prior to the Closing Date.

**Existing 818 Obligations:** any and all liabilities and obligations of the Seller in respect to (i) the Schedule 818 Leasehold Interests, including under the 818 Operative Agreements, or otherwise relating to the 818 Equipment, in each such case, to the extent arising or occurring prior to the Closing Date (whether or not asserted or assessed), and, with respect to the obligations, to have been performed by the Seller prior to the Closing Date, except in the case of rent payable to the Lessor under the Lease (as defined below), which rent accrued in respect of the period prior to the Closing Date shall be payable by the Seller, and (ii) the Existing BNSF 818 Obligations.

**Head Lease 818 Notice, Acknowledgement and Amendment:** the Head Lease 818 Notice, Acknowledgment and Amendment among the Seller, the Buyer, M&T, the Lessor, John Hancock and the Security Trustee.

**John Hancock:** John Hancock Life Insurance Company (f/k/a John Hancock Mutual Life Insurance Company).

**Lessor:** Wilmington Trust Company, not individually but as owner trustee on behalf of M&T.

**M&T:** M&T Credit Services, LLC (as successor to M&T Credit Corporation).

**1996 Notice:** the Notice and Acknowledgment of Assignment dated December 20, 1996, among the Seller, M&T, the Lessor, the Security Trustee and Pitney Bowes Credit Corporation.

**Schedule 818 Leasehold Interests:** the Seller's rights and interest in and to the Equipment and the Seller's rights and obligations under the 818 Operative Agreements, except any Existing 818 Obligations and the Excluded 818 Obligations.

**Security Trustee:** Wells Fargo Bank Northwest, N.A., not individually but as security trustee on behalf of John Hancock.

2. Assignment. Effective as to each item of Equipment and the Schedule 818 Leasehold Interests in respect to each such item of Equipment, on the Closing Date, the Seller sells to and assigns to the Buyer all of the Seller's rights and interest, accruing on and after the Closing Date, except as reserved under Section 2.1 of the Purchase Agreement, in and to such item of Equipment and the Schedule 818 Leasehold Interests in respect to each such item of Equipment and assigns to the Buyer all of the Seller's rights and obligations, except to the extent constituting Existing 818 Obligations or Excluded 818 Obligations, under each of the following as they relate to such item:

- (a) Master Equipment Lease Agreement No. 1801174 dated as of April 24, 1992 and Lease Schedule No. 818 thereto dated April 25, 1996, each between the Seller, as lessee, and the Lessor (as assignee of Pitney Bowes Credit Corporation) (collectively, with all amendments, modifications and supplements other than Addendum No. 2, the "Lease"); and
- (b) all of the other agreements and documents listed on Exhibit B hereto under the heading "818 Operative Agreements";

(collectively, together with all documents related to the foregoing, the "Assigned Operative Agreements").

Notwithstanding the foregoing, the Seller shall continue to be entitled to the benefit of any rights to indemnification for tax and other matters which arose or may arise from or be related to any event or circumstance occurring or in existence prior to the Closing Date, as specified in the Purchase Agreement.

3. Acceptance of Assignment; Assumption of Obligations; Effect of Assignment. The Buyer accepts the assignment contained in Section 2 hereof and, in respect of the period on and after the Closing Date, assumes all obligations of the Seller under, and agrees to be bound to the same extent as the Seller by all the terms of, the Assigned Operative Agreements, except for the Existing 818 Obligations and the Excluded 818 Obligations. Effective on and after the Closing Date, the Buyer shall be deemed to stand in the place of the Seller for all purposes under the Assigned Operative Agreements and each reference in the Assigned Operative Agreements to the Seller shall be deemed to mean the Buyer. The Seller, in respect of the period on and after the Closing Date, is released of all obligations of the lessee under the Assigned Operative Agreements, except to the extent constituting Existing 818 Obligations or Excluded 818 Obligations.

4. Amendments. No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

5. Representations and Warranties.

(a) The Seller represents and warrants to the Buyer as at the date hereof that (a) the Seller is a corporation duly organized, validly existing and in good standing under the laws of the state of its incorporation, and has all necessary power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transaction

contemplated hereby, and (b) this Agreement has been duly authorized, executed and delivered by the Seller.

(a) The Buyer represents and warrants to the Seller as at the date hereof that (a) the Buyer is a corporation duly organized, validly existing and in good standing under the laws of the state of its incorporation, and has all necessary power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transaction contemplated hereby, and (b) this Agreement has been duly authorized, executed and delivered by the Buyer.

6. Notices. All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by Section 8.5 of the Purchase Agreement.

7. Headings. The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

8. Counterparts. This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

9. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the internal substantive laws of the State of New York, without giving effect to the conflict of law rules thereof, other than Section 5-1401 of the New York General Obligations Law.

10. Recordation. The Seller and the Buyer agree to record this Agreement with the Surface Transportation Board to evidence the assignment by the Seller to the Buyer of the Seller's rights and obligations under the Lease, which has been recorded with the Surface Transportation Board.

11. Each of M&T, as owner participant holding a beneficial interest in the Assigned Operative Agreements, the Lessor and the Security Trustee, is an intended third-party beneficiary of this Agreement, and each may enforce the Assigned Operative Agreements directly against the Buyer.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Head Lease 818 Assignment and Assumption Agreement has been duly executed by the parties hereto as of the date first above written.

GATX CORPORATION,  
as Buyer

By: \_\_\_\_\_

Name: Alan C. Coe

Title: Vice President and Group Executive –  
Structured Finance and IEF

CONAGRA FOODS, INC. (f/k/a CONAGRA,  
INC),  
as Seller

By: \_\_\_\_\_

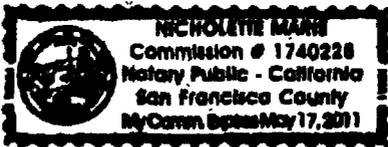
Name:

Title:

STATE OF CALIFORNIA            )  
  )  
COUNTY OF SAN FRANCISCO    ).

On November 7, 2007 before me, Nicholette Maris, Notary Public, personally appeared Alan C. Coe, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.



*Nicholette Maris*  
\_\_\_\_\_  
Notary Public  
My Commission expires: May 17, 2011

IN WITNESS WHEREOF, this Head Lease 818 Assignment and Assumption Agreement has been duly executed by the parties hereto as of the date first above written.

GATX CORPORATION,  
as Buyer

By: \_\_\_\_\_  
Name:  
Title:

CONAGRA FOODS, INC. (f/k/a CONAGRA,  
INC),  
as Seller

By:  \_\_\_\_\_  
Name: Gregory A. Heckman  
Title: President & COO

STATE OF Nebraska )

) SS:

COUNTY OF Douglas )

On November 7, 2007, before me, Beth R. Robinson, Notary Public, personally appeared Gregory A. Heckman, personally known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Beth R Robinson

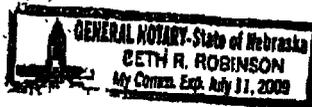


Exhibit A  
to Head Lease 818 Assignment  
and Assumption Agreement

**EQUIPMENT**

**818 Equipment:**

Five Hundred Seven (507) 5161 Cubic Foot Covered Hopper Railcars, 286,000 GRL, AAR Code C114, built by Trinity Industries, Inc. and bearing reporting marks as follows:

CAGX 1058, 1064, 1201-1205, inclusive, 1208-1219, inclusive, 1221-1255, inclusive, 1257-1260, inclusive, 1262-1271, inclusive, 1273-1321, inclusive, 1323-1328, inclusive, 1330-1336, inclusive, 1338-1346, inclusive, 1348, 1349, 1351-1363, inclusive, 1365-1399, inclusive, 1401-1418, inclusive, 1420, 1423, 1425-1436, inclusive, 1438-1443, inclusive, 1445-1479, inclusive, 1481-1493, inclusive, 1495, 1496, 1498-1518, inclusive, 1520-1528, inclusive, 1530-1545, inclusive, 1547-1553, inclusive, 1555, 1556, 1557, 1559-1580, inclusive, 1582-1585, inclusive, 1587-1637, inclusive, 1639-1649, inclusive, 1651, 1652, 1653, 1655-1665, inclusive, 1667, 1669-1674, inclusive, 1679, 1692, 1693, 1696, 1699, 1704, 1707, 1711, 1726, 1731, 1733, 1734, 1735, 1737-1740, inclusive, 1742, 1748, 1750, 1752-1755, inclusive, 1759-1781, inclusive, and 1783-1800, inclusive.

**BNSF 818 Equipment:**

Two Hundred Five (205) 5161 Cubic Foot Covered Hopper Railcars, 286,000 GRL, AAR Code C114, built by Trinity Industries, Inc. and bearing reporting marks as follows:

CAGX 1064, 1210, 1216, 1217, 1225, 1231, 1243, 1245, 1251-1255, inclusive, 1258, 1262, 1265, 1270, 1273, 1275-1278, inclusive, 1282, 1283, 1284, 1288, 1292, 1297, 1303, 1306, 1312, 1315, 1317, 1318, 1320, 1332, 1335, 1338, 1340, 1346, 1349, 1351, 1352, 1354, 1355, 1357, 1360, 1363, 1365, 1367, 1371, 1373, 1379, 1381, 1389, 1390, 1398, 1405, 1407, 1418, 1423, 1428, 1430, 1432, 1438, 1441, 1446, 1450, 1452, 1453, 1457, 1460, 1462, 1463, 1464, 1466, 1469, 1472, 1476, 1482, 1483, 1486, 1489, 1490, 1491, 1493, 1495, 1499, 1502, 1503, 1505, 1508, 1509, 1510, 1513, 1514, 1521, 1524, 1526, 1530, 1531, 1532, 1537, 1539, 1540, 1548, 1549, 1550, 1556, 1557, 1560, 1565, 1566, 1575, 1576, 1583, 1588, 1600, 1601, 1604, 1612, 1614, 1618, 1620, 1622, 1623, 1625, 1627, 1630, 1631, 1634, 1640, 1642, 1643, 1645, 1646, 1647, 1649, 1655, 1656, 1665, 1667, 1671, 1674, 1679, 1692, 1693, 1696, 1699, 1704, 1707, 1711, 1726, 1731, 1733, 1734, 1735, 1737-1740, inclusive, 1742, 1748, 1750, 1752-1755, inclusive, 1759-1779, inclusive, 1781, 1783-1786, inclusive, 1788, 1789, 1791-1795, inclusive, and 1797-1800, inclusive.

Exhibit B  
to Head Lease 818 Assignment  
and Assumption Agreement

**OPERATIVE AGREEMENTS**

818 Operative Agreements:

Master Equipment Lease Agreement No. 1801174 dated as of April 24, 1992, between Pitney Bowes Credit Corporation and ConAgra, Inc.

Sublease Rider to Master Equipment Lease Agreement No. 1801174 dated April 24, 1992, between Pitney Bowes Credit Corporation and ConAgra, Inc.

Addendum No. 1 to Master Equipment Lease Agreement No. 1801174 dated April 10, 1995, between Pitney Bowes Credit Corporation and ConAgra, Inc.

Letter dated March 1, 1995, from Pitney Bowes Credit Corporation to ConAgra, Inc.

Letter dated September 27, 1995, from Pitney Bowes Credit Corporation to ConAgra, Inc.

Addendum No. 2 to Master Equipment Lease Agreement No. 1801174 dated December 29, 1995, between Pitney Bowes Credit Corporation and ConAgra, Inc. **[NOTE: The Parties have agreed that this agreement will not be assigned to the Buyer]**

Lease Schedule No. 818 to Master Equipment Lease Agreement No. 1801174 dated April 25, 1996, between Pitney Bowes Credit Corporation and ConAgra, Inc.

Memorandum of Master Equipment Lease Agreement dated as of April 25, 1996, between Pitney Bowes Credit Corporation, as lessor, and ConAgra, Inc., as lessee.

Master Purchase and Assignment Agreement made as of December 1, 1996, by and between Pitney Bowes Credit Corporation, as assignor, The First National Bank of Maryland, and Wilmington Trust Company, not individually but as trustee, as assignee.

Specification of Assigned Lease Schedule dated as of December 1, 1996, by and between Pitney Bowes Credit Corporation, as assignor, The First National Bank of Maryland, and Wilmington Trust Company, as assignee.

Memorandum of Master Purchase and Assignment Agreement dated as of December 1, 1996, among Pitney Bowes Credit Corporation, as assignor, and Wilmington Trust Company not in its individual capacity, but solely as Owner Trustee, and The First National Bank of Maryland.

Notice and Acknowledgment of Assignment dated December 20, 1996, among Pitney Bowes Credit Corporation, as Assignor, Wilmington Trust Company not in its individual capacity, but solely as Owner Trustee, The First National Bank of Maryland, First Security Bank, as Security Trustee, and ConAgra, Inc., as Lessee.

Assignment Agreement dated as of July 7, 2003, between Manufacturers Traders Trust Company (successor to Allfirst Bank, successor to The First National Bank of Maryland), as assignor, and M&T Credit Services, LLC (as successor to M&T Credit Corporation), as assignee.

Acceptance Agreement dated as of July 7, 2003 between Manufacturers Traders Trust Company (successor to Allfirst Bank, successor to The First National Bank of Maryland), as assignor and M&T Credit Services, LLC (as successor to M&T Credit Corporation), as assignee.

Memorandum of Assignment dated as of July 7, 2003, between Manufacturers Traders Trust Company (successor to Allfirst Bank, successor to The First National Bank of Maryland), as assignor and M&T Credit Services, LLC (as successor to M&T Credit Corporation), as assignee.

**BNSF 818 Operative Agreements:**

Equipment Lease Agreement dated as of August 5, 2005, between ConAgra Foods, Inc. and BNSF Railway Company.

Equipment Schedule No. 1 dated as of August 5, 2005, between ConAgra Foods, Inc. and BNSF Railway Company.

Memorandum of Equipment Lease Agreement dated August 31, 2007 and effective as of August 5, 2005, between ConAgra Foods, Inc. and BNSF Railway Company.