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INTERSTATE COMMERCE COMMISSION, CUTLER & PICKERING

1666 K STREET, N. W.

WASHINGTON, D. C. 20006

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October 13, 1978

INTERSTATE COMMERCE COMMISSION

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ROGER M. WITTEN

EZEKIEL G. STODDARD  
ARTHUR Z. GARDINER, JR.  
WILLIAM C. GIFFORD  
COUNSEL

Dear Mr. Homme:

On behalf of Itel Corporation, I submit for filing and recording under Section 20c of the Interstate Commerce Act four (4) executed counterparts of an Interim Purchase Money Security Agreement and six (6) executed counterparts of an Assignment of Purchase Agreement dated as of October 1, 1978 which has as a part thereof a Consent to Assignment.

The parties to the Interim Money Security Agreement are:

ACF Industries, Incorporated, as Secured Party - Mortgagee  
750 Third Avenue  
New York, New York

Itel Corporation - Rail Division, as Debtor-Mortgagor  
Two Embarcadero Center  
San Francisco, California.

The said Interim Money Purchase Security Agreement grants the Secured Party a continuing security interest involving the following Equipment:

100 - 70-ton 89'4" all-purpose flat cars bearing identifying numbers PW 105101 through 105200, both inclusive.

8-238A055

RECEIVED  
OCT 13 11 05 AM '78  
I.C.C.  
FEE OPERATION BR.

Counterparts - David W Keller

No. \_\_\_\_\_  
Date OCT 18 1978  
Fee \$ 70.00  
IC 1, D. C.

The parties to the Assignment of Purchase Agreement are:

Itel Corporation, acting through its Rail Division,  
as Assignor  
Two Embarcadero Center  
San Francisco, California

Wells Fargo Transport Leasing Corporation, as  
Assignee  
425 California Street  
San Francisco, California 94104

The Equipment covered in this Assignment is as indicated above.

Please note that these two documents should be indexed under each of the parties listed above.

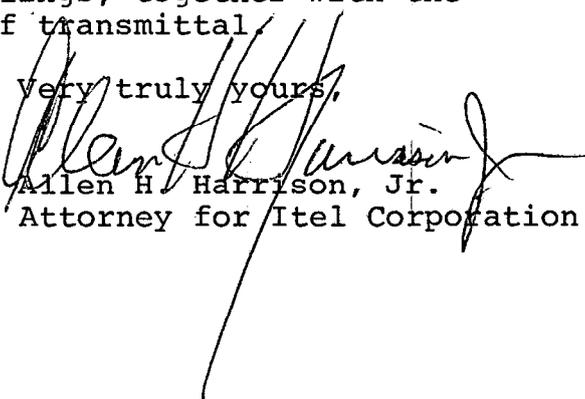
Please cross-index these documents under the Lease of Railroad Equipment filed simultaneously under Recordation No. 9760.

Also, please cross-index these filings under Providence and Worcester Railroad Company.

Enclosed is a check for \$50.00 in payment of the recordation fee for the Interim Purchase Money Security Agreement and Assignment of Purchase Agreement, together with a check for \$20.00 to cover the two requested cross-indexings.

Once the filings have been made, please return to bearer the stamped counterparts of the documents not required for filing purposes, the fee receipt and the letter from the Interstate Commerce Commission acknowledging the filings, together with the stamped extra copies of this letter of transmittal.

Very truly yours,

  
Allen H. Harrison, Jr.  
Attorney for Itel Corporation

Mr. H. Gordon Homme, Jr.  
Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

Encs.

BY HAND

9759-11  
RECORDATION NO. Filed 1425

OCT 1 1978 - 11 24 AM

INTERSTATE COMMERCE COMMISSION

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ASSIGNMENT OF PURCHASE AGREEMENT

DATED AS OF OCTOBER 1, 1978

Between

ITEL CORPORATION,  
acting through its Rail Division,  
as Assignor

and

WELLS FARGO TRANSPORT LEASING CORPORATION,  
as Assignee

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ASSIGNMENT OF PURCHASE AGREEMENT dated as of October 1, 1978 Between ITEL CORPORATION (acting through its Rail Division), a Delaware corporation (hereinafter called the Assignor), and WELLS FARGO TRANSPORT LEASING CORPORATION, a California corporation (hereinafter called the Assignee).

WHEREAS, the Assignor has entered into a contract dated as of February 24, 1978 (hereinafter called the Purchase Agreement) with ACF Industries Incorporated (hereinafter called the Builder), pursuant to which the Builder has agreed to manufacture, sell and deliver to the Assignor the units of railroad equipment described in Schedule A hereto, which consist of 100 flatcars (hereinafter called the Units); and

WHEREAS, the Assignor desires to assign its rights under the Purchase Agreement to the Assignee and when the Units are delivered under the Purchase Agreement to lease them from the Assignee pursuant to a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease);

NOW THEREFORE in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Assignor and the Assignee agree as follows:

1. The Assignor hereby sells, assigns, transfers and sets over unto the Assignee, and its successors and assigns, all of the Assignor's right, title and interest in and to the Purchase Agreement and the Units.

2. The right, title and interest assigned pursuant to § 1 hereof, shall include, but shall not be limited to: (i) the right to accept delivery of the Units pursuant to the Purchase Agreement and to take title to the Units pursuant to a bill of sale from the Builder; and (ii) all claims for damages arising from any failure of the Builder to perform or observe any of the terms of the Purchase Agreement and all rights, benefits and claims under all warranties contained in the Purchase Agreement and any other amounts which may become payable by the Builder under the Purchase Agreement.

3. Anything contained herein to the contrary notwithstanding: (i) the Assignor shall at all times remain liable to the Builder under the Purchase Agreement for the performance of all its duties and obligations thereunder to the same extent as if this Assignment had not been executed; (ii) the exercise by the Assignee of any of the rights assigned to it hereunder shall not release the Assignor from any of its duties or obligations to the Builder under the Purchase Agreement.

4. The Assignor agrees that at any time and from time to time, upon the written request of the Assignee, the Assignor will promptly execute and deliver any such further instruments and documents and take such further actions as the Assignee may reasonably request in order to obtain the full benefits of this Assignment and of the rights assigned hereby.

5. The Assignor represents and warrants that: (i) the Purchase Agreement is in full force and effect and is enforceable in accordance with its terms; (ii) the Assignor is not in default thereunder, (iii) the Assignor has not heretofore assigned or pledged the whole or any part of the rights assigned hereby to the Assignee; (iv) none of the Units has been delivered by the Builder under the Purchase Agreement; and (v) the Assignor has made no payments to the Builder in respect of the Units or any of them. The Assignor covenants and agrees that so long as this Assignment shall remain in effect, it will not assign or pledge the whole or any part of the rights assigned hereby.

6. The only obligation or liability of the Assignor under the Purchase Agreement assigned hereby to the Assignee is the obligation to pay the purchase price, as provided in the Purchase Agreement, for any Units delivered and accepted under the Purchase Agreement; provided, however, that the Assignee shall have no obligation or liability to purchase or pay for any Unit which shall not have been delivered to and accepted by the Lessee on or before December 29, 1978, for any Unit if the aggregate Purchase Price for such Unit and any Units theretofore delivered and accepted shall exceed \$4,500,000 or for any Unit with respect to which one or more of the other conditions set forth in § 2 of Lease shall not have been satisfied.

7. In the event that the Assignee shall, pursuant to the proviso to § 6 hereof, not theretofore have purchased and paid for any Units, the Assignee shall on December 30, 1978 either waive (conditionally, partially or absolutely) the conditions which have not been satisfied or reassign to the Assignor its rights under this Assignment relating to the Units not theretofore delivered and accepted under the Purchase Agreement.

8. The Assignor agrees to cause this Assignment to be filed and recorded in accordance with Section 20c of the Interstate Commerce Act.

9. This Assignment shall be governed by, and construed in accordance with, the laws of the State of California, provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

IN WITNESS WHEREOF, the Assignor and the Assignee  
have caused this Assignment to be executed by their duly  
authorized officers as of the date first above written.

[Corporate Seal]  
Attest:

David N. Kohn

ITEL CORPORATION,  
acting through its Rail Division

By Edward P. Schneider

[Corporate Seal]  
Attest:

Sylvia K. Knight

WELLS FARGO TRANSPORT LEASING  
CORPORATION

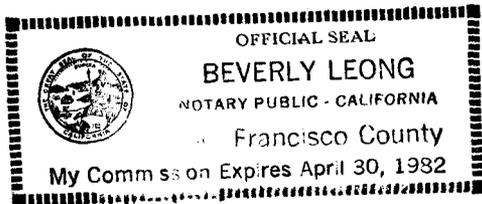
By Donald E. Dean  
SENIOR VICE PRESIDENT

By Chad A. Guy  
SENIOR VICE PRESIDENT

APPROVED:
<u>SM</u>
LEGAL DEPT. WELLS FARGO LEASING CORP.

STATE OF CALIFORNIA )  
 ) ss:  
CITY AND COUNTY OF SAN FRANCISCO )

On this 11<sup>th</sup> day of October, 1978, before me personally appeared EDWARD P. SCHNEIDER, to me personally known, who, being by me duly sworn, says that he is a Vice President of ITEL CORPORATION, Rail Division, that one of the seals affixed to the foregoing instrument is the corporate seal of such corporation that such instrument was signed and sealed on behalf of such 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 such corporation.



*Beverly Leong*  
\_\_\_\_\_  
Notary Public

[Notarial Seal]

My Commission expires: 4-30-82

STATE OF CALIFORNIA )  
 ) ss:  
CITY AND COUNTY OF SAN FRANCISCO )

On this 10<sup>th</sup> day of October, 1978, before me personally appeared Ronald E. Dean and Charles A. Greenberg, to me personally known, who, being by me duly sworn, say that they are ~~SENIOR VICE PRESIDENT~~ and ~~SENIOR VICE PRESIDENT~~ respectively of WELLS FARGO TRANSPORT LEASING CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of such corporation that such instrument was signed and sealed on behalf of such corporation by authority of its Board of Directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of such corporation.

Mary Margaret Shypertt  
Notary Public

[Notarial Seal]

My Commission expires: 4-181



SCHEDULE A

UNITS

<u>Type</u>	<u>Mechanical Designation</u>	<u>Quantity</u>	<u>Place of Delivery</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>	<u>Identifying Numbers of Lessee or Sublessee (Both Inclusive)</u>
Flatcars	TOFC/COFC	100	St. Louis, Missouri	\$42,419.34	\$4,241,934	PW 105101-105200

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CONSENT TO ASSIGNMENT  
DATED AS OF OCTOBER 1, 1978  
BY  
ACF INDUSTRIES INCORPORATED

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CONSENT TO ASSIGNMENT Dated as of October 1, 1978  
by ACF Industries Incorporated (hereinafter called  
the Builder)

WHEREAS, ITEL Corporation, acting through its Rail Division, (hereinafter called the Lessee) has entered into a contract dated as of February 24, 1978 (hereinafter called the Purchase Agreement) with the Builder pursuant to which the Builder has agreed to manufacture, sell and deliver to the Lessee the units of railroad equipment described in Schedule A to the Lease (as hereinafter defined), which consist of 100 flatcars (hereinafter called the Units);

WHEREAS, the Lessee is assigning to Wells Fargo Transport Leasing Corporation (hereinafter called the Lessor) all its rights under the Purchase Agreement pursuant to an Assignment of Purchase Agreement dated as of the date hereof (hereinafter called the Assignment); and

WHEREAS, the Lessee will lease the Units from the Lessor pursuant to a Lease of Railroad Equipment dated as of the date hereof (herein called the Lease);

NOW THEREFORE, in consideration of the covenants contained in the Assignment, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Builder hereby agrees with the Lessee and the Lessor as follows:

1. The Builder hereby acknowledges receipt of a copy of the Assignment and consents to the assignment to the Lessor of the Lessee's rights under the Purchase Agreement upon the terms and subject to the conditions contained in the Assignment.

2. The Builder hereby agrees to manufacture and deliver the Units to the Lessor in accordance with the specifications set forth in or referred to in the Purchase Agreement.

3. The Builder hereby confirms to the Lessor that all representations, warranties, indemnities and agreements of the Builder in the Purchase Agreement shall inure to the benefit of, and shall be enforceable by, the Lessor to the same extent as if it had been originally named in the Purchase Agreement as the purchaser.

4. The Builder hereby agrees that it will not amend, modify or terminate any provision of the Purchase Agreement without the prior written consent of the Lessor.

5. The Builder hereby agrees that it will warrant to the Lessor that at the time of delivery of each Unit pursuant to the Purchase Agreement the Builder has the legal title to such Unit, free of all claims, liens, charges, security interests and other encumbrances, except the rights of the Lessee under the Lease, and that it will defend the Lessor's title to each Unit against all claims by, through or under the Builder.

The Builder hereby confirms to the Lessor that the Lessee is not in default under the Purchase Agreement.

IN WITNESS WHEREOF, the Builder has caused this Consent to Assignment to be executed by its duly authorized representative as of the date first above written.

ACF INDUSTRIES INCORPORATED

By *E. C. Hall*

**E. C. HALL  
SECRETARY.**

STATE OF NEW YORK

)

COUNTY OF NEW YORK

) ss:  
)

On this 10<sup>th</sup> day of October, 1978, before me personally appeared E. C. HALL, to me personally known, who, being by me duly sworn, says that he is **SECRETARY** of ACF INDUSTRIES INCORPORATED, that one of the seals affixed to the foregoing instrument is the corporate seal of such corporation, that such instrument was signed and sealed on behalf of such 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 such corporation.



Notary Public

EDWIN F. MEYER  
NOTARY PUBLIC, State of New York  
No. 30-7917803  
Qualified in Nassau County  
Certificate filed in New York County  
Commission Expires March 30, 1980

[Notarial Seal]

My Commission expires: