

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

LAW DEPARTMENT  
701 COMMERCE STREET  
DALLAS, TEXAS 75202

STEVEN R. PITZNER  
General Attorney

214-651-6742

October 1, 1984

In reply refer to:

410.043-95

14304-A  
RECORDATION No. 14304  
FILED 14304

4-276A034

OCT 2 1984 - 10 25 AM

INTERSTATE COMMERCE COMMISSION No.

Date OCT 2 1984

Fee \$ 10.00

Mr. James H. Bayne, Secretary  
Interstate Commerce Commission  
12th & Constitution Avenue, N.W.  
Washington, DC 20423

ICC Washington, D. C.

ICC OFFICE OF  
THE SECRETARY  
OCT 2 10 56 AM '84  
MOTOR OPERATING UNIT

RE: Agreement and Assignment in regard to Conditional Sale Agreement between CIS Leasing Corporation and Southwestern States Management Company, dated March 28, 1984 And Agreement and Assignment between Southwestern States Management Company and CIS Rail Corporation dated March 28, 1984: Assigned to Chemical Business Credit Corporation

Dear Secretary Bayne:

I have enclosed an original and five counterparts of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is an Agreement and Assignment, a secondary document, dated as of the 1st day of October, 1984.

The primary document to which this is connected is a Conditional Sale Agreement under recordation number 14304-A and an Agreement and Assignment under recordation number 14304-B.

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

Assignor: CIS Rail Corporation  
445 Washington Street  
San Francisco, CA 94111

Assignee: Chemical Business Credit Corporation  
Seven Corporate Park Drive  
White Plains, NY 10604

*See Mr. Bayne (11/5/84) (C.F. Hill)*  
*Amended*

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY  
LAW DEPARTMENT

Mr. James H. Bayne

- 2 -

October 1, 1984

A description of the equipment covered by the document is as follows:

30 RBL Insulated Railcars, 60 ft., 100-ton cushioned underframe equipped with bulkhead loading devices, built in 1968, bearing the following MKT numbers:

8802	8812-14	8828-35	8846
8804	8820-21	8837	8849-50
8806	8823	8839	8854
8810	8826	8841-44	8858

A fee of \$10.00 is enclosed. Please return the original and any extra copies not needed by the Commission to the bearer of this letter for distribution to the parties.

A short summary of the document to appear in the Index follows:

Agreement and Assignment of Conditional Sale Agreement originally executed by and between CIS Leasing Corporation and Southwestern States Management Company and Agreement and Assignment between Southwestern States Management Company and CIS Rail Corporation which assigned same to Chemical Business Credit Corp., covering 30 RBL insulated railcars, 60 ft., 100-ton cushioned underframed bearing MKT's road numbers 8802, 8804, 8806, 8810, 8812-14, 8820-21, 8823, 8826, 8828-35, 8837, 8839, 8841-44, 8846, 8849-50, 8854, and 8858.

I certify that I have knowledge of the foregoing.

Yours very truly,



Steven R. Pitzner  
General Attorney

SRP:sh  
Enclosures

cc: Michael Vitolo  
Archie C. Thomas

OCT 2 1984 10 25 AM

INTERSTATE COMMERCE COMMISSION

AGREEMENT AND ASSIGNMENT dated as of October 1, 1984, between CIS RAIL CORPORATION, a New York corporation (hereinafter called the Vendor), and CHEMICAL BUSINESS CREDIT CORP., a Delaware corporation (hereinafter called the Assignee).

WHEREAS Southwestern States Management Company (hereinafter called SSMC) a Missouri corporation, and CIS Leasing Corp., a New York corporation (hereinafter called the Vendee), heretofore entered into a Conditional Sale Agreement dated as of March 28, 1984 (hereinafter called the Conditional Sale Agreement), covering the sale of the railroad equipment described in Schedule A thereto (hereinafter called the Equipment);

WHEREAS SSMC assigned its rights under the Conditional Sale Agreement to Vendor pursuant to an Agreement and Assignment between SSMC and Vendor dated as of March 28, 1984 (hereinafter called the Prior Agreement and Assignment); and

WHEREAS the Vendor desires to assign its rights under the Conditional Sale Agreement including the right to receive installment payments thereunder to the Assignee, and the Assignee agrees to purchase the right to receive such installment payments from the Vendor.

NOW THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto hereby agree as follows:

1. Assignment. The Vendor hereby assigns, transfers, and sets over to the Assignee, its successors and assigns:

(a) all of the interest of the Vendor in each unit of the Equipment and any and all replacements, repairs and substitutions thereto and the proceeds thereof, when and as payment is made by the Assignee to the Vendor of the amount required to be paid pursuant to section 4 hereof;

(b) all of the Vendor's right, title, and interest in and to the Conditional Sale Agreement and the payments due and to become due thereunder and in and to the Participation Agreement, and all of the Vendor's rights, privileges, powers, and remedies under the Conditional Sale Agreement and the Participation Agreement, except the right to receive the payments specified in clause (a) of the second paragraph of section 2.2 of the Conditional Sale Agreement and the right to receive the payments due on April 1, 1984, July 1, 1984, and October 1, 1984.

The foregoing assignment is without any recourse against the Vendor for the failure of the Vendee to make any of the payments provided for in, or otherwise to comply with, the provisions of the Conditional Sale Agreement.

In furtherance of the foregoing assignment, the Vendor hereby authorizes the Assignee, in the Assignee's own name or in the name of and as attorney for the Vendor, to collect and receive all amounts to which the Assignee is or may be entitled under this assignment, and to enforce compliance by the Vendee with the terms and conditions of the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

2. Representations and Warranties of the Vendor. The Vendor hereby represents and warrants that:

(a) assuming due authorization, execution and delivery by SSMC and Vendee, the Conditional Sale Agreement is a legal, valid, and existing agreement binding on the Vendor in accordance with its terms pursuant to the Prior Agreement and Assignment, and the Conditional Sale Agreement is now in force without amendment thereto;

(b) each unit of the Equipment is free of all claims, liens, and encumbrances arising by, through or under Vendor, except the security interest created by the Conditional Sale Agreement that is assigned to the Assignee hereby;

(c) assuming due authorization, execution and delivery by the Missouri-Kansas-Texas Railroad Company and CIS Leasing Corp., the Participation Agreement is a legal, valid and existing agreement binding on the Vendor in accordance with its terms, and said Agreement is now in force without amendment thereto;

(d) assuming due authorization, execution and delivery by Southwestern States Management Company, the Prior Agreement and Assignment is a legal, valid and existing agreement binding on the Vendor in accordance with its terms, and the Prior Agreement and Assignment is now in force without amendment thereto;

(e) the instrument executed and delivered contemporaneously herewith conveying to Assignee the security interest of Vendor in the Equipment is a legal, valid and existing agreement binding on the Vendor in accordance with its terms;

(f) to the best of Vendor's knowledge, there are no events of default outstanding under the Conditional Sale Agreement, the Participation Agreement, the Prior Agreement and Assignment or the aforesaid instrument; and

(g) Vendor has not and shall not assign any of its interest under any of the documents referenced in subparagraph (f) above to anyone other than Assignee.

3. Covenants of the Vendor. The Vendor agrees

(a) to defend the title to the Equipment against claims and demands arising by, through or under Vendor originating prior to the assignment of the Vendor's interest in the Equipment hereby; and

(b) to make, execute, and deliver all such further instruments of assignment, transfer, and assurance and do all such further acts and things as may be necessary and appropriate to give effect to the provisions hereof and more fully confirm the rights and interests hereby assigned to the Assignee.

4. Payment; Closing. Concurrently with the execution and delivery of this Agreement, the Assignee shall pay to the Vendor in cash an amount equal to \$ 252,514.00, provided that there shall have been delivered to the Assignee the following documents, satisfactory in form and substance to the Assignee, in such number of counterparts as may be reasonably requested by the Assignee:

(i) copies of the opinions and certificates required to be delivered to the Vendor pursuant to section 3.1 of the Participation Agreement dated as of March 28, 1984 (hereinafter called the Participation Agreement) among Missouri-Kansas-Texas Railroad Company, the Vendee, and the Vendor;

(ii) an instrument from the Vendor to the Assignee transferring to the Assignee the security interest of the Vendor in the Equipment, warranting to the Assignee that, as of the date hereof, the Equipment

was free of all claims, liens, and encumbrances of any nature arising by, through or under Vendor except only the rights of the Vendee under the Conditional Sale Agreement and the rights of the Assignee hereunder;

(iii) an invoice of the Vendor for the payment required pursuant to paragraph 4 hereof;

(iv) an executed original of the Conditional Sale Agreement, Lease, Participation Agreement, Prior Agreement and Assignment, Assignment of Lease and Agreement and instrument conveying security interest of Vendor in the Equipment;

(v) insurance certificates required under the Lease that shall name Assignee as a loss payee;

(vi) a Notice of Assignment and Acknowledgement executed and delivered by Lessee under the Lease;

(vii) an opinion of counsel and copy of a resolution of the board of directors for the Missouri-Kansas-Texas Railroad Company ("MKT") in a form satisfactory to Assignee;

(viii) an opinion of counsel and copy of a resolution of the board of directors for each of CIS Leasing Corp. and CIS Rail Corporation in form satisfactory to Assignee;

(ix) incumbency certificates for CIS Rail Corporation, CIS Leasing Corp. and the MKT in form satisfactory to Assignee; and

(x) such other documents as shall have been requested by Assignee.

5. Failure of Condition. In the event that the Assignee shall not make the payment contemplated hereby the Assignee shall reassign to the Vendor, without recourse to the Assignee, all right, title, and interest of the Assignee in and to the Equipment and the Conditional Sale Agreement.

6. Reassignments. The Assignee may assign and reassign any or all of its rights under the Conditional Sale Agreement assigned to it hereby, including the right to receive the payments due or to become due from the Vendee thereunder. In the event of such assignment, the assignee thereof shall enjoy all of the rights and privileges and be subject to the obligations of the assignee hereunder.

7. Counterparts. This assignment may be executed in any number of counterparts and by the different parties hereto on separate counterparts, all of which together shall constitute a single agreement.

8. Effectiveness. Although this assignment is dated as of the date first above written for convenience, the actual dates of execution hereof by the parties hereto are respectively the dates set forth in the acknowledgements hereto annexed, and this assignment shall be effective on the latest of such dates.

9. Assignment of Rights Only. Assignee shall have no obligations of Vendor under this Agreement and Vendor shall comply with all obligations of Vendor as required under the Conditional Sale Agreement and the Participation Agreement.

10. Amendment of Conditional Sale Agreement. Vendor and CIS Leasing Corp. hereby amend the Conditional Sale Agreement as follows:

(a) The last twelve lines of subsection 2.2 at page 2 shall be and hereby are replaced in their entirety to read as follows:

"The unpaid balance of the Purchase Price shall bear interest from the Payment Date to September 30, 1984, inclusive, at the rate of 13.875% per annum and from October 1, 1984, at the rate of 16.00% per annum. Such interest shall be payable, to the extent accrued, on the first business day of each quarterly period, commencing April 1, 1984, until the indebtedness hereunder shall have been discharged. The portion of the Purchase Price payable in installments pursuant to clause (b) of the preceding paragraph and interest thereon shall be payable on the first business day of each quarterly period, commencing July 1, 1984, to and including October 1, 1992. The amount of principal and interest payable on each such date shall be approximately equal, and the total of all such payments of principal shall completely amortize the indebtedness in respect of the Purchase Price; provided that the payment of principal and interest due on July 1, 1984, and on October 1, 1984, shall equal \$ 13,146.30 and the payment of principal and interest due on January 1, 1985, and thereafter shall equal \$ 14,127.81 to reflect the one-time interest rate adjustment."

(b) the penultimate paragraph of subsection 2.2 shall be amended by substituting for "15.60% per annum" the phrase "the greater of 16.5% per annum or 2% in excess of the rate of interest announced from time to time by Chemical Bank as its 'prime rate'";

(c) An additional paragraph shall be added at the end of subsection 2.4 to read as follows:

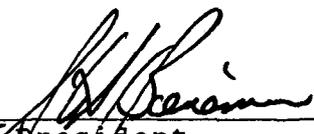
"Notwithstanding the provisions of this subsection 2.4, the Vendee shall be personally liable for any damages resulting from any misrepresentations or violations of the covenants, warranties and agreements of the Vendee set forth in Section 5 of this Agreement. Personal liability shall include any legal expenses incurred by the Vendor or the Assignee in recovering such damages";

(d) The second line of subsection 3.1 shall be amended in its entirety to read "security interest in the Equipment and any repairs, replacements or substitutions thereof and all cash and non-cash"; and

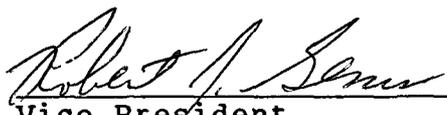
(e) The following language shall be added at the end of subparagraph 7.2(c), "the Assignee, its successors and assigns."

IN WITNESS WHEREOF, the parties hereto have each caused this assignment to be duly executed by their respective officers thereunto duly authorized:

CIS RAIL CORPORATION

  
\_\_\_\_\_  
Vice President

CHEMICAL BUSINESS CREDIT CORP.

  
\_\_\_\_\_  
Vice President

CONSENT AND ACKNOWLEDGEMENT

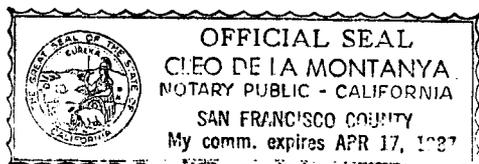
CIS Leasing Corp. hereby consents and agrees that the Conditional Sale Agreement be and hereby is amended in accordance with Section 10 hereof, and further acknowledges receipt of a copy of this agreement.

CIS Leasing Corp.

  
\_\_\_\_\_  
Vice President

STATE OF CALIFORNIA )  
 ) SS.:  
CITY OF SAN FRANCISCO )

On this 25 day of SEPT., 1984, before me personally appeared Stephen C. Brennan to me personally known, who, by me being duly sworn, says that he is a ~~vice~~ President of CIS Rail Corporation, and that said instrument was signed on behalf of said association by authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association.



Charles B. Kato  
Notary Public

My commission expires 4-17-87

STATE OF NEW YORK )  
 ) SS.:  
CITY OF WESTCHESTER )

On this 28 day of Sept., 1984, before me personally appeared Robert Genise, to me personally know, who, by me being duly sworn, says that he is a Vice President of Chemical Business Credit Corp. and that said instrument was signed on behalf of said corporation by authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

CAROL ANN SPINELLA  
Notary Public, State of New York  
Qualified in Westchester County  
No. 4748902  
Commission Expires March 30, 1985

Carol Ann Spinella  
Notary Public

My commission expires 3/30/85

STATE OF CALIFORNIA     )  
                                  )     SS.:  
CITY OF SAN FRANCISCO    )

On this 25 day of SEPT., 1984, before me personally appeared ALEX A. NAWAR, to me personally known, who, by me being duly sworn, says that he is VICE PRESIDENT of CIS Leasing Corp., that the foregoing instrument was signed on behalf of said corporation by authority of its board of directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



*Cleo De La Montanya*  
Notary Public

(0101T)