

No. 1-050A071

Date FEB 19 1981

Fee \$ 10.00

310

Rec No 8568-B

LAW OFFICES

ICC Washington, D.C. ALVORD AND ALVORD

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

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918 SIXTEENTH STREET, N.W.
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20006

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CABLE ADDRESS
"ALVORD"

TELEPHONE
AREA CODE 202
393-2266

* NOT A MEMBER OF D.C. BAR
** ALSO A MEMBER OF OHIO BAR

February 19, 1981

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INTERSTATE COMMERCE COMMISSION

Ms. Agatha L. Mergenovich
Secretary
Interstate Commerce Commission
Washington, D.C.

Dear Madam:

Enclosed for recordation under the provisions of 49 U.S.C. §11303 are the original and two counterparts of a First Amendment to Agreement and Indenture dated as of December 16, 1980.

The enclosed document relates to an Agreement and Indenture (Security Agreement) dated as of November 1, 1976 which was duly filed and recorded at 3:25 p.m. on November 12, 1976 and assigned Recordation Number 8568

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

One hundred (100) 50-foot type XM boxcars bearing identifying numbers WSOR 100000 through WSOR 100099, both inclusive (initially NSL 100000 through NSL 100099, both inclusive).

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

DEBTOR: The Citizens and Southern National Bank
of South Carolina, Owner - Trustee
P.O. Box 1449
Greenville, South Carolina 29602

SECURED
PARTY : Aetna Business Credit, Inc.
111 Founders Plaza, East
Hartford, Connecticut 06108

100
FEE OPERATION BR.

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RECEIVED

C. D. Kappler

Ms. Agatha L. Mergenovich
Interstate Commerce Commission
February 19, 1981
Page Two

The undersigned is agent for the Debtor mentioned in the enclosed document and has knowledge of the matters set forth therein.

Please return the original and one counterpart of the document to Charles T. Kappler, Esq., Alvord and Alvord, 918 Sixteenth Street, N.W., Suite 200, Washington, D.C. 20006 or the bearer thereof.

Also enclosed is a check in the amount of \$10.00 in payment of the required recordation fee.

Very truly yours,

ALVORD AND ALVORD

By: Charles T. Kappler

Charles T. Kappler

CTK/lac
Enclosures

RECORDATION NO. 8568 B
FEB 19 1981

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FIRST AMENDMENT TO AGREEMENT AND INDENTURE INTERSTATE COMMERCE COMMISSION

THE CITIZENS AND SOUTHERN NATIONAL BANK OF SOUTH CAROLINA, as trustee, under and pursuant to the Trust Agreement as amended by the First Amendment thereto (together with any and all successors hereinafter called "Owner Trustee") and Aetna Business Credit, Inc., a corporation having an office at 111 Founders Plaza, East Hartford, Connecticut 06108 (hereinafter called "Aetna"), in consideration of good and valuable consideration, the receipt of which is hereby acknowledged hereby recite and agree as follows:

RECITALS

The Agreement and Indenture to which this document is the First Amendment was duly filed with the Interstate Commerce Commission on November 12, 1976 at 3:25 p.m. and given Recordation Number 8568.

The Owner Trustee and Aetna have agreed to amend and restate the indebtedness for which the Agreement and Indenture is security and wish to make corresponding changes to such Agreement and Indenture.

AGREEMENTS

1. Paragraph B of the Recitals shall be amended to read as follows:

B. The Owner Trustee is the owner of the railroad cars listed in Item 1 of Exhibit A to this First Amendment to Agreement and Indenture and the Owner Trustee has the full power to restate and continue the grant of a security interest in all of its right, title and interest in and to such cars. Such cars are presently leased by the Owner Trustee to the lessee described in Item 2 of Exhibit A to this First Amendment to Agreement and Indenture (such lessee and any subsequent lessee, being hereinafter called the "Lessee"), and the obligations of the Lessee under the Lease are guaranteed by the Guarantor pursuant to the Guaranty of Lease described in Item 2 of Exhibit A to this First Amendment to Agreement and Indenture.

2. Paragraph C of the Recitals shall be amended to read as follows:

C. To provide funds to be used to finance part of the purchase price of such railroad cars, the Owner Trustee had obtained the commitment of Aetna to make a loan to the Owner Trustee in an aggregate principal amount not to exceed Two Million Three Hundred Ten Thousand Dollars (\$2,310,000) initially evidenced by the Owner Trustee's 14% Equipment Promissory Notes

(nonrecourse), which indebtedness, pursuant to the First Amendment to Loan Agreement, has been reset and is now evidenced by the Owner Trustee's 16% Amended Restated and Substitute Promissory Note in the principal amount of \$1,684,153.53 (hereinafter called the "Note").

3. Item I of Paragraph A of the Granting Clause shall be amended to read as follows:

The railroad cars listed in Item 1 of Exhibit A to this First Amendment to Agreement and Indenture.

4. Section 1.1 shall be amended to read as follows:

Section 1.1 Certain Definitions. For purposes of this Indenture, the following terms shall have the respective meanings set forth below or provided for in the section of this Indenture, as amended, following such term (such definitions to be equally applicable to both the singular and plural forms of the terms defined):

A. "Assignment of Lease" or "Assignment" - The instrument in substantially the form and text attached to this First Amendment to Agreement and Indenture as Exhibit C executed and delivered by the Owner Trustee to Aetna with respect to all of the Cars.

B. "Cars" - Paragraph A of the Granting Clause as amended.

C. "Casualty Occurrence" - Section 4.6.

D. "Casualty Prepayment Amount" - Section 4.8.

E. "Casualty Prepayment Date" - Section 4.7.

F. "Consent to Assignment" - The instrument substantially in the form and text attached to the Restated Finance Agreement as Exhibit F thereto executed and delivered to Aetna by the Lessee and the Guarantor.

G. "Default" - Any event or condition the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default.

H. "Due" - and "Payable" - When used with reference to the principal of, or interest on, the Note or portion thereof, shall mean due and payable, whether at the date of maturity specified in the Note or by acceleration, operation of the prepayment provisions of this Indenture, or otherwise.

I. "Equipment" - Paragraph A of the Granting Clause as amended.

J. "Event of Default" - Article 6.

K. "Guarantor" - The Guarantor pursuant to the Guaranty of Lease.

L. "Guaranty of Lease" - The Guaranty of Lease more particularly described in Item 2 of Exhibit A to this First Amendment to Agreement and Indenture guarantying the obligations of the Lessee under the Lease.

M. "Impositions" - Section 3.2.

N. "Indenture", "This Indenture", "The Indenture" - shall mean the Agreement and Indenture (Security Agreement) between The Citizens and Southern National Bank of South Carolina, Owner Trustee, and Aetna Business Credit, Inc., dated as of November 1, 1976 as amended by this First Amendment to Agreement and Indenture dated as of December 16, 1980 and as further supplemented or amended and also, wherever the context permits the Assignment of Lease and any other instrument executed in favor of Aetna pursuant to any of the provisions of this Indenture.

O. "Indenture Estate" - Paragraph A of the Granting Clause as amended.

P. "Item" or "Item of Equipment" - Paragraph A of the Granting Clause as amended.

Q. "Lease" - The lease more particularly described in Item 2 of Exhibit A to this First Amendment to Agreement and Indenture guaranteed as therein described and covering the Equipment therein indicated, a photocopy of which has been delivered by the Owner Trustee to Aetna, and any amendments thereto, guaranties thereof, security interests granted to secure obligations thereunder and any new leases executed and delivered as permitted hereby or by any supplemental indenture or indentures hereto. All terms defined in the Lease and not defined herein shall have the meanings ascribed to them in the Lease unless the context hereof otherwise requires.

R. "Lien of this Indenture", "Lien Hereof", and "Security Interest" - Shall mean any lien or security interest created by this Indenture or by the Assignment of Lease or any other instrument executed in favor of Aetna pursuant to any of the provisions hereof.

S. "Loan Agreement" - Shall mean that certain loan agreement as amended by the First Amendment thereto between the Owner Trustee and Aetna providing, among other things, for the loan to be evidenced by the Note.

T. "Note", "any Note", "Notes" - Unless the context clearly indicates otherwise the Amended, Restated and Substitute Note issued pursuant to the provisions of Section 2.1.

U. "Noteholder" - Any holder of the Note, whether Aetna or any successor or assign of Aetna.

V. "Opinion of Counsel" - An opinion of independent counsel (which may, from time to time, serve as counsel for the Owner Trustee or the Lessee) acceptable to Aetna which opinion is in scope, form and substance satisfactory to Aetna and Aetna's counsel.

W. "Owner Participant(s)" - The Trustor(s) named or provided for in the Trust Agreement.

X. "Owner Trustee" - The Owner Trustee named at the beginning of this Indenture and its successors, if any, in the trusts created by the Trust Agreement.

Y. "Payment Date" - Any date on which is due a regular installment under the Note.

Z. "Payment Date Number" - With respect to any Payment Date on the Note shall mean the number of regular installments (including the one to be made on such Payment Date) which shall have been due on such Note on or before such Payment Date.

AA. "Person" - An individual, partnership, corporation, trust or unincorporated organization, and a government or agency or political subdivision thereof.

BB. "Purchase Price" - With respect to any Item of Equipment means the price paid for such Item of Equipment by the Owner Trustee as shown on a bill of sale.

CC. "Responsible Officers" - With respect to the Owner Trustee shall mean the Chairman of the Board of Directors, any Vice Chairman of the Board of Directors, the Chairman of the Executive Committee, the President, the Chairman of the Trust Committee, every Vice President in the trust department, every second or other Vice President in the trust department, every Assistant Treasurer in the trust department, the Secretary, every Trust Officer and every officer and assistant officer of such Trustee, other than those specifically above-mentioned, to whom any corporate trust matter is referred because of his knowledge of, or familiarity with, a particular subject or because of his assigned duties.

DD. "Restated Finance Agreement", "Finance Agreement" - The Restated Finance Agreement among Aetna, the Owner Trustee,

the Lessee, the Owner Participants and the Guarantor dated as of December 16, 1980 pursuant to which this Indenture has been entered into.

EE. "Trust Agreement" - The Trust Agreement as amended by the First Amendment thereto between the Owner Participants and the Owner Trustee, more particularly described in Item 3 of Exhibit A to this First Amendment, a photocopy of which has been delivered by the Owner Trustee to Aetna.

FF. "Sale Agreement" - The Sale Agreement among U.S. Railway Mfg. Co., the Trustee and Pickens Railroad Company dated as of November 1, 1976 relating to the Equipment.

5. Section 2.1 shall be amended to read as follows:

Section 2.1 Issue of Note and Payment.

A. The principal amount of the Note which will be issued and secured by this Indenture is limited to One Million Six Hundred Eighty-Four Thousand One Hundred Fifty-Three Dollars and Fifty-Three Cents (\$1,684,153.53), provided however, the four previously issued notes dated November 16, 1976, November 23, 1976, December 2, 1976 and December 10, 1976 having an aggregate outstanding principal balance of One Million Six Hundred Eighty-Four Thousand One Hundred Fifty-Three Dollars and Fifty-Three Cents (\$1,684,153.53) shall remain valid, issued and outstanding and entitled to all of the benefits of the Indenture, shall evidence the one and the same indebtedness evidenced by the Note and shall be deemed paid and retired when the Note is paid and retired. Any conflict between the language, terms or provisions of the Note and such prior notes shall be controlled by the Note.

B. The Owner Trustee will issue and deliver to Aetna a Note in the principal amount provided for in Section 2.1(A) hereof.

C. The Note shall be substantially in the form set forth in Exhibit B to the First Amendment to Agreement and Indenture, and shall mature January 15, 1987.

6. Section 2.3 shall be amended to read as follows:

Section 2.3 Direct Payment. Except as otherwise provided herein, the Note need not be presented in order to receive any payment due or prepayment required thereon, so long as the Note is owned by Aetna. Notwithstanding any provision to the contrary herein or in the Note with respect to the place of payment, each payment and prepayment due to Aetna shall be made in the form of a federal funds bank wire transfer at the address and in the manner specified in Item 4 of Exhibit A to this First

Amendment to Agreement and Indenture or in accordance with any unrevoked written direction from Aetna to the Owner Trustee. The principal amount of the Note shall be recorded on Aetna's internal data control systems and each payment of principal with respect to the Note or any portion thereof, when received, shall be evidenced by entries made by Aetna in Aetna's internal data control systems, showing the date and amount of the Note and/or each payment of principal with respect thereto. The aggregate unpaid amount of the Note set forth on the most recent data control systems print-out of Aetna shall be rebuttably presumptive evidence of the sum owing and unpaid on such Note. The Owner Trustee shall be fully protected against and shall have no liability under any claim by a holder of the Note of wrongful payment or prepayment or nonpayment if such payments or prepayments have been directed to Aetna as above provided unless and until (i) the Note is transferred and (ii) the Owner Trustee has been notified thereof in writing.

7. Section 4.1 shall be amended to read as follows:

Section 4.1 Assignment. As further security for the performance by the Owner Trustee of its obligations hereunder and under the Note, the Owner Trustee will contemporaneously with the execution of this First Amendment to the Agreement and Indenture by the Owner Trustee and Aetna (i) deliver to Aetna a photocopy of the Lease, (ii) deliver to Aetna an executed copy of the Assignment of Lease, (iii) deliver to Aetna an executed copy of the Consent to Assignment and (iv) promptly cause this First Amendment to Agreement and Indenture, the Lease and the Assignment to be duly filed, registered, recorded or deposited and refiled, reregistered, rerecorded or redeposited in conformity with the Interstate Commerce Act and in such other places within or without the United States as Aetna may reasonably request for the protection of its Security Interest and will furnish to Aetna proof thereof. The Owner Trustee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments required by law or reasonably requested by Aetna, for the purpose of protecting Aetna's Security Interest in the Equipment to the satisfaction of Aetna and its counsel or for the purpose of carrying out the intention of this Indenture, and in connection with any such action, will deliver to Aetna proof of such filings and an Opinion of Counsel that such action has been properly taken. The Owner Trustee will pay all costs, charges and expenses incident to its compliance with the foregoing provisions of this Section 4.1.

8. Section 4.8 shall be amended to read as follows:

Section 4.8 Casualty Prepayment Amount. The "Casualty Prepayment Amount" with respect to each Item of Equipment shall be an amount (determined as of the date the Casualty Prepayment Amount is paid, as provided in Section 4.7, and not as of the date of the Casualty Occurrence) equal to that percentage of the Purchase Price (as such purchase price is set forth in a bill of sale issued pursuant to the Sales Agreement) of such Item of Equipment set forth, in the Schedule of Casualty Prepayment Amounts attached to this First Amendment to Agreement and Indenture as Schedule I, opposite the Payment Date Number corresponding to the Payment Date on which falls the Casualty Prepayment Date.

9. Section 4.9 shall be amended to read as follows:

Section 4.9 Application of Casualty Prepayment Amount. Any Casualty Prepayment Amount paid to Aetna pursuant hereto shall be applied to the outstanding principal amount of the Note.

10. Section 4.13 shall be amended to read as follows:

Section 4.13 Duty to Number and Mark Equipment. The Owner Trustee will cause each Item of Equipment to be kept numbered with the Lessee's road number as set forth in Annex B to the Lease, or in the case of Equipment not there listed, such identifying number as shall be set forth in any amendment or supplement thereto extending the Lease to cover such Equipment, and will cause to be kept and maintained, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each Item of Equipment in letters not less than one inch in height the words set forth in Item 5 of Exhibit A to this First Amendment to Agreement and Indenture, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect (i) the title of the Lessor to such Item of Equipment, (ii) the Lessor's rights under the Lease and (iii) Aetna's rights hereunder. The Owner Trustee will not allow the Lessee to place any such Item of Equipment in operation or to exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will cause any such name or names and word or words which may be removed, defaced or destroyed to be promptly replaced. The Owner Trustee will not change, or consent to the changing of, the road number of any Item of Equipment except with the consent of Aetna and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed with Aetna by the Owner Trustee and filed, recorded or deposited in all public offices where this Indenture and the Lease shall have been filed, recorded or deposited.

11. Paragraph D of Section 6.1 shall be amended to read as follows:

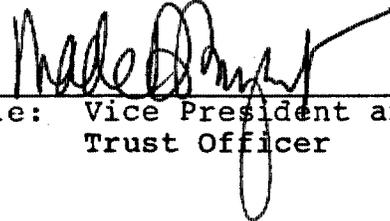
D. Any representation or warranty made by any of the Owner Participants or by the Owner Trustee in this Indenture, the Restated Finance Agreement, the Loan Agreement or any statement or certificate furnished pursuant to any term of this Indenture, the Restated Finance Agreement, the Loan Agreement or in any document or instrument relating to the making of any loan or loans evidenced by the Note, shall prove to be untrue in any material respect as of the date made or given;

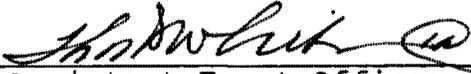
12. The Agreement and Indenture made and entered into as of November 1, 1976 and each and every representation, warranty, covenant, term and condition in such Agreement and Indenture, except as expressly amended by this First Amendment to Agreement and Indenture, is hereby specifically ratified and confirmed.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to Agreement and Indenture to be duly executed by their respective corporate officers thereunto duly authorized and their respective corporate seals to be hereunto affixed and attested all as of December 16, 1980.

THE CITIZENS AND SOUTHERN NATIONAL
BANK OF SOUTH CAROLINA, Owner
Trustee

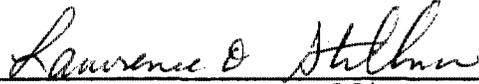
(Seal)

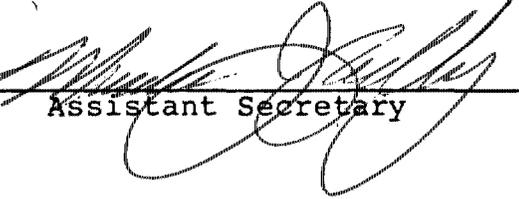
By 
Title: Vice President and Senior
Trust Officer

Attest: 
~~Assistant~~ Trust Officer

AETNA BUSINESS CREDIT, INC.

(Seal)

By 
Title: ~~Loan Officer~~ Div VP

Attest: 
Assistant Secretary

STATE OF CONNECTICUT)
COUNTY OF HARTFORD)

) SS: December 16, 1980
)

On this 16th day of December, 1980, before me personally appeared Lawrence A. Stillman, to me personally known, who being by me duly sworn, says that he is the ~~Loan~~ Div. Vice President Officer of AETNA BUSINESS CREDIT, INC., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was siged and sealed 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.

(Seal)

Doreen A. La Garde
Title: Notary Public
DOREEN A. LA GARDE
NOTARY PUBLIC
MY COMMISSION EXPIRES MARCH 15, 1984

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

) SS:
)

On this 9th day of February, 1981, before me personally appeared Wade H. Bryant, to me personally known, who being by me duly sworn, says that he is the Loan Officer of THE CITIZENS AND SOUTHERN NATIONAL BANK OF SOUTH CAROLINA, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was siged and sealed 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.

(Seal)

Deborah S. Rossi
Title: Notary Public
MY COMMISSION EXPIRES FEB. 9, 1988.

MISCELLANEOUS DESCRIPTIONS

This Exhibit A to First Amendment to Agreement and Indenture shall supersede in its entirety the Exhibit A attached to the Agreement and Indenture dated as of November 1, 1976.

1. The railroad cars which the Owner Trustee owns, or pursuant to the Sale Agreement, will upon payment of the purchase price thereof, become the owner of, are as follows:

100 50 ft. type XM box cars manufactured in 1976 by U.S. Railway Mfg. Co. and bearing identifying numbers WSOR 100,000 through WSOR 100,099 inclusive*

2. The Cars are leased by the Owner Trustee to the Wisconsin & Southern Railroad Co. as Lessee under a Lease dated as of December 16, 1980 executed by the Owner Trustee as Lessor and by the Lessee pursuant to, and substantially in the form of, Exhibit B to the Restated Finance Agreement. The obligations of the Lessee under the Lease are guaranteed by FSC Corporation, as Guarantor, under a Guaranty of Lease dated of even date with the Lease and executed by the Guarantor pursuant to, and substantially in the form of Exhibit C to, the Restated Finance Agreement.
3. The Trust Agreement between the Owner Participants and the Owner Trustee is that Trust Agreement, dated as of November 1, 1976 as amended by the First Amendment to Trust Agreement dated as of December 16, 1980, executed by the Trustee and the Owner Participant pursuant to and substantially in the form of Exhibit A to the Restated Finance Agreement.
4. Each payment and prepayment due to Aetna shall be made in the form of a federal funds bank wire transfer to account No. 047-9695 at Hartford National Bank, 777 Main Street, Hartford, Connecticut 06115.
5. The words which shall appear on the side of each Item pursuant to Section 4.13 of the Indenture are as follows:
"Leased From The Citizens and Southern National Bank of South Carolina, as Lessor and Owner Trustee, and subject to a security interest recorded with the ICC under a Security Agreement filed under the Interstate Commerce Act, Section 11303.

*The cars initially bore identifying numbers NSL 100,000 through NSL 100,099 inclusive.