

RECORDATION NO. 14654/C
Filed 1425

RECORDATION NO. 14654/B
Filed 1425

Barclays American Leasing

MAY 22 1985 -3 30 PM
INTERSTATE COMMERCE COMMISSION

MAY 22 1985 -3 30 PM
INTERSTATE COMMERCE COMMISSION

201 South Tryon Street P.O. Box 31217 Charlotte, NC 28231 (704) 372-5210

RECORDATION NO. 14654/A
Filed 1425

5-142A080

May 17, 1985

MAY 22 1985 -3 30 PM

INTERSTATE COMMERCE COMMISSION

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

No. _____
Date: MAY 22 1985
Fee \$ 20.00
ICC Washington, D.C.

MAY 22 1985 -3 30 PM

INTERSTATE COMMERCE COMMISSION

Dear Secretary:

I have enclosed two original copies of the documents described below to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

The documents are as follows:

1. Conditional Sale Agreement, a primary document dated as of May 17, 1985;
2. Agreement and Assignment, a secondary document dated as of May 17, 1985;
3. Lease of Railroad Equipment, a primary document dated as of May 17, 1985; and
4. Assignment of Lease and Agreement, a primary document dated as of May 17, 1985.

We request that the assignment agreements be cross-indexed.

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

1. Conditional Sale Agreement

Vendor: ACF Industries Incorporated
750 Third Avenue
New York, NY 10017

Union Tank Car Co.
111 West Jackson Boulevard
Chicago, IL 60604

Trinity Industries, Inc.
Box 10587
2525 Stemmons Freeway
Dallas, TX 75207

and

*Dorothy Paul
James H. Bayne*

14654 / C
RECORDATION NO. Filed 1425

MAY 22 1985 - 3 30 PM
INTERSTATE COMMERCE COMMISSION

ANNEX D
to
Conditional Sale Agreement

ASSIGNMENT OF LEASE AND AGREEMENT

Dated as of May 17, 1985

Between

BARCLAYSAMERICAN/LEASING, INC.

and

BARCLAYS BANK PLC

Filed with the Interstate Commerce Commission pursuant to 49 U.S.C. Section
11303 on _____.

ASSIGNMENT OF LEASE AND AGREEMENT dated as of May 17, 1985, between BARCLAYSAMERICAN/LEASING, INC., a North Carolina corporation, ("Owner") and BARCLAYS BANK PLC, a banking corporation organized and existing under and by virtue of the laws of England operating as an agency in Atlanta, Georgia pursuant to the laws of the state of Georgia ("Bank").

The Owner is entering into a Conditional Sale Agreement dated as of the date hereof ("CSA") between each of ACF INDUSTRIES, INCORPORATED, UNION TANK CAR CORPORATION, and TRINITY INDUSTRIES, INC. (collectively "Builders" or severally "Builder") providing for the conditional sale to the Owner by Builders of such units of railroad equipment ("Units") described in Annex B to the CSA as are delivered to and accepted by the Owner thereunder.

BADISCHE CORPORATION ("Lessee") and the Owner have entered into a Lease of Railroad Equipment dated as of the date hereof ("Lease") providing for the leasing by the Owner to the Lessee of the Units.

The Owner will assign certain of its rights under the Lease to the Bank in order to secure the obligations of the Owner under the CSA.

In consideration of the agreements hereinafter set forth, the parties hereto hereby agree as follows:

1. The Owner hereby transfers and assigns to the Bank, as collateral security for the payment and performance of the obligations of the Owner under the CSA, all the Owner's right, title and interest, powers, privileges and other benefits under the Lease (except any amounts of indemnity payable to the Owner pursuant to Section 6 or 12 of the Lease, any indemnity payments made pursuant to the Indemnity Agreement dated as of the date hereof between the Lessee and the Owner and any insurance proceeds payable under public liability policies maintained pursuant to Section 7.6 of the Lease which by the terms of such policies or the terms of the Lease

are payable directly to Owner), including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Owner from the Lessee under or pursuant to the provisions of the Lease, whether as rent, casualty payment, termination payment, indemnity, liquidated damages or otherwise (such moneys called "Payments"), and the right, upon the happening of an Event of Default, to make all waivers and agreements, to give all notices, consents and releases, to take all action specified in the Lease and to do any and all other things whatsoever which the Owner is or may become entitled to do under the Lease. In furtherance of the foregoing assignment, the Owner hereby irrevocably authorizes and empowers the Bank in its own name or in the name of its nominee or in the name of the Owner or as its attorney to demand, sue for, collect and receive any and all Payments to which the Owner is or may become entitled under the Lease and to enforce compliance by the Lessee with all the terms and provisions thereof, and the Bank shall have the exclusive right to control any such proceedings to enforce compliance by the Lessee with all the terms and provisions of the Lease.

The Bank agrees to accept any Payments made by the Lessee for the account of the Owner pursuant to the Lease. To the extent received, the Bank will apply such Payments to satisfy the obligations of the Owner under the CSA then due and payable and, so long as no event of default under the CSA or event which with notice or lapse of time or both would constitute an event of default thereunder shall have occurred and be continuing, any balance shall be paid to the Owner on the same date such Payment is applied to satisfy such obligations of the Owner by bank wire of immediately available Federal funds to the Owner on such date at such address as may be specified to the Bank in writing, and such balance shall be retained by the Owner. If the Bank shall not receive any rental payment under Section 3.1 of the Lease when due, the Bank shall notify the Owner at the address set forth in the Lease.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Bank to or transfer or in any way affect or modify the liability of the Owner under the Lease. Notwithstanding this Assignment or any subsequent assignment,

all obligations of the Owner to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns against and only against persons other than the Bank.

3. The Owner will faithfully perform each and every obligation, covenant and agreement which the Lease provides is to be performed by the Owner and, without the written consent of the Bank, will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee (including without limitation the obligation to pay the rents in the manner and at the time and place specified therein), or enter into any agreement amending, modifying or terminating the Lease. Any amendment, waiver, modification or termination of the Lease without the Bank's consent shall be void.

4. The Owner hereby constitutes the Bank the Owner's true and lawful attorney, irrevocably, with full power (in the name of the Owner or otherwise) to demand and receive all Payments due and to become due under or arising out of the Lease to which the Owner is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Bank may deem to be necessary or advisable.

5. Upon the full discharge and satisfaction of all sums due from the Owner under the CSA, this Assignment and all rights herein assigned to the Bank shall terminate, and all right, title and interest of the Bank in and to the Lease shall revert to the Owner. Promptly following such full discharge and satisfaction, the Bank will advise the Lessee in writing that all sums due from the Owner under the CSA have been fully discharged and satisfied and instruct the Lessee that no further payments under the Lease are to be made to the Bank.

6. The Owner will pay and discharge any and all claims, liens, charges, security interests or other encumbrances (other than those created by the CSA) on the Lease or the rentals or other payments due or to become

due thereunder claimed by any party from, through or under the Owner, or its successors and assigns (other than the Bank), not arising out of the transactions contemplated by the CSA or the Lease (but, to the extent Owner receives funds sufficient for such purpose, including tax liens arising out of the receipt of the rentals and the other payments under the Lease and any other proceeds from the Units) which if unpaid might become a claim, lien, charge, security interest or other encumbrance on or with respect to the Lease or such rentals or other payments equal or superior to the Bank's interest therein, unless the Owner or the Lessee shall be contesting the same in good faith by appropriate proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Bank, adversely affect the interest of the Bank hereunder.

7. The Owner will from time to time execute, acknowledge and deliver any and all further instruments required by law or requested by the Bank in order to confirm or further assure the interest of the Bank hereunder.

8. The Bank may assign all or any of the rights assigned to it hereby or arising under the Lease, including without limitation the right to receive any Payments due or to become due. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Bank hereunder.

9. This Assignment shall be governed by and construed in accordance with the laws of the state of North Carolina; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. Section 11303, such additional rights arising out of the filing, recording, or depositing hereof, if any, as shall be conferred by the laws of the several jurisdictions in which this Assignment shall be filed, recorded or deposited or in which any Unit shall be located, and any rights arising out of the marking of the Units.

10. The Owner shall cause copies of all notices received in connection with the Lease and all payments hereunder to be promptly delivered or mailed to the Bank at its address set forth in the CSA or at such other address as the Bank shall designate.

11. So long as no event of default under the CSA has occurred and is continuing, the Bank will not exercise or seek to exercise any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Owner to the Bank by this Assignment, except the right to demand, sue for, collect, receive and apply the Payments as provided in Section 1 hereof, and the Owner may (if the Bank is not already doing so) exercise or seek to exercise its rights, powers, privileges and remedies arising out of Section 13.1(a) of the Lease; provided, however, that the Owner shall not terminate the Lease or otherwise exercise or seek to exercise any rights, powers, privileges and remedies arising out of Section 13.1(b) of the Lease without the prior written consent of the Bank.

12. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Bank shall be deemed to be the original counterpart. Although for convenience this Assignment is dated as of the date first above written, the actual dates of execution hereof by the parties hereto are the dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by duly authorized officers as of the date first above written.

Attest:

Michelle Lopez
[Seal] *asst. Secretary*

BARCLAYSAMERICAN/LEASING, INC.

By: *[Signature]*

BARCLAYS BANK PLC

By: *WJ Barrett*

By: *Jan R. Hendry*

STATE OF NORTH CAROLINA,)
) ss.:
COUNTY OF MECKLENBURG,)

On this ___ day of _____, before me personally appeared _____ to me personally known, who, being by me duly sworn, says that he is a Senior Vice President of BARCLAYSAMERICAN/LEASING, INC. a North Carolina corporation, that one of the seals affixed to the foregoing instrument is the seal of said Corporation, that said instrument was signed 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.

Notary Public

[Notarial Seal]

My Commission Expires _____

STATE OF GEORGIA,)
) ss.:
COUNTY OF FULTON,)

On this 17 day of MAY 1985, before me personally appeared WILLIAM E. ZARRETT to me personally known, who, being by me duly sworn, says that he is a VICE PRESIDENT of BARCLAYS BANK PLC a banking corporation organized and existing under and by virtue of the laws of England, 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.

Martina B. Stone

Notary Public

[Notarial Seal]

My Commission Expires _____
MARTHA B. STONE
Notary Public, Georgia, State at Large
My Commission Expires Nov. 15, 1986

CONSENT AND AGREEMENT

BADISCHE CORPORATION, a Delaware corporation ("Lessee"), the lessee named in the Lease of Railroad Equipment ("Lease") referred to in the foregoing Assignment of Lease and Agreement ("Lease Assignment"), hereby acknowledges receipt of a copy of the Lease Assignment and consents to the lease assignment in accordance with the terms of the Lease Assignment and agrees that:

(1) it will pay all Payments (as defined in the Lease Assignment) payable under the Lease by bank wire transfer of Federal funds directly to Barclays Bank PLC ("Bank"), the assignee named in the Lease Assignment, at Suite 1800 First Atlanta Tower, 2 Peachtree Street, Atlanta, Georgia 30383, Attention: Manager (or at such other address as may be furnished in writing to the Lessee by the Bank), with a notation that the payment is for credit to Badische Corporation Lease Financing.

(2) it shall not be entitled to any abatement of rent or additional rent reduction thereof or setoff against or recoupment of rent or additional rent, including, but not limited to, abatements, reductions, setoffs or recoupments due or alleged to be due by reason of any past, present or future claims or counterclaims of the Lessee against the Lessor under the Lease or under the CSA or against Builders (as defined in the Lease Assignment) or the Bank or otherwise (provided that the foregoing shall not be deemed a waiver by the Lessee of its rights to pursue any past, present or future claims directly against Builders or the Lessee's right to require the Owner to perform the Owner's obligations under the Documents (as defined in the Participation Agreement dated as of the date hereof));

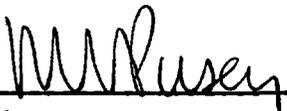
(3) the Bank shall be entitled to the benefits of and to receive and enforce performance of all the covenants to be performed by the Lessee under the Lease as though the Bank were named therein as the Owner; and the Bank shall not by virtue of the Lease Assignment be or become subject to any liability or obligation under the Lease or otherwise; and

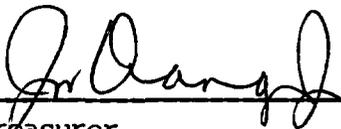
(4) without the prior written consent of the Bank, the Lease shall not be terminated or modified by the Lessee except as otherwise permitted by the terms of the Lease nor shall any action be taken or omitted by the Lessee which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof.

This Consent and Agreement, when accepted by the Bank by signing the acceptance at the foot hereof, shall be deemed to be a contract for the benefit of the Bank and its successors and assigns under the laws of the state of North Carolina, and for all purposes, shall be construed in accordance with the laws of said state.

Attest:

BADISCHE CORPORATION


Assistant Secretary

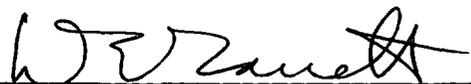
By: 
Treasurer



[Corporate Seal]

The foregoing Consent and Agreement is hereby accepted as of
MAY 17, 1985.

BARCLAYS BANK PLC

By: 

By: 