

ASSIGNMENT AND AMENDMENT
OF CONDITIONAL SALE AGREEMENTS

8272-A
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INTERSTATE COMMERCE COMMISSION

This Assignment and Amendment of Conditional Sale Agreements is entered into as of this the 21st day of March, 1983 between CITICORP LEASING, INC., a Delaware corporation, ITEL CORPORATION, a Delaware corporation ("Itel"), as successor in interest to SSI RAIL CORP., a Delaware corporation ("SSI"), and ITEL RAIL CORPORATION, a Delaware corporation (the "Assignee").

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Section 1. Recitals of Fact.

A. FMC Corporation, a Delaware corporation (hereinafter called "Builder"), and SSI entered into a conditional sale agreement made as of April 1, 1976, filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8272 (hereinafter called "the April Conditional Sale Agreement"), providing for the construction, sale and delivery by Builder and the purchase by SSI of one hundred (100) 50' 6" 70-ton capacity, general purpose, single sheath boxcars numbered SRN 5000 through SRN 5099 inclusive (the "SRN Cars").

B. Pursuant to a First Amendment and Supplement to Conditional Sale Agreement dated June 2, 1976, filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8272B, the April Conditional Sale Agreement was amended.

C. Pursuant to an Agreement and Assignment dated as of June 2, 1976, filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8272A, the Bank of California ("Bank") was assigned Builder's interest in the April Conditional Sale Agreement, as amended.

D. Pursuant to a Second Amendment and Supplement to Conditional Sale Agreement made as of July 30, 1976 filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8272-C, the April Conditional Sale Agreement was further amended.

E. Pursuant to an Agreement and Assignment dated as of July 30, 1976; filed and recorded with the Interstate Commerce Commission and assigned recordation No. 8272-D, the rights of the Bank under the April Conditional Sale Agreement, as amended, were assigned to Citicorp Leasing, Inc. ("Citicorp").

F. Builder and SSI also entered into a conditional sale agreement made as of June 4, 1976, filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8355 (hereinafter called the "June Conditional Sale Agreement"), providing for the construction, sale and delivery by Builder and the purchase by SSI of one hundred (100) 50' 6" 70-ton capacity, general purpose, single sheath boxcars numbered VSO 6100 through 6199 inclusive (the "VSO Cars").

G. Pursuant to a First Amendment and Supplement to Conditional Sale Agreement dated June 22, 1976, filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8355-B, the June Conditional Sale Agreement was amended.

H. Pursuant to an Agreement and Assignment dated as of June 22, 1976, filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8355-A, First Pennsylvania Bank, national association ("First Penn") was assigned Builder's interest in the June Conditional Sale Agreement, as amended.

I. Pursuant to a Second Amendment and Supplement to Conditional Sale Agreement made as of July 30, 1976, filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8355-C, the June Conditional Sale Agreement was further amended.

J. Pursuant to an Agreement and Assignment dated as of July 30, 1976, filed and recorded with the Interstate Commerce Commission and assigned recordation No. 8355-D, the rights of First Penn under the June Conditional Sale Agreement, as amended, were assigned to Citicorp.

K. The SRN Cars were leased to the Sabine River & Northern Railroad Company pursuant to a Lease Agreement dated as of March 26, 1976 and an equipment schedule thereto (the "SRN Lease") which was accepted by SSI on March 29, 1976. The SRN Lease was filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8246-E.

L. The VSO Cars were leased to the Valdosta Southern Railroad Company pursuant to a Lease Agreement dated as of March 26, 1976 and an equipment schedule thereto (the "VSO Lease") which was accepted by SSI on March 29, 1976. The VSO Lease was filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8343-A.

M. The SRN Lease was assigned to Citicorp as partial security for the indebtedness represented by the April Conditional Sale Agreement pursuant to an Assignment of Lease and Agreement dated as of July 30, 1976 and filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8272-E.

N. The VSO Lease was assigned to Citicorp as partial security for the indebtedness represented by the June Conditional Sale Agreement pursuant to an Assignment of Lease and Agreement dated July 30, 1976 and filed and recorded with the Interstate Commerce Commission and assigned Recordation No. 8355-E.

O. The obligations of SSI under the April Conditional Sale Agreement, as amended, and the June Conditional Sale Agreement, as amended, were guaranteed in part by Itel pursuant to two Debt Servicing Agreements, each dated as of July 30, 1976 (the "Guarantees").

P. Itel merged SSI into itself pursuant to a Certificate of Ownership and Merger dated as of December 15, 1977. As a result of said merger, Itel, as the successor in interest to SSI, became the obligor under the April Conditional Sale Agreement, as amended and under the June Conditional Sale Agreement, as amended (such conditional sale agreements being henceforth collectively referred to as the "Conditional Sale Agreements").

Q. On January 19, 1981, Itel filed a petition for reorganization pursuant to Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Northern District of California (the "Court"). A proof of claim was filed with the Court on behalf of Citicorp.

R. Subsequent to the filing of Itel's petition for reorganization, Itel and Citicorp entered into an "Agreement and Stipulation Re: Use of Cash Collateral and Adequate Protection Pursuant to Sections 361 and 363 of the Bankruptcy Code for Citicorp Leasing, Inc." (the "Cash Collateral Stipulation"). The Cash Collateral Stipulation provided for the payment by Itel of the scheduled debt service under the April Conditional Sale Agreement and June Conditional Sale Agreement, and permitted Itel to use in its regular business the excess cash collateral, if any.

S. Pursuant to the amended plan of reorganization dated as of December 8, 1982, filed in said reorganization proceeding (the "Plan of Reorganization") Itel will transfer to the Assignee substantially all of the assets utilized by Itel's rail division. The Plan of Reorganization further provides that the Assignee will conduct all of Itel's current and future rail operations (except for the management and marketing of Itel's residual interests in rail-related assets) and will continue Itel's railroad equipment leasing business as it is now conducted. In connection with the continuation of Itel's railroad equipment leasing business, Itel is willing to assume its obligations under the Conditional Sale Agreements and assign all of its rights and obligations thereunder to the Assignee; provided that Citicorp releases Itel from all obligations with respect thereto and with respect to the Guarantees and agrees to look only to Assignee for the performance of such Conditional Sale Agreements.

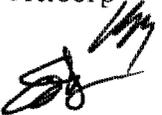
T. The parties hereto desire by this Amendment to amend and supplement certain provisions of the Conditional Sale Agreements and to provide for the assumption by the Assignee of the due and punctual performance and observance of all the terms, covenants and conditions of and the due and punctual payment of all amounts payable under the Conditional Sale Agreements in like manner as if the Assignee were named therein in lieu of SSI (as predecessor in interest to Itel).

Section 2. Effective Date.

This Agreement shall become effective upon entry by the Court of an order confirming the Plan of Reorganization.

Section 3. Assignment and Assumption.

A. Itel hereby assigns to the Assignee all of its right, title and interest in and to the Conditional Sale Agreements. ~~The Lessor~~ hereby consents to the foregoing assignment and agrees that Itel shall be relieved of all liabilities and obligations under the Conditional Sale Agreements and the Guarantees and that only the Assignee shall be henceforth liable thereunder.

Citicorp


B. The Assignee hereby assumes the due and punctual performance and observance of all the terms, covenants and agreements of and the due and punctual payment of all amounts payable under the Conditional Sale Agreements in like manner as if named therein in lieu of SSI (as predecessor in interest to Itel).

Section 4. Amendments to the Conditional Sale Agreements.

A. The April Conditional Sale Agreement, as amended, and the June Conditional Sale Agreement, as amended, are each hereby further amended by restating in their entirety the definitions therein of "Railroad" to mean Itel Rail Corporation, a Delaware corporation.

B. Section 19 of the April Conditional Sale Agreement, as amended, and Section 19 of the June Conditional Sale Agreement, as amended, are each hereby amended and restated in their entirety as follows:

"Section 19. Delivery by Railroad of Financial Statements and Other Reports. Railroad agrees that, as long as any portion of the Conditional Sale Indebtedness shall be unpaid, Railroad shall, subject to there being in full force and effect a confidentiality agreement substantially in the form set forth in Exhibit A to this Conditional Sale Agreement, binding upon the Assignee and to any other person to whom the information set forth below is delivered, deliver to the Assignee (in each case in duplicate if requested in writing in advance):

(a) As soon as practicable after the end of each fiscal quarter (except the last fiscal quarter) in each fiscal year of Railroad and in any event within sixty (60) days thereafter, a consolidated balance sheet of Railroad and its subsidiaries (the "Subsidiaries") as at the end of such quarter, and the related consolidated statements of income and changes in the financial position of Railroad and the Subsidiaries for such quarter and for the period from the beginning of such fiscal year to the end of such quarter, setting forth in each case in comparative form figures for the corresponding periods of the previous fiscal year, certified by the chief financial officer of Railroad as (i) presenting fairly the consolidated financial position of Railroad and the Subsidiaries as at the end of such fiscal quarter and the consolidated results of operations and changes in the financial position of Railroad and the Subsidiaries for the periods ended on such date (subject to changes resulting from the normal year-end audit adjustments) and (ii) having been prepared in accordance with generally accepted accounting principles (or such accounting principles from time to time in effect promulgated or accepted by the Interstate Commerce Commission for reporting purposes under the Interstate Commerce Act (hereinafter "ICC Accounting Principles") where applicable), consistently applied throughout the periods referred to therein (except for such changes in accounting principles as are disclosed therein and are concurred in by the then current independent certified public accountants of Railroad);

(b) as soon as practicable after the end of each fiscal year of Railroad and in any event within one hundred twenty (120) days thereafter, (i) a consolidated balance sheet of Railroad and the Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income and changes in financial position of Railroad and its Subsidiaries for such year, setting forth in each case in comparative form figures for the previous fiscal year, reported on by independent certified public accountants as presenting fairly the consolidated financial position of Railroad and the Subsidiaries as at the end of such fiscal year and the consolidated results of operations and changes in financial position of Railroad and the Subsidiaries for such year in accordance with generally accepted accounting principles, or ICC Accounting Principles where applicable, consistently applied throughout the

periods referred to therein (except for such changes in accounting principles as are disclosed therein and as are concurred in by such independent certified public accountants), the report of such independent certified public accountants not to be qualified or limited because of restricted or limited examination by such independent certified public accountants of any portion of the records of Railroad or any Subsidiary;

(c) As soon as practicable after the end of each calendar month, a report as to the utilization of the Equipment; and

(d) concurrently with the delivery of the financial statements required by subsections 19(a) and 19(b) hereinabove for the end of the second fiscal quarter and the end of the fiscal year of Railroad, respectively, a certificate of a responsible officer of Railroad to the effect that all maintenance required to be performed on any railroad car owned or leased by Railroad or any Subsidiary in order that it be kept in a reasonable state of repair has been performed during the previous two fiscal quarters or, if such maintenance has not been performed, provide specific information with respect thereto."

C. Section 22 of the April Conditional Sale Agreement, as amended, and Section 22 of the June Conditional Sale Agreement, as amended, are hereby further amended by restating the address for notices required or permitted to be given by Citicorp to the "Railroad" and by Itel Rail Corporation to the "Assignee" under each such Agreement as follows:

"If to the Railroad:

Itel Rail Corporation
55 Francisco Street
San Francisco, California 94133.

Attention of Vice President of Finance.

If to the Assignee:

Citicorp Leasing, Inc.
44 Montgomery Street
Suite 3785
San Francisco, California 94104."

D. A Confidentiality Agreement in the form of Annex A hereto is added as Exhibit A to the April Conditional Sale Agreement and the June Conditional Sale Agreement.

Section 5. Termination of Lease.

Assignee agrees that it will not exercise its right to terminate all or part of the SRN Lease pursuant to Sections 6C or 6E thereof or its right to terminate the VSO Lease pursuant to Sections 6C or 6E thereof, unless: (i) the railroad equipment so terminated is immediately re-leased by Assignee; (ii) Assignee provides Citicorp with no less than thirty (30) days written notice of such intended

substitution; and (iii) during such thirty (30) day period Citicorp does not object in writing to such termination and substitution.

Section 6. Filings.

The Assignee shall, promptly after the execution and delivery of this Agreement, cause the same to be duly filed and recorded with the Interstate Commerce Commission in accordance with Section 49 U.S.C. 11303, with respect to the April Conditional Sale Agreement and the June Conditional Sale Agreement.

Section 7. Events of Default.

By the execution of this Agreement, ~~the Lessor~~ hereby waives all Events of Default under the Conditional Sale Agreements which may have occurred prior to the effective date of this Agreement; provided that such waiver shall in no event constitute a waiver of Events of Default arising after the effective date of this Agreement.

Citicorp



Section 8. Miscellaneous.

A. Citicorp acknowledges that the obligations of SSI and Itel under Section 11(f) of the April Conditional Sale Agreement and Section 11(f) of the June Conditional Sale Agreement have been fully satisfied.

B. This Agreement shall be governed by and construed in accordance with the laws of the State of California; provided that the parties shall be entitled to all rights conferred under any applicable Federal statute, rule or regulation.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective names, by officers thereunto duly authorized, and their respective seals to be affixed hereto and duly attested, all as of the date first above written.

ITEL CORPORATION, acting through
its Rail Division

By



Title

President

Attest:

Assistant Secretary

ITEL RAIL CORPORATION

By *Edward M. De*
Title *President*

CITICORP LEASING, INC.

By *Louis E. Gallardo*
Title *VICE PRESIDENT*

[Corporate Seal]

Attest:

Assistant Secretary

Exhibit A to Conditional Sale Agreement

"In consideration of the agreements of Railroad to provide certain confidential information hereunder to the Assignee, the undersigned hereby agrees that any information received by it from Lessee which is marked or clearly identified as "Confidential" shall be accorded treatment not less restrictive than is accorded to the internal confidential documents of the undersigned and shall in no event be provided to either (i) any employee or agent of the undersigned, other than as may be directly engaged in the business relationship between the undersigned and Railroad or (ii) any other person, firm, or organization, without the prior written consent of Lessee; provided, however, that the foregoing shall not apply to the extent that such information is (a) requested by a government agency which regulates the undersigned, (b) required by any court of competent jurisdiction or government agency, or (c) a matter of public record."

STATE OF CALIFORNIA)
County of San Francisco) ss:

On this 21 day of March, in the year 1982, before the undersigned, a Notary Public in and for the State of California, personally appeared Louis E. Stoddard, known to me (or proved to me on the basis of satisfactory evidence) to be Vice President of CITICORP LEASING, INC. and known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

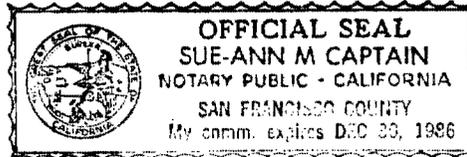
WITNESS my hand and official seal.

My Commission Expires:

12-30-86

Sue-Ann M. Captain
Notary Public for the State of California

[NOTARY SEAL]



STATE OF CALIFORNIA)
)
County of San Francisco) SS:

On this 4th day of May, in the year 1983, before the undersigned, a Notary Public in and for the State of California, personally appeared Edward M. O'Connell, known to me (or proved to me on the basis of satisfactory evidence) to be President of ITEL Corporation, acting through its Rail Division and known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of said corporation and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

My Commission Expires:

Randi C. Smith
Notary Public for the State of California

[NOTARY SEAL]



STATE OF CALIFORNIA)
)
County of San Francisco) SS:

On this 4th day of May, in the year 1983, before the undersigned, a Notary Public in and for the State of California, personally appeared Edward M. O'Connell known to me (or proved to me on the basis of satisfactory evidence) to be President of ITEL Rail Corporation, and known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of said corporation and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

My Commission Expires:

Randi C. Smith
Notary Public for the State of California

[NOTARY SEAL]

