

NEW Num B502

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TELEX
440367 A AND A

RECORDATION NO. 1 5192
7-086A066 Filed & Recorded

MAR 27 1987 11-25 AM

No. _____
Date MAR 27 1987 INTERSTATE COMMERCE COMMISSION
Fee \$ 10.00

ICC OFFICE OF
THE SECRETARY
MAR 27 11 26 AM '87
MOTOR OPERATIONS UNIT

ICC Washington, D. C.

Ms. Noreta R. McGee
Secretary
Interstate Commerce Commission
Washington, D.C.

Dear Ms. McGee:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11303(a) are two fully executed copies of a Security Agreement and Chattel Mortgage dated as of March 27, 1987, a primary document as defined in the Commission's Rules for the Recordation of Documents.

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

Debtor: ACF Industries, Incorporated
3301 Rider Trail South
Earth City, Missouri 63045

Secured Party: Signal Capital Corporation
Liberty Lane
Hampton, New Hampshire 03842-1393

A description of the railroad equipment covered by the enclosed document is set forth in Schedule A attached hereto and made a part hereof.

Also enclosed is a check in the amount of \$10 payable to the order of the Interstate Commerce Commission covering the required recordation fee.

C. T. Kappler

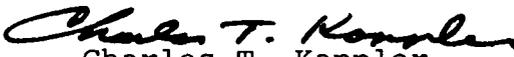
Ms. Noreta R. McGee
Secretary
Interstate Commerce Commission
Page Two

Kindly return a stamped copy of the enclosed document to Charles T. Kappler, Esq., Alvord and Alvord, 918 Sixteenth Street, N.W., Washington, D.C. 20006.

A short summary of the enclosed primary document to appear in the Commission's Index is:

Security Agreement and Chattel Mortgage, dated as of March 27, 1987, between ACF Industries, Incorporated, Debtor, and Signal Capital Corporation, Secured Party, covering four hundred ninety-one (491) railroad tank cars and covered hopper cars.

Very truly yours,


Charles T. Kappler

Enclosures

15192
ICC Trans letter
Schedule A

(THE EQUIPMENT)

ACF INDUSTRIES, INCORPORATED

| <u>CAR COUNT</u> | <u>CAR NUMBERS</u> | <u>AAR DESIGNATION</u> |
|------------------|--------------------|------------------------|
| 12 | 39318-39329 | C214 |
| 1 | 39376 | |
| 2 | 39379-39380 | |
| 2 | 39412-39413 | |
| 1 | 39429 | |
| 2 | 39431-39432 | |
| 9 | 39440-39448 | |
| 61 | 39492-39552 | |
| 1 | 39554 | |
| 1 | 39565 | |
| 5 | 39567-39571 | |
| 2 | 39606-39607 | |
| 1 | 39609 | |
| 2 | 39611-39612 | |
| 4 | 39614-39617 | |
| 6 | 39627-39632 | |
| 2 | 39643-39644 | |
| 4 | 39646-39649 | |
| 2 | 39652-39653 | |
| 1 | 40354 | |
| 1 | 40393 | |
| 120 | 40481-40600 | |
| 5 | 39473-39477 | C614 |
| 1 | 39479 | |
| 24 | 51017-51040 | |
| 1 | 51073 | |
| 27 | 51076-51102 | |
| 10 | 51104-51113 | |
| 1 | 51119 | |
| 5 | 51143-51147 | |
| 43 | 51163-51205 | |
| 2 | 51230-51231 | |
| 12 | 39330-39341 | C714 |
| 14 | 71482-71495 | T103 |
| 20 | 71141-71160 | T104 |
| 8 | 71187-71194 | |
| 5 | 71332-71336 | |
| 10 | 71131-71140 | T105 |
| 10 | 71230-71239 | |
| 1 | 71183 | T106 |
| 35 | 71195-71229 | T107 |
| 5 | 71240-71244 | |
| 2 | 77226-77227 | T865 |
| 7 | 77239-77245 | |
| 1 | 77219 | T866 |
| <u>491</u> Total | | |

Interstate Commerce Commission

Washington, D.C. 20423

3/27/87

OFFICE OF THE SECRETARY

Charles T. Kappler
Alvord & Alvord
918 16th St. N.W.
Washington, D.C. 20006

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 3/27/87 at 11:25am, and assigned re-
recording number(s).

15192

Sincerely yours,

Noreta R. McGehee
Secretary

Enclosure(s)

SE-30
(7/79)

ICC Copy

1 5192

RECORDATION NO. _____ Filed & Recorded

MAR 27 1987 11-2 5 AM

INTERSTATE COMMERCE COMMISSION

SECURITY AGREEMENT

AND

CHATTEL MORTGAGE

BETWEEN

ACF INDUSTRIES, INCORPORATED

DEBTOR

AND

SIGNAL CAPITAL CORPORATION

SECURED PARTY

Dated as of March 27, 1987

SECURITY AGREEMENT AND CHATTEL MORTGAGE

SECURITY AGREEMENT AND CHATTEL MORTGAGE dated as of March 27, 1987 (the "Security Agreement") between ACF Industries, Incorporated, a New Jersey corporation (the "Debtor"), and Signal Capital Corporation, a Delaware corporation (the "Secured Party"), parties to the Term Loan Agreement (the "Loan Agreement") dated as of March 27, 1987, as the same may be amended, modified or supplemented from time to time.

RECITALS

A. Pursuant to Section 1.01 of the Loan Agreement and subject to conditions therein set forth, the Secured Party has agreed to make a loan to the Debtor in the principal amount of \$20,000,000 (the "Secured Loan").

B. The principal of and interest on the Secured Loan and all additional amounts and other sums at any time due and owing from or required to be paid by Debtor under the terms of the Loan Agreement with respect to the Secured Loan, the Note of the Debtor issued pursuant thereto or this Security Agreement are hereinafter sometimes referred to as "indebtedness hereby secured."

Section 1. SECURITY

Grant of Security Interest. The Debtor, in consideration of the premises and of the sum of Ten Dollars received by the

Debtor from the Secured Party and other good and valuable consideration, receipt and sufficiency whereof is hereby acknowledged, and in order to secure the payment of the principal of and interest on the Note according to its tenor and effect, and to secure the payment of all other indebtedness hereby secured and the performance and observance of all covenants and conditions contained in the Loan Agreement and in this Security Agreement and the Note, does hereby transfer, convey, warrant, mortgage, deliver, pledge, assign, and grant to the Secured Party, its successors and assigns, a lien on and continuing security interest in, all and singular of the Debtor's rights, title and interest in and to the properties, rights, interests and privileges described in Sections 1.1, 1.2 and 1.3 hereof (all of which properties are hereinafter collectively referred to as the "Collateral").

1.1. Equipment Collateral. Collateral includes certain railroad tank cars and covered hopper cars (collectively the "Equipment" or "Items of Equipment" and individually an "Item of Equipment") described on Schedule A hereto together with all accessories, equipment, parts and appurtenances appertaining or attached to such Equipment, whether now owned or hereafter acquired, and Replacement Units (as hereinafter defined) and all substitutions, renewals or replacements of and additions, improvements, accessions and

accumulations to any and all of said Equipment and Replacement Units, together with all the rents, issues, income, profits and avails therefrom and the proceeds thereof.

1.2. Rental Collateral. Collateral also includes, subject to Section 3 hereof, all right, title and interest of Debtor in and to each and every lease relating to the Equipment but to and only to the extent relating to the Equipment (each such lease being an "Assigned Lease"), including but not limited to:

(a) all payments due and to become due under any Assigned Lease, whether as contractual obligations, damages or otherwise;

(b) all of its claims, rights, powers, or privileges and remedies under any Assigned Lease insofar as such rights relate to the Equipment and, to the extent permitted by the lessee under any Assigned Lease, the right to cure a default by Debtor under any Assigned Lease; and

(c) all of its rights under any Assigned Lease to make determinations, to exercise any election (including, but not limited to, election of remedies) or option or to give or receive any notice, consent, waiver or approval together with full power, and authority with respect to any Assigned Lease to demand, receive, enforce, collect or receipt for any of the foregoing rights or any property the subject of any of

the Assigned Leases, to enforce or execute any checks, or other instruments or orders, to file any claims and to take any action which (in the opinion of the Secured Party) may be necessary or advisable in connection with any of the foregoing insofar, but only insofar, as such rights relate to the Equipment together with all extensions, renewals and replacements thereof, whether now owned or hereafter acquired and all income, profits and avails therefrom, all rights thereunder and all proceeds thereof (insofar as the same relate to or are derived from the Equipment).

All the rights, powers, claims, privileges, remedies, options and elections referred to in this Section 1.2 shall be exercisable by the Secured Party only upon the occurrence of and during the continuance of an Event of Default.

1.3. Cash Collateral Account. Collateral also includes the Cash Collateral Account, as defined in Section 4.2, all amounts from time to time on deposit therein and all investments made with the proceeds thereof.

Section 2. COVENANTS AND WARRANTIES OF THE DEBTOR

The Debtor covenants, warrants and agrees as follows:

2.1 Debtor's Duties. The Debtor covenants and agrees well and truly to perform, abide by and to be governed and restricted by each and all of the terms, provisions, re-

restrictions, covenants and agreements set forth in this Security Agreement, the Loan Agreement and the Note and in each and every supplement thereto or amendment thereof which may at any time or from time to time to be executed and delivered by the parties thereto or their successors and assigns, to the same extent as though each and all of said terms, provisions, restrictions, covenants, amendments or supplements to the Loan Agreement were fully set out in an amendment or supplement to this Security Agreement.

2.2 Maintenance; Insurance.

(a) The Debtor at its own expense will maintain and keep or caused to be maintained and kept each Item of Equipment in good order and repair at its own cost and expense, unless and until a Casualty Loss (as hereinafter defined) occurs.

(b) The Debtor will maintain or cause to be maintained with responsible insurance companies, such insurance on such of its properties, in such amounts and against such risks as is customarily maintained by similar businesses, and in any event, in an amount not less than the full fair insurable value of all of the assets and properties of the Debtor and its Subsidiaries where insurance is customarily maintained by the Debtor. For the purpose of this Section 2.2(b), insurance shall include self-insurance, provided the Debtor maintains or

causes to be maintained adequate reserves to cover the risks not otherwise insured and provided further that in no event shall such self-insurance provisions be in an amount greater than \$10,000,000. Within 30 days of the end of each fiscal quarter of the Debtor, the Debtor shall furnish to the Secured Party a certificate of the chief financial officer of the Debtor evidencing the maintenance of the insurance.

2.3 Warranty of Title. The Debtor has the right, power and authority to grant a valid first priority lien on and security interest in the Collateral to the Secured Party for the uses and purposes herein set forth; no Lien (as hereinafter defined) currently attaches to the Collateral and the Debtor will warrant and defend the title to the Collateral against all claims and demands of all third persons or persons claiming by, through or under the Debtor. The Debtor will not create, assume or suffer to exist any Lien on the Collateral other than Permitted Liens (as hereinafter defined). As used herein, "Lien" shall mean any mortgage, pledge, security interest, encumbrance, lease, lien or charge of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement and the filing of or agreement to give any financing statement under the Interstate Commerce Act "ICA" or the Uniform Commercial Code ("UCC") of any jurisdiction). As used herein, "Permitted

Liens" shall mean (a) the Lien created by this Security Agreement and the Assigned Leases; (b) the Lien of taxes, assessments or governmental charges or levies which are not at the time delinquent; (c) the Lien of taxes, assessments or governmental charges or levies which are delinquent but the validity of which is being contested in good faith by appropriate action diligently pursued, if the Debtor shall have set aside on its books such reserves (segregated to the extent required by generally accepted accounting principles, if any, as deemed by it appropriate and adequate in accordance with generally accepted accounting principles), provided that such proceeding shall suspend the collection of such taxes, assessments or governmental charges and, the security interest in the Collateral, or any part thereof, would not in the opinion of the Secured Party be adversely affected or forfeited during the period of such contest; (d) Liens to secure obligations under worker's compensation laws or similar legislation to secure public or statutory obligations of the Borrower or any of its Subsidiaries, and (e) Liens imposed by law which do not materially and adversely affect the value of the Collateral with respect to the indebtedness hereby secured.

2.4 Further Assurances. The Debtor will, in accordance with Section 2.5, at its expense, do, execute, acknowledge and deliver all and every further acts, deeds,,

conveyances, transfers and assurances necessary or proper for the perfection of the security interest being herein provided for in the Collateral, whether now owned or hereafter acquired.

2.5 Recordation and Filing. The Debtor will cause this Security Agreement and any supplements hereto, and all financing and continuation statements and similar notices required by applicable law, at all times to be kept, recorded and filed at no expense to the Secured Party with the ICC, the General Registrar of Canada and the Secretary of State of the State of Missouri in order fully to preserve and protect the rights of the Secured Party hereunder, and will at its own expense furnish to the Secured Party promptly after the execution and delivery of any supplement to this Security Agreement opinions of counsel to the Borrower, Alvord & Alvord (ICC counsel) and Scott & Aylen (Canadian counsel) covering the matters set forth in paragraphs (e), (f), (g) and (h) of Exhibit C to the Term Loan Agreement, with such modifications as are necessary to reflect that the Security Agreement has been supplemented, all in accordance with the terms of Exhibit C thereof.

2.6 Power of Attorney. The Debtor does hereby irrevocably constitute and appoint the Secured Party, upon the occurrence and during the continuance of an Event of Default

hereunder, its true and lawful attorney with full power of substitution for it and in its name, place and stead, to ask, demand, collect, receive, receipt for, sue for, compound and give acquittance for any and all rents, income and other sums which are assigned under Section 1.2 hereof with full power to settle, adjust or compromise any claim thereunder as fully as the Debtor could itself do, and to endorse the name of the Debtor on all commercial paper given in payment or in part payment thereof, and in its discretion to file any claim or take any other action or proceedings, either its own name or in the name of the Debtor or otherwise, which the Secured Party may deem necessary or appropriate to protect and preserve the right, title and interest of the Secured Party in and to such rents and other sums and the security intended to be afforded hereby.

2.7 Chief Executive Office; Corporate Name Records.

The chief executive office of Debtor is located at 3301 Rider Trail South, Earth City, Missouri 63045. Debtor shall not establish a new location for its chief executive office or change its corporate name until it shall have given to the Secured Party not less than sixty (60) days prior written notice of its intention so to do, clearly describing such new location or specifying such new corporate name, as the case may be.

Section 3. SPECIAL PROVISIONS CONCERNING LEASES

Until the occurrence and continuance of an Event of Default, Debtor may exercise all of the Debtor's rights, powers, privileges and remedies under the Assigned Leases, including, without limitation, the right to receive any and all monies due or to become due under the Assigned Leases, and to retain all copies (original or duplicates) of Assigned Leases provided that, without the prior written consent of the Secured Party, Debtor will not enter into any amendment, modification, waiver or termination of any provision of the Assigned Leases other than those which do not (i) have a materially adverse effect on the value of such Assigned Leases or (ii) affect the subordination of the Assigned Leases to this Agreement. Debtor further agrees that it will not enter into a new or replacement Assigned Lease after the date hereof unless such Assigned Lease contains provisions providing that such Assigned Lease is subordinate to this Agreement.

Debtor covenants and agrees to warrant and defend the title to the Assigned Lease Rights against the claims and demands of any Person and upon the occurrence and during the continuance of an Event of Default hereby grants the Secured Party full power and authority to take all actions as the Secured Party deems necessary to effectuate this sentence.

Debtor represents that the rights of the lessee under the Assigned Leases are subordinate to the security interest of the Secured Party in and to the Equipment.

Section 4. POSSESSION AND USE OF EQUIPMENT

4.1 Possession of Collateral. So long as there is no Event of Default hereunder or an event which, with the giving of notice or lapse of time or both, would constitute such an Event of Default, the Debtor and lessee under an Assigned Lease shall be suffered and permitted to remain in full possession, enjoyment and control of the Collateral, including each Assigned Lease, and to manage, operate and use the Equipment and each part thereto with the rights and franchises appertaining thereto. The Debtor shall be entitled to the use of each Item of Equipment upon lines of railroad located in the United States and Canada.

4.2 Insurance Proceeds.

(a) In the event that at any time prior to occurrence of an Event of Default any Item of Equipment is destroyed, lost, stolen, irreparably damaged or missing for a period in excess of sixty (60) days, taken by any governmental entity (including without limitation condemnation, confiscation, requisition, taking of title or use by any governmental entity) or otherwise becomes unusable in the business of the Debtor (a "Casualty Loss") at the option of the Debtor, either (i) the

Debtor shall replace such Item of Equipment with a replacement unit of Rolling Stock (the "Replacement Unit") of equal or greater value and utility within thirty (30) days from such Casualty Loss and any proceeds payable to the Debtor or to the Secured Party as a result of each such Casualty Loss whether in respect of insurance proceeds, condemnation awards or otherwise (collectively, "Casualty Loss Proceeds") shall be retained by or paid to the Debtor as reimbursement for the costs of such replacement or (ii) the Secured Party shall be entitled to retain, and to hold as additional Collateral hereunder in accordance with the following provisions any Casualty Loss Proceeds (except to the extent that the aggregate amount of such Casualty Loss Proceeds for all Casualty Losses during the term of this Agreement does not exceed \$200,000, which amount may be retained by Debtor).

(A) To the extent that the Debtor shall receive any Casualty Loss Proceeds, such proceeds shall be held in trust for the benefit of the Secured Party and shall be promptly turned over to the Secured Party in the exact form received (except for any necessary endorsements) to be held by the Secured Party as Collateral as aforesaid.

(B) All such Casualty Loss Proceeds shall be deposited by the Secured Party into a special cash collateral account (the "Cash Collateral Account") at a bank designated by

Debtor and reasonably acceptable to the Secured Party in the name of the Debtor but under the sole control and dominion of the Secured Party.

(C) With respect to any Item of Equipment subject to a Casualty Loss, (i) to the extent that there is a deficiency between the Casualty Loss Proceeds and the Value of such Item (the "Deficiency"), the Debtor shall cause to be deposited into the Cash Collateral Account an amount equal to the Deficiency, and (ii) to the extent Casualty Loss Proceeds exceed the value of an Item of Equipment (the "Surplus"), the Debtor shall be entitled to retain a portion of the Casualty Loss Proceeds in an amount equal to the Surplus.

(D) All amounts from time to time on deposit in the Cash Collateral Account shall, so long as no Default of Event of Default shall have occurred and be continuing, be invested by the Secured Party at the direction of Debtor in certificates of deposit with such maturities as Debtor shall request.

(E) Except as otherwise provided herein, amounts on deposit in the Cash Collateral Account shall not be released by the Secured Party except to the extent that all or any part of such amount is to be applied, at the option of Debtor, to prepay, in inverse order of maturity, in whole or in

part, an installment of principal of the Secured Loan, without any premium.

(b) To the extent of available funds in the Cash Collateral Account, and so long as no Event of Default has occurred and is continuing, the Debtor shall be entitled to repayment of the Casualty Loss Proceeds and any earnings attributable thereto at such time as the Debtor has replaced the Item or Items of Equipment with respect to which the Casualty Loss Proceeds were paid with a Replacement Unit and has otherwise complied with the provisions of this Section 4.2.

(c) Upon the occurrence and during the continuance of any Event of Default, all Casualty Loss Proceeds shall be paid to the Secured Party and applied by the Secured Party as specified in Section 5.3.

(d) So long as no Event of Default shall have occurred and be continuing, upon the request of Debtor, the Secured Party shall execute and deliver releases in a form reasonably satisfactory to Debtor releasing (i) all the Secured Party's interest in and to any Item of Equipment, and (ii) such Item of Equipment from the Lien of this Agreement, provided, however, that no Item of Equipment shall be so released unless simultaneously there shall be subject to the Lien of this Agreement and the first priority security interest of the Secured Party additional items of Rolling Stock (which are

hereinafter referred to as "Substituted Unit or Units") of not less than the aggregate Value of any Item or Items of Equipment to be so released which Substituted Units shall be under a new or replacement Assigned Lease (the "Replacement Lease"), the value of which Substituted Unit or Units as of the date of such release shall be certified to by an officer of the Debtor. If the Value of the Items of Equipment released hereunder during the term of this Agreement exceeds in the aggregate \$3,000,000, the Secured Party shall not be required to execute any releases pursuant to this Section 4.2 unless the Debtor, in addition to satisfying all other requirements of this Section 4.2, enters into a Replacement Lease that contains provisions with respect to rent and maturity that are no less favorable to Debtor than those in the Assigned Leases being replaced and that imposes no additional material obligations on the Debtor, with a lessee that the Secured Party reasonably determines is comparable in creditworthiness to the lessee under the Assigned Lease which relates to the Item of Equipment to be released from the Lien of this Agreement. The foregoing shall not be deemed in any way to limit the Debtor's right to purchase any Replacement Unit in the event of a Casualty Loss or Casualty Losses pursuant to this Section 4.2.

4.3. Marking of Equipment. The Debtor shall, at its expense, cause each Item of Equipment to be kept numbered

with its identifying road number as set forth in Schedule 1 hereto, or in the case of Equipment not there listed, such identifying number as shall be set forth in any amendment or supplement hereto extending the Security Agreement to cover such Equipment. The Debtor shall, at its expense, replace promptly any such markings which may be removed, defaced, obliterated or destroyed and shall not change the number of any Item of Equipment except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Secured Party and filed, recorded and deposited by the Debtor in all public offices where this Security Agreement shall have been filed, recorded and deposited.

4.4. Registration of Equipment. The Debtor shall, at its expense, register or cause to be registered all Items of Equipment in accordance with the registration requirements of the AAR and the ICC or any of their successor organizations.

Section 5. Secured Party's Rights

5.1 The Secured Party's Rights. The Debtor agrees that when any Event of Default as defined in the Loan Agreement has occurred and is continuing, the Secured Party shall have the rights, options, duties and remedies of a secured party, and the Debtor shall have the rights and duties of a

debtor, under the ICA and under the UCC of the State of Missouri (regardless of whether such UCC or a law similar thereto has been enacted in a jurisdiction wherein the rights or remedies are asserted), as applicable, and the Secured Party shall have the following rights and remedies:

(a) Upon the occurrence of any Event of Default and during the existence thereof, the Secured Party shall have all the rights of a secured party under the ICA or the UCC to enforce the assignments and security interests contained herein and in addition shall have the right (i) to enforce all remedies, rights, powers, and privileges of Debtor under any or all of the Assigned Leases, and/or (ii) to substitute itself or any nominee or agent in lieu of Debtor as party to any of the Assigned Leases and to notify the obligor of any Assigned Lease Rights (Debtor hereby agreeing to deliver any such notice at the request of the Secured Party) that all payments and performance under the relevant Assigned Leases shall be made or rendered to the Secured Party or such other Person as it may designate.

(b) The Secured Party personally or by agents or attorneys, shall have the right (subject to compliance with any applicable mandatory legal requirements) to take immediate possession of the Collateral, or any portion thereof, and for that purpose may pursue the same wherever it may

be found, and may enter any of the premises of the Debtor, with or without notice, demand, process of law or legal procedure, if this can be done without breach of the peace, and search for, take possession, remove, keep and store the Collateral, or use and operate or lease the Collateral until sold.

(c) With respect to Equipment that is not at the time subject to an Assigned Lease, the Secured Party may take possession of the Equipment by requesting that the Debtor deliver possession of the Equipment to the Secured Party. Each Item of Equipment so delivered shall meet the standards then in effect, if any, under the interchange rules of the AAR applicable to railroad equipment of the same type as the Equipment. For the purposes of delivering possession of the Equipment to the Secured Party as above required, the Debtor shall at its cost, expense and risk:

(i) forthwith and in the usual manner (including but not by way of limitation, giving prompt telegraphic and written notice to the AAR and all railroads or other parties to which any Equipment has been interchanged or which are using the Equipment to return the Equipment so interchanged) place such Equipment upon such storage tracks as the Secured Party reasonably may designate;

(ii) permit the Secured Party to store such Equipment on such tracks at the risk of the Debtor without charge for insurance, rent or storage until such Equipment has been sold, leased or otherwise disposed of by the Secured Party; and

(iii) transport the same to any reasonable destination all as directed by the Secured Party.

The assembling, delivery, storage, insurance and transporting of the Equipment not subject to an Assigned Lease as hereinbefore provided shall be at the expense and risk of the Debtor and are of the essence of this Security Agreement, and upon application to any court of equity having jurisdiction in the premises the Secured Party shall be entitled to a decree against the Debtor requiring specific performance of the covenants of the Debtor so to assemble, deliver, store and transport the Equipment not subject to an Assigned Lease.

(d) Any Collateral repossessed by the Secured Party under or pursuant to this Section 5.1 may be sold, leased or otherwise disposed of under one or more contracts or as an entirety, and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner, at such time or times, at such place or places and on such terms as the Secured Party may, in compliance

with any mandatory requirements of applicable law, determine to be commercially reasonable. Any of the Collateral may be sold, leased or otherwise disposed of, in the condition in which the same existed when taken by the Secured Party or after any overhaul or repair which the Secured Party shall determine to be commercially reasonable. Any such disposition which shall be a private sale or other private proceedings permitted by such requirements shall be made upon not less than 10 days' written notice to Debtor specifying the times at which such disposition is to be made and the intended sale price or other consideration therefor, and shall be subject, for 10 days after the giving of such notice, to the right of Debtor or any nominee of Debtor to acquire the Collateral involved at a price or for such other consideration so specified. Any such disposition which shall be a public sale permitted by such requirements shall be made upon not less than 10 days' written notice to Debtor specifying the time and place of such sale and, in the absence of applicable requirements of law, shall be by public auction (which may, at the Secured Party's option, be subject to reserve) after publication of notice of such auction not less than 10 days prior thereto in two newspapers in general circulation in the City of New York. To the extent permitted by any such requirement of law, the Secured Party may itself bid for and

become the purchaser of the Collateral or any item thereof, offered for sale in accordance with this Section without accountability to Debtor (except to the extent of surplus money received as provided in Section 5.3). In the payment of the purchase price therefor, the Secured Party shall be entitled to have credit on account of the purchase price thereof of amounts owing to the Secured Party on account of the indebtedness hereby secured and the Secured Party may deliver the claims for interest on or principal of the Secured Loan or other indebtedness hereby secured in lieu of cash up to the amount which would, upon distribution of the net proceeds of such sale, be payable thereon. If, under mandatory requirements of applicable law, the Secured Party shall be required to make disposition of the Collateral within a period of time which does not permit the giving of notice to Debtor as hereinabove specified, the Secured Party need give Debtor only such notice of disposition as shall be reasonably practicable in view of such mandatory requirements of applicable law.

(e) The Secured Party may proceed to protect and enforce this Security Agreement by suit or suits or proceedings in equity, at law or in bankruptcy, and whether for the specific performance of any covenant or agreement herein contained or in execution or aid of any power herein granted, or for foreclosure hereunder, or for the appointment of a

receiver or receivers for the Collateral or any part thereof, or for the recovery of judgment for the indebtedness hereby secured or for the enforcement of any other legal or equitable remedy available under applicable law.

5.2 Effect of Sale. Any sale, whether under any power of sale hereby given or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Debtor in and to the property sold and shall be a perpetual bar, both at law and in equity, against the Debtor, its successors and assigns, and against any and all persons claiming the property sold, or any part thereof under, by or through the Debtor, its successors or assigns.

5.3 Application of Sale Proceeds. The proceeds and/or avails of any sale of the Collateral, or any part thereof, and the proceeds and the avails of any remedy hereunder shall be paid to and applied as follows:

(a) First, to the payment of costs and expenses of foreclosure or suit, if any, and of such sale, and of all proper expenses, liability and advances, including legal expenses and reasonable attorneys' fees, incurred or made hereunder by the Secured Party, and of all taxes, assessments or liens superior to the lien of these presents,

except any taxes, assessments or other superior lien subject to which said sale may have been made;

(b) Second, to the payment to the Secured Party of the amount then owing or unpaid on the Secured Loan for principal and interest and any other amounts then owing under the Loan Documents; and in case such proceeds shall be insufficient to pay in full the whole amount so due, owing or unpaid upon the Secured Loan, then first to unpaid interest thereon, and second, to unpaid principal thereof; and

(c) Third, to the payment of the surplus, if any, to the Debtor, its successors and assigns, or to whosoever may be lawfully entitled to receive the same it being understood that Debtor shall remain liable to the Secured Party to the extent of any deficiency between the amount of the proceeds of such disposition and the aggregate amount of the sums referred to in clauses (a) and (b) of this Section 5.3.

5.4 Discontinuance of Remedies. In case the Secured Party shall have proceeded to enforce any right under this Security Agreement by foreclosure, sale, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely, then, and in every such case, the Debtor and the Secured Party shall be restored to their former positions and

rights hereunder with respect to the property subject to the security interest created under this Security Agreement.

5.5 Cumulative Remedies. No delay or omission of the Secured Party to exercise any right or power arising from any default on the part of the Debtor, shall exhaust or impair any such right or power or prevent its exercise during the continuance of such default. No waiver by the Secured Party of any such default, whether such waiver be full or partial, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom except as may be otherwise provided herein. The Secured Party may exercise any one or more or all of the remedies hereunder and no remedy is intended to be exclusive of any other remedy but each and every remedy shall be cumulative and in addition to any and every other remedy given hereunder or otherwise existing now or hereafter at law or in equity; nor shall the giving, taking or enforcement of any other or additional security, collateral or guaranty for the payment of the indebtedness secured under this Security Agreement operate to prejudice, waive or affect the security of this Security Agreement or any rights, powers or remedies hereunder, nor shall the Secured Party be required to first look to, enforce or exhaust such other or additional security, collateral or guaranties.

5.6 Indemnity. The Debtor agrees to indemnify, protect and hold harmless the Secured Party from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof (except arising from the wilful misconduct or gross negligence of the Secured Party), and expenses in connection therewith, including, but not limited to, reasonable counsel fees and expenses, penalties and interest, arising out of or as the result of (a) the operation, possession, use, maintenance, overhaul, testing or registration of the Equipment (including injury, death or property damage of employees, shippers, or others, and environmental control, noise, and pollution regulations); (b) the manufacture, design, purchase, acceptance, rejection, delivery or condition of the Equipment (including latent or other defects, whether or not discoverable, and patent, trademark or copyright infringement); (c) any failure by the Debtor to perform or observe any covenant, condition or agreement in this Security Agreement, the Loan Agreement or the Note, or the falsity of any Debtor representation or warranty in this Security Agreement, the Loan Agreement or the Note; or (d) all fees, taxes, levies, assessments, charges or withholdings of any nature imposed against the Secured Party by any federal, state or local government or taxing authority directly relating to the Equipment, the Secured Party's in-

terest therein, or any Assigned Lease or use of the Equipment except for taxes measured by the income, receipts, capital, purchases, profits or conduct of the business of the Secured Party (other than taxes which are in the nature of sales or use taxes, license taxes or property taxes, or taxes imposed on the Secured Party as a result of its gross negligence or wilful misconduct). This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness hereby secured, and the release of the security interest in the Collateral, as provided in Section 7.4 hereof, or the termination of this Security Agreement in any manner whatsoever.

Section 6. DEFINITIONS

6.1 As used herein, the following terms shall have the meanings herein specified unless the context otherwise requires. Capitalized terms not defined herein shall have the meanings assigned to them in the Loan Agreement. Defined terms in this Security Agreement shall include in the singular number the plural and in the plural number the singular.

"AAR" shall mean the Association of American Railroads.

"Assigned Leases" shall have the meanings specified in Section 1.2 hereof.

"Assigned Lease Rights" means the Assigned Leases together with the rights under such Leases, insofar as such rights relate to the Equipment, as specified in Section 1.2 hereof.

"Cash Collateral Account" shall have the meaning specified in Section 4.2.

"Casualty Loss" shall have the meaning specified in Section 4.2.

"Casualty Loss Proceeds" shall have the meaning specified in Section 4.2.

"Collateral" shall have the meaning specified in Section 1 hereof.

"Cost" shall mean, when used with respect to Equipment not built by the Borrower or any affiliate of the Borrower, the actual cost to the Borrower thereof and, with respect to Equipment built by the Borrower or any such affiliate, shall mean "car builder's cost", including direct cost of labor and material and overhead, but excluding the overhead of the Borrower's corporate headquarters and any manufacturing profit.

"Debtor" shall mean ACF Industries, Incorporated.

"Default" shall mean any event, act or condition which with notice or lapse of time, or both, would constitute an Event of Default.

"Equipment" shall have the meaning specified in Section 1.1.

"ICA" shall mean the Interstate Commerce Act, as amended.

"Indebtedness hereby secured" shall have the meaning specified in the second recital hereof.

"Item of Equipment" shall have the meaning specified in Section 1.1 hereof.

"Lien" shall have the meaning specified in Section 2.3 hereof.

"Loan Agreement" shall mean the \$20,000,000.00 Term Loan Agreement dated as of March 27, 1987 between the parties of this Security Agreement.

"Permitted Lien" shall have the meaning specified in Section 2.3 hereof.

"Replacement Unit" shall have the meaning specified in Section 4.2(a) hereof.

"Rolling Stock" shall mean standard gauge tank cars and covered hopper cars.

"Secured Loan" shall have the meaning specified in the first recital hereof.

"Secured Party" shall mean Signal Capital Corporation, a Delaware corporation.

"Security Agreement" shall mean this Security Agreement and Chattel Mortgage as specified in the first paragraph hereof.

"Substituted Unit" shall have the meaning specified in Section 4.2(d) hereof.

"UCC" shall mean the Uniform Commercial Code.

"Value" shall mean, with respect to an Item of Equipment subject to a Casualty Loss, the Cost of such Item of Equipment less 1/15 of such Cost for each year elapsed between the date such Item of Equipment was first put into use and the date on which the Casualty Loss occurred or an Item of Equipment is released from the Lien of this Agreement pursuant to Section 4.2(d) hereof.

Section 7. MISCELLANEOUS

7.1 Successors and Assigns. Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises and agreements in this Security Agreement contained by or on behalf of the Debtor or by or on behalf of the Secured Party, shall bind and inure to the benefit of the respective successors and assigns of such parties whether so expressed or not.

7.2 Partial Invalidity. The unenforceability or invalidity of any provision or provisions of this Security

Agreement shall not render any other provision or provisions herein contained unenforceable or invalid.

7.3 Communications. All communications provided for herein shall be in writing and shall be deemed to have been given (unless otherwise required by the specific provisions hereof in respect of any matter) when delivered personally or when deposited in the United States certified mails, first class, postage prepaid, addressed as set forth in Section 8.02 of the Loan Agreement.

7.4 Release. At the expense of the Debtor, the Secured Party shall release this Security Agreement and the security interest granted hereby (including without limitation any interest of the Secured Party in the Cash Collateral Account) by proper instrument or instruments upon presentation of satisfactory evidence that all indebtedness hereby secured has been fully paid or discharged.

7.5 Governing Law. This Security Agreement shall be construed in accordance with and governed by the laws of the State of Missouri; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. Section 11303 and such additional rights, arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the sev-

eral jurisdictions in which this Security Agreement or any assignment hereof may be filed, recorded or deposited.

7.6 Counterparts. This Security Agreement may be executed, acknowledged and delivered in any number of counterparts, each of such counterparts constituting an original but all together constituting only one Security Agreement.

7.7 Headings. Any headings or captions preceding the text of the several sections hereof are intended solely for convenience of reference and shall not constitute a part of this Security Agreement nor shall they affect its meaning, construction or effect.

IN WITNESS WHEREOF, the Debtor and the Secured Party have executed this Security Agreement as of the day and year first above written.

(CORPORATE SEAL)

ACF INDUSTRIES, INCORPORATED

ATTEST:

By: _____
Title:

SIGNAL CAPITAL CORPORATION

By:  _____
Title: Region Credit Manager

eral jurisdictions in which this Security Agreement or any assignment hereof may be filed, recorded or deposited.

7.6 Counterparts. This Security Agreement may be executed, acknowledged and delivered in any number of counterparts, each of such counterparts constituting an original but all together constituting only one Security Agreement.

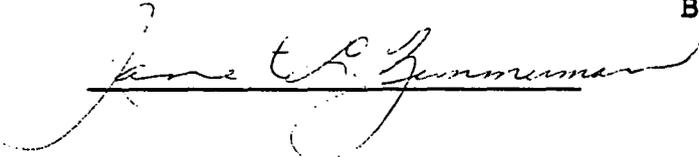
7.7 Headings. Any headings or captions preceding the text of the several sections hereof are intended solely for convenience of reference and shall not constitute a part of this Security Agreement nor shall they affect its meaning, construction or effect.

IN WITNESS WHEREOF, the Debtor and the Secured Party have executed this Security Agreement as of the day and year first above written.

(CORPORATE SEAL)

ACF INDUSTRIES, INCORPORATED

ATTEST:



By: _____
Title: _____

JANET L. ZIMMERMAN
NOTARY PUBLIC—STATE OF MISSOURI
COUNTY OF ST. CHARLES
MY COMMISSION EXPIRES DEC. 2, 1988

SIGNAL CAPITAL CORPORATION

By: _____
Title: _____

STATE OF Missouri)
COUNTY OF St Louis) ; ss.:

On this 27th day of March, 1987, before me, personally appeared JAMES A. Unger to me personally known, who being by me duly sworn, says that he resides at 30 BAXTER AVE WILMESTERFIELD MO 63017 and is JR. VICE PRESIDENT ACF Industries, Incorporated, that one of the seals affixed to the foregoing instrument is the corporate 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.

(SEAL)

Janet L. Zimmerman
Notary Public

NOTARY PUBLIC STATE OF MISSOURI
COUNTY OF ST. CHARLES
MY COMMISSION EXPIRES DEC. 2, 1988

STATE OF _____)
COUNTY OF _____) ; ss.:

On this _____ day of _____, 1987, before me, personally appeared _____ to me personally known, who being by me duly sworn, says that he resides at _____ and is _____, that one of the seals affixed to the foregoing instrument is the corporate seal of Signal Capital 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.

(SEAL)

Notary Public

(THE EQUIPMENT)

ACF INDUSTRIES, INCORPORATED

| <u>CAR COUNT</u> | <u>CAR NUMBERS</u> | <u>AAR DESIGNATION</u> |
|------------------|--------------------|------------------------|
| 12 | 39318-39329 | C214 |
| 1 | 39376 | |
| 2 | 39379-39380 | |
| 2 | 39412-39413 | |
| 1 | 39429 | |
| 2 | 39431-39432 | |
| 9 | 39440-39448 | |
| 61 | 39492-39552 | |
| 1 | 39554 | |
| 1 | 39565 | |
| 5 | 39567-39571 | |
| 2 | 39606-39607 | |
| 1 | 39609 | |
| 2 | 39611-39612 | |
| 4 | 39614-39617 | |
| 6 | 39627-39632 | |
| 2 | 39643-39644 | |
| 4 | 39646-39649 | |
| 2 | 39652-39653 | |
| 1 | 40354 | |
| 1 | 40393 | |
| 120 | 40481-40600 | |
| 5 | 39473-39477 | C614 |
| 1 | 39479 | |
| 24 | 51017-51040 | |
| 1 | 51073 | |
| 27 | 51076-51102 | |
| 10 | 51104-51113 | |
| 1 | 51119 | |
| 5 | 51143-51147 | |
| 43 | 51163-51205 | |
| 2 | 51230-51231 | |
| 12 | 39330-39341 | C714 |
| 14 | 71482-71495 | T103 |
| 20 | 71141-71160 | T104 |
| 8 | 71187-71194 | |
| 5 | 71332-71336 | |
| 10 | 71131-71140 | T105 |
| 10 | 71230-71239 | |
| 1 | 71183 | T106 |
| 35 | 71195-71229 | T107 |
| 5 | 71240-71244 | |
| 2 | 77226-77227 | T865 |
| 7 | 77239-77245 | |
| 1 | 77219 | T866 |
| <u>491</u> Total | | |