

# Southern Railway System

11774

RECORDATION NO. FILED 1425

Accounting Department  
P.O. Box 1808  
Washington, D.C. 20013

MAY 8 1980

INTERSTATE COMMERCE COMMISSION

DONALD R. McARDLE  
VICE PRESIDENT & COMPTROLLER

920 15TH STREET, N.W.  
TEL: (202) 383-4403  
(202) 383-4404

May 8, 1980  
58104

Mrs. Agatha L. Mergenovich  
Secretary  
Interstate Commerce Commission  
Washington, D. C. 20423

No. 0-129A113  
Date MAY 8 1980  
Fee \$ 50.00  
ICC Washington, D. C.

RECEIVED  
MAY 8 4 54 PM '80  
I.C.C.  
FEE OPERATION BR.

Dear Mrs. Mergenovich:

I enclose three original counterparts of the instrument described in paragraph (1) hereof, for recordation pursuant to Section 11303 of Title 49, U.S. Code (formerly Section 20c of the Interstate Commerce Act) and return, together with two additional counterparts thereof which are for the Commission's files.

In accordance with 49 CFR Part 1116, covering the recordation of documents, I wish to advise as follows:

- (1) The enclosed document is a Lease of certain railroad equipment, more fully described below, from Southern Region Industrial Realty, Inc., Lessor, P.O. Box 1808, Washington, D.C. 20013, to Southern Railway Company, Lessee, P.O. Box 1808, Washington, D.C. 20013, dated as of May 8, 1980.
- (2) The equipment covered by this Agreement is described as follows:
  - 150 100-ton 7,526 cu. ft. capacity Woodchip Hopper Cars bearing Lessee's road numbers 134500-134649, inclusive, AAR designation HTS,
  - 150 100-ton 7,526 cu. ft. capacity Woodchip Gondola Cars, bearing Lessee's road numbers 139725-139874, inclusive, AAR designation GTS, and
  - 120 100-ton 3,600 cu. ft. capacity Automatic Bottom Dump Hopper Cars, bearing Lessee's road numbers 390380-390499, inclusive, AAR designation HTS.

*Enclosure Kenneth*

Each unit of the Equipment will be marked in letters not less than one-half inch in height as follows:

"OWNERSHIP SUBJECT TO A SECURITY AGREEMENT  
FILED WITH THE INTERSTATE COMMERCE COMMISSION."

- (3) After recordation, the original documents should be returned to David R. Willson, General Attorney, Law Department, Southern Railway Company, P.O. Box 1808, Washington, D.C. 20013.
- (4) The recordation fee of \$50.00 is enclosed.

Please acknowledge receipt of these documents on the enclosed copy of this letter.

Very truly yours,

*Donald R. McArdle*

Donald R. McArdle

Enclosures

**Interstate Commerce Commission**  
Washington, D.C. 20423

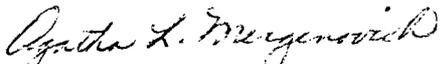
OFFICE OF THE SECRETARY

David R. Willson, General Atty.  
Law Department  
Southern Railway Company  
P. O. Box 1808  
Washington, D. C. 20013

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 5/8/80 at 5:00PM, and assigned re-  
recording number(s). 11774

Sincerely yours,

  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

Executed in five Counterparts of  
which this is Counterpart No. 5

REGISTRATION NO. 11774

MAY 8 1980

INTERSTATE COMMERCE COMMISSION

THIS AGREEMENT, dated as of May 8, 1980, by and between SOUTHERN REGION INDUSTRIAL REALTY, INC., a Georgia corporation (the "Vendor"), and SOUTHERN RAILWAY COMPANY, a Virginia corporation (the "Vendee")

W I T N E S S E T H:

THAT

WHEREAS, Vendee desires to acquire 150 100-ton 7,526 cu. ft. capacity Woodchip Hopper Cars, to bear Vendee's road numbers 134500-134649, both inclusive; 150 100-ton 7,526 cu. ft. capacity Woodchip Gondola Cars, to bear Vendee's road numbers 139725-139874, both inclusive; and 120 100-ton 3,600 cu. ft. capacity Automatic Bottom Dump Hopper Cars, to bear Vendee's road numbers 390380-390499, both inclusive; all 420 such units being hereinafter collectively called the "Cars"; and

WHEREAS, Vendee, by Purchase Orders Numbered 141163, 137454, and 137453, dated as of November 26, 1979, December 13, 1979, and February 27, 1980 [the Purchase Orders], has contracted with Greenville Steel Car Company [Greenville], Ortner Freight Car Company [Ortner], and Ortner Freight Car Company [Ortner], respectively, to build these Cars; and

WHEREAS, the builders of the Cars, Greenville for the Woodchip Hopper Cars, Ortner for the Woodchip Gondola Cars, and Ortner for the Automatic Bottom Dump Hopper Cars, under the terms of the Purchase Orders, are to deliver the Cars to Vendee at Georgetown, Kentucky, Walton, Kentucky, and Walton, Kentucky, respectively, freight charges, if any, prepaid; and

WHEREAS, inasmuch as Vendee has not yet consummated financing arrangements for the acquisition of the Cars, it is not in a position to accept delivery of the Cars at this time; and

WHEREAS, Vendee anticipates that the above-described financing arrangements will be consummated on or before November 8, 1980, and Vendee, in order that it may take possession of and use the Cars pending completion of such financing arrangements, has requested Vendor to take an assignment of Vendee's rights to receive and purchase these Cars under the Purchase Orders, to purchase these Cars on delivery, and to give Vendee temporary custody and possession of the Cars, solely as a lessee of the Cars; and

WHEREAS, Vendor is willing to accept such assignment, and to purchase and lease the Cars upon the terms and conditions hereinafter stated;

NOW, THEREFORE, in consideration of the premises and of the promises of the parties herein contained, the parties agree as follows:

1. Vendee hereby assigns to Vendor its rights to receive and purchase the Cars under the Purchase Orders and Vendor hereby accepts such assignment and designates the Vendee as its agent to accept delivery of the Cars.

2. Vendor agrees to lease the Cars to Vendee and Vendee agrees to hire the Cars from Vendor at the delivery points above referred to. The rights of Vendee hereunder in respect of each Car shall commence on the date of acceptance of such Car as agent for the Vendor and end on the earlier of November 8, 1980, or the date of payment of the purchase price of such Car under the above financing arrangements. Vendee shall purchase the Cars from Vendor or provide a purchaser therefor on or before November 8, 1980, and Vendor shall sell the Cars to Vendee or such purchaser as Vendee may provide, at the total purchase prices as set in the Purchase Orders as they relate to the Cars, and its obligation so to do shall be absolute, regardless of the condition of the Cars at such time. When the purchase price of any Car has been paid to Vendor, this Agreement shall automatically be terminated with respect to such Car without further action by or notice to any party concerned. On delivery of each Car to Vendee, Vendee will assume the responsibility and risk of loss with respect to such Car.

3. Title to the Cars shall remain in Vendor and Vendee's right and interest therein is and shall be solely that of possession, custody, and use as lessee under this Agreement. Transfer of title shall be effected only at the time of delivery of the bills of sale. Vendee shall do such acts as may be required by law, or reasonably requested by Vendor, for the protection of Vendor's title to and interest in the Cars.

4. As rental for the Cars, Vendee agrees to pay in cash to Vendor upon the termination of this Agreement the sum of \$1.00.

5. Vendee agrees that it will permit no liens of any kind to attach to the Cars, and that it will (a) indemnify and save harmless Vendor from any and all claims, expenses, or liabilities of whatsoever kind, and (b) pay any and all taxes, fines, charges, and penalties that may accrue or be assessed or imposed upon the Cars or the Vendor because of its ownership or because of the use, marking, operation, management or handling of the Cars by Vendee during the term of this Agreement.

6. Vendee will, at its own expense, keep and maintain the Cars in good order and running condition and will, at its option, repair or replace or promptly pay to Vendor the purchase price in cash of those Cars which may be damaged or destroyed by any cause during the term that this Agreement applies to such Cars.

7. Prior to the delivery of the Cars to Vendee there shall be plainly, distinctly, permanently, and conspicuously marked and maintained by the Vendee upon each side of each Car in letters not less than one-half inch in height the following words:

OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION.

8. Vendor shall have the right to assign its rights under this Agreement or under the Purchase Orders pursuant to the financing arrangements referred to above.

9. Vendor shall have no obligation to warrant the condition of the Cars but agrees to pass to Vendee or Vendee's nominee the builder's warranties and those of any suppliers of components on or for the Cars.

10. Vendee shall have the right to assign or transfer its rights hereunder, or to transfer or sublet the Cars (subject to this Agreement and the rights of Vendor hereunder, and without releasing Vendee from any of its obligations hereunder) to any affiliate of Vendee.

SOUTHERN REGION INDUSTRIAL REALTY, INC., and SOUTHERN RAILWAY COMPANY, By

*Sam Wells*

Vice President of each of the above Companies

L.S. ATTEST:

*R. W. Allen*  
Assistant Secretary

DISTRICT OF COLUMBIA.

On this 8th day of May, 1980, before me personally appeared D. R. McArdle, to me personally known, who, being by me duly sworn, says that he is a Vice President of SOUTHERN RAILWAY COMPANY and of SOUTHERN REGION INDUSTRIAL REALTY, INC., that the corporate seal of each of said corporations is affixed to the foregoing instrument, that said instrument was signed and sealed on behalf of each of said corporations by authority of its respective Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of each of said corporations.

*C. D. Wagner*  
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Notary Public  
in and for the  
District of Columbia

My Commission Expires May 31, 1982