



**Bank of America**

1-014A053

December 31, 1990

RECORDATION NO. 105051D FILED 12/31

JAN 14 1991 - 1 22 PM

INTERSTATE COMMERCE COMMISSION

The Honorable Noretta R. McGee  
Secretary  
Interstate Commerce Commission  
Washington, DC 20423

Attention: Mildred Lee

Dear Madam Secretary:

We enclose for recordation pursuant to 49 U.S.C. § 11303 the original and a counterpart of an Assignment and Assumption Agreement, dated as of December 31, 1990.

The Assignment is a secondary document, as defined in 49 C.F.R. § 1177.1(b). It relates to the following primary documents:

1. Security Agreement - Trust Deed dated as of June 15, 1979, filed with ICC on June 15, 1979 at 11:30 a.m., Recordation No. 10505; and
2. Lease dated as of June 15, 1979, filed with ICC on June 15, 1979, at 11:30 a.m., Recordation No. 10504; and

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

Assignor: BA Leasing & Capital Corporation  
Two Embarcadero Center  
Suite 28000  
San Francisco, California 94111  
Attention: Contract Administration

Assignee: The David J. Joseph Company  
300 Pike Street  
Cincinnati, OH 45202-4214  
Attention: President RELM Division

MOTOR OPERATING UNIT

JAN 14 1 22 PM '91

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

319 100-Ton, 1979 Hawker Siddeley 4,650 Cubic Foot Covered Hopper Cars bearing the following identification marks and numbers:

FLIX 2029-2030	FLIX 2190-2212
FLIX 2040	FLIX 2214-2244
FLIX 2042	FLIX 2246-2249
FLIX 2054	FLIX 2251-2253
FLIX 2073	FLIX 2255-2261
FLIX 2102-2103	FLIX 2263-2281
FLIX 2112	FLIX 2283-2287
FLIX 2129-2130	FLIX 2289-2307
FLIX 2132	FLIX 2309-2312
FLIX 2137-2140	FLIX 2314-2331
FLIX 2148	FLIX 2333-2336
FLIX 2158	FLIX 2338-2354
FLIX 2165-2166	FLIX 2356
FLIX 2174	FLIX 2358-2411
FLIX 2176	FLIX 2413-2486
FLIX 2181	FLIX 2488-2499

We request that this Assignment also be indexed under the name of the assignee, The David J. Joseph Company.

-A brief summary of the Assignment to appear in the index follows:

Same units as in above primary documents bearing the following identification marks and numbers:

FLIX 2029-2030	FLIX 2214-2244
FLIX 2040	FLIX 2246-2249
FLIX 2042	FLIX 2251-2253
FLIX 2054	FLIX 2255-2261
FLIX 2073	FLIX 2263-2281
FLIX 2102-2103	FLIX 2283-2287
FLIX 2112	FLIX 2289-2307
FLIX 2190-2212	

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FLIX 2129-2130  
FLIX 2132  
FLIX 2137-2140  
FLIX 2148  
FLIX 2158  
FLIX 2165-2166  
FLIX 2174  
FLIX 2176  
FLIX 2181

FLIX 2309-2312  
FLIX 2314-2331  
FLIX 2333-2336  
FLIX 2338-2354  
FLIX 2356  
FLIX 2358-2411  
FLIX 2413-2486  
FLIX 2488-2499

We enclose the fee of \$15.00 for recordation. Please file-stamp and return to The David J. Joseph Company, 300 Pike Street, Cincinnati, Ohio 45202-4214, Attention: President RELM Division, the original Assignment and the enclosed copy of this transmittal letter.

Very truly yours,

BA LEASING & CAPITAL CORPORATION

By Wayne P. Warner

10505D  
FEB 1991

JAN 14 1991 -1 22 PM

ASSIGNMENT AND ASSUMPTION AGREEMENT  
STATE COMMERCE COMMISSION

This ASSIGNMENT AND ASSUMPTION AGREEMENT dated as of December 31, 1990, is entered into by and between BA LEASING & CAPITAL CORPORATION ("Assignor"), a California corporation, and THE DAVID J. JOSEPH COMPANY ("Assignee"), a Delaware corporation.

W I T N E S S E T H:

WHEREAS, Assignor wishes to assign, transfer, and convey to Assignee, and Assignee wishes to receive and accept, all of Assignor's right, title and interest in and to the Owner Interests set forth in Appendix 1 ("Owner Interests") which Owner Interests relate to rolling stock leased to Farmland Industries, Inc.

NOW, THEREFORE, the parties agree as follows:

Section 1. Assignment of Owner Interests. Assignor assigns, transfers and conveys to Assignee as of the date hereof all of its right, title and interest in, to and under the Owner Interests. Assignee accepts and receives all such right, title and interest in, to and under the Owner Interests.

Section 2. Assumption of Liabilities. Assignee assumes all of the duties and obligations of Assignor hereafter accruing or arising under the agreements set forth in Appendix 1. Assignor shall not be responsible to any other party to the agreements set forth in Appendix 1 for the discharge or performance of any such duties or obligations to

be performed or discharged pursuant to or in connection with the agreements set forth in Appendix 1 after the date hereof. Assignee confirms that as of the date hereof it shall be deemed a party to those agreements set forth in Appendix 1 to which Assignor is a party, and Assignee agrees to be bound by all the terms of, and to undertake all such obligations of, Assignor contained therein.

Section 3. Exception. Notwithstanding the foregoing assignment, Assignor shall be entitled to pursue claims accruing or arising incident to its interests in the Owner Interests on or before the date hereof, and all its rights and remedies related to such claims, for (a) payments or indemnity now or hereafter due under the agreements related to the Owner Interests from any obligor thereunder, and/or (b) insurance payments or proceeds, provided, however, that (1) any obligor's liability for such claim shall not exceed the liability it would have incurred if the assignment had not been made, (2) Assignor shall indemnify Assignee and its successors and assigns from and against any full or partial loss of, or inability to fully enforce or realize rights in, to and under the Owner Interests, or any documents relating thereto arising out of, relating to or incurred in connection with the exercise by Assignor of the rights reserved unto Assignor in this Section 3, and (3) the rights reserved hereunder shall not be deemed to include the exercise of any remedies provided for in Section 14 of the Equipment Leases listed in Appendix I, except those contained in Section 14.2 (a) thereof.

Section 4. Indemnity.

(a) Assignee agrees to indemnify and save and hold harmless Assignor from and against any and all loss, liability, claims, and causes of action accruing or arising under the agreements set forth in Appendix 1 after the date hereof by reason of any act, event, or omission occurring subsequent to the date hereof which are asserted against Assignor as a party of the agreements set forth in Appendix 1.

(b) Assignor agrees to indemnify and save and hold harmless Assignee from and against any and all loss, liability, claims, and causes of action which may have accrued or arisen under the agreements set forth in Appendix 1 on or prior to the date hereof by reason of any act, event, or omission occurring on or prior to the date hereof and which are asserted against Assignee as a party of the agreements set forth in Appendix 1.

Section 5. Miscellaneous. Each party to this Agreement shall execute and deliver such instruments, documents and other written information and take such other actions as the other parties may reasonably require in order to carry out the intent of this Agreement. This Agreement and all the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one instrument. The laws of <sup>Ohio</sup>~~California~~ shall govern the validity

WEL WFW  
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and interpretation hereof and the performance of the parties hereto of their respective duties and obligations.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement.

BA LEASING & CAPITAL CORPORATION

By: Wayne P. Weiser  
Its: Vice President

By: Wayne K. Leo  
Its: Vice President

THE DAVID J. JOSEPH COMPANY

By: Larry K. Burt  
Its: Vice President  
Division

STATE OF OHIO

)  
) ss.  
)

COUNTY OF HAMILTON

On this 31<sup>ST</sup> day of December, 1990, before me personally appeared Wayne P. Weener, to me personally known, who being by me duly sworn says that he is Vice President of BA Leasing & Capital Corporation, that the foregoing Assignment and Assumption Agreement was signed on behalf of said corporation by the 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.

Carolyn A. Trainor

CAROLYN A. TRAINOR  
Notary Public, State of Ohio  
My Commission Expires March 8, 1993

STATE OF OHIO

)  
) ss.  
)

COUNTY OF HAMILTON

On this 31<sup>ST</sup> day of December, 1990, before me personally appeared Wayne K. Leo, to me personally known, who being by me duly sworn says that he is Vice President of BA Leasing & Capital Corporation, that the foregoing Assignment and Assumption Agreement was signed on behalf of said corporation by the 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.

Carolyn A. Trainor

CAROLYN A. TRAINOR  
Notary Public, State of Ohio  
My Commission Expires March 8, 1993

STATE OF OHIO

)  
) ss.  
)

COUNTY OF HAMILTON

On this 31<sup>ST</sup> day of December, 1990, before me personally appeared LARRY K. BARTON, to me personally known, who being by me duly sworn says that he is Div. Vice President of The David J. Joseph Company, that the foregoing Assignment and Assumption Agreement was signed on behalf of said corporation by the 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.

Carolyn A. Trainor

CAROLYN A. TRAINOR  
Notary Public, State of Ohio  
My Commission Expires March 8, 1993

APPENDIX 1  
OWNER INTERESTS

All right, title and interest of BA Leasing & Capital Corporation, in, to and under:

1. The Participation Agreements among Farmland Industries, Inc. (the "Lessee"), BA Leasing & Capital Corporation, successor by merger to BameriLease Capital Corporation and BameriLease, Inc. (the "Trustor"), the institutions named in the Appendix 2 (the "Lenders"), Mercantile Bank, N.A., formerly Mercantile Trust Company National Association, (the "Trustee") and Boatman's First National Bank of Kansas City, formerly The First National Bank of Kansas City (the "Security Trustee"), dated as of May 22, 1979 and June 15, 1979, respectively.
2. The Trust Agreements between Trustor and Trustee dated as of May 22, 1979 and June 15, 1979, respectively.
3. The Equipment Leases between Trustee and Lessee dated as of May 22, 1979 and June 15, 1979, respectively, as supplemented by (a) the First Lease Supplement dated as of June 29, 1979 and the Second Lease Supplement dated as of December 27, 1979, relating to the Equipment Lease dated as of May 22, 1979 and (b) the First Lease Supplement dated as of June 29, 1979, the Second Lease Supplement dated as of July 9, 1979 and the Third Lease Supplement dated as of December 27, 1979, relating to the Equipment Lease dated as of June 15, 1979.
4. The Security Agreement - Trust Deeds from Trustee to Security Trustee dated as of May 22, 1979 and June 15, 1979, respectively, as supplemented by (a) the First Supplemental Security Agreement, dated as of June 29, 1979, Second Supplemental Security Agreement dated as of December 27, 1979 relating to the Security Agreement-Trust Deed, dated as of May 22, 1979 and (b) the First Supplemental Security Agreement dated as of June 29, 1979, the Second Supplemental Security Agreement dated as of July 9, 1979, and the Third Supplemental Security Agreement dated as of December 27, 1979, relating to the Security Agreement-Trust Deed, dated as of June 15, 1979.
5. Ten percent Secured Notes, dated June 15, 1979, numbered R-1 through R-12, in the aggregate principal amount of \$10,000,000, and ten percent Secured Notes, dated May 22, 1979, numbered R-1 through R-12, in the aggregate principal amount of \$8,750,000.
6. The Tax Indemnification Agreements between Trustee and Lessee dated as of May 22, 1979 and June 15, 1979, respectively.

*Assignments and* *OK [Signature]*

7. The Agreement ~~and Assignments~~ between Trustee and Lessee dated as of May 22, 1979 and June 15, 1979, respectively.

8. The Agreement between ITEL Corporation and Lessee dated as of May 16, 1979.

9. The Agreement among Lessee, ITEL Corporation and Hawker Siddeley Canada Ltd. dated as of May 15, 1979.

10. The Consent and Agreements of ITEL Corporation dated as of May 17, 1979 and June 15, 1979, respectively.

11. The Certificates of Supplemental Cost dated as of December 17, 1979 and December 24, 1979, respectively.

12. The Purchase Contract between Hawker Siddeley Canada Ltd. and ITEL Corporation dated as of December 19, 1978.

13. Opinions of Counsel regarding May 22, 1979 Transaction.

- (a) -The opinion of Messrs. Chapman and Cutler, special counsel for the Lenders, responsive to Section 4.1(c) of the Participation Agreement.
- (b) The opinion of Robert L. Gowdy, Esq., counsel for the Lessee, responsive to Section 4.1(c) of the Participation Agreement.
- (c) The opinion of Messrs. Blake, Cassels & Graydon, counsel for the Manufacturer, responsive to Section 4.1(c) of the Participation Agreement.
- (d) The opinion of Warren M. Green, Esq., counsel for ITEL, responsive to Section 4.1(c) of the Participation Agreement.
- (e) The opinion of Messrs. Thompson & Mitchell, counsel for the Trustee, responsive to Section 4.1(c) of the Participation Agreement.
- (f) The opinion of Peter Leiter, Esq., counsel for the Trustor, responsive to Section 4.1(c) of the Participation Agreement.

14. Opinions of Counsel regarding June 15, 1979 Transaction.

- (a) The opinion of Messrs. Chapman and Cutler, special counsel for the Lenders, responsive to Section 4.1(c) of the Participation Agreement.

- (b) The opinion of Robert L. Gowdy, Esq., counsel for the Lessee, responsive to Section 4.1(c) of the Participation Agreement.
- (c) The opinion of Messrs. Blake, Cassels & Graydon, counsel for the Manufacturer, responsive to Section 4.1(c) of the Participation Agreement.
- (d) The opinion of ~~Warren M. Green~~, Esq., <sup>Peter M.C. Choy WKL JWP RKB</sup> counsel for ITEL, responsive to Section 4.1(c) of the Participation Agreement.
- (e) The opinion of Messrs. Thompson & Mitchell, counsel for the Trustee, responsive to Section 4.1(c) of the Participation Agreement.
- (f) The opinion of Peter Leiter, Esq., counsel for the Trustor, responsive to Section 4.1(c) of the Participation Agreement.

15. Certificates regarding May 22, 1979 Transaction.

- (a) The Certificate of the Secretary of the Lessee dated as of the First Deposit Date with respect to the Charter, By-Laws, corporate authorization and incumbency and signatures of signing officers.
- (b) The Certificate of the Secretary of State of Kansas with respect to good standing of the Lessee.
- (c) The Certificate of the Secretary of State of Missouri with respect to good standing of the Lessee.
- (d) The Certificate of the Secretary of the Trustee dated as of the First Deposit Date with respect to the Charter, By-Laws, due authorization and the incumbency and signatures of signing officers.
- (e) The Certificate of the Comptroller of the Currency as to the good standing of the Trustee.
- (f) The Certificate of the Assistant Secretary of the Trustor dated as of the First Deposit Date with respect to the due authorization of its acts taken in connection with this transaction and the incumbency and signatures of signing officers.

- (g) The Certificate of the Assistant Secretary of the Security Trustee, dated as of the First Deposit Date with respect to the due authorization of its acts taken in connection with this transaction and the incumbency and signatures of signing officers.

16. Certificates regarding June 15, 1979 Transaction.

- (a) The Certificate of the Secretary of the Lessee dated as of the First Deposit Date with respect to the Charter, By-Laws, corporate authorization and incumbency and signatures of signing officers.
- (b) The Certificate of the Secretary of State of Kansas with respect to good standing of the Lessee.
- (c) The Certificate of the Secretary of State of Missouri with respect to good standing of the Lessee.
- (d) The Certificate of the Secretary of the Trustee dated as of the First Deposit Date with respect to the Charter, By-Laws, due authorization of its acts taken in connection with this transaction and the incumbency and signatures of signing officers.
- (e) The Certificate of the Assistant Secretary of the Trustor dated as of the First Deposit Date with respect to the due authorization of its acts taken in connection with this transaction and the incumbency and signatures of signing officers.
- (f) The Certificate of the Assistant Secretary of the Security Trustee, dated as of the First Deposit Date with respect to the due authorization of its acts taken in connection with this transaction and the incumbency and signatures of signing officers.

17. Its beneficial interest in the Equipment, as defined in the Participation Agreements.

Excluding from the foregoing railroad cars bearing identification marks and numbers FLIX 2082, 2145, 2147, 2161, 2010, 2146, 2250, 2262, 2282, 2355, 2357, 2308, 2412, 2213, 2254, 2288, 2337, 2332, 2313, 2487, 2245.

APPENDIX 2  
LENDERS

Unum Life Insurance Company, formerly  
Union Mutual Life Insurance Co., Union Mutual Stock  
Life Insurance Co. of America, and Union Mutual Stock  
Life Insurance Co. of New York

Sun Life Assurance Co. of Canada

Sun Life Assurance Co. of Canada, U.S.

Equitable Life Insurance Co. of Iowa

Equitable American Life Insurance Co.

Modern Woodmen of America

Pan-American Life Insurance Co.

Ameritas Life Insurance Co., formerly  
Bankers Life Insurance Co. of Nebraska

Knights of Columbus

American United Life Insurance Co.