

10621-5
FILED 1425

DONELAN, CLEARY, WOOD & MASER, P.C. DEC 26 1995 -9 45 AM

ATTORNEYS AND COUNSELORS AT LAW
SUITE 750
1100 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-3934

INTERSTATE COMMERCE COMMISSION

OFFICE: (202) 371-9500

TELECOPIER: (202) 371-0900

December 26 1995

0100902008

Recordation No. 10621-J

Dear Mr. Williams:

On behalf of The CIT Group/Equipment Financing, Inc., I submit for filing and recording under 49 U.S.C. §11303 and the regulations promulgated thereunder, counterparts of a secondary document, not previously recorded, entitled Assignment and Assumption Agreement and Bill of Sale ("Assignment"), made as of December 21, 1995.

The parties to the enclosed Assignment are:

First Security Bank of Utah, N.A., as Trustee - LESSOR/ASSIGNOR
79 South Main Street
Salt Lake City, Utah 84111

The CIT Group/Equipment Financing, Inc. - ASSIGNEE/SUCCESSOR LESSOR
1211 Avenue of the Americas
New York, NY 20036

The said Assignment, among other things, acts to assign to the Assignee all right, title, interest and obligations, of the Assignor as Lessor in that certain Equipment Lease, as supplemented and amended, recorded under Recordation No. 10621 and the Assignment should be recorded as "-J" under the same Recordation No. 10621.

The equipment covered by the instant Assignment is the equipment remaining in the above-mentioned Equipment Lease, namely 147 covered hopper cars as listed in Annex A hereto, filed and recorded with the Interstate Commerce Commission under Recordation No. 10621, as supplemented and amended.

A short summary of the Assignment to appear in the ICC Index is as follows:

"Assignment of Lessor's interest and obligations in Equipment Lease under Recordation No. 10621."

Please index separately the name of the above-mentioned Assignee in the ICC "Vendee/Assignee" Index book ("white pages") as follows:

DEC 26 9 41 AM '95
RECEIVED
OFFICE OF THE
SECRETARY OF THE
INTERSTATE COMMERCE COMMISSION

Counter parts - off hand

Annex A
DESCRIPTION OF EQUIPMENT

<u>QUANTITY</u>	<u>MANUFACTURER</u>	<u>DESCRIPTION AND AAR MECHANICAL DESIGNATION</u>	<u>LESSEE'S IDENTIFICATION NUMBERS</u>
147	Marine Industries Limited	100-ton Steel Covered Hopper Cars, in conformity with Manufacturer's General Arrangement drawing No. 9-10420 dated May 1, 1979, as amended, and Specification No. 389 dated May 1, 1979, as amended (AAR- LO)	ATSF 317500-317572, 317574-317594, 317596-317603, 317605-317649. (Inclusive.) <u>OLD NUMBERS</u> KPLX 20000-20072 20074-20094 20096-20103 20105-20149 (Inclusive.)



Washington, D.C. 20423-0001

Office Of The Secretary

12/26/95

Allen H. Harrison, Jr.
Donelan, Cleary, Wood & Maser, P.C.
1100 New York Avenue, NW, Ste. 750
Washington, DC., 20005-3934

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 12/26/95 at 9:45AM, and assigned recordation number(s). 10621-J.

Sincerely yours,

Vernon A. Williams
Secretary

Enclosure(s)
(0100902008)

\$ 21.00 . The amount indicated at the left has been received in payment of a fee in connection with : document filed on the date shown. This receipt is issued for the amount paid and in no way indicate: acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one typed on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had an opportunity to examine your document.

Signature

or breach, or result in a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement to which Trustee is a party.

(4) There are no suits or proceedings pending or, to the actual knowledge of Trustee, threatened in any court or before any regulatory commission, board or other administrative governmental agency against Trustee which, if decided adversely to Trustee, would individually or in the aggregate hinder or prevent the ability of Trustee to fulfill its obligations under the Transfer Documents.

(5) No approval, consent or withholding of objection is required under any Utah or federal banking law in order for the Trustee to execute, deliver and perform the Transfer Documents.

(6) Trustee is conveying such title to the Equipment as was conveyed to it, free and clear of all liens and encumbrances against the Trustee not related to its ownership of the Equipment or the administration of the Trust while it was owner of the Equipment, other than the leasehold estate of Lessee under the Lease and a lien in favor of Hitachi Credit America Corp., such lien to be released with the proceeds hereof or any liens created by the Lessee.

EXCEPT AS SPECIFICALLY SET FORTH HEREIN, TRUSTEE MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER CONCERNING THE EQUIPMENT, INCLUDING, WITHOUT LIMITATION, THE SELECTION, QUALITY, OR CONDITION OF THE EQUIPMENT, OR ITS MERCHANTABILITY, ITS SUITABILITY, ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE OPERATION OR PERFORMANCE OF THE EQUIPMENT OR PATENT INFRINGEMENT OR THE LIKE.

4. REPRESENTATIONS AND WARRANTIES OF PURCHASER.

Purchaser, in order to induce Trustee to enter into this Agreement, hereby represents and warrants to Trustee that (i) each of this Agreement and each agreement and instrument related hereto has been duly authorized, executed and delivered by Purchaser, and is enforceable against it in accordance with their respective terms; and (ii) so long as no breach or event of default has occurred under the Lease, Purchaser shall warrant Lessee's right of quiet use and possession of, the Equipment thereunder against all persons claiming by or through Purchaser in accordance with the terms of the Lease.

5. GOVERNING LAW. EXECUTION IN COUNTERPARTS.

This Agreement is to be governed by and construed in accordance with the laws of the state of New York. This Agreement may be executed in multiple counterparts, each of which, taken together, shall constitute one and the same instrument.

6. MISCELLANEOUS.

A. This Agreement constitutes the entire agreement between Trustee and Purchaser with respect to the proposed sale of Assets and assumption and assignment of the Lease.

B. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

C. This Agreement shall be governed by and construed in accordance with the laws of the state of New York, including all matters of construction, validity, performance and enforcement.

D. The titles appearing in this Agreement and in any other documents relating to this transaction are inserted only as a matter of convenience and in no way define, limit or describe the scope or intent of such sections or articles nor in any way affect this Agreement or any other documents relating to this transaction.

E. The parties hereto agree to execute and deliver and record, or cause to be executed and delivered and recorded, such further instruments or documents and take such other action as may be reasonably required effectively to carry out the transactions contemplated herein.

F. Each of the parties covenants and agrees to promptly remit to the other party payments incorrectly received by such party with respect to the Lease or the Assets after the closing date hereto.

G. This Agreement may be amended or rescinded only by written instrument signed by all the parties hereto.

H. Notwithstanding any other conditions contained herein, it is hereby agreed that the representations, warranties, indemnities and assurances of each party hereto shall survive the expiration or termination of this Agreement and inure to the benefit of and be binding upon each of the parties hereto and their respective successors and assigns.

I. All notices and communications delivered hereunder or with respect hereto shall be in writing and shall be forwarded by certified mail, return receipt requested, postage prepaid, or personally delivered, and addressed to Trustee and Purchaser at the addresses set forth below or to such other address as shall be provided to the parties:

First Security Bank of Utah, N.A.
79 South Main Street
Salt Lake City, UT 84111
Attention: Trust Division, Corporate Trust Department

The CIT Group/Equipment Financing, Inc.
1211 Avenue of the Americas
New York, NY 10036
Attention: Senior Vice President - Credit

With a copy to:

The CIT Group/Equipment Financing, Inc.
1211 Avenue of the Americas, 21st Floor
New York, NY 10036
Attention: General Counsel/CEF

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and do each hereby warrant and represent that their respective signatures appear below are on the date of this Agreement, and will be on the Closing Date, duly authorized by all necessary and appropriate action to execute this Agreement.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

SIGNATURE PAGE FOR ASSIGNMENT AND ASSUMPTION AGREEMENT AND BILL OF SALE

FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS TRUSTEE UNDER A MASTER TRUST AGREEMENT DATED AS OF OCTOBER 31, 1978

By: A. Clay

Title: A.V.P.

THE CIT GROUP/EQUIPMENT FINANCING, INC.

By: _____

Title: _____

STATE OF Utah)

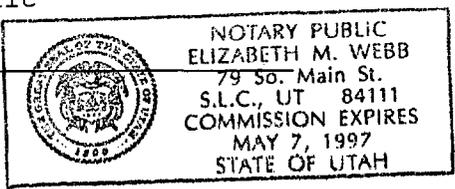
COUNTY OF Salt Lake) ss:

On this 18th day of December 1995, before me personally appeared Tanta Lisa Clayton, to me personally known, who, being by me duly sworn, did say that he/she is the Asst Vice president of First Security Bank of Utah, a National Association corporation, that said instrument was signed on such date on behalf of said entities, and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said entities.

(seal)

Elizabeth M. Webb
Signature of Notary Public

My Commission Expires: _____



SIGNATURE PAGE FOR ASSIGNMENT AND ASSUMPTION AGREEMENT AND BILL OF SALE

FIRST SECURITY BANK OF UTAH, NATIONAL ASSOCIATION NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS TRUSTEE UNDER A MASTER TRUST AGREEMENT DATED AS OF OCTOBER 31, 1978

By: _____

Title: _____

THE CIT GROUP/EQUIPMENT FINANCING, INC.

By: Victoria McManus

Title: Vice-President

STATE OF New York)

COUNTY OF New York) ss:

On this _____ day of December 1995, before me personally appeared Victoria McManus, to me personally known, who, being by me duly sworn, did say that he/she is the Vice-President of The Cit Group Equipment Financing, Inc. NY corporation, that said instrument was signed on such date on behalf of said entities, and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of said entities.

(seal) [Signature]
Signature of Notary Public

My Commission Expires: July 25, 1996

ALAN H. STEIN
Notary Public, State of New York
No. 60-4934726
Qualified in Westchester County
Certificate filed in New York County
Commission Expires July 25, 1996