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RECORDATION NO. 15192-B FILED 1425

March 29, 1994

MAR 29 1994 - 2 10 PM

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 15192-1A FILED 1425

Mr. Sidney L. Strickland, Jr.  
Secretary  
Interstate Commerce Commission  
Washington, DC 20423

MAR 29 1994 - 2 10 PM

INTERSTATE COMMERCE COMMISSION

LIBERATION SECTION  
MAR 29 1994

Dear Mr. Strickland:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11303(a) are two (2) copies each of the following documents: a Memorandum of Sale, dated as of March 24, 1994, and a Chattel Paper and Equipment Purchase Agreement, dated as of March 25, 1994, both being secondary documents as defined in the Commission's Rules for the Recordation of Documents under 49 C.F.R. Section 1177.

The enclosed documents relate to that certain Security Agreement and Chattel Mortgage, dated as of March 27, 1987, which was duly filed with the Commission under Recordation Number 15192.

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

Memorandum of Sale

Seller: Signal Capital Corporation  
50 Kennedy Plaza, 5th Floor  
Providence, Rhode Island 02903

Buyer: Fleet Credit Corporation  
50 Kennedy Plaza, 5th Floor  
Providence, Rhode Island 02903

*[Handwritten signature]*

*[Handwritten signature]*

Mr. Sidney L. Strickland, Jr.  
March 29, 1994  
Page 2

Chattel Paper and Equipment Purchase Agreement

Seller: Fleet Credit Corporation  
50 Kennedy Plaza, 5th Floor  
Providence, Rhode Island 02903

Buyer: ITT Commercial Finance Corp.  
645 Maryville Centre Drive  
St. Louis, Missouri 63141

A description of the railroad equipment covered by the enclosed documents is:  
  
four hundred eighty-six (486) railcars bearing ACFX reporting marks and  
road numbers set forth on Schedule A.

Also enclosed is a check in the amount of \$36.00 payable to the order of the  
Interstate Commerce Commission covering the required recordation fee.

Kindly return one stamped of each of the enclosed documents to the  
undersigned.

Very truly yours,



Robert W. Alvord

RWA/bg  
Enclosures

MAR 29 1994 -2 10 PM

INTERSTATE COMMERCE COMMISSION

CHattel PAPER AND EQUIPMENT PURCHASE AGREEMENT

CHattel PAPER AND EQUIPMENT PURCHASE AGREEMENT (this "Purchase Agreement") is made as of this 25th day of March, 1994, by and between the ITT Capital Finance division of ITT COMMERCIAL FINANCE CORP. ("ITT"), a Nevada corporation, with its principal office located at 645 Maryville Centre Drive, St. Louis, Missouri 63141, and FLEET CREDIT CORPORATION (Seller"), a Rhode Island corporation, with its principal office located at 50 Kennedy Plaza, Providence, RI 02903.

Seller has purchased from Signal Capital Corporation ("SCC"), a Delaware corporation with its principal office located in Hampton, New Hampshire, certain of SCC's assets including without limitation a loan in the principal amount of \$20,000,000.00 made on or about March 27, 1987 (the "Loan") by SCC as lender to ACF Industries, Incorporated as borrower (the "Customer"). The Loan is represented by certain agreements and instruments (most of which are dated on or about March 27, 1987) including without limitation a Promissory Note (the "Note"), a Term Loan Agreement, a Security Agreement and Chattel Mortgage, UCC-1 financing statements, U.S. Interstate Commerce Commission filings (including under Recordation Number 15192 filed with the ICC on March 27, 1987 at 11:25 A.M.), Canadian Railway Act filings (including the depositing with the Registrar of Canada, on April 16, 1987, of a copy of said Security Agreement) and a Participation Agreement dated as of June 30, 1987 between Chrysler Capital Corporation (which assigned all of its rights therein to General Electric Credit Corp. ["GECC"]) and SCC (collectively, the "Agreements"). The Loan is secured by certain personal property including without limitation 486 of the 491 railcars (collectively the "Equipment") more specifically described in said Security Agreement. (Of the 491 railcars described in said Security Agreement, only item nos. ACFX 039537, 051112, 051195, 051231 and 071142 no longer secure the Loan. Those railcars refer to AAR designations C124, C614, C614, C614 and T104, respectively.)

Seller wishes to sell and ITT wishes to purchase the Agreements and all of Seller's interests in and to the Equipment. In consideration of the mutual promises contained herein, ITT and Seller hereby agree as follows:

1. Sale. In reliance upon the warranties and representations herein and subject to the terms and conditions hereof, Seller hereby sells, transfers, conveys and assigns to ITT, its successors and assigns, and ITT hereby purchases from Seller, all of Seller's rights, title and interests in and to the Equipment and the Agreements, including all amounts due and to become due under each of the Agreements, together with all of Seller's rights and remedies under each of the Agreements. ITT shall have the right in its own behalf and in its own name to take any action under the Agreements which Seller might have taken, save for this Purchase Agreement. The purchase price to be paid by ITT to Seller for the Equipment and the Agreements shall be an amount equal to Eight Million Nine Hundred Fourteen Thousand Ninety-Five and 78/100 Dollars (\$8,914,095.78) (the "Sale Price"). Contemporaneously with its execution hereof, Seller shall deliver to ITT (1) originals of all of the documents executed with respect to the Loan, and (2) with respect to Seller itself, all of the documents specified in Exhibit A hereto. (All schedules and exhibits referred to herein are attached hereto and by reference thereto made a part of this Purchase Agreement.)
2. Seller's Warranties. Seller warrants and represents to and covenants with ITT that:
  - a. each of the Agreements is genuine and enforceable against Customer (and all others who are parties thereto) except as such enforceability may be limited by bankruptcy, insolvency, principles of equity or laws affecting the rights of creditors generally, the only agreements executed by Seller or SCC with respect to the Equipment, the copy of the Note given to ITT by Seller is the only original thereof, the copies given to ITT by Seller of the other Agreements are the only originals thereof in Seller's possession, and none of the Agreements have been amended or modified except as specifically disclosed in writing to ITT;
  - b. the Equipment is free and clear of all security interests, claims, liens and encumbrances of any kind or nature whatsoever by, through or under Seller;

Seller's Initials: amb  
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- c. Seller has no actual knowledge of any default by Customer of any of Customer's obligations to Seller;
- d. Seller has the full legal right, power and authority to enter into this Purchase Agreement and to consummate all of the transactions contemplated by this Purchase Agreement, the execution and delivery of this Purchase Agreement by Seller has been approved by all necessary corporate or other action, and none of Seller's obligations hereunder will result in any breach of any provision of any agreements or instruments to which Seller is a party or by which Seller is bound;
- e. all signatures, names, addresses, amounts and other statements contained in each of the Agreements relating to Seller or SCC are true, correct, valid and what they purport to be;
- f. to the best of Seller's knowledge, each of the Agreements conforms to all applicable federal, state and local laws, rules and regulations and each is legally enforceable in all appropriate jurisdictions;
- g. Seller has complied with all of its representations, warranties, covenants and all other obligations to Customer under each of the Agreements;
- h. Seller will indemnify and hold ITT harmless from and defend ITT against (1) ~~any liability or expense under or on account of any matter arising out of or in connection with any misrepresentation or breach of warranty or covenant made by Seller under this Purchase Agreement,~~ (2) any loss suffered by ITT (as reasonably determined by ITT) which may result from Customer prepaying its obligations under the Agreements prior to April 1, 1997, which loss will equal the difference between (i) the sum of ITT's and GECC's payoff balance at the time of such prepayment less (ii) the actual payoff amount due from Customer under the Note (the anticipated amount of such loss is described on Exhibit B attached hereto), and (3) any and all broker or similar claims (through Seller) for fees or commissions due on account of any transaction contemplated by this Purchase Agreement. amb
- i. Customer has neither disputed any obligation arising under any of the Agreements nor made any claim of defense or offset with respect to any of the Agreements or any of Customer's obligations thereunder, and Seller has no knowledge of any pending or threatened litigation regarding any of the Agreements or Equipment;
- j. there is no currently effective sale or assignment of any of the Agreements or any item of Equipment to any person, firm or corporation (except for the participation interest in the Loan currently held by GECC);
- k. Seller is not engaged, and will not engage, in any activities which might constitute a pattern of racketeering activity under 18 U.S.C. § 1963 which could otherwise void Seller's interest in any property now or hereafter pledged or sold to ITT;
- l. thirteen (13) payments remain due (on the first day of each of April, July, October and January) under the Agreements, none of which has been prepaid, as follows: one at \$745,236.26 (of which GECC is entitled to receive \$144,558.65 and Seller is entitled to receive \$198,781.44 plus \$2,548.48 per day from March 18, 1994 through the date on which this transaction closes), followed by 11 at \$745,236.26 (of which GECC is entitled to receive \$171,759.55), followed by one at \$5,745,236.26 (of which GECC is entitled to receive \$1,564,795.37);
- m. except for the Acknowledgement described in paragraph 3 below, no further consent is required from Customer pursuant to the Agreements in order for Seller to sell the Loan to ITT; and
- n. Seller's sale of the Loan to ITT is exempt from the registration requirement of the Securities Act of 1933, as amended.

3. Customer's Acknowledgement. ITT shall have no obligation whatsoever to pay the Sale Price to Seller until ITT receives an Acknowledgement and Consent to Purchase of Chattel Paper, duly executed by Customer, satisfactory in form and substance to ITT, acknowledging the sale of the related Agreements to ITT and Customer's obligations to ITT.
4. Authority. Seller shall have no authority to, and will not, without ITT's prior written consent: (a) quote to or solicit from Customer an early payoff or prepayment of Customer's obligations under the Agreements; (b) accept collections in connection with any of the Agreements; (c) repossess or consent to the return of any item of Equipment; (d) modify or amend, in any respect, the terms of any of the Agreements; or (e) otherwise have any right or authority to deal in any manner whatsoever with the Equipment or any of the Agreements.
5. Waiver of Strict Performance. Any failure or delay by ITT in enforcing any right hereunder shall not be deemed a waiver of such right or of any subsequent default by Seller or of ITT's right to require strict performance of this Purchase Agreement.
6. Indemnification. [ actual out-of-pocket loss and expense arising out of all ] Seller shall indemnify and hold ITT harmless from and against any and all risks, liabilities, losses, damages, claims, penalties and expenses, including without limitation reasonable attorney's fees and costs, that ITT may suffer or incur that arises from (a) any breach by Seller of any of Seller's representations, warranties or covenants contained in this Purchase Agreement or from any other default of any of Seller's obligations hereunder, and (b) the failure to obtain from GECC any consent or authorization required pursuant to the Participation Agreement described above. EXCEPT AS OTHERWISE SET FORTH IN THIS SECTION 6, THE SALE AND ASSIGNMENT TO BE EFFECTED PURSUANT TO THIS PURCHASE AGREEMENT IS WITHOUT RECOURSE TO SELLER. SELLER DOES NOT ASSUME AND SHALL NOT HAVE ANY LIABILITY FOR THE PAYMENT OR PERFORMANCE BY CUSTOMER OF ANY OF CUSTOMER'S OBLIGATIONS UNDER ANY OF THE AGREEMENTS. *amb*
7. Attorney's Fees. If either party retains an attorney for the purpose of enforcing any of its rights against the other party under this Purchase Agreement, the losing party in any resulting litigation shall be responsible for and reimburse the prevailing party for all such attorney's fees and costs.
8. Documentation. Seller shall execute and deliver to ITT, on demand and from time to time, such other and additional documents and instruments as ITT shall deem necessary to vest in ITT full right, title and interest in and to each item of Equipment and all of the Agreements.
9. Waiver of Notice. Seller hereby waives notice of: the amendment or modification of any of the Agreements; the granting to Customer of any indulgences or extensions of time for payment; and all other notices and formalities to which Seller might otherwise be entitled; **provided, however, ITT shall provide notice of any event relating to Seller's indemnification obligations**
10. Captions. All captions used in this Purchase Agreement are intended solely for convenience of reference and shall in no way limit or explain any of the provisions of this Purchase Agreement. **under Section 2(h) and 6 hereof.**
11. Entire Agreement. This Purchase Agreement represents the entire agreement of ITT and Seller with respect to the subject matter hereof and may not be modified or amended except in a writing signed by both ITT and Seller. Seller warrants and represents to and covenants with ITT that all prior agreements, commitments, understandings, representations, warranties and negotiations in connection herewith, if any, are hereby merged into this Purchase Agreement. No oral representations shall in any manner whatsoever modify or explain any of the terms or conditions contained in this Purchase Agreement or any of the Agreements. *amb*
12. Successors. This Purchase Agreement shall be binding upon and inure to the benefit of ITT and Seller and their respective successors and assigns.

13. Governing Law. This Purchase Agreement shall be governed by and construed in accordance with the laws of the State of Missouri. Seller hereby agrees that all actions or proceedings arising directly or indirectly, in connection with, out of or related to this Purchase Agreement may be litigated, at ITT's sole discretion and election, in courts in Missouri; and Seller hereby subjects itself to the jurisdiction of any local, state or federal court located in Missouri. To the extent permitted by the laws of Rhode Island, Seller and ITT each hereby IRREVOCABLY WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION OR PROCEEDING IN WHICH SELLER AND ITT ARE PARTIES.
14. Severability. If any provision of this Purchase Agreement is held invalid, such invalidity shall not affect any other provision which can be given effect without the invalid provision.

IN WITNESS WHEREOF, ITT and Seller have duly executed this Purchase Agreement as of the date first above written.

FLEET CREDIT CORPORATION

ITT Capital Finance division of  
ITT COMMERCIAL FINANCE CORP.

By: Alexis M. Smith  
(Sign and Print Name)  
Alexis M. Smith  
Title: Vice President

By: Roy Hendin  
Title: VP

COUNTY OF Providence )  
STATE OF RHODE ISLAND ) ss.

Before me, a notary public, on this 25<sup>th</sup> day of March, 1994, personally appeared Alexis M. Smith, known to me to be the Vice President of Seller and who executed the above Purchase Agreement on behalf of Seller of his own free will.

(SEAL)

Mary McFarland  
Notary Public

My commission expires on:

12/23/95

COUNTY OF ST. LOUIS )  
STATE OF MISSOURI ) ss.

Before me, a notary public, on this 23<sup>rd</sup> day of March, 1994, personally appeared Roy Hendin, known to me to be the Vice President of ITT and who executed the above Purchase Agreement on behalf of ITT of his own free will.

(SEAL)

Cynthia J. Wooden  
Notary Public

My commission expires on:

CYNTHIA J. WOODEN  
NOTARY PUBLIC STATE OF MISSOURI  
COUNTY OF ST. CHARLES  
MY COMMISSION EXPIRES OCT. 28, 1998

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EXHIBIT A

to Chattel Paper and Equipment Purchase Agreement  
dated March 25, 1994  
between Fleet Credit Corporation and  
the ITT Capital Finance division of ITT Commercial Finance Corp.

DOCUMENTATION REQUIRED FROM SELLER SHALL INCLUDE:

1. A certificate of Seller's secretary as to authorizing resolutions and the incumbencies and signatures of the officers executing the Purchase Agreement.
2. An opinion from Seller's counsel in form and substance acceptable to ITT.
3. Releases of any UCC-1 filings, ICC filings and Canadian Railway Act filings, as applicable, if another party holds a prior perfected security interest in any of the Agreements, the Equipment, or any lease relating to any Equipment.
4. A pay proceeds letter directing ITT as to the manner in which ITT should disburse ITT's payment to Seller.
5. Executed UCC-1 financing statement assignments covering all Equipment naming Customer as debtor and ITT as secured party.

Seller's Initials           *amb*          

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*RET*

**EXHIBIT B**

To Chattel Paper and Equipment Purchase Agreement  
dated March 25, 1994

between Fleet Credit Corporation and  
the ITT Capital Finance division of ITT Commercial Finance Corp.

**PREMIUM INDEMNIFICATION**

After ITT's receipt of the following Payment Number:	The amount of Seller's Indemnification Payment to ITT will be:
0	\$258,882.71
1	\$236,390.18
2	\$219,399.72
3	\$201,959.01
4	\$184,056.12
5	\$165,678.81
6	\$146,814.50
7	\$127,450.28
8	\$107,572.91
9	\$87,168.79
10	\$66,223.96
11	\$44,724.09
12	\$22,654.48
13	\$0.00

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SCHEDULE A

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	
60	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	
9	51104-51113 *	
1	51119	
5	51143-51147	
42	51163-51205 *	
1	51230-51231 *	
12	39330-39341	C714
14	71482-71495	T103
19	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

486 Total

\* Excluding 39537, 51112,  
51195, 51231 and 71142