

RECORDATION NO. 18468-E FILED

ALVORD AND ALVORD
ATTORNEYS AT LAW
1050 SEVENTEENTH STREET, N.W.
SUITE 301
WASHINGTON, D.C.
20036
(202) 393-2266
FAX (202) 393-2156
E-MAIL alvordlaw@aol.com

MAR 28 '03 2:41 PM
SURFACE TRANSPORTATION BOARD
OF COUNSEL
URBAN A. LESTER

ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

March 27, 2003

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of an Assignment and Assumption Agreement, dated as of March 27, 2003 a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Amended and Restated Equipment Lease Agreement (and supplements thereto) which were previously filed under Recordation Number 18468-E, et seq.

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

Seller/Assignor: American Finance Group, Inc.
(d/b/a Guaranty Capital Corporation)
8333 Douglas Avenue
16th Floor
Dallas, TX 75225

Buyer/Assignee: The CIT Group/Equipment
Financing, Inc.
1211 Avenue of the Americas
New York, NY 10036

Mr. Vernon A. Williams
March 27, 2003
Page Two

A description of the railroad equipment covered by the enclosed document is:

177 flatcars CTRN 500001 – CTRN 500177

A short summary of the document to appear in the index follows:

Assignment and Assumption Agreement

Also enclosed is a check in the amount of \$30.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,



Robert W. Alvord

RWA/anr
Enclosures

RECORDATION NO. 18468-T FLI

ASSIGNMENT AND ASSUMPTION AGREEMENT

MAR 26 '03 2-41 PM

SURFACE TRANSPORTATION BOARD

This ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of March 27, 2003 (this "Agreement"), is between American Finance Group, Inc. d/b/a Guaranty Capital Corporation, a Delaware corporation (the "Seller"), and The CIT Group/Equipment Financing, Inc., a Delaware corporation (the "Buyer").

RECITALS

WHEREAS, the Buyer and the Seller have entered into that certain Purchase Agreement, dated as of March 27, 2003 (the "Purchase Agreement"), providing for the purchase of the Ownership Interest by the Buyer from the Seller, subject to the terms and conditions set forth therein; and

WHEREAS, the Purchase Agreement contemplates the execution and delivery of this Agreement by the Seller and the Buyer.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows.

AGREEMENT

1. **Definitions.** Capitalized terms used herein without definition shall have the meanings assigned to them in Section 4 of this Agreement.

2. **Assignment.** Effective as to each unit of Equipment on the Closing Date, the Seller sells to the Buyer all of the Seller's rights, title and interest in and to such unit and assigns to the Buyer all of the Seller's rights and obligations, except to the extent constituting Excluded Rights and Obligations, under each of the Operative Agreements (as defined in the Purchase Agreement) as they relate to each unit, including, without limitation, the Lease (collectively, the "Assigned Operative Agreements").

3. **Acceptance of Assignment; Assumption of Obligations; Effect of Assignment.** The Buyer accepts the assignment contained in Section 2 hereof and, in respect of the period on and after the Closing Date, assumes all obligations of the Seller under, and agrees to be bound to the same extent as the Seller by all the terms of, the Assigned Operative Agreements. Effective on and after the Closing Date, the Buyer shall be deemed to stand in the place of the Seller for all purposes under the Assigned Operative Agreements, except with respect to Excluded Rights and Obligations, and each reference in the Assigned Operative Agreements to the Seller shall be deemed to mean the Buyer. The Seller, in respect of the period on and after the Closing Date, is released of all obligations of the Seller under the Assigned Operative Agreements, except to the extent of Excluded Rights and Obligations.

4. **Definitions.** Except as otherwise specified or as the context may otherwise require, the following terms have the respective meanings set forth below whenever used in this

Agreement (terms defined in the singular to have a correlative meaning when used in the plural and vice versa).

Bill of Sale: the bill of sale in the form of Exhibit I hereto.

Closing Date: the date of the Bill of Sale.

Equipment: the units of equipment listed on Schedule 1 hereto.

Excluded Rights and Obligations: (i) all rights to payments of indemnity that are due and payable to, or otherwise accrued in favor of, the Seller prior to the Closing Date under the Lease and any rights of the Seller to be indemnified, held harmless and defended by any indemnitor (including, without limitation, by the Lessee) under the Lease with respect to losses, damages, injuries, claims, demands, expenses and Taxes incurred or suffered by or imposed against the Seller prior to the Closing Date or in respect of any period prior to the Closing Date; (ii) all rights to payment of liability insurance proceeds that are due and payable to, or otherwise accrued in favor of, the Seller prior to the Closing Date under any insurance maintained by the Lessee pursuant to the Lease and any rights to any proceeds payable under any such liability insurance as a result of claims made against the Seller with respect to any event occurring or circumstance existing prior to the Closing Date; (iii) all rights to payments of rent, and all other periodic and non-periodic payments (not already included in clauses (i) and (ii) above), that are due and payable to the Seller on or prior to the Closing Date; (iv) all rights to payment in respect of Casualty Occurrences, as defined in the Master Lease, prior to the Closing Date; (v) all obligations of the Seller under the Lease to be performed prior to the Closing Date; and (vi) all liabilities of the Seller under the Lease or in respect of the Equipment arising from any event occurring or circumstance existing prior to the Closing Date.

Lease: shall collectively mean the Amended and Restated Equipment Lease Agreement dated as of December 22, 1993 by and between Lessee, as lessee, and the Seller (as assignee of Newcourt Communications Finance Corporation, as assignee of CIT Lending Services Corporation f/k/a AT&T Commercial Finance Corporation), as lessor, which amended and restated that certain Equipment Lease Agreement dated as of November 12, 1993 by and between Southern Pacific Transportation Company, as lessee, and AT&T Commercial Finance Corporation, as lessor, and that certain Amended and Restated Lease Supplement No. 1 dated December 22, 1993 by and between Lessee, as lessee, and the Seller (as assignee of Newcourt Communications Finance Corporation, as assignee of CIT Lending Services Corporation f/k/a AT&T Commercial Finance Corporation), as lessor, which amended and restated that certain Lease Supplement No. 1 dated November 12, 1993, by and between Southern Pacific Transportation, as lessee, and AT&T Commercial Finance Corporation, as lessor, as amended by that certain Amendment No. 1 to Amended and Restated Lease Supplement No. 1 dated January 18, 1999 by and between Lessee, as lessee and the Seller (as assignee of Newcourt Communications Finance Corporation, as assignee of CIT Lending Services Corporation f/k/a AT&T Commercial Finance Corporation), as lessor.

Lessee: Union Pacific Railroad Company f/k/a Southern Pacific Transportation Company.

Ownership Interest: the Seller's rights, title and interest in and to the Equipment and the Seller's rights and obligations under the Assigned Operative Agreements, except the Excluded Rights and Obligations.

5. **Amendments.** No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

6. **Notices.** All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by Section 9.5 of the Purchase Agreement.

7. **Headings.** The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

8. **Counterparts.** This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

9. **Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the internal substantive laws of the State of New York, without giving effect to its conflict of law rules (other than Section 5-1401 of the New York General Obligations Law).

10. **Entire Agreement.** This Agreement, the Purchase Agreement, and the Bill of Sale (together with their exhibits and schedules) represent the entire agreement of the parties with respect to the subject matter hereof and thereof and supersede and cancel any prior oral or written agreement, letter of intent or understanding with respect to such subject matter.

11. **Recordation.** The Seller and the Buyer agree to record this Agreement with the Surface Transportation Board to evidence the assignment by the Seller to the Buyer of the Seller's rights and obligations under the Lease.

IN WITNESS WHEREOF, this Assignment and Assumption Agreement has been duly executed by the parties hereto as of the date first above written.

**AMERICAN FINANCE GROUP, INC. d/b/a
GUARANTY CAPITAL CORPORATION**

By: Michael D. Faddao
Name: Michael D. Faddao
Title: President; CEO.

**THE CIT GROUP/EQUIPMENT FINANCING,
INC.**

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, this Assignment and Assumption Agreement has been duly executed by the parties hereto as of the date first above written.

**AMERICAN FINANCE GROUP, INC. d/b/a
GUARANTY CAPITAL CORPORATION**

By: _____
Name: _____
Title: _____

**THE CIT GROUP/EQUIPMENT FINANCING,
INC.**

By: Nancy A. Nardella
Name: Nancy A. Nardella
Title: Vice President

State of New York)
)
County of New York)

On this, the 27th day March, 2003, before me, a Notary Public in and for said County and State, personally appeared Nancy A. Nardella, a Vice President of The CIT Group/Equipment Financing, Inc., who acknowledged herself to be a duly authorized officer of The CIT Group/Equipment Financing, Inc., and that, as such officer, being authorized to do so, she executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: Barbara Garner
Notary Public

My Commission Expires: BARBARA GARNER
Notary Public, State of New York
No. 019A5065133
Qualified in Nassau County
Certificate filed in New York County
Commission Expires Sept. 3, 2006

Schedule 1
to
Assignment and Assumption Agreement

(units of Equipment)

<u># Cars</u>	<u>Year Built</u>	<u>Description</u>	<u>Reporting Marks</u>	<u>Casualty Marks</u>
177	1993	100-ton twin trough coil steel flatcars, each of which includes a removable cover.	CTRN 500001 through CTRN 500177, inclusive.	None

**EXHIBIT I
TO ASSIGNMENT AND ASSUMPTION AGREEMENT
FORM OF BILL OF SALE**

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, American Finance Group, Inc. d/b/a Guaranty Capital Corporation ("Seller"), does hereby sell, transfer and assign to The CIT Group/Equipment Financing, Inc. ("Buyer") all of Seller's rights, title and interest in and to the equipment described below (the "Equipment"):

One hundred and seventy-seven (177) 100-ton twin trough coil steel flat cars manufactured by Thrall Car Manufacturer with car numbers CTRN 500001 through CTRN 500177, inclusive.

The sale is subject to the terms and conditions of the Purchase and Sale Agreement, dated as of March __, 2003 (the "Purchase Agreement"), between Seller and Buyer.

Seller represents and warrants to Buyer and its successors and assigns that at the time of delivery of the Equipment, Seller had legal title thereto and good and lawful right to sell the Equipment, and the Equipment was free and clear of all Liens (as defined in the Purchase Agreement) attributable to the Seller, other than as described in Section 3.3 of the Purchase Agreement.

EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN OR IN THE PURCHASE AGREEMENT, THE SALE OF THE EQUIPMENT IS "AS-IS, WHERE IS AND WITH ALL FAULTS" AND THE SELLER HAS NOT MADE, AND SHALL NOT BE DEEMED TO HAVE MADE, ANY REPRESENTATIONS OR WARRANTIES, WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED, AS TO THE TITLE, EXISTENCE, CONDITION, DESIGN, VALUE, OPERATION, PERFORMANCE, MAINTENANCE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF ANY UNIT, PART OR PORTION OF THE EQUIPMENT, THE FREEDOM OF ANY OF THE EQUIPMENT (OR ANY PART THEREOF) FROM ANY LATENT OR OTHER DEFECTS (WHETHER OR NOT DISCOVERABLE), THE COMPLIANCE OF ANY OF THE EQUIPMENT (OR ANY PART THEREOF) WITH ANY APPLICABLE LAWS OR REGULATIONS OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER (EXCEPT THE REPRESENTATIONS AND WARRANTIES SET FORTH HEREIN AND IN THE PURCHASE AGREEMENT) WITH RESPECT TO ANY PART OR PORTION OF THE EQUIPMENT, IT BEING UNDERSTOOD THAT ALL SUCH DISCLAIMED RISKS, AS BETWEEN THE SELLER AND THE BUYER, ARE TO BE BORNE BY THE BUYER.

American Finance Group, Inc. d/b/a Guaranty
Capital Corporation

By: _____
Name: _____
Title: _____
Date: _____

CERTIFICATION

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: _____

3/27/03



Robert W. Alvord