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ELLSWORTH C. ALVORD (1964)

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RECORDATION NO. 23006-A FILED
JAN 5 '01 3-39 PM
TS
SURFACE TRANSPORTATION BOARD
OF COUNSEL
URBAN A. LESTER

January 5, 2001

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 December 1, 2000, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Lease Agreement which was previously filed with the Board under Recordation Number 23006.

Assignor: MRC Rail Services. LLC
One California Street
Suite 1500
San Francisco, CA 94111

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

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

385 Tri-level Auto Carriers marked UP 800050 - UP 800434

Mr. Vernon A. Williams
January 5, 2001
Page Two

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

Assignment and Assumption Agreement between MRC Rail Services, LLC, Assignor, and The CIT Group/Equipment Financing, Inc., Assignee, covering 385 Tri-level Auto Carriers marked UP 800050 - UP 800434.

Also enclosed is a check in the amount of \$26.00 payable to the order of the Surface Transportation Board covering the required recordation fee and cross-indexing fee.

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

Very truly yours



Robert W. Alvord

RWA/anm
Enclosures

RECORDATION NO. 23006-A FILED

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SURFACE TRANSPORTATION BOARD

ASSIGNMENT AND ASSUMPTION AGREEMENT

dated as of December 1, 2000

- between -

MRC RAIL SERVICES, LLC

as Assignor

- and -

THE CIT GROUP/EQUIPMENT FINANCING, INC.

as Assignee

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "*Agreement*") is dated as of December 1, 2000 between MRC Rail Services, LLC (the "*Assignor*"), a Delaware limited liability company, and The CIT Group/Equipment Financing, Inc. (the "*Assignee*"), a corporation organized under the laws of the State of New York.

WITNESSETH:

WHEREAS, concurrently herewith, the Assignor, as seller, and the Assignee, as buyer, are entering into the Purchase and Sale Agreement (the "*Purchase Agreement*") dated as of the date hereof, pursuant to which the Assignor has agreed to sell the Cars (as defined in the Purchase Agreement) to the Assignee;

WHEREAS, in connection with the sale of the Cars Assignor desires to assign and transfer to Assignee, and Assignee desires to assume from Assignor, all of Assignor's rights and obligations under Schedule No.3 dated as of June 30, 2000 under the lease agreement dated January 7, 1998 (the "*Lease*") between Assignor, as lessor, and Union Pacific Railroad Company, a Delaware corporation, as lessee, subject to the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

Section 1. Definitions. Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Purchase Agreement.

Section 2. Assignment and Assumption of Lease.

Transfer, Assignment and Assumption of Lease. Subject to the terms and conditions hereof and of the Purchase Agreement, Assignor hereby agrees to transfer and assign to Assignee, and Assignee hereby agrees to accept the transfer and assignment of and assume all of Assignor's right, title and interest in, to and under the Lease on the First Closing Date. Also subject to the terms and conditions hereof and of the Purchase Agreement, Assignor hereby agrees to transfer and assign to Assignee, and Assignee hereby agrees to accept the transfer and assignment of and assume all of Assignor's right, title and interest in and to the general intangibles, payment intangibles, rents, proceeds or other rights of payment which arise out of or relate to the Cars and/or the Lease, including without limitation, any of Assignor's rights and interest in any purchase option for the Cars under the Lease. Assignee hereby assumes and agrees to keep, perform and fulfill all terms, covenants, conditions and obligations of Assignor as lessor under the Lease to the extent that they arise after the First Closing Date for the Cars subject thereto and after each Subsequent Closing Date

for the Cars subject to such subsequent Closings. However, Assignor retains Lessor's obligations under the Lease and under other agreements to: (i) purchase the Cars from the Manufacturer; (ii) deliver the Cars to Lessee as provided in the Lease (including in Section 3 thereof) in such a manner as to cause the Lessee to execute a certificate of acceptance with respect to the Cars, provided that Assignor and Assignee shall cooperate with one another to cause the Lessee to execute such certificate of acceptance; (iii) deliver good, clean and marketable title to the Cars, free and clear of liens, to Assignor; and (iv) to the extent necessary to otherwise satisfy its obligations to Assignor under the Purchase Agreement. All terms and conditions of the Lease shall remain in full force and effect and unaltered, except as specifically provided herein, and this instrument is not intended to be, nor should it be, deemed a novation of the Lease.

Section 3. Further Payments

(a) Assignor shall promptly, at any time and from time to time, transfer to Assignee any payments that are received by Assignor from Lessee under the terms of the Lease any part of which payment is for the account of Buyer pursuant to the Purchase Agreement.

(b) Assignee shall promptly, at any time and from time to time, transfer to Assignor any payments that are received by Assignee from Lessee under the terms of the Lease any part of which payment is for the account of Seller pursuant to the Purchase Agreement.

(c) The obligations of Assignor and Assignee in this Section 3 shall survive the transfer of title to the Cars to Assignee on the Closing Date.

Section 4. Miscellaneous

(a) Interpretation and Construction. The parties acknowledge that this Agreement evidences and describes one component of the overall transaction that is contemplated in and evidenced and described by the Purchase Agreement. The parties agree that (i) this Agreement will be interpreted and construed in a manner consistent with the Purchase Agreement; (ii) where inconsistencies arise, the Purchase Agreement controls; and (iii) to the extent necessary to fulfill the parties' obligations and satisfy the parties' rights under the Purchase Agreement, the terms and conditions of the Purchase Agreement are incorporated herein by this reference.

(b) Governing Law; Jurisdiction. This Agreement shall be construed in accordance with, and shall be governed by, the laws of the State of New York. Each party hereby consents to the personal jurisdiction of all state and federal courts sitting within the County of New York and State of New York for all purposes relating to this Agreement.

(c) Waiver of Trial by Jury. Any disputes arising under or relating to this Agreement shall be resolved in binding arbitration proceedings conducted in New York, New York by a panel of one arbitrator (provided, that either party in the arbitration may require a panel of three arbitrators if it pays the extra costs associated therewith) under the arbitration rules of the American

Arbitration Association. Any resulting award may include costs of arbitration including counsel fees and expenses and may be entered and enforced in any court of competent jurisdiction, but nothing herein limits either party's rights to seek equitable remedies in any court outside of arbitration.

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement through their respective duly authorized officers, all as of the day and year first above written.

MRC RAIL SERVICES, LLC, as Assignor

By: *Michael J. Jure*
Title: *President*

THE CIT GROUP/EQUIPMENT
FINANCING, INC., as Assignee

By: _____
Title: _____

STATE OF CALIFORNIA §
 § SS:
COUNTY OF San Francisco §

On this 1st day of December, 2000, before me personally appeared Michihiro Nose to me personally known, who being by me duly sworn, says that he is president of MRC Rail Services LLC, and that the foregoing Assignment and Assumption Agreement was signed on behalf of said limited liability company by authority of its Management Committee. Further, he acknowledged that the execution of the foregoing Assignment and Assumption Agreement was the free act and deed of said limited liability company.



[Notarial Seal]

[Signature]
Notary Public

My commission expires.

Mar. 25, 2004

STATE OF NEW YORK §
 § SS:
COUNTY OF _____ §

On this ____ day of _____, 2000, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he is _____ of The CIT Group/Equipment Financing, Inc. and that the foregoing Assignment and Assumption Agreement was signed on behalf of said corporation by authority of its Board of Directors. Further, he acknowledged that the execution of the foregoing Assignment and Assumption Agreement was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My commission expires.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement through their respective duly authorized officers, all as of the day and year first above written.

MRC RAIL SERVICES, LLC, as Assignor

By: _____

Title: _____

THE CIT GROUP/EQUIPMENT
FINANCING, INC., as Assignee

By: Nancy A. Nardella

Title: Vice President

STATE OF CALIFORNIA §
 § SS:
COUNTY OF §

On this ____ day of _____, 2000, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he is _____ of MRC Rail Services LLC, and that the foregoing Assignment and Assumption Agreement was signed on behalf of said limited liability company by authority of its Management Committee. Further, he acknowledged that the execution of the foregoing Assignment and Assumption Agreement was the free act and deed of said limited liability company.

Notary Public

[Notarial Seal]

My commission expires.

STATE OF NEW YORK §
 § SS:
COUNTY OF NY §

On this 1st day of December, 2000, before me personally appeared NANCY GARDELLA, to me personally known, who being by me duly sworn, says that he is Vice President of The CIT Group/Equipment Financing, Inc. and that the foregoing Assignment and Assumption Agreement was signed on behalf of said corporation by authority of its Board of Directors. Further, he acknowledged that the execution of the foregoing Assignment and Assumption Agreement was the free act and deed of said corporation.

Barbara Garner
Notary Public

[Notarial Seal]

My commission expires.

BARBARA GARNER
Notary Public, State of New York
No. 01GA5065133
Qualified in Nassau County
Certificate filed in New York County
Commission Expires Sept. 3, 2002

EQUIPMENT SCHEDULE

385 Tri-level Auto Carriers marked UP 800050 - UP 800434