

United States Leasing Corporation



633 Battery Street
San Francisco, California 94111
415/445-7400

No. 100A073
Date JUL 7 1976
Fee \$ 50-

June 30, 1976

ICC Washington, D. C.

Secretary
Interstate Commerce Commission
Washington, D. C. 20423

RECORDATION NO. 8403 Filed & Recorded

JUL 7 1976 3 02 PM
INTERSTATE COMMERCE COMMISSION

Dear Sir:

Enclosed for recordation under the provisions of Section 20c of the Interstate Commerce Act and the regulations promulgated thereunder, as amended, are the original and two counterparts of a Lease dated as of April 16, 1976 and the Schedules thereto dated as of May 13, 1976.

A general description of the railroad equipment covered by the enclosed documents is, as follows:

- 28 50-ton Hopper Cars numbered:
 - WPSX 2006, 2038, 2068, 2001, 2040, 2069,
 - 2002, 2048, 2073, 2012, 2050, 2076,
 - 2015, 2053, 2078, 2016, 2054, 2079,
 - 2021, 2055, 2087, 2026, 2057, 2098,
 - 2030, 2059, 2032, 2063

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

LESSOR: United States Leasing Corporation
633 Battery Street
San Francisco, California

LESSEE: Wheeling-Pittsburgh Steel Corporation
4 Gateway Center
P. O. Box 118
Pittsburgh, Pennsylvania

The undersigned is an executive officer of the Lessor mentioned in the enclosed documents and has knowledge of the matters set forth therein.

Please return the original of the enclosed Lease to Mrs. Alicia N. Noyola, United States Leasing Corporation, 633 Battery Street, San Francisco, California 94111, or to the bearer hereof.

JUL 7 2 55 PM '76

RECEIVED

Counterpart: C.F. Kuylen

United States Leasing Corporation
633 Battery Street · San Francisco, California 94111

Secretary, Interstate Commerce Commission
Page 2

Also enclosed is a remittance in the amount of \$50.00
covering the required recording fee.

Very truly yours,

UNITED STATES LEASING CORPORATION

By 
Its Assistant Vice President

Interstate Commerce Commission
Washington, D.C. 20423

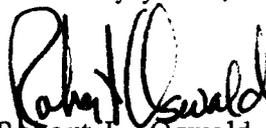
OFFICE OF THE SECRETARY

July 7, 1976

Dear

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on **July 7, 1976** at **5:00pm**, and assigned recordation number(s) **8403**

Sincerely yours,


Robert L. Oswald
Secretary

Enclosure(s)

SE-30
(5/76)

ACKNOWLEDGMENT FOR CORPORATION

STATE OF PENNSYLVANIA, COUNTY OF ALLEGHENY SS:

On this 24th day of MAY, in the year 19 76, before me _____ a Notary Public in and for said county, personally appeared James S. Howard, known to me to be the Vice President - Finance of the corporation that executed the _____
(Title)

within instrument, and known to me to be the person who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its Board of Directors.

Nancy Jean Reynolds _____ COUNTY, Pennsylvania
(Notary Public) (State)
NANCY JEAN REYNOLDS, Notary Public
Pittsburgh, Allegheny County, Pa.
My Commission Expires _____
(Notarial Seal) My Commission Expires: _____

ACKNOWLEDGMENT FOR CORPORATION

STATE OF California, COUNTY OF San Francisco SS:

On this 30th day of June, in the year 19 76, before me Sylvia P. Ferras a Notary Public in and for said county, personally appeared John G. Nobrega & George O. Duval known to me to be the Asst. Vice President and Vice President of the corporation that executed the _____
respectively (Title)

within instrument, and known to me to be the person who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its Board of Directors.

Sylvia P. Ferras _____ San Francisco COUNTY, California
(Notary Public) (State)

(Notarial Seal) My Commission Expires: November 20, 1977

LEASE

THIS LEASE, made this 16th day of April, 1976, by and between UNITED STATES LEASING CORPORATION ("Lessor"), a California corporation, and WHEELING-PITTSBURGH STEEL CORPORATION

("Lessee").

RECORDATION NO. 8409 & Recorded

WITNESSETH:

JUL 7 1976 3 PM

The parties hereby agree as follows:

1. Lease. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, all machinery, equipment, fixtures and accessories (collectively the "Equipment" and individually an "Item of Equipment") described in (a) the schedule executed by the parties concurrently herewith and made a part hereof, and (b) any schedule or schedules hereafter executed by the parties hereto and made a part hereof (collectively the "Schedule").

2. Term. The term of this lease respecting each Item of Equipment commences upon whichever of the following dates is earlier:

- (a) The date Lessor confirms to the seller of such Item of Equipment Lessee's purchase order for such Item; or
(b) The date such Item of Equipment is delivered to Lessee.

The term of this lease ends on the date designated in the Schedule.

Lessee shall have the option to renew this lease as to all but not less than all of the Equipment on the terms and conditions hereof from year to year for a maximum period of nine (9) years including the initial term hereof, if, and only if, an amount is shown under Renewal Rent on the Schedule. Lessee must give Lessor written notice of its intention to exercise this option, together with payment of the first installment of Renewal Rent, at least thirty (30) days before expiration of the initial term of this lease.

3. Rent. The rent for any and every Item of Equipment described in the Schedule shall be the amount designated in the Schedule. Rent for each Item of Equipment commences on the date Lessee accepts such Item of Equipment or such later date as Lessor may choose. Rent shall be payable in advance, in the amounts and at the times set forth in the Schedule, at the office of Lessor, 633 Battery Street, San Francisco, California, or to such other person and/or at such other place as Lessor may from time to time designate in writing.

4. Lessee's Inspection: Conclusive Presumptions. Lessee shall inspect each Item of Equipment within forty-eight (48) hours after receipt thereof. Unless Lessee within such period of time gives written notice to Lessor, specifying any defect in or other proper objection to the Equipment, Lessee agrees that it shall be conclusively presumed, as between Lessor and Lessee, that Lessee has fully inspected and acknowledged that the Equipment is in good condition and repair, and that Lessee is satisfied with and has accepted the Equipment in such good condition and repair and as satisfactory in all respects for the purposes of this lease.

5. Use; Marking. Lessee shall use the Equipment in a careful and proper manner and shall comply with and conform to all national, state, municipal, police and other laws, ordinances and regulations in anywise relating to the possession, use or maintenance of the Equipment. If at any time during the term hereof Lessor supplies Lessee with labels, plates or other markings, stating that the Equipment is owned by Lessor, Lessee shall affix such markings to and keep them on a prominent place on the Equipment.

6. Lessor's Inspection; Location of Equipment. Lessor shall have the right to inspect the Equipment and observe its use during normal business hours and at any other reasonable time and to enter into and upon the premises where the Equipment may be located for such purpose. Lessee shall not remove any Item of Equipment from its location as shown on the Schedule without Lessor's prior written consent. Lessee shall give Lessor immediate notice of any attachment or other judicial process affecting any Item of Equipment and, whenever requested by Lessor, shall advise Lessor of the exact location of the Equipment.

7. Alterations. Without the prior written consent of Lessor, Lessee shall not make any alterations, additions or improvements to the Equipment. All additions and improvements of whatsoever kind or nature made to the Equipment shall belong to and become the property of Lessor upon the expiration, or earlier termination, of this lease.

8. Repairs. Lessee, at its own cost and expense, shall maintain and keep the Equipment in good repair, condition and working order and shall furnish any and all parts, mechanisms, devices and labor required to keep the Equipment in good mechanical and working order.

9. Loss and Damage; Stipulated Loss Value. Lessee hereby assumes and shall bear the entire risk of loss, theft, damage to or destruction of the Equipment from any cause whatsoever (herein "Loss or Damage"). No Loss or Damage to the Equipment or any Item thereof shall relieve Lessee from its obligation to pay rent or to perform any other of its obligations under this lease, which shall continue in full force and effect.

In the event of Loss or Damage to any Item of Equipment, Lessee, at the option of Lessor, shall:

- (a) Place such Item in good repair, condition and working order; or
(b) Replace such Item with like Equipment in good repair, condition and working order, with clear title thereto in Lessor;

or, if such Item is determined by Lessor to be lost, stolen, destroyed or damaged beyond repair, Lessee shall:

(c) Pay Lessor therefor in cash the "Stipulated Loss Value" as set forth in the Schedule. Upon such payment this lease shall terminate with respect to such Item of Equipment so paid for and Lessee thereupon shall become entitled to such Item of Equipment As-Is-Where-Is without warranty, express or implied, with respect to any matter whatsoever.

10. Surrender. Upon the expiration or earlier termination of this lease with respect to each Item of Equipment, unless Lessee has paid Lessor in cash the Stipulated Loss Value of such Item, Lessee shall return such Item to Lessor in good repair, condition and working order, ordinary wear and tear resulting from proper use thereof alone excepted, in the following manner as may be specified by Lessor:

- (a) By delivering such Item of Equipment at Lessee's cost and expense to such place as Lessor shall specify within the city or county in which it was delivered to Lessee or to which it was moved with the written consent of Lessor; or
(b) By loading such Item of Equipment at Lessee's cost and expense on board such carrier as Lessor shall specify and shipping the same, freight collect, to the destination designated by Lessor.

11. Insurance. Lessee shall provide, maintain and pay for (a) insurance against the loss or theft of or damage to the Equipment, for the full replacement value thereof as determined by Lessor, naming Lessor as a loss payee, and (b) public liability and property damage insurance, naming Lessor as additional insured. All such insurance shall be in form and amount and with companies satisfactory to Lessor. Lessee shall deliver the policies of insurance or duplicates thereof or certificates of insurance to Lessor. Each insurer shall agree by endorsement upon the policy or policies issued by it or by independent instrument furnished to Lessor that it will give Lessor thirty (30) days' written notice before the policy in question shall be materially altered or cancelled. The proceeds of such insurance, at the option of Lessor, shall be applied (a) toward the replacement, restoration or repair of the Equipment, or (b) toward payment of the obligations of Lessee hereunder. Lessee hereby appoints Lessor as Lessee's attorney-in-fact to make claim for, receive payment of, and execute and endorse all documents, checks or drafts for, Loss or Damage under any such insurance policy.

12. Taxes; Liens. As directed by Lessor, Lessee shall pay all charges and taxes (local, state and federal) which may now or hereafter be imposed or levied upon the sale, purchase, ownership, leasing, possession or use of the Equipment, excluding however all taxes on or measured by Lessor's net income.

Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances.

13. Lessor's Payment. In case of failure of Lessee to procure or maintain said insurance or to pay said fees, assessments, charges and taxes, all as required herein, Lessor shall have the right, but shall not be obligated, to effect such insurance, or pay said fees, assessments, charges and taxes, as the case may be. In that event, the cost thereof shall be repayable to Lessor with the next installment of rent, and failure to repay the same shall carry with it the same consequence, including the Late Charge as set forth in section 23 hereof, as failure to pay an installment of rent.

14. WARRANTIES. LESSEE HAS SELECTED BOTH (A) THE EQUIPMENT AND (B) THE MANUFACTURER OR OTHER SUPPLIER FROM WHOM LESSOR IS TO PURCHASE IT. LESSOR MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING THE CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, AND, AS TO LESSOR, LESSEE LEASES THE EQUIPMENT AS-IS. If the Equipment is not properly installed, does not operate as represented or warranted by the manufacturer thereof, or is unsatisfactory for any reason, Lessee shall make any claim on account thereof solely against such manufacturer and shall, nevertheless, pay Lessor all rent payable under this lease. Lessor hereby agrees to assign to Lessee, solely for the purpose of making and prosecuting any such claim, all of the rights which Lessor has against such manufacturer for breach of warranty or other representation respecting the Equipment. See Addendum Attached.

*including, without limitation, any rules or regulations set forth under the Interstate Commerce Commission Act.

15. **Indemnity.** Lessee shall indemnify Lessor against, and hold Lessor harmless from any and all claims, actions, damages including reasonable attorney's fees, obligations, liabilities and liens (including any of the foregoing arising or imposed without Lessor's fault or negligence, or in connection with latent or other defects, or any claim for patent, trademark or copyright infringement or under the doctrine of "strict liability"), imposed or incurred by or asserted against Lessor or its successors or assigns, arising out of the manufacture, purchase, lease, possession, operation, condition, return or use of the Equipment, or by operation of law. Lessee shall give Lessor prompt written notice of any matter hereby indemnified against and agrees that upon written notice by Lessor of the assertion of such a claim, action, damage, obligation, liability or lien, Lessee shall assume full responsibility for the defense thereof. This section shall survive termination of this lease.

16. **Security.** Lessee has deposited with Lessor the "Deposit" set forth in the Schedule as security for its payment of rent and of the other amounts due hereunder, and performance of its other obligations under this lease. Lessor may, but shall not be obliged to apply such Deposit or cure any default of Lessee hereunder, in which event Lessee shall promptly restore the Deposit to the full amount deposited. Upon termination of the initial or any renewal term of this lease, if Lessee has fulfilled all its obligations hereunder, Lessor shall return to Lessee any remaining balance of the Deposit.

17. **Default.** (a) If Lessee fails to pay when due any rent or other amounts required herein to be paid to Lessor or to perform any other provisions hereunder or of any other agreement with Lessor, or makes a bulk transfer of furniture, furnishings, fixtures or other equipment or inventory, or an assignment for the benefit of creditors, whether voluntary or involuntary, or if a petition is filed by or against Lessee under the Bankruptcy Act, Lessor shall have the right to exercise any one or more of the following remedies:

- (i) Lessor may declare the entire amount of rent hereunder immediately due and payable as to any or all Items of Equipment without notice or demand to Lessee;
- (ii) Lessor may sue for and recover all rents and other payments then due and as they shall thereafter become due hereunder;
- (iii) Lessor may take possession of any or all Items of Equipment, without demand or notice, wherever same may be located, without any court order or other process of law and without liability for any damages occasioned by such taking of possession. Any such taking of possession shall not constitute a termination of this lease as to any or all Items of Equipment unless Lessor expressly so notifies Lessee in writing;
- (iv) Lessor may terminate this lease as to any or all Items of Equipment;
- (v) Lessor may pursue any other remedy at law or in equity.

(b) A termination hereunder shall occur only upon written notice by Lessor to Lessee and only with respect to such Items of Equipment as Lessor specifically elects to terminate in such notice. Except as to such Item with respect to which there is a termination, this lease shall remain in full force and effect and Lessee shall be and remain liable for the full performance of all its obligations under this lease.

No right or remedy conferred herein is exclusive of any other right or remedy conferred herein or by law; but all such remedies are cumulative of every other right or remedy conferred hereunder or at law or in equity, by statute or otherwise, and may be exercised concurrently or separately from time to time.

18. **Lessor's Expenses.** Lessee shall pay Lessor all costs and expenses, including attorneys' fees and court costs, incurred by Lessor in exercising any of its rights or remedies hereunder or enforcing any of the terms, conditions, or provisions hereof.

19. **Assignment.** Without Lessor's prior written consent, Lessee shall not (a) assign, transfer, pledge or hypothecate this lease, the Equipment or any Items thereof, or any interest therein, or (b) sublet or lend the Equipment or any Items thereof, or permit the Equipment or any Items thereof to be used by anyone other than Lessee or Lessee's employees. Consent to any one of the foregoing acts applies only in the given instance and is not a consent to any subsequent like acts by Lessee or any other person.

Lessee's interest herein may not be assigned or transferred by operation of Law.

Lessor may assign this lease or mortgage the Equipment or both in whole or in part, without notice to Lessee. If Lessee is given notice of such assignment, it shall acknowledge receipt thereof in writing. Each such assignee or mortgagee shall have all of the rights, ~~but none of the obligations, of Lessor under this lease. Lessee shall not assert against assignee and/or mortgagee any defense, counterclaim or offset that Lessee may have against Lessor.~~ Notwithstanding any such assignment, Lessor warrants that Lessee shall quietly enjoy use of the Equipment subject to the terms and conditions of this lease. Subject to the foregoing, this lease inures to the benefit of and is binding upon the heirs, legatees, personal representatives, successors and assigns of the parties hereto.

20. **Offset.** Lessee hereby waives any and all existing and future claims and offsets against rent or other payments due hereunder; and agrees to pay the rent and other amounts due hereunder regardless of any offset or claim which may be asserted by Lessee or on its behalf. This lease shall not terminate or the respective obligation of Lessor or Lessee be otherwise affected by reason of any defect in or damage to or loss or destruction of all or any Items of Equipment from whatever cause, the prohibition of Lessee's use of all or any Items of Equipment, the interference with such use by any government, person or corporation, the invalidity or unenforceability or lack of due authorization or other infirmity of this lease, any lack of right, power or authority of Lessor or Lessee to enter into this lease or any other cause whether similar or dissimilar to the foregoing.

21. **Ownership.** The Equipment is, and at all times shall remain the sole and exclusive property of Lessor; and Lessee shall have no right, title or interest therein or thereto except as expressly set forth in this lease.

22. **Personal Property.** The Equipment is, and at all times shall be and remain, personal property notwithstanding that the Equipment or any Item thereof may now be, or hereafter become, in any manner affixed or attached to, or imbedded in, or permanently resting upon, real property or any improvement thereon, or attached in any manner to what is permanent as by means of cement, plaster, nails, bolts, screws or otherwise.

23. **Late Charge.** If Lessee fails to pay any installment of rent or any other sum to be paid by Lessee to Lessor within ten (10) days after the due date thereof, Lessee shall pay Lessor a late charge equal to (a) 5% of such installment as a service charge, and (b) interest on such unpaid installment or other amount at the rate of 7% per annum or, if there is a maximum contract rate fixed by law, then at such rate, computed from the expiration of such ten (10) days to the date paid.

24. **Non Waiver.** No covenant or condition of this lease can be waived except by the written consent of Lessor. Forbearance or indulgence by Lessor in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by Lessee to which such forbearances or indulgences may apply, and, until complete performance by Lessee of such covenant or condition, Lessor shall be entitled to invoke any remedy available to Lessor under this lease or by law or in equity despite said forbearance or indulgence.

25. **Entire Agreement.** This instrument constitutes the entire agreement between Lessor and Lessee and shall not be amended, altered or changed except by a written agreement signed by the parties.

26. **Notices.** Service of all notices under this agreement shall be sufficient if given personally or mailed to the party involved at its respective address set forth at the foot hereof, or at such address as such party may provide in writing from time to time. Any such notice mailed to such address shall be effective when deposited in the United States mail, duly addressed and with first-class postage prepaid.

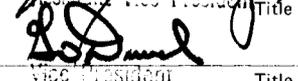
27. **Gender; Number.** Whenever the context of this lease requires, the masculine gender includes the feminine or neuter, and the singular number includes the plural; and whenever the word "Lessor" is used herein, it shall include all assignees of Lessor. If there is more than one Lessee named in this lease, the liability of each shall be joint and several.

28. **Titles.** The titles to the paragraphs of this lease are solely for the convenience of the parties, and are not an aid in the interpretation of the instrument.

29. **Time.** Time is of the essence of this lease and each and all of its provisions.

IN WITNESS WHEREOF the parties hereto have executed these presents the day and year first above written.

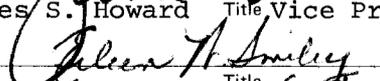
UNITED STATES LEASING CORPORATION,
Lessor

By  Title
By  Title

(Seal)

633 Battery Street
San Francisco, California 94111
006-4 (Rev. 3-74)

WHEELING-PITTSBURGH STEEL CORPORATION
Lessee

By  Title Vice President - Finance
By  Title Asst. Secretary

(Seal)

Address _____

CONFORMED COPY
SCHEDULE

Schedule No. 1 - 014016

A. EQUIPMENT LEASED:

28 50-Ton Hopper Cars numbered as follows:

- WPSX 2000, 2038, 2068, 2001, 2040, 2069, 2002, 2048, 2073, 2012, 2050, 2076, 2015, 2053, 2078, 2016, 2054, 2079, 2021, 2055, 2087, 2026, 2057, 2098, 2030, 2059, 2032, 2063

B. TERM: Unless sooner terminated as set forth in the lease, the term of this lease respecting each item of equipment listed on this schedule expires on June 30, 1979

C. RENT: As rent for said equipment, lessee shall pay lessor the sum of \$ 101,401.92 Except as otherwise provided in the lease or in this schedule said rent shall be payable in 36 monthly installments, commencing on June 30, 1976 as follows:

Two Thousand Eight Hundred Sixteen and 72/100 Dollars (\$2,816.72) per month, in advance, until rent is paid.

Unless sooner paid, all said rent shall be payable in any event on or before the expiration or sooner termination of this lease.

D. LOCATION: The above described equipment shall be located at Steubenville, Ohio and shall not be removed therefrom without the prior written consent of lessor.

E. DEPOSIT: \$ None, pursuant to paragraph 16 of the lease of which this schedule is a part.

ACKNOWLEDGMENT FOR CORPORATION

STATE OF PENNSYLVANIA, COUNTY OF ALLEGHENY SS:

On this 24th day of MAY, in the year 19 76, before me James S. Howard a Notary Public in and for said county, personally appeared James S. Howard, known to me to be the Vice President - Finance of the corporation that executed the (Title)

within instrument, and known to me to be the person who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its Board of Directors.

Nancy Jean Reynolds Allegeny COUNTY, Pennsylvania
(Notary Public) (State)

ACKNOWLEDGMENT FOR CORPORATION

STATE OF California, COUNTY OF San Francisco SS:

On this 29th day of June, in the year 19 76, before me Sylvia P. Ferras a Notary Public in and for said county, personally appeared John G. Nobrega & George O. Duval, known to me to be the Asst. Vice President and Vice President of the corporation that executed the respectively (Title)

within instrument, and known to me to be the person who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its Board of Directors.

Sylvia P. Ferras San Francisco COUNTY, California
(Notary Public) (State)

(Notarial Seal)

My Commission Expires: November 20, 1977

(Seal)

(Seal)

633 Battery Street, San Francisco, California 94111

Address.....

EXHIBIT "A"

Lessee:
Wheeling-Pittsburgh Steel Corporation

(A) As set forth in the Lease and the Schedule Lessee shall have the right to renew the Lease as to all but not less than all of the Equipment then leased thereunder at the expiration of the original term or a renewal term, at a renewal rent equal to the "Fair Market Rental" (as defined hereinafter). The term of each renewal shall be for one (1) year from the date of expiration of the original term or a renewal term. Lessee shall give Lessor written notice ninety (90) days prior to the end of the original term or a renewal term, as appropriate, of its election to exercise the renewal option provided for in the Lease, the Schedule and this Exhibit. Payment of said Fair Market Rental shall be made annually in advance at the place of payment specified in Section 3 of the Lease.

(B) The "Fair Market Rental" shall be an amount mutually agreed upon by Lessor and Lessee; provided that if Lessor and Lessee are unable to agree upon the Fair Market Rental of any Item of Equipment within thirty (30) days after receipt by Lessor of the notice of Lessee's election to exercise the renewal option, such Fair Market Rental shall be determined by an appraiser selected by mutual agreement of Lessor and Lessee. If Lessor and Lessee are not able to agree upon an appraiser, or if the Fair Market Rental is not so determined within sixty (60) days after receipt by Lessor of Lessee's election to renew, the same shall be determined by American Appraisal Company or any successor thereto. Any costs of such appraisal shall be borne by Lessee.

A D D E N D U M

Paragraph 14 of the Lease dated April 16, 1976 between United States Leasing Corporation and Wheeling-Pittsburgh Steel Corporation is amended by adding the following:

Lessor agrees, so long as no event of default has occurred and is continuing hereunder, that Lessee shall have the right to obtain the benefit of and enforce in Lessee's own name and at Lessee's sole expense any supplier's or manufacturer's warranty or agreement in respect of the Equipment to the extent such warranty or agreement is assignable, and Lessor shall execute and deliver such instruments as may be reasonably necessary to enable Lessee to obtain such benefits.