THE PITTSBURG & SHAWMUT RAILROAD COMPANY
BROOKVILLE, PENNSYLVANIA 15825

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August 30, 1977

RECORDATION NO. 8956-A Filed & Recorded
SEP 1 1977 -8 45 AM
INTERSTATE COMMERCE COMMISSION

SEP 1 1977
Date
Fee $ 50
ICC Washington, D. C.

RECORDATION NO. 8956 Filed & Recorded
SEP 1 1977 -8 45 AM
INTERSTATE COMMERCE COMMISSION

Secretary
Interstate Commerce Commission
Washington, DC 20423

Dear Sir:

Herewith for recordation pursuant to Section 20c of the Interstate Commerce Act are counterparts of the following:

(1) Conditional Sale Agreement dated as of August 1, 1977, between Bethlehem Steel Corporation, builder, and The Pittsburg & Shawmut Railroad Company, railroad.

(2) Agreement and Assignment dated as of August 1, 1977, (in respect of the aforesaid Conditional Sale Agreement), between Bethlehem Steel Corporation, builder and United States Trust Company of New York, as agent, assignee.

The addresses of the parties to the aforementioned agreements are:

Bethlehem Steel Corporation
Bethlehem, Pennsylvania 18016

The Pittsburg & Shawmut Railroad Company
R. D. #2, Middle Street
Brookville, Pennsylvania 15825

United States Trust Company of New York
130 John Street
New York, New York 10038

The equipment covered by the aforementioned agreements consists of 200 100-ton coal hopper cars, AAR mechanical designation HT, bearing the road numbers of The Pittsburg & Shawmut Railroad Company PS 1500 through 1699, and also bearing the legend "Ownership Subject to a Security Agreement filed under the Interstate Commerce Act, Section 20c".

Counterparts
Jerry A. Weaver

Enclosed is our check for $50.00 for the required recordation fee. Please accept for recordation one counterpart of each of the enclosed agreements, stamp the remaining counterparts with your recordation number and return them to the delivering messenger along with your fee receipt, addressed to the undersigned.

Very truly yours,

Thomas D. Slaughter

Secretary and General Counsel

Interstate Commerce Commission

Washington, D.C. 20423

9/1/77

OFFICE OF THE SECRETARY

Thomas D Stauffer
Secretary & Gen. Counsel
The Pittsburg & Shawmut RR. Co.
R.D. #2 Middle Street
Brookville, Pennsylvania 15825

Dear Sir:

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 9/1/77 at 8:45am, and assigned recordation number(s) 8956 & 8956-A

Sincerely yours,

H.G. Homme, Jr.
Acting Secretary

Enclosure(s)

SE-30-T
(6/77)

RECORDATION NO. 8956-A Filed & Recorded

SEP 1 1977 - 8 45 AM

INTERSTATE COMMERCE COMMISSION

AGREEMENT AND ASSIGNMENT

Dated as of August 1, 1977

between

BETHLEHEM STEEL CORPORATION

and

UNITED STATES TRUST COMPANY OF NEW YORK,
as Agent

AGREEMENT AND ASSIGNMENT

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AGREEMENT AND ASSIGNMENT, dated as of August 1, 1977, between UNITED STATES TRUST COMPANY OF NEW YORK, acting as Agent under a Finance Agreement dated as of the date hereof (hereinafter called the Finance Agreement) (said Agent, so acting, being hereinafter called the Assignee), and BETHLEHEM STEEL CORPORATION (hereinafter called the Builder).

WHEREAS the Builder and The Pittsburg & Shawmut Railroad Company (hereinafter called the Railroad), have entered into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Conditional Sale Agreement), covering the construction, sale and delivery, on the conditions therein set forth, by the Builder and the purchase by the Railroad of the railroad equipment described in Schedule B to the Conditional Sale Agreement (said equipment being hereinafter called the Equipment);

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (hereinafter called this Assignment) WITNESSETH: That, in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Assignee to the Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. The Builder hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) all the right, title and interest of the Builder in and to each unit of Equipment when and as severally delivered to and accepted by the Railroad, and when and as the amount required to be paid for such unit (other than amounts owing under Supplemental Invoices) is paid to the Builder by the Assignee pursuant to Section 4 hereof and/or by the Railroad pursuant to subparagraph (a) of the third paragraph of Article 4 of the Conditional Sale Agreement;

(b) all the right, title and interest of the Builder in and to the Conditional Sale Agreement (except the right to construct and deliver the Equipment and the right to receive the payments specified in the third paragraph of Article 3 thereof and in

subparagraph (a) of the third paragraph of Article 4 thereof and the last paragraph of Article 15 thereof and reimbursements for taxes paid or incurred by the Builder as provided in Article 5 thereof), and in and to any and all amounts which may be or become due or owing by the Railroad to the Builder under the Conditional Sale Agreement in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Railroad under the Conditional Sale Agreement, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) hereof, all the Builder's rights, powers, privileges and remedies under the Conditional Sale Agreement;

without any recourse against the Builder for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement; provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the liability of the Builder to construct and deliver the Equipment in accordance with the Conditional Sale Agreement or with respect to its obligations contained or referred to in Article 14 of the Conditional Sale Agreement, or relieve the Railroad from its obligations to the Builder contained or referred to in Articles 2, 3, 4, 5, 13, 14 and 15 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 15 of the Conditional Sale Agreement, all obligations of the Builder to the Railroad with respect to the Equipment shall be and remain enforceable by the Railroad, its successors and assigns, against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder hereby authorizes and empowers the Assignee, in the Assignee's own name or in the name of the Assignee's nominee, or in the name of and as attorney hereby irrevocably constituted for the Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and to ask, demand, sue for and enforce compliance by the Railroad with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and

liability and for the sole benefit of the Assignee.

SECTION 2. The Builder agrees that it shall construct the Equipment in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Railroad in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each of and all the covenants and conditions of the Conditional Sale Agreement set forth to be performed and complied with by the Builder. The Builder further agrees that it will warrant to the Assignee and the Railroad that at the time of delivery of each unit of the Equipment under the Conditional Sale Agreement it had legal title to such unit and good and lawful right to sell such unit and that title to such unit was free of all claims, liens, security interests and other encumbrances (other than those created by the Conditional Sale Agreement and other than the rights of the Assignee under this Assignment); and the Builder further agrees that it will defend the title to each unit of the Equipment against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Builder under the Conditional Sale Agreement; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Railroad thereunder. The Builder will not deliver any of the Equipment to the Railroad under the Conditional Sale Agreement until the filings and recordations referred to in Article 19 of the Conditional Sale Agreement have been effected (the Builder and its counsel being entitled to rely on advice from special counsel for the Assignee that such filings and recordations have been effected).

SECTION 3. The Builder agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any instalment of, or interest on, indebtedness in respect of the Purchase Price of its Equipment or to enforce any provision of the Conditional Sale Agreement, the Builder will indemnify, protect and hold harmless the Assignee from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Railroad arising out of a breach by the Builder of any obligation with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or by reason of any

defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by the Builder. The Builder's obligation so to indemnify, protect and hold harmless the Assignee is conditioned upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 15 of the Conditional Sale Agreement, to strike any defense, setoff, counterclaim or recoupment asserted by the Railroad in any such suit, proceeding or action and (b) if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Assignee's prompt notification to the Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving the Builder the right, at the Builder's expense, to compromise, settle or defend against such defense, setoff, counterclaim or recoupment.

Except in cases of articles or materials specified by the Railroad and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Railroad and not developed or purported to be developed by the Builder, the Builder agrees, except as otherwise specifically provided in the Conditional Sale Agreement, to indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, if any, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of any of its Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Assignee will give prompt notice to the Builder of any such liability or claim actually known to the Assignee and will give the Builder the right, at the Builder's expense, to compromise, settle or defend against such claim. The Builder agrees that any amounts payable to it by the Railroad with respect to its Equipment, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof.

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the Conditional Sale Agreement with respect to a Group (as defined in said Article 4) of the Equipment, shall pay to the Builder an amount equal to the portion of the Purchase Price of the Equipment as shown on the invoice or supplemental invoice therefor then being settled for which, under the terms of said Article 4, is payable in instalments, provided that there shall have been delivered to the Assignee, as provided in Article 15 of the Conditional Sale Agreement, at least five business days (as defined in said Article 4) prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel hereinafter mentioned, in such number of counterparts as may be reasonably requested by said special counsel; provided, however, that only the documents specified in subsections (c), (g)(i) and (h) of this Section must be delivered with respect to settlement for a supplemental invoice submitted with respect to Equipment previously settled for:

(a) a bill of sale from the Builder to the Assignee transferring to the Assignee all right, title and interest of the Builder in the units of the Equipment in such Group, warranting to the Assignee and to the Railroad that at the time of delivery of such units under the Conditional Sale Agreement the Builder had legal title to such units and good and lawful right to sell such units and that such units were free of all claims, liens, security interests and other encumbrances (other than those created by the Conditional Sale Agreement and other than the rights of the Assignee under this Assignment), and covenanting to defend the title to such units against the demands of all persons whomsoever based on claims originating prior to the delivery of such units by such Builder under the Conditional Sale Agreement;

(b) a Certificate or Certificates of Acceptance with respect to the units of Equipment in such Group as contemplated by Article 3 of the Conditional Sale Agreement;

(c) an invoice of the Builder for the units of Equipment in such Group and any supplemental invoice

for which settlement is then being made, in each case accompanied by or having endorsed thereon a certification by the Railroad as to the correctness of the prices stated therein;

(d) an opinion of Messrs. Cravath, Swaine & Moore, who are acting as special counsel for the Assignee and the Investors named in the Finance Agreement, dated as of such Closing Date, to the effect that (i) the Finance Agreement, assuming due authorization, execution and delivery by such Investors, has been duly authorized, executed and delivered and is a legal, valid and binding instrument, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Railroad and the Builder and is a legal, valid and binding instrument, enforceable in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Builder and the Assignee and is a legal, valid and binding instrument, (iv) the Assignee is vested with all the rights, titles, interests, powers and privileges purported to be assigned to it by this Assignment, (v) the Assignee has a valid and perfected security title in the units of the Equipment in such Group and such units, at the time of delivery thereof to the Railroad under the Conditional Sale Agreement, were free from all claims, liens, security interests and other encumbrances (other than those created by the Conditional Sale Agreement and other than the rights of the Builder excluded from this Assignment), (vi) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the valid execution and delivery of the Finance Agreement, the Conditional Sale Agreement or this Assignment, or if any such authority is necessary, it has been obtained, (vii) the Conditional Sale Agreement and this Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and no other filing or recordation is necessary for the protection of the rights of the Assignee in any state of the United States of America or in the District of Columbia, (viii) registration of the Conditional Sale Agreement, this Assignment or any certificates of interest delivered pursuant to the Finance Agreement is not required under the Securities Act of 1933, as amended, and qualification of an indenture with respect

thereto is not required under the Trust Indenture Act of 1939, as amended, and (ix) the other opinions referred to in this Section 4 are in form and scope satisfactory to it, and the Assignee and the Investors are justified in relying thereon; and such opinion shall also cover such other matters as may reasonably be requested by the Assignee or any such Investors;

(e) an opinion of counsel for the Railroad, dated as of such Closing Date, to the effect set forth in clauses (i), (ii), (v), (vi) and (vii) of subparagraph (d) above (said counsel, in rendering such opinion, being permitted to assume due authorization, execution and delivery of the Finance Agreement and this Assignment by parties thereto other than the Railroad) and stating that the Railroad is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the power and authority to own its properties and to carry on its business as now conducted;

(f) an opinion of counsel for the Builder, dated as of such Closing Date, to the effect that (i) the Builder is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the power and authority to own its properties and to carry on its business as now conducted, (ii) the Conditional Sale Agreement has been duly authorized, executed and delivered by the Builder and, assuming due authorization, execution and delivery by the Railroad, is a legal and valid instrument binding upon the Builder and enforceable against the Builder in accordance with its terms, (iii) this Assignment has been duly authorized, executed and delivered by the Builder and, assuming due authorization, execution and delivery by the Assignee, is a legal and valid instrument binding upon the Builder, (iv) the Assignee is vested with all the rights, titles, interests, powers and privileges purported to be assigned to it by this Assignment and (v) the bill of sale referred to in subparagraph (a) of this paragraph has been duly authorized, executed and delivered by the Builder and is valid and effective to transfer all right, title and interest of the Builder in and to the units of Equipment in such Group to the Assignee, free from all claims, liens, security interests and other encumbrances of any nature (other than those created by the Conditional Sale Agreement and other than the rights

of the Assignee under this Assignment) arising from, through or under the Builder;

(g) a certificate of an officer of the Railroad, dated as of such Closing Date, to the effect that (i) no event of default, or event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement could constitute an event of default, shall have occurred and is then continuing, (ii) no liens (including tax liens filed pursuant to Section 6323 of the Internal Revenue Code of 1954, as amended) have been filed and are currently in effect which would adversely affect the security interest of the Assignee in the Equipment and (iii) the representations and warranties of the Railroad set forth in subparagraphs (a) through (e) of Paragraph 9 of the Finance Agreement are true and correct as of the Closing Date; and

(h) a receipt from the Builder for any payment (other than the payment being made by the Assignee pursuant to the first paragraph of this Section 4) required to be made on such Closing Date to such Builder with respect to the Equipment, unless such payment is made by the Assignee with funds furnished to it for that purpose by the Railroad.

In giving the opinions specified in subparagraphs (d), (e) and (f) of the first paragraph of this Section 4, counsel may qualify any opinion to the effect that any agreement is a legal, valid and binding instrument enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally; in giving the opinion specified in said subparagraphs (d) and (e), counsel may rely on the opinion of counsel for the Builder as to authorization, execution and delivery by the Builder of the documents executed by the Builder and as to title to the Equipment at the time of delivery thereof under the Conditional Sale Agreement; in giving the opinion specified in said paragraph (d), counsel may rely as to any matter governed by the law of any jurisdiction other than New York or the United States, on the opinion of counsel for the Builder or the opinion of counsel for the Railroad as to such matter.

The obligation of the Assignee hereunder to make

any payment provided for in this Section 4 is hereby expressly conditioned upon the Assignee's having on deposit, pursuant to the terms of the Finance Agreement, sufficient funds available thereunder to make such payment. The Assignee shall not be obligated to make payment at any time after the commencement of any proceedings specified in clause (c) or (d) of Article 16 of the Conditional Sale Agreement or if an event of default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement could constitute an event of default, shall have occurred and be continuing under the Conditional Sale Agreement. In the event that the Assignee shall not make payment for any Group of the Equipment, the Assignee shall reassign to the Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of the Equipment with respect to which payment has not been made by the Assignee.

SECTION 5. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Railroad thereunder. In the event of any such assignment any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. The Builder hereby:

(a) represents and warrants to the Assignee, its successors and assigns, that the Conditional Sale Agreement was duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the Railroad, the Conditional Sale Agreement is, in so far as the Builder is concerned, a valid and existing agreement binding upon it and the Railroad in accordance with its terms and that it is now in force without amendment thereto;

(b) agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and

more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be; and

(c) agrees that, upon request of the Assignee, its successors and assigns, it will, subsequent to payment by the Assignee to such Builder of the amounts required to be paid under Section 4 hereof, execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of the Builder therein or in the Equipment.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all the rights conferred as provided in Article 23 of the Conditional Sale Agreement.

SECTION 8. The Assignee agrees to deliver an executed counterpart of this Assignment to the Railroad, which delivery shall constitute due notice of the assignment hereby made. Although this Assignment is dated for convenience as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

SECTION 9. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due authority, have caused this instrument to be executed in their respective corporate names by duly authorized officers, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

BETHLEHEM STEEL CORPORATION,

by

Vice President

[Corporate Seal]

Attest:

Assistant Secretary

UNITED STATES TRUST COMPANY OF
NEW YORK, as Agent,

by

Assistant Vice President

[Corporate Seal]

Attest:

Assistant Secretary

COMMONWEALTH OF PENNSYLVANIA,)
) ss.:
COUNTY OF LEHIGH,)

On this 31st day of August, 1977, before me personally appeared David Adams II, to me personally known, who, being by me duly sworn, says that he is a Vice President of BETHLEHEM STEEL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Lorraine Kirchner
Notary Public

[NOTARIAL SEAL]

My Commission Expires
April 30, 1979
City of Bethlehem
Lehigh County

My Commission expires

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

On this 24th day of August, 1977, before me personally appeared Joseph Poggio, to me personally known, who, being by me duly sworn, says that she is an Assistant Vice President of UNITED STATES TRUST COMPANY OF NEW YORK, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its By-Laws and she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Christine C. Collins
Notary Public

CHRISTINE C. COLLINS
Notary Public, State of New York
No. 31-4624735
Qualified in New York County
Certificate filed in New York County
Commission Expires March 30, 1978

[NOTARIAL SEAL]

My Commission expires
March 30, 1978

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

THE PITTSBURG & SHAWMUT RAILROAD COMPANY hereby acknowledges due notice of and consents to the assignment made by the foregoing Agreement and Assignment as of August 1, 1977.

THE PITTSBURG & SHAWMUT RAILROAD COMPANY,

by _____

~~Vice~~ President