

CRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N.Y. 10005

212 HANOVER 2-3000

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Nov 23 2 22 PM '77

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WILLIAM B. MARSHALL
RALPH L. McAFEE
ROYALL VICTOR
ALLEN H. MERRILL
HENRY W. DeKOSMIAN
ALLEN F. MAULSBY
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HENRY P. RIORDAN
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WILLIAM J. SCHRENK, JR.
BENJAMIN F. CRANE
FRANCIS F. RANDOLPH, JR.
JOHN F. HUNT, JR.
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ROBERT F. MULLEN
ALLEN FINKELSON
RONALD S. ROLFE
JOSEPH R. SAHID
PAUL C. SAUNDERS
MARTIN L. SENZEL

I.C.C. 9099
FILE OPERATION BR.
RECORDATION NO. Filed & Recorded

NOV 23 1977 - 2 25 PM

INTERSTATE COMMERCE COMMISSION

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CARLYLE E. MAW
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CABLE ADDRESSES
CRAVATH, N. Y.
CRAVATH, PARIS
CRAVATH, LONDON S.W.1

9099 B
RECORDATION NO. Filed & Recorded

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INTERSTATE COMMERCE COMMISSION

9099 A
RECORDATION NO. Filed & Recorded

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INTERSTATE COMMERCE COMMISSION

9099 C
RECORDATION NO. Filed & Recorded

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INTERSTATE COMMERCE COMMISSION
Trailer Train Company

Lease Financing Dated as of September 1, 1977
8.35% Conditional Sale Indebtedness Due April 1, 1994

[CS&M Ref. 5325-002]

Dear Sir:

Herewith for recordation pursuant to Section 20c of the Interstate Commerce Act, on behalf of Trailer Train Company are counterparts of the following:

(1) Conditional Sale Agreement No. 2 dated as of September 1, 1977, between First Security State Bank, as trustee, owner-trustee and each of Bethlehem Steel Corporation and Pullman Incorporated (Pullman Standard Division), as builders, vendor.

(2) Lease of Railroad Equipment No. 2 dated as of September 1, 1977, between Trailer Train Company, as lessee, and First Security State Bank, as trustee, owner-trustee.

(3) Assignment of Lease and Agreement No. 2 dated as of September 1, 1977, between First Security State Bank, as trustee, owner-trustee and First Security Bank of Utah, N.A., as agent.

(4) Agreement and Assignment No. 2 dated as of September 1, 1977, between each of Bethlehem Steel

James Campbell
C. DeWitt

7-327-090

NOV 23 1977
\$ 100

CC Washington, D.C.

Corporation and Pullman Incorporated (Pullman Standard Division), as builders, and First Security Bank of Utah, N.A., as agent, assignee.

The addresses of the parties to the aforementioned agreements are:

Trustee-Owner-Trustee:

First Security State Bank,
P. O. Box 30007,
Salt Lake City, Utah 84125.

Builders-Vendor:

Bethlehem Steel Corporation,
Bethlehem, Pennsylvania 18016.

Pullman Incorporated (Pullman Standard Division),
200 South Michigan Avenue,
Chicago, Illinois 60604.

Lessee:

Trailer Train Company,
300 South Wacker Drive,
Chicago, Illinois 60606.

Agent-Assignee:

First Security Bank of Utah, N.A.,
79 South Main Street,
Salt Lake City, Utah 84111.

The equipment covered by the aforementioned agreements consists of 169 89' 4" 70-ton hydraulic draft gear, flush deck, low level flat cars, 251 89' 4" 70-ton hydraulic draft gear, flush deck, standard level flat cars, 170 89' 4" 70-ton hydraulic draft gear, flush deck, low level flat cars and 165 89' 4" 70-ton hydraulic draft gear, flush deck, standard level flat cars bearing the road numbers of the lessee 852567 through 852735, 942219 through 942444, 942475 through 942499, 700675 through 700844 and 965883 through 966047 and also bearing the legend "Owned by a Bank or Trust Company under a Security Agreement Filed under the Interstate Commerce Act, Section 20c".

Enclosed is our check for \$100 for the required recordation fee. Please accept for recordation one counter-

part 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,

Laurance V. Goodrich

Laurance V. Goodrich, as Agent for
Trailer Train Company

Robert L. Oswald, Esq., Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423

Encls.

17

BY HAND

RECORDATION NO. 9099 ^A Filed & Recorded

No. 2

NOV 23 1977 - 2 23 PM

INTERSTATE COMMERCE COMMISSION

[CS&M Ref. 5325-002]

AGREEMENT AND ASSIGNMENT dated as of September 1, 1977, between PULLMAN INCORPORATED (Pullman Standard Division) and BETHLEHEM STEEL CORPORATION, respectively (each hereinafter called a Builder) and FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity but solely as Agent under a Participation Agreement dated as of the date hereof (hereinafter called the Assignee).

WHEREAS each Builder and FIRST SECURITY STATE BANK, as Trustee (hereinafter called the Owner-Trustee) under a Trust Agreement dated as of the date hereof with General Electric Credit Corporation (hereinafter individually called the Owner), have entered into a Conditional Sale Agreement No. 2 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 each Builder and the purchase by the Owner-Trustee of the railroad equipment described in Annex B to the Conditional Sale Agreement manufactured by such Builder (said equipment being hereinafter called its Equipment); and

WHEREAS the Owner-Trustee and TRAILER TRAIN COMPANY (hereinafter called the Lessee) have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease) providing for the lease to the Lessee of 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 each Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties hereto agree as follows:

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

- (a) all the right, title and interest of such Builder in and to each unit of its Equipment when and as

severally delivered to and accepted by the Owner-Trustee, subject to payment by the Assignee to such Builder of the amount required to be paid pursuant to Section 4 hereof and subject to the payment to such Builder by the Owner-Trustee pursuant to subparagraphs (a) and (b) of the third paragraph of Article 4 of the Conditional Sale Agreement;

(b) all the right, title and interest of such 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 subparagraphs (a) and (b) of the third paragraph of Article 4 thereof and reimbursement for taxes paid or incurred by such Builder), and except as aforesaid in and to any and all amounts which may be or become due or owing to such Builder under the Conditional Sale Agreement on account of the indebtedness 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 Owner-Trustee under the Conditional Sale Agreement, other than those hereinabove excluded; and

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

without any recourse hereunder, however, against such Builder for or on account of the failure of the Owner-Trustee 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 obligations of such Builder to deliver its Equipment in accordance with the Conditional Sale Agreement or with respect to its warranties and agreements referred to in Article 13 of the Conditional Sale Agreement or relieve the Owner-Trustee from its obligations to the Builder contained in Articles 2, 3, 4, 6 and 13 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Agreement, or any subsequent assignment pursuant to the provisions of Article 14 of the Conditional Sale Agreement, all obligations of such Builder to the Owner-Trustee with respect to the Equipment shall be and remain enforceable

by the Owner-Trustee, its successors and assigns, against and only against such Builder. In furtherance of the foregoing assignment and transfer, each 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 such 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 compliance by the Owner-Trustee 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. Each Builder agrees that it shall construct its Equipment in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Owner-Trustee 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 such Builder. Each Builder further agrees that it will warrant to the Assignee and the Owner-Trustee 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 such unit was free of all claims, liens, security interests and other encumbrances of any nature except only the rights created under the Conditional Sale Agreement, this Agreement and Assignment and the Lease: and such Builder further agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by such Builder under the Conditional Sale Agreement; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Owner-Trustee thereunder.

SECTION 3. Each Builder agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any installment of, or interest on, indebtedness in respect of the Purchase Price of its Equipment or to enforce any provision of the Conditional Sale Agreement, such Builder will indemnify, protect and hold harmless the Assignee from and against all expenses, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever claimed by the Owner-

Trustee or the Lessee arising out of a breach by such Builder of any obligation with respect to its 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 Owner-Trustee or the Lessee by such Builder. Each Builder's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 14 of the Conditional Sale Agreement, to strike any defense, setoff, counterclaim or recoupment asserted by the Owner-Trustee or the Lessee 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 such Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving such Builder the right, at such 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 Lessee and not manufactured by the appropriate Builder and in cases of designs, systems, processes, formulae or combinations specified by the Lessee and not developed or purported to be developed by such Builder, such Builder agrees 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, 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 appropriate Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give such Builder the right, at such Builder's expense, to compromise, settle or defend against such claim. Each Builder agrees that any amounts payable to it by the Owner-Trustee or the Lessee 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. Subject to the provisions of Article 3 of the Conditional Sale Agreement, 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 appropriate Builder an amount equal to the portion of the Purchase Price thereof which, under the terms of said Article 4, is payable in installments, provided that there shall have been delivered to the Assignee on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel, Messrs. Cravath, Swaine & Moore, in such number of counterparts as may be reasonably requested by said special counsel:

(a) an instrument or instruments from such Builder to the Assignee transferring to the Assignee the security interest of such Builder in such units, warranting to the Assignee and to the Owner-Trustee that, at the time of delivery of such units under the Conditional Sale Agreement, such Builder had legal title to such units and good and lawful right to sell such units and such units were free of all claims, liens, security interests and other encumbrances of any nature except only the rights created under the Conditional Sale Agreement, this Agreement and Assignment and the Lease, and covenanting to defend the title to such units against 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 the Equipment in such Group as contemplated by Article 3 of the Conditional Sale Agreement and § 2 of the Lease;

(c) an invoice of the Builder for the units of its Equipment in such Group accompanied by or having endorsed thereon a certification by the Lessee as to its approval thereof;

(d) an opinion of counsel for the appropriate Builder, dated as of such Closing Date, addressed to the Assignee and the Owner-Trustee, to the effect that the aforesaid instrument or instruments have been duly authorized, executed and delivered by such Builder and are valid and effective to vest in the Assignee the

security interest of the Builder in the units of the Equipment in such Group, free from all claims, liens, security interests and other encumbrances (other than those created by the Conditional Sale Agreement, this Agreement and Assignment and the Lease) arising from, through or under such Builder, and to the effect that, subject to said security interest, good and lawful title to the Units of Equipment in such Group passed to the Owner-Trustee upon delivery and acceptance thereof under the Conditional Sale Agreement; and

(e) a receipt from the appropriate 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 its Equipment, unless such payment is made by the Assignee with funds furnished to it for that purpose by the Owner-Trustee.

In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the appropriate Builder, without recourse to the Assignee unless the Assignee shall have failed to make such payment notwithstanding its receipt of the documents specified in this Section in satisfactory form as aforesaid, all right, title and interest of the Assignee in and to the units of its 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 Owner-Trustee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving the written notice required in Article 14 of the Conditional Sale Agreement, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. Each Builder hereby:

(a) represents and warrants to the Assignee, the Owner-Trustee and their 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 Owner-Trustee, the Conditional Sale Agreement is, insofar as such Builder is concerned, a legal, valid and existing agreement binding upon such Builder in accordance with its terms and that,

insofar as such Builder is concerned, it is now in force without amendment thereto;

(b) agrees that it will from time to time, 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 all 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, subsequent to payment of the sums due it hereunder and under the Conditional Sale Agreement, upon request of the Assignee, its successors and assigns, it will 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 its Equipment.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Utah, provided, however, that the parties shall be entitled to all the rights conferred by Section 20c of the Interstate Commerce Act, such additional rights arising out of the filing, recording or depositing of the Conditional Sale Agreement and this Assignment as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement or this Assignment shall be filed, recorded or deposited, or in which any unit of the Equipment shall be located, and any rights arising out of the marking on the units of Equipment.

SECTION 8. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument. Although for convenience this Assignment is dated as of the date first above written, 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.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly

authorized officials, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

PULLMAN INCORPORATED
(Pullman Standard Division),

by

[Signature]
Vice President-Freight Unit *caj RW*

[Corporate Seal]

Attest:

[Signature]
Assistant Secretary

BETHLEHEM STEEL CORPORATION,

by

Vice President

[Corporate Seal]

Attest:

Assistant Secretary

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity
but solely as Agent,

by

[Signature]
Authorized Officer

[Seal]

Attest:

[Signature]
Authorized Officer



STATE OF ILLINOIS,)
) ss.:
COUNTY OF COOK,)

On this *21st* day of November 1977, before me personally appeared *A. J. Olsen*, to me personally known, who being by me duly sworn, says that he is a Vice President-Freight Unit of PULLMAN INCORPORATED (Pullman Standard Division), 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.

Eileen Langland

Notary Public

[Notarial Seal]

My Commission Expires:

Aug. 24, 1981



STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this 18th day of November 1977, before me personally appeared **ROBERT S. CLARK**, to me personally known, who being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, N.A., that one of the seals affixed to the foregoing instrument is the seal of said national bank, that said instrument was signed and sealed on behalf of said national bank by authority of its By-Laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national bank.

Luchia B. Fisher

Notary Public

[Notarial Seal]

My Commission Expires: *Nov 21-1979*

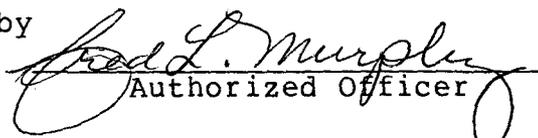


ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment dated as of September 1, 1977, is hereby acknowledged as of September 1, 1977.

FIRST SECURITY STATE BANK,
as Trustee,

by


Authorized Officer

[CS&M Ref. 5325-002]

AGREEMENT AND ASSIGNMENT dated as of September 1, 1977, between PULLMAN INCORPORATED (Pullman Standard Division) and BETHLEHEM STEEL CORPORATION, respectively (each hereinafter called a Builder) and FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity but solely as Agent under a Participation Agreement dated as of the date hereof (hereinafter called the Assignee).

WHEREAS each Builder and FIRST SECURITY STATE BANK, as Trustee (hereinafter called the Owner-Trustee) under a Trust Agreement dated as of the date hereof with General Electric Credit Corporation (hereinafter individually called the Owner), have entered into a Conditional Sale Agreement No. 2 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 each Builder and the purchase by the Owner-Trustee of the railroad equipment described in Annex B to the Conditional Sale Agreement manufactured by such Builder (said equipment being hereinafter called its Equipment); and

WHEREAS the Owner-Trustee and TRAILER TRAIN COMPANY (hereinafter called the Lessee) have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease) providing for the lease to the Lessee of 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 each Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties hereto agree as follows:

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

(a) all the right, title and interest of such Builder in and to each unit of its Equipment when and as

severally delivered to and accepted by the Owner-Trustee, subject to payment by the Assignee to such Builder of the amount required to be paid pursuant to Section 4 hereof and subject to the payment to such Builder by the Owner-Trustee pursuant to subparagraphs (a) and (b) of the third paragraph of Article 4 of the Conditional Sale Agreement;

(b) all the right, title and interest of such 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 subparagraphs (a) and (b) of the third paragraph of Article 4 thereof and reimbursement for taxes paid or incurred by such Builder), and except as aforesaid in and to any and all amounts which may be or become due or owing to such Builder under the Conditional Sale Agreement on account of the indebtedness 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 Owner-Trustee under the Conditional Sale Agreement, other than those hereinabove excluded; and

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

without any recourse hereunder, however, against such Builder for or on account of the failure of the Owner-Trustee 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 obligations of such Builder to deliver its Equipment in accordance with the Conditional Sale Agreement or with respect to its warranties and agreements referred to in Article 13 of the Conditional Sale Agreement or relieve the Owner-Trustee from its obligations to the Builder contained in Articles 2, 3, 4, 6 and 13 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Agreement, or any subsequent assignment pursuant to the provisions of Article 14 of the Conditional Sale Agreement, all obligations of such Builder to the Owner-Trustee with respect to the Equipment shall be and remain enforceable

by the Owner-Trustee, its successors and assigns, against and only against such Builder. In furtherance of the foregoing assignment and transfer, each 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 such 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 compliance by the Owner-Trustee 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. Each Builder agrees that it shall construct its Equipment in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Owner-Trustee 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 such Builder. Each Builder further agrees that it will warrant to the Assignee and the Owner-Trustee 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 such unit was free of all claims, liens, security interests and other encumbrances of any nature except only the rights created under the Conditional Sale Agreement, this Agreement and Assignment and the Lease; and such Builder further agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by such Builder under the Conditional Sale Agreement; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Owner-Trustee thereunder.

SECTION 3. Each Builder agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any installment of, or interest on, indebtedness in respect of the Purchase Price of its Equipment or to enforce any provision of the Conditional Sale Agreement, such Builder will indemnify, protect and hold harmless the Assignee from and against all expenses, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever claimed by the Owner-

Trustee or the Lessee arising out of a breach by such Builder of any obligation with respect to its 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 Owner-Trustee or the Lessee by such Builder. Each Builder's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 14 of the Conditional Sale Agreement, to strike any defense, setoff, counterclaim or recoupment asserted by the Owner-Trustee or the Lessee 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 such Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving such Builder the right, at such 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 Lessee and not manufactured by the appropriate Builder and in cases of designs, systems, processes, formulae or combinations specified by the Lessee and not developed or purported to be developed by such Builder, such Builder agrees 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, 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 appropriate Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give such Builder the right, at such Builder's expense, to compromise, settle or defend against such claim. Each Builder agrees that any amounts payable to it by the Owner-Trustee or the Lessee 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. Subject to the provisions of Article 3 of the Conditional Sale Agreement, 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 appropriate Builder an amount equal to the portion of the Purchase Price thereof which, under the terms of said Article 4, is payable in installments, provided that there shall have been delivered to the Assignee on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel, Messrs. Cravath, Swaine & Moore, in such number of counterparts as may be reasonably requested by said special counsel:

(a) an instrument or instruments from such Builder to the Assignee transferring to the Assignee the security interest of such Builder in such units, warranting to the Assignee and to the Owner-Trustee that, at the time of delivery of such units under the Conditional Sale Agreement, such Builder had legal title to such units and good and lawful right to sell such units and such units were free of all claims, liens, security interests and other encumbrances of any nature except only the rights created under the Conditional Sale Agreement, this Agreement and Assignment and the Lease, and covenanting to defend the title to such units against 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 the Equipment in such Group as contemplated by Article 3 of the Conditional Sale Agreement and § 2 of the Lease;

(c) an invoice of the Builder for the units of its Equipment in such Group accompanied by or having endorsed thereon a certification by the Lessee as to its approval thereof;

(d) an opinion of counsel for the appropriate Builder, dated as of such Closing Date, addressed to the Assignee and the Owner-Trustee, to the effect that the aforesaid instrument or instruments have been duly authorized, executed and delivered by such Builder and are valid and effective to vest in the Assignee the

security interest of the Builder in the units of the Equipment in such Group, free from all claims, liens, security interests and other encumbrances (other than those created by the Conditional Sale Agreement, this Agreement and Assignment and the Lease) arising from, through or under such Builder, and to the effect that, subject to said security interest, good and lawful title to the Units of Equipment in such Group passed to the Owner-Trustee upon delivery and acceptance thereof under the Conditional Sale Agreement; and

(e) a receipt from the appropriate 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 its Equipment, unless such payment is made by the Assignee with funds furnished to it for that purpose by the Owner-Trustee.

In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the appropriate Builder, without recourse to the Assignee unless the Assignee shall have failed to make such payment notwithstanding its receipt of the documents specified in this Section in satisfactory form as aforesaid, all right, title and interest of the Assignee in and to the units of its 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 Owner-Trustee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving the written notice required in Article 14 of the Conditional Sale Agreement, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. Each Builder hereby:

(a) represents and warrants to the Assignee, the Owner-Trustee and their 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 Owner-Trustee, the Conditional Sale Agreement is, insofar as such Builder is concerned, a legal, valid and existing agreement binding upon such Builder in accordance with its terms and that,

insofar as such Builder is concerned, it is now in force without amendment thereto;

(b) agrees that it will from time to time, 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 all 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, subsequent to payment of the sums due it hereunder and under the Conditional Sale Agreement, upon request of the Assignee, its successors and assigns, it will 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 its Equipment.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Utah, provided, however, that the parties shall be entitled to all the rights conferred by Section 20c of the Interstate Commerce Act, such additional rights arising out of the filing, recording or depositing of the Conditional Sale Agreement and this Assignment as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement or this Assignment shall be filed, recorded or deposited, or in which any unit of the Equipment shall be located, and any rights arising out of the marking on the units of Equipment.

SECTION 8. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument. Although for convenience this Assignment is dated as of the date first above written, 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.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly

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

On this *21st* day of November 1977, before me personally appeared *S. J. Shale*, 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.

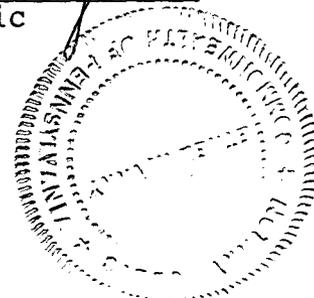
J. the S. Vary

Notary Public

[Notarial Seal]

My Commission Expires:

My Commission Expires
July 17, 1978
City of Bethlehem
Lehigh County



STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this 18th day of November 1977, before me personally appeared **ROBERT S. CLARK**, to me personally known, who being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, N.A., that one of the seals affixed to the foregoing instrument is the seal of said national bank, that said instrument was signed and sealed on behalf of said national bank by authority of its By-Laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national bank.

Ferdinand B. Eichner

Notary Public

[Notarial Seal]

My Commission Expires: *Nov 21-1979*

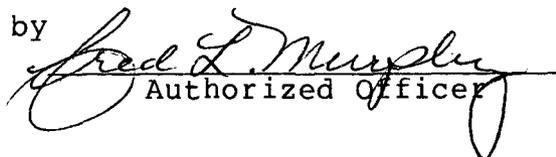


ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment dated as of September 1, 1977, is hereby acknowledged as of September 1, 1977.

FIRST SECURITY STATE BANK,
as Trustee,

by


Authorized Officer