

CRAVATH, SWAINE & MOORE

RECORDATION NO. 1 5439 Filed 1425

ONE CHASE MANHATTAN PLAZA
NEW YORK, N. Y. 10005

DEC 31 1987 - 11 19 AM

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LONDON EC2V 8BT, ENGLAND
TELEPHONE: 1-606-1421
RARI/FAX/INFOTEC:
1-606-1425

INTERSTATE COMMERCE COMMISSION

ALLEN F. MAULSBY
STEWART R. BROSS, JR.
HENRY P. RIGORDAN
JOHN R. HUPPER
SAMUEL C. BUTLER
WILLIAM J. SCHRENK, JR.
BENJAMIN F. CRANE
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GREGORY M. SHAW
PETER S. WILSON

TELEPHONE
212-428-1000

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RECORDATION NO. 15439-A Filed 1425
WRITER'S DIRECT DIAL NUMBER

DEC 31 1987 - 11 10 AM

INTERSTATE COMMERCE COMMISSION

DEC 31 1987 - 11 10 AM

INTERSTATE COMMERCE COMMISSION

No. DEC 31 1987
Date
Fee \$ 40.00

RECORDATION NO. 15439-B

DEC 31 1987 - 11 10 AM

INTERSTATE COMMERCE COMMISSION

ICC Washington, D. C.

Grand Trunk Western Railroad Company
Lease Financing Dated as of December 1, 1987
10-1/4% Conditional Sale Indebtedness
Due January 28, 2000

Dear Ms. McGee:

Pursuant to 49 U.S.C § 11303 and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Grand Trunk Western Railroad Company, for filing and recordation counterparts of the following documents:

*Counterpart -
Joseph J. Hollen*

1. (a) Conditional Sale Agreement dated as of December 1 1987, between U S West Financial Services, Inc., as Owner, and Trinity Industries, Inc., as Builder; and
(b) Agreement and Assignment dated as of December 1, 1987, between Trinity Industries, Inc., as Builder, and Mercantile-Safe Deposit and Trust Company, as Agent.
2. (a) Lease of Railroad Equipment dated as of December 1, 1987, between Grand Trunk Western Railroad Company, as Lessee, and U S West Financial Services, Inc., as Owner; and
(b) Assignment of Lease and Agreement dated as of December 1, 1987, between U S West Financial Services,

Inc., as Owner, and Mercantile-Safe Deposit and Trust Company, as Agent.

The names and addresses of the parties to the aforementioned agreements are as follows:

1. Agent:

Mercantile-Safe Deposit and
Trust company
Two Hopkins Plaza
Baltimore, Maryland 21201

2. Owner:

U S West Financial Services, Inc.
230 Park Avenue
New York, N.Y. 10169

3. Builder-Vendor

Trinity Industries, Inc.
2525 Stemmons Freeway
Dallas, Texas 75207

4. Lessee:

Grand Trunk Western Railroad Company
1333 Brewery Park Boulevard
Detroit, Michigan 48207

Please file and record the documents referred to in this letter and index them under the names of the Agent, the Owner, the Builder-Vendor and the Lessee.

The equipment covered by the aforementioned documents is listed on Exhibit A attached hereto. The equipment bears the legend "Ownership Subject to a Security Agreement Filed with the Interstate Commerce Commission".

There is also enclosed a check for \$20 payable to the Interstate Commerce Commission, representing the fee for recording the Conditional Sale Agreement and related Agreement and Assignment (together constituting one document), and the Lease of Railroad Equipment and related Assignment of Lease and Agreement (together constituting one document).

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish

to retain one copy of the instruments for your files. It is requested that the remaining counterparts be delivered to the bearer of this letter.

Very truly yours,

Laurance V. Goodrich

Laurance V. Goodrich
as Agent for
Grand Trunk Western Railroad
Company

Noreta R. McGee,
Interstate Commerce Commission,
Washington, D.C. 20423

Encls.

AGREEMENT AND ASSIGNMENT

REC'D. DATE NO. 15439-A
FEB 14 1988

DEC 31 1987 - 11 10 AM

Dated as of December 1, 1987

INTERSTATE COMMERCE COMMISSION

Between

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
as Agent,

and

TRINITY INDUSTRIES, INC.

AGREEMENT AND ASSIGNMENT dated as of December 1, 1987, between TRINITY INDUSTRIES, INC. ("Builder"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, a Maryland banking corporation, as agent (hereinafter, together with its successors and assigns, "Agent") under a Participation Agreement dated as of the date hereof ("Participation Agreement").

The Builder and U S WEST FINANCIAL SERVICES, INC., ("Owner") have entered into a Conditional Sale Agreement dated as of the date hereof ("CSA") covering the construction, sale and delivery to the Owner by the Builder of the railroad equipment described in Annex B to the CSA ("Equipment").

GRAND TRUNK WESTERN RAILROAD COMPANY ("Lessee") and the Owner have entered into a Lease of Railroad Equipment dated as of the date hereof ("Lease") providing for the lease of the Equipment to the Lessee, and the Owner and the Agent have entered into an Assignment of Lease and Agreement dated as of the date hereof ("Lease Assignment") providing for the assignment of the Lease to the Agent.

In consideration of the agreements hereinafter set forth, the parties hereto hereby agree as follows:

SECTION 1. The Builder hereby transfers and assigns to the Agent:

(a) all the right, title and interest of the Builder in and to each unit of Equipment when and as delivered to and accepted by the Owner, subject to payment by the Agent to the Builder of the amount required to be paid pursuant to Section 4 hereof;

(b) all the right, title and interest of the Builder in and to the CSA (except the right to deliver the Equipment and the right to receive the payments specified in Section 4.3(a) thereof and reimbursement for taxes paid or incurred by the Builder and the rights of the Builder to indemnification as set forth in the CSA) and (except as aforesaid) in and to any and all amounts which may be or become due or owing to the Builder under the CSA on account of the indebtedness in respect of the Purchase Price (as defined in Section 4.1 of the CSA) of the Equipment and interest thereon, and in and to any other sums becoming due from the Owner under the CSA, other than those hereinabove excluded; and

(c) except as limited by subsection (b) of this Section, all the Builder's rights, titles, powers, privileges and remedies under the CSA;

without any recourse hereunder, however, against the Builder for or on account of the failure of the Owner to make any of the payments provided for in the CSA or otherwise to comply with any of the provisions of the CSA; provided, however, that this Assignment shall not subject the Agent to or transfer or in any way affect or modify the obligations of the Builder to deliver the Equipment in accordance with the CSA or with respect to its warranties and agreements referred to in Article 2 or Article 14 of the CSA or relieve the Owner from its obligations to the Builder contained in the CSA, it being agreed that all obligations of the Builder with respect to the Equipment shall be and remain enforceable by the Owner and its successors and assigns against and only against the Builder. The Builder hereby authorizes and empowers the Agent in the Agent's own name or in the name of the Agent's nominee or in the name of and as attorney for the Builder, hereby irrevocably constituted, to demand, sue for, collect and receive any and all sums to which the Agent is or may become entitled under this Assignment and to enforce compliance by the Owner with the terms and agreements on its part to be performed under the CSA, but at the expense and liability and for the sole benefit of the Agent.

SECTION 2. The Builder agrees that it shall construct the Equipment in full accordance with the CSA. The Builder agrees to deliver the Equipment upon completion in accordance with the provisions of the CSA and, notwithstanding this Assignment, to fully perform each of and all the covenants and conditions of the CSA set forth to be performed by the Builder. The Builder further agrees that it will warrant to the Owner and the Agent that, at the time of delivery by the Builder of each unit of Equipment under the CSA, 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 of the Agent under this Agreement and of Owner under the CSA and the Lessee under the Lease; and the 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 it under the CSA; all subject, however, to the provisions of the CSA.

SECTION 3. The Builder agrees with the Agent that in any suit, proceeding or action brought by the Agent under the CSA for any installment of indebtedness or interest thereon in respect of the Purchase Price of the Equipment or to enforce any provision of the CSA, the Builder will indemnify, protect and hold harmless the Agent from and against all expenses, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever claimed by the Owner or the Lessee 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 Owner or the Lessee by the Builder. The Builder's obligation so to indemnify, protect and hold harmless the Agent is conditional upon (a) the Agent's timely motion or other appropriate action, on the basis of Article 15 of the CSA, to strike any defense, setoff, counterclaim or recoupment asserted by the Owner 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 Agent's prompt notification to the Builder of the asserted defense, setoff, counterclaim or recoupment and the Agent'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 Lessee and not manufactured by the Builder and in cases of designs, processes or combinations specified by the Lessee and not developed by the Builder, the Builder agrees, to the extent provided in Annex A to the CSA and except as otherwise specifically provided in Annex A to the CSA, to indemnify, protect and hold harmless the Agent 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 Agent because of the use in or about the construction or operation of any of the Equipment of any design, process, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Agent will give prompt written notice to the Builder of any claim actually known to the Agent which is based upon any such alleged infringement and will give to the Builder the right, at the Builder's expense, to compromise, settle or defend against

such claim; provided, however, that in so doing the Builder be limited to resolution of such claim as provided in Annex B to the CSA. The Builder agrees that any amounts payable to it by the Owner or the Lessee with respect to the Equipment, whether pursuant to the CSA or otherwise, not hereby assigned to the Agent, shall not be secured by any lien, charge or security interest upon such Equipment or any unit thereof.

SECTION 4. The Agent (as provided in Section 4.2 of the CSA) shall pay to the Builder on each Closing Date an amount equal to the portion of the Purchase Price of the Equipment then being settled for as shown on the invoice therefor, which under the terms of Section 4.3(b) of the CSA, is payable in installments; provided that the conditions specified in Articles VII and VIII of the Participation Agreement have been satisfied and there shall have been delivered to the Agent, on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to Cravath, Swaine & Moore, special counsel to the Agent, in such number of counterparts as may be reasonably requested by said special counsel:

(a) a bill or bills of sale from the Builder to the Agent transferring to the Agent the security interest of the Builder in such units, and a bill or bills of sale from the Builder to the Owner transferring title to such units subject to said security interest, in each case warranting to the Agent and to the Owner that, at the time of delivery of such units to the Owner under the CSA, the 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 of the Owner under the CSA and the Lessee under 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 to the Owner by the Builder under the CSA;

(b) Certificates of Acceptance on behalf of the Owner and the Lessee with respect to such units as contemplated by Section 3.4 of the CSA and § 2 of the Lease;

(c) the Invoice (as defined in the CSA) for such units and, if the Purchase Price set forth in the Invoice is other than the base price or prices set

forth in Annex B to the CSA, the Invoice shall be accompanied by or having endorsed thereon a certification by the Lessee and the Owner as to their approval thereof;

(d) an opinion of counsel for the Builder, dated as of such Closing Date, addressed to the Agent and the Owner, to the effect that the aforesaid bills of sale have been duly authorized, executed and delivered by the Builder, are valid and effective to transfer title to such units to the Owner, free from all claims, liens, security interests and other encumbrances (other than those created by the CSA and the rights of the Lessee under the Lease) arising from, through or under the Builder, and, assuming that the CSA and this Assignment have been duly filed and recorded with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303, are valid and effective to vest in the Agent the security interest of the Builder in such units, free from all claims, liens, security interests and other encumbrances (other than those created by the CSA and the rights of the Lessee under the Lease) arising from, through or under the Builder; and

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

The obligation of the Agent hereunder to make payment for any of the Equipment assigned hereunder is hereby expressly conditioned upon the Agent's having on deposit, pursuant to the terms of the Participation Agreement, sufficient funds available to make such payment and upon payment by the Owner of the amount required to be paid by it pursuant to Section 4.3(a) of the CSA. In the event that the Agent shall not make any such payment, the Agent shall reassign to the Builder, without recourse to the Agent, all right, title and interest of the Agent in and to the units of Equipment with respect to which payment has not been made by the Agent.

SECTION 5. The Agent may assign all or any of its rights under the CSA, including the right to receive any payments due or to become due to it from the Owner 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 15 of the CSA, enjoy all the rights and privileges and be subject to all the obligations of the Agent hereunder.

SECTION 6. The Builder hereby:

(a) represents and warrants to the Agent, the Lessee, the Owner and their successors and assigns that the CSA and this Assignment were 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 and the Agent, the CSA and this Assignment are, respectively, insofar as the Builder is concerned, legal, valid and binding instruments, enforceable against the Builder in accordance with their terms and that they are now in force without amendment thereto;

(b) agrees that it will from time to time, at the request of the Agent, make, execute and deliver all such further instruments of assignment, transfer and assurance and do all such further acts as may be necessary and appropriate 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 Agent or intended to be so; and

(c) agrees that, subsequent to the payment in full of the Purchase Price, upon request of the Agent, it will execute any and all instruments which may be necessary or proper in order to discharge of record the CSA or any other instrument evidencing any interest of the Builder therein or in the Equipment.

SECTION 7. This Assignment shall be governed by and construed in accordance with the laws of the State of Texas; provided, however, that the parties shall be entitled to all the rights conferred by 49 U.S.C. § 11303, such additional rights arising out of the filing, recording or depositing of the CSA and this Assignment and any financing statements related thereto as shall be conferred by the laws of the several jurisdictions in which the CSA or this Assignment or any financing statements related thereto 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, but the counterpart delivered to the Agent shall be deemed to be the original counterpart. Although for convenience this Assignment is dated as of the date first above written, the actual dates of execution hereof by the parties hereto are the dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by duly authorized officers as of the date first above written.

[Corporate Seal]

TRINITY INDUSTRIES, INC.,

Attest:

Neil O. Shoop
Assistant Secretary

by

J. Dean Phelps
Vice President

[Seal]

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY,

Attest:

by

Vice President

Corporate Trust Officer

SECTION 8. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Agent shall be deemed to be the original counterpart. Although for convenience this Assignment is dated as of the date first above written, the actual dates of execution hereof by the parties hereto are the dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by duly authorized officers as of the date first above written.

[Corporate Seal]

TRINITY INDUSTRIES, INC.,

by

Attest:

Vice President

Assistant Secretary

[Seal]

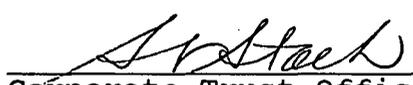
MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY,

by

Attest:



Vice President



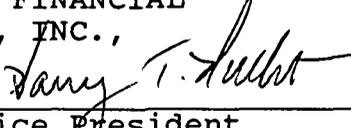
Corporate Trust Officer

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

US WEST FINANCIAL SERVICES, INC., hereby acknowledges receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment as of December 1, 1987.

U S WEST FINANCIAL
SERVICES, INC.,

by



Vice President

STATE OF TEXAS,)
) ss.:
COUNTY OF DALLAS,)

On this *28th* day of December, 1987, before me personally appeared *J. Dean Phelps, Jr.*, to me personally known, who, being by me duly sworn, says that he is a Vice President of TRINITY INDUSTRIES, INC., 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.

Beverly Balduge

Notary Public

[Notarial Seal]

My Commission expires

STATE OF MARYLAND,)
) ss.:
COUNTY OF BALTIMORE,)

On this _____ day of December 1987, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the 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.

Notary Public

[Notarial Seal]

My Commission expires

STATE OF TEXAS,)
) ss.:
COUNTY OF DALLAS,)

On this _____ day of December 1987, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a Vice President of TRINITY INDUSTRIES, INC., 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.

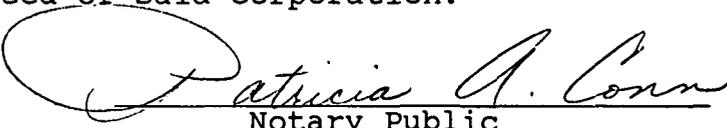
Notary Public

[Notarial Seal]

My Commission expires _____

STATE OF MARYLAND,)
) ss.:
COUNTY OF BALTIMORE,)

On this 28th day of December 1987, before me personally appeared R. E. Schreiber, to me personally known, who, being by me duly sworn, says that he is Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the 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.



Notary Public

[Notarial Seal]

My Commission expires 7-1-90