

CRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N. Y. 10005

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RECORDATION NO. Filed 1425

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INTERSTATE COMMERCE COMMISSION

13877 B
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INTERSTATE COMMERCE COMMISSION

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RECORDATION NO. Filed 1425

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INTERSTATE COMMERCE COMMISSION
December 29, 1982

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13877 C
RECORDATION NO. Filed 1425
DEC 22 1982 -3 15 PM

INTERSTATE COMMERCE COMMISSION

Borden, Inc.
Lease Financing Dated as of December 1, 1982
Floating Rate Conditional Sale Indebtedness
Due 2003

Dear Ms. Mergenovich:

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

1. (a) Conditional Sale Agreement dated as of December 1, 1982, between ACF Sales Corporation, as Builder, and The Bank of New York, as Owner; and

(b) Agreement and Assignment dated as of December 1, 1982, between ACF Sales Corporation, as Builder, and La Salle National Bank, as Agent.

2. (a) Lease of Railroad Equipment dated as of December 1, 1982, between Borden, Inc., as Lessee, and The Bank of New York, as Owner; and

(b) Assignment of Lease and Agreement dated as of December 1, 1982, between The Bank of New York, as Owner, and La Salle National Bank, as Agent.

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Country...

D.E. Allen

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

1. Agent:

La Salle National Bank
135 South La Salle Street
Chicago, Illinois 60690

2. Owner:

The Bank of New York
48 Wall Street
New York, N.Y. 10015

3. Builder-Vendor:

ACF Sales Corporation
750 Third Avenue
New York, N.Y. 10017

4. Lessee:

Borden, Inc.
277 Park Avenue
New York, N.Y. 10172

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
document consists of the following:

100 5,701 cu. ft. lined covered hopper cars, AAR
Mechanical Designation LO bearing the Lessee's
identification numbers BCDX 5000-5099, both inclusive,
and also bears the legend "Ownership Subject to a
Security Agreement Filed with The Interstate Commerce
Commission".

There is also enclosed a check for \$100 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 Borden, Inc.

Agatha L. Mergenovich, Secretary,
Interstate Commerce Commission,
Washington, D.C. 20423

Encls.

95A

13877/A
REGISTRATION NO. Filed 1425

DEC 22 1982-3 15 PM

INTERSTATE COMMERCE COMMISSION

(CS&M Ref. 4876-032)

AGREEMENT AND ASSIGNMENT

Dated as of December 1, 1982

Between

ACF SALES CORPORATION

and

LA SALLE NATIONAL BANK,
as Agent.

AGREEMENT AND ASSIGNMENT dated as of December 1, 1982, between ACF SALES CORPORATION, a Delaware corporation ("Builder"), and LA SALLE NATIONAL BANK, a national banking association, as agent ("Agent") under a Participation Agreement dated as of the date hereof ("Participation Agreement").

The Builder and THE BANK OF NEW YORK ("Owner") have entered into a Conditional Sale Agreement dated as of the date hereof ("CSA") covering the sale and delivery to the Owner by the Builder of the railroad equipment described in Annex B to the CSA ("Equipment").

BORDEN, INC. ("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, 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 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 (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 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 the Equipment shall be constructed in full accordance with the CSA. The Builder agrees to deliver the Equipment upon completion to the Owner 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 Owner, the Agent and the Lessee (and those persons claiming by, through or under the Owner, the Agent and the Lessee); and the Builder further agrees that it will defend

the title to such unit against the demands of all persons whomsoever (other than the Owner, the Lessee and the Agent, and persons claiming by, through or under the Owner, the Lessee or the Agent) 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. The Builder will not deliver any of the Equipment to the Owner under the CSA until the CSA, the Lease, this Assignment and the Lease Assignment have been filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 (the Builder and its counsel being entitled to rely on advice from special counsel for the Agent that such filing has occurred).

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 (in which latter case, the Builder will be subrogated to any claim of the Agent against the Owner or the Lessee, as the case may be, with respect to the matter indemnified against). 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 Owner or 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 or its assigns 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 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. 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 VI and VII 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, 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, the Agent and the Lessee (and those

persons claiming by, through or under the Owner, the Agent and the Lessee), and covenanting to defend the title to such units against demands of all persons whomsoever (other than the Owner, the Agent and the Lessee and persons claiming by, through or under the Owner, the Agent or the Lessee) based on claims originating prior to the delivery of such units to the Owner by the Builder under the CSA;

(b) a bill or bills of sale from the Builder to the Owner transferring to the Owner, all right, title and interest of the Builder (subject to the security interest transferred to the Agent by the bill or bills of sale described in subsection (a) above), warranting to the Owner and to the Agent that, at the time of delivery of such units to the Owner by the Builder 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 any other encumbrances of any nature except only the rights of the Owner under the CSA, the Agent under this Assignment, and the Lessee under the Lease, and those arising by, through or under the Owner, the Agent or the Lessee, 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;

(c) 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;

(d) the Invoice (as defined in the CSA) for such units accompanied by or having endorsed thereon a certification by the Owner and the Lessee as to their approval thereof;

(e) 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 bills of sale described in subsection (a) and (b) above have been duly authorized, executed and delivered by the Builder and that the bills of sale, the CSA and this Assignment are valid and effective to vest in the Agent the security interest of the Builder in such units, and in the Owner the entire remaining interest of the Builder, as the case may be, free from all claims, liens,

security interests and other encumbrances other than those of the Owner, the Agent and the Lessee, and those persons claiming by, through or under the Owner, the Agent and the Lessee (counsel for the Builder may assume the due authorization, execution and delivery of the CSA and this Assignment by the parties thereto other than the Builder);

(f) 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;

(g) such other certificates or opinions as the Agent may reasonably request.

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, the CSA and this Assignment are, 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 New York; 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 of the CSA and this Assignment as shall be conferred by the laws of the several jurisdictions in which the CSA or this Assignment may be filed or in which any unit of the Equipment shall be located, and any rights arising out of the marking on the units of Equipment.

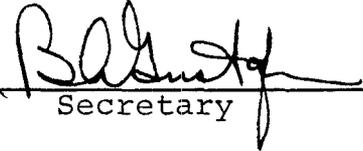
SECTION 8. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument, but the counterpart delivered to the Agent shall be deemed to be the original counterpart. Although for convenience this Assignment is dated as of the date first above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

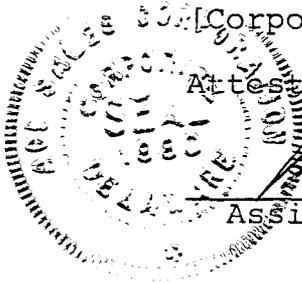
ACF SALES CORPORATION,

by


Secretary

[Corporate Seal]

Attest:



Assistant Secretary

LA SALLE NATIONAL BANK, as Agent,

by


Vice President

[Seal]

Attest:


Assistant Secretary

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

THE BANK OF NEW YORK hereby acknowledges receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment as of December 1, 1982.

THE BANK OF NEW YORK,

by

Assistant Vice President



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

On this 21 day of December 1982, before me personally appeared **B. A. GUSTAFSEN**, to me personally known, who, being by me duly sworn, says that he is a Secretary of ACF SALES CORPORATION, a Delaware 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.

Anthony M. Romanello
Notary Public

[Notarial Seal]

My Commission expires ANTHONY M. ROMANELLO
Notary Public, State of New York
No. 31-4703607
Qualified in New York County
Commission Expires March 30, 1983

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

On this day of December, 1982, before me personally appeared , to me personally known, who, being by me duly sworn, says that his is a Vice President of LA SALLE NATIONAL BANK, a national banking association, that one of the seals affixed to the foregoing instrument is the seal of said national banking association, that said instrument was signed and sealed on behalf of said national banking association 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 national banking association.

Notary Public

[Notarial Seal]

My Commission expires

(CS&M Ref. 4876-032)

AGREEMENT AND ASSIGNMENT

Dated as of December 1, 1982

Between

ACF SALES CORPORATION

and

LA SALLE NATIONAL BANK,
as Agent.

AGREEMENT AND ASSIGNMENT dated as of December 1, 1982, between ACF SALES CORPORATION, a Delaware corporation ("Builder"), and LA SALLE NATIONAL BANK, a national banking association, as agent ("Agent") under a Participation Agreement dated as of the date hereof ("Participation Agreement").

The Builder and THE BANK OF NEW YORK ("Owner") have entered into a Conditional Sale Agreement dated as of the date hereof ("CSA") covering the sale and delivery to the Owner by the Builder of the railroad equipment described in Annex B to the CSA ("Equipment").

BORDEN, INC. ("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, 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 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 (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 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 the Equipment shall be constructed in full accordance with the CSA. The Builder agrees to deliver the Equipment upon completion to the Owner 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 Owner, the Agent and the Lessee (and those persons claiming by, through or under the Owner, the Agent and the Lessee); and the Builder further agrees that it will defend

the title to such unit against the demands of all persons whomsoever (other than the Owner, the Lessee and the Agent, and persons claiming by, through or under the Owner, the Lessee or the Agent) 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. The Builder will not deliver any of the Equipment to the Owner under the CSA until the CSA, the Lease, this Assignment and the Lease Assignment have been filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 (the Builder and its counsel being entitled to rely on advice from special counsel for the Agent that such filing has occurred).

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 (in which latter case, the Builder will be subrogated to any claim of the Agent against the Owner or the Lessee, as the case may be, with respect to the matter indemnified against). 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 Owner or 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 or its assigns 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 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. 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 VI and VII 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, 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, the Agent and the Lessee (and those

persons claiming by, through or under the Owner, the Agent and the Lessee), and covenanting to defend the title to such units against demands of all persons whomsoever (other than the Owner, the Agent and the Lessee and persons claiming by, through or under the Owner, the Agent or the Lessee) based on claims originating prior to the delivery of such units to the Owner by the Builder under the CSA;

(b) a bill or bills of sale from the Builder to the Owner transferring to the Owner, all right, title and interest of the Builder (subject to the security interest transferred to the Agent by the bill or bills of sale described in subsection (a) above), warranting to the Owner and to the Agent that, at the time of delivery of such units to the Owner by the Builder 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 any other encumbrances of any nature except only the rights of the Owner under the CSA, the Agent under this Assignment, and the Lessee under the Lease, and those arising by, through or under the Owner, the Agent or the Lessee, 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;

(c) 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;

(d) the Invoice (as defined in the CSA) for such units accompanied by or having endorsed thereon a certification by the Owner and the Lessee as to their approval thereof;

(e) 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 bills of sale described in subsection (a) and (b) above have been duly authorized, executed and delivered by the Builder and that the bills of sale, the CSA and this Assignment are valid and effective to vest in the Agent the security interest of the Builder in such units, and in the Owner the entire remaining interest of the Builder, as the case may be, free from all claims, liens,

security interests and other encumbrances other than those of the Owner, the Agent and the Lessee, and those persons claiming by, through or under the Owner, the Agent and the Lessee (counsel for the Builder may assume the due authorization, execution and delivery of the CSA and this Assignment by the parties thereto other than the Builder);

(f) 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;

(g) such other certificates or opinions as the Agent may reasonably request.

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, the CSA and this Assignment are, 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 New York; 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 of the CSA and this Assignment as shall be conferred by the laws of the several jurisdictions in which the CSA or this Assignment may be filed 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.

ACF SALES CORPORATION,

by

[Corporate Seal]

Secretary

Attest:

Assistant Secretary

LA SALLE NATIONAL BANK, as
Agent,

by



Vice President

[Seal]

Attest:



Assistant Secretary

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

THE BANK OF NEW YORK hereby acknowledges receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment as of December 1, 1982.

THE BANK OF NEW YORK,

by

Assistant Vice President

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

On this _____ day of December 1982, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a Secretary of ACF SALES CORPORATION, a Delaware 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.

Notary Public

[Notarial Seal]

My Commission expires

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

On this 21st day of December, 1982, before me personally appeared R. K. WEBER, to me personally known, who, being by me duly sworn, says that his is a Vice President of LA SALLE NATIONAL BANK, a national banking association, that one of the seals affixed to the foregoing instrument is the seal of said national banking association, that said instrument was signed and sealed on behalf of said national banking association 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 national banking association.

Patricia M. Kennedy
Notary Public

[Notarial Seal]

My Commission expires

My Commission Expires August 24, 1986

(CS&M Ref. 4876-032)

AGREEMENT AND ASSIGNMENT

Dated as of December 1, 1982

Between

ACF SALES CORPORATION

and

LA SALLE NATIONAL BANK,
as Agent.

AGREEMENT AND ASSIGNMENT dated as of December 1, 1982, between ACF SALES CORPORATION, a Delaware corporation ("Builder"), and LA SALLE NATIONAL BANK, a national banking association, as agent ("Agent") under a Participation Agreement dated as of the date hereof ("Participation Agreement").

The Builder and THE BANK OF NEW YORK ("Owner") have entered into a Conditional Sale Agreement dated as of the date hereof ("CSA") covering the sale and delivery to the Owner by the Builder of the railroad equipment described in Annex B to the CSA ("Equipment").

BORDEN, INC. ("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, 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 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 (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 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 the Equipment shall be constructed in full accordance with the CSA. The Builder agrees to deliver the Equipment upon completion to the Owner 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 Owner, the Agent and the Lessee (and those persons claiming by, through or under the Owner, the Agent and the Lessee); and the Builder further agrees that it will defend

the title to such unit against the demands of all persons whomsoever (other than the Owner, the Lessee and the Agent, and persons claiming by, through or under the Owner, the Lessee or the Agent) 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. The Builder will not deliver any of the Equipment to the Owner under the CSA until the CSA, the Lease, this Assignment and the Lease Assignment have been filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 (the Builder and its counsel being entitled to rely on advice from special counsel for the Agent that such filing has occurred).

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 (in which latter case, the Builder will be subrogated to any claim of the Agent against the Owner or the Lessee, as the case may be, with respect to the matter indemnified against). 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 Owner or 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 or its assigns 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 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. 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 VI and VII 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, 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, the Agent and the Lessee (and those

persons claiming by, through or under the Owner, the Agent and the Lessee), and covenanting to defend the title to such units against demands of all persons whomsoever (other than the Owner, the Agent and the Lessee and persons claiming by, through or under the Owner, the Agent or the Lessee) based on claims originating prior to the delivery of such units to the Owner by the Builder under the CSA;

(b) a bill or bills of sale from the Builder to the Owner transferring to the Owner, all right, title and interest of the Builder (subject to the security interest transferred to the Agent by the bill or bills of sale described in subsection (a) above), warranting to the Owner and to the Agent that, at the time of delivery of such units to the Owner by the Builder 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 any other encumbrances of any nature except only the rights of the Owner under the CSA, the Agent under this Assignment, and the Lessee under the Lease, and those arising by, through or under the Owner, the Agent or the Lessee, 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;

(c) 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;

(d) the Invoice (as defined in the CSA) for such units accompanied by or having endorsed thereon a certification by the Owner and the Lessee as to their approval thereof;

(e) 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 bills of sale described in subsection (a) and (b) above have been duly authorized, executed and delivered by the Builder and that the bills of sale, the CSA and this Assignment are valid and effective to vest in the Agent the security interest of the Builder in such units, and in the Owner the entire remaining interest of the Builder, as the case may be, free from all claims, liens,

security interests and other encumbrances other than those of the Owner, the Agent and the Lessee, and those persons claiming by, through or under the Owner, the Agent and the Lessee (counsel for the Builder may assume the due authorization, execution and delivery of the CSA and this Assignment by the parties thereto other than the Builder);

(f) 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;

(g) such other certificates or opinions as the Agent may reasonably request.

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, the CSA and this Assignment are, 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 New York; 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 of the CSA and this Assignment as shall be conferred by the laws of the several jurisdictions in which the CSA or this Assignment may be filed 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.

ACF SALES CORPORATION,

by

[Corporate Seal]

Secretary

Attest:

Assistant Secretary

LA SALLE NATIONAL BANK, as Agent,

by

[Seal]

Vice President

Attest:

Assistant Secretary

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

THE BANK OF NEW YORK hereby acknowledges receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment as of December 1, 1982.

THE BANK OF NEW YORK,

by


Assistant Vice President

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

On this day of December 1982, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Secretary of ACF SALES CORPORATION, a Delaware 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.

Notary Public

[Notarial Seal]

My Commission expires

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

On this day of December, 1982, before me personally appeared , to me personally known, who, being by me duly sworn, says that his is a Vice President of LA SALLE NATIONAL BANK, a national banking association, that one of the seals affixed to the foregoing instrument is the seal of said national banking association, that said instrument was signed and sealed on behalf of said national banking association 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 national banking association.

Notary Public

[Notarial Seal]

My Commission expires