11945

RECORDATION NO. ..... Filed 1425

JUN 27 1980 -3 15 PM

INTERSTATE COMMERCE COMMISSION

CRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N. Y. 10005

212 HANOVER 2-3000

TELEX
RCA 233663
WUD 125547
WUI 620976

MAURICE T. MOORE
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RALPH L. McAFEE
ROYALL VICTOR
HENRY W. deKOSMIAN
ALLEN F. MAULSBY
STEWARD R. BROSS, JR.
HENRY P. RIORDAN
JOHN R. HUPPER
SAMUEL C. BUTLER
WILLIAM J. SCHRENK, JR.
BENJAMIN F. CRANE
FRANCIS F. RANDOLPH, JR.
JOHN F. HUNT
GEORGE J. GILLESPIE, III
RICHARD S. SIMMONS
WAYNE E. CHAPMAN
THOMAS D. BARR
MELVIN L. BEDRICK
GEORGE T. LOWY
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JAMES H. DUFFY
ALAN J. HRUSKA
JOHN E. YOUNG
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DAVID L. SCHWARTZ
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CHRISTINE BESHAR
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DAVID BOIES
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PAUL M. DODYK
RICHARD M. ALLEN
THOMAS R. BROME
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MARTIN L. SENZEL
DOUGLAS D. BROADWATER
ALAN C. STEPHENSON
RICHARD L. HOFFMAN
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CARLYLE E. MAW
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FRANK H. DETWEILER
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ROSWELL L. GILPATRIC
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PLACE DE LA CONCORDE
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33 THROGMORTON STREET
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CABLE ADDRESSES
CRAVATH, N. Y.
CRAVATH, PARIS
CRAVATH, LONDON E. C. 2

11945/B

RECORDATION NO. ..... Filed 1425

JUN 27 1980 -3 15 PM

INTERSTATE COMMERCE COMMISSION

11945/A

RECORDATION NO. ..... Filed 1425

JUN 27 1980 -3 15 PM

INTERSTATE COMMERCE COMMISSION

0-179A104

11945/C

RECORDATION NO. ..... Filed 1425

JUN 27 1980 -3 15 PM

INTERSTATE COMMERCE COMMISSION

JUN 26 1980

Date

Fee $ 100.00

CC Washington, D. C.

June 26, 1980

Great Lakes Carbon Corporation
Lease Financing (C) Dated as of May 15, 1980
14-3/4% Conditional Sale Indebtedness Due 1998
[CS&M Ref: 3909-033C]

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. § 11303(a), I enclose herewith on behalf of Great Lakes Carbon Corporation for filing and recordation, counterparts of the following:

1. (a) Conditional Sale Agreement dated as of May 15, 1980, between New England Merchants Leasing Corporation B-7 and Trinity Industries, Inc.; and

(b) Agreement and Assignment dated as of May 15, 1980, between Mercantile-Safe Deposit and Trust Company and Trinity Industries, Inc.

2. (a) Lease of Railroad Equipment dated as of May 15, 1980, between Great Lakes Carbon Corporation and New England Merchants Leasing Corporation B-7; and

(b) Assignment of Lease and Agreement dated as of May 15, 1980, between New England Merchants Leasing Corporation B-7 and Mercantile-Safe Deposit and Trust Company.

Cindy Attemes

New Member

A

RECEIVED JUN 27 3 07 PM '80 I.C.C. FEE OPERATION BR

Counter Part

The addresses of the parties to the aforementioned agreements are:

Lessor-Vendee:

New England Merchants Leasing Corporation B-7,
One Washington Mall, (16th fl)
Boston, Massachusetts 02108

Builder-Vendor:

Trinity Industries, Inc.
4001 Irving Blvd.
Dallas, Texas 75207

Lessee:

Great Lakes Carbon Corporation
299 Park Avenue
New York, N. Y. 10017

Agent-Vendor-Assignee:

Mercantile-Safe Deposit and Trust Company,
P. O. Box 2258
Two Hopkins Plaza
Baltimore, Maryland 21203.

The equipment covered by the aforementioned agreements consists of 230 100-ton covered triple hopper cars bearing the road numbers of the Lessee GLCX 8000-8229, inclusive, and also bearing the legend "Ownership Subject to a Security Agreement filed with the Interstate Commerce Commission".

Enclosed is our check for $100 for the required recordation fee. Please accept for recordation one counterpart of each of the enclosed agreements, stamp the remaining counterparts with your recordation number and return them to the delivering messenger along with your fee receipt.

addressed to the undersigned.

Very truly yours,

Susan E. Gorman

Susan E. Gorman
As Agent for Great Lakes Carbon Corporation

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

Encls.

11945-A
RECORDATION NO. Filed 1425
JUN 27 1980 -3 15 PM
INTERSTATE COMMERCE COMMISSION

[CS&M Ref.--3909-033C]

AGREEMENT AND ASSIGNMENT

Dated as of May 15, 1980

Between

TRINITY INDUSTRIES, INC.

and

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
As Agent

AGREEMENT AND ASSIGNMENT dated as of May 15, 1980, between TRINITY INDUSTRIES, INC. (the "Builder"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, acting as Agent under a Participation Agreement dated as of the date hereof (the "Assignee").

WHEREAS the Builder and NEW ENGLAND MERCHANTS LEASING CORPORATION B-7 (the "Vendee"), have entered into a Conditional Sale Agreement dated as of the date hereof (the "CSA") covering the construction, sale and delivery, on the conditions therein set forth, by the Builder and the purchase by the Vendee of the railroad equipment described in Annex B to the CSA (the "Equipment"); and

WHEREAS the Vendee and Great Lakes Carbon Corporation (the "Lessee"), have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease") providing for the lease to the Lessee of the Equipment;

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (this "Assignment") WITNESSETH: that in consideration of the sum of One Dollar and other good and valuable consideration paid by the Assignee to the Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties hereto agree as follows:

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

(a) all the right, title and interest of the Builder in and to each unit of the Equipment when and as severally delivered to and accepted by the Vendee, subject to payment by the Assignee 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 construct and deliver the Equipment and the right to receive the payments specified in subparagraph (a) of the third paragraph of Article 4 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 the CSA) of the Equipment and interest thereon, and in and to any other sums becoming due from the Vendee under the CSA, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) of this Section 1, 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 Vendee to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the CSA; 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 the Builder to deliver the Equipment in accordance with the CSA or with respect to its warranties and agreements referred to in Article 13 of the CSA or relieve the Vendee from its obligations to the Builder contained in Articles 2, 3, 4, 6 and 13 of the CSA, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 14 of the CSA, all obligations of the Builder to the Vendee with respect to the Equipment shall be and remain enforceable by the Vendee against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Vendee 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 Assignee.

SECTION 2. The Builder agrees that it shall construct the Equipment in full accordance with the CSA and will deliver the same upon completion to the Vendee in accordance with the provisions of the CSA; and that, notwithstanding this Assignment, it will perform and fully comply with each of and all the covenants and conditions of the CSA set forth to be performed and complied with by the Builder. The Builder further agrees that it will warrant to the Assignee and the Vendee that at the time of delivery of each unit of the 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 Vendee under the CSA, the rights of the Lessee under the Lease and the rights of the Assignee hereunder; 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 the Builder under the CSA; all subject, however, to the provisions of the CSA and the rights of the Vendee thereunder. The Builder will not deliver any unit of its Equipment to the Vendee under the CSA until the CSA, the Lease, this Assignment and the Lease Assignment (as defined in the Lease) have been filed in accordance with 49 U.S.C. § 11303 (the Builder and its counsel being entitled to rely on advice from special counsel for the Assignee that such filing has been made).

SECTION 3. The Builder agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the CSA for any installment of, or interest on, the CSA Indebtedness (as defined in the CSA) or to enforce any provision of the CSA, the 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 Vendee 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 Vendee or the Lessee by the Builder. The 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 CSA, to strike any defense, setoff, counterclaim or recoupment asserted by the Vendee 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 the Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving the Builder the right, at the Builder's expense, to compromise, settle or defend against such defense, setoff, counterclaim or recoupment.

Except in cases of articles or materials specified by the Lessee and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Lessee and not developed or purported to be developed by the Builder, the Builder agrees, except as otherwise specifically provided in Annex A to the CSA, 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 the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Assignee will give prompt notice to the Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give the Builder the right, at the Builder's expense, to compromise, settle or defend against such claim. The Builder agrees that any amounts payable to it by the Vendee or the Lessee with respect to the Equipment, whether pursuant to the CSA or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof.

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the CSA with respect to a Group (as defined in said Article 4) of the Equipment, shall pay or cause to be paid to the Builder an amount equal to the portion of the Purchase Price of the units of the Equipment being settled for on such Closing Date which, under the terms of said Article 4, is payable in installments; provided that there shall have been delivered to the Assignee (with a copy to the Vendee) on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel:

(a) a bill or bills of sale from the Builder to the Assignee transferring to the Assignee all right, title and interest of the Builder in such units, warranting to the Assignee and to the Vendee that, at the time of delivery of such units 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 other than these created by the CSA, the rights of the Lessee under the Lease and the rights of the

Assignee under this Assignment, 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 the Builder under the CSA;

(b) a Certificate or Certificates of Acceptance with respect to such units as contemplated by Article 3 of the CSA and § 2 of the Lease;

(c) an invoice for such units accompanied by or having endorsed thereon a certification by the Vendee and the Lessee as to their approval thereof;

(d) an opinion of counsel for the Builder, dated as of the Closing Date, addressed to the Assignee and the Vendee, to the effect that the aforesaid bill or bills of sale have been duly authorized, executed and delivered by the Builder and are valid and effective to vest in the Assignee all right, title and interest of the Builder in such units, free from all claims, liens, security interests and other encumbrances at the time of delivery (other than those created by the CSA, the rights of the Lessee under the Lease and the rights of the Assignee under this Assignment) arising from, through or under the Builder; and

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

The obligation of the Assignee hereunder to make payment or cause payment to be made for any of the Equipment assigned hereunder is hereby expressly conditioned upon the satisfaction of all of the conditions contained in Paragraph 6 of the Participation Agreement and upon payment by the Vendee of the amount required to be paid by it pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA. In the event that the Assignee shall not make any such payment or cause such payment to be made, the Assignee shall reassign to the Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of Equipment with respect to which payment has not been made or caused to be made by the Assignee.

SECTION 5. The Assignee may assign all or any of its rights under the CSA. In the event of any such assignment, any such subsequent assignee shall, to the extent of such assignment, and upon giving the written notice required in Article 14 of the CSA, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. The Builder hereby:

(a) represents and warrants to the Assignee, the Vendee and their successors and assigns, that the CSA 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 Vendee, the CSA is, insofar as the Builder is concerned, a legal and valid agreement binding upon the Builder in accordance with its terms and that 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, 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 CSA.

SECTION 7. This Assignment shall be governed by 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 as shall be conferred by the laws of the several jurisdictions in which the CSA 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, but the counterpart delivered to the Assignee shall be deemed to be the original counterpart.

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.

TRINITY INDUSTRIES, INC.,

by E B Breeding
Senior V. P.

[Corporate Seal]

Attest:
Neil O. Shoop
Ass't. Secretary

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent,

by _____
Assistant Vice President

[Corporate Seal]

Attest:

_____
Corporate Trust Officer

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged as of May 15, 1980.

NEW ENGLAND MERCHANTS LEASING CORPORATION B-7,

by _____

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

On this day of June 1980, before me personally appeared , to me personally known, who being by me duly sworn, says that he is an Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, 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 banking 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 26 day of June 1980, before me personally appeared E. B. Breeding , to me personally known, who being by me duly sworn, says that he is a 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.

Helen Sellers
Notary Public

[Notarial Seal]

My Commission expires

8-16-1983

[CS&M Ref.--3909-033C]

AGREEMENT AND ASSIGNMENT

Dated as of May 15, 1980

Between

TRINITY INDUSTRIES, INC.

and

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
As Agent

AGREEMENT AND ASSIGNMENT dated as of May 15, 1980, between TRINITY INDUSTRIES, INC. (the "Builder"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, acting as Agent under a Participation Agreement dated as of the date hereof (the "Assignee").

WHEREAS the Builder and NEW ENGLAND MERCHANTS LEASING CORPORATION B-7 (the "Vendee"), have entered into a Conditional Sale Agreement dated as of the date hereof (the "CSA") covering the construction, sale and delivery, on the conditions therein set forth, by the Builder and the purchase by the Vendee of the railroad equipment described in Annex B to the CSA (the "Equipment"); and

WHEREAS the Vendee and Great Lakes Carbon Corporation (the "Lessee"), have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease") providing for the lease to the Lessee of the Equipment;

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (this "Assignment") WITNESSETH: that in consideration of the sum of One Dollar and other good and valuable consideration paid by the Assignee to the Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties hereto agree as follows:

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

(a) all the right, title and interest of the Builder in and to each unit of the Equipment when and as severally delivered to and accepted by the Vendee, subject to payment by the Assignee 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 construct and deliver the Equipment and the right to receive the payments specified in subparagraph (a) of the third paragraph of Article 4 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 the CSA) of the Equipment and interest thereon, and in and to any other sums becoming due from the Vendee under the CSA, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) of this Section 1, 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 Vendee to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the CSA; 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 the Builder to deliver the Equipment in accordance with the CSA or with respect to its warranties and agreements referred to in Article 13 of the CSA or relieve the Vendee from its obligations to the Builder contained in Articles 2, 3, 4, 6 and 13 of the CSA, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 14 of the CSA, all obligations of the Builder to the Vendee with respect to the Equipment shall be and remain enforceable by the Vendee against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Vendee 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 Assignee.

SECTION 2. The Builder agrees that it shall construct the Equipment in full accordance with the CSA and will deliver the same upon completion to the Vendee in accordance with the provisions of the CSA; and that, notwithstanding this Assignment, it will perform and fully comply with each of and all the covenants and conditions of the CSA set forth to be performed and complied with by the Builder. The Builder further agrees that it will warrant to the Assignee and the Vendee that at the time of delivery of each unit of the 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 Vendee under the CSA, the rights of the Lessee under the Lease and the rights of the Assignee hereunder; 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 the Builder under the CSA; all subject, however, to the provisions of the CSA and the rights of the Vendee thereunder. The Builder will not deliver any unit of its Equipment to the Vendee under the CSA until the CSA, the Lease, this Assignment and the Lease Assignment (as defined in the Lease) have been filed in accordance with 49 U.S.C. § 11303 (the Builder and its counsel being entitled to rely on advice from special counsel for the Assignee that such filing has been made).

SECTION 3. The Builder agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the CSA for any installment of, or interest on, the CSA Indebtedness (as defined in the CSA) or to enforce any provision of the CSA, the 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 Vendee 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 Vendee or the Lessee by the Builder. The 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 CSA, to strike any defense, setoff, counterclaim or recoupment asserted by the Vendee 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 the Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving the Builder the right, at the Builder's expense, to compromise, settle or defend against such defense, setoff, counterclaim or recoupment.

Except in cases of articles or materials specified by the Lessee and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Lessee and not developed or purported to be developed by the Builder, the Builder agrees, except as otherwise specifically provided in Annex A to the CSA, 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 the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Assignee will give prompt notice to the Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give the Builder the right, at the Builder's expense, to compromise, settle or defend against such claim. The Builder agrees that any amounts payable to it by the Vendee or the Lessee with respect to the Equipment, whether pursuant to the CSA or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof.

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the CSA with respect to a Group (as defined in said Article 4) of the Equipment, shall pay or cause to be paid to the Builder an amount equal to the portion of the Purchase Price of the units of the Equipment being settled for on such Closing Date which, under the terms of said Article 4, is payable in installments; provided that there shall have been delivered to the Assignee (with a copy to the Vendee) on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel:

(a) a bill or bills of sale from the Builder to the Assignee transferring to the Assignee all right, title and interest of the Builder in such units, warranting to the Assignee and to the Vendee that, at the time of delivery of such units 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 other than these created by the CSA, the rights of the Lessee under the Lease and the rights of the

Assignee under this Assignment, 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 the Builder under the CSA;

(b) a Certificate or Certificates of Acceptance with respect to such units as contemplated by Article 3 of the CSA and § 2 of the Lease;

(c) an invoice for such units accompanied by or having endorsed thereon a certification by the Vendee and the Lessee as to their approval thereof;

(d) an opinion of counsel for the Builder, dated as of the Closing Date, addressed to the Assignee and the Vendee, to the effect that the aforesaid bill or bills of sale have been duly authorized, executed and delivered by the Builder and are valid and effective to vest in the Assignee all right, title and interest of the Builder in such units, free from all claims, liens, security interests and other encumbrances at the time of delivery (other than those created by the CSA, the rights of the Lessee under the Lease and the rights of the Assignee under this Assignment) arising from, through or under the Builder; and

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

The obligation of the Assignee hereunder to make payment or cause payment to be made for any of the Equipment assigned hereunder is hereby expressly conditioned upon the satisfaction of all of the conditions contained in Paragraph 6 of the Participation Agreement and upon payment by the Vendee of the amount required to be paid by it pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA. In the event that the Assignee shall not make any such payment or cause such payment to be made, the Assignee shall reassign to the Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of Equipment with respect to which payment has not been made or caused to be made by the Assignee.

SECTION 5. The Assignee may assign all or any of its rights under the CSA. In the event of any such assignment, any such subsequent assignee shall, to the extent of such assignment, and upon giving the written notice required in Article 14 of the CSA, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. The Builder hereby:

(a) represents and warrants to the Assignee, the Vendee and their successors and assigns, that the CSA 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 Vendee, the CSA is, insofar as the Builder is concerned, a legal and valid agreement binding upon the Builder in accordance with its terms and that 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, 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 CSA.

SECTION 7. This Assignment shall be governed by 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 as shall be conferred by the laws of the several jurisdictions in which the CSA 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, but the counterpart delivered to the Assignee shall be deemed to be the original counterpart.

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.

TRINITY INDUSTRIES, INC.,

by _____

[Corporate Seal]

Attest:

_____

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent,

by _____
~~Assistant~~ Vice President

[Corporate Seal]

Attest:

_____
Corporate Trust Officer

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged as of May 15, 1980.

NEW ENGLAND MERCHANTS LEASING CORPORATION B-7,

by _____

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

On this 26th day of June 1980, before me personally appeared G. J. Johnston, to me personally known, who being by me duly sworn, says that he is an ~~Assistant~~ Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, 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 banking 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.

Florence H Albert
Notary Public

[Notarial Seal]

My Commission expires 7/1/82

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

On this 26 day of June 1980, before me personally appeared , to me personally known, who being by me duly sworn, says that he is a 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

[CS&M Ref.--3909-033C]

AGREEMENT AND ASSIGNMENT

Dated as of May 15, 1980

Between

TRINITY INDUSTRIES, INC.

and

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
As Agent

AGREEMENT AND ASSIGNMENT dated as of May 15, 1980, between TRINITY INDUSTRIES, INC. (the "Builder"), and MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, acting as Agent under a Participation Agreement dated as of the date hereof (the "Assignee").

WHEREAS the Builder and NEW ENGLAND MERCHANTS LEASING CORPORATION B-7 (the "Vendee"), have entered into a Conditional Sale Agreement dated as of the date hereof (the "CSA") covering the construction, sale and delivery, on the conditions therein set forth, by the Builder and the purchase by the Vendee of the railroad equipment described in Annex B to the CSA (the "Equipment"); and

WHEREAS the Vendee and Great Lakes Carbon Corporation (the "Lessee"), have entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease") providing for the lease to the Lessee of the Equipment;

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (this "Assignment") WITNESSETH: that in consideration of the sum of One Dollar and other good and valuable consideration paid by the Assignee to the Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties hereto agree as follows:

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

(a) all the right, title and interest of the Builder in and to each unit of the Equipment when and as severally delivered to and accepted by the Vendee, subject to payment by the Assignee 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 construct and deliver the Equipment and the right to receive the payments specified in subparagraph (a) of the third paragraph of Article 4 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 the CSA) of the Equipment and interest thereon, and in and to any other sums becoming due from the Vendee under the CSA, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) of this Section 1, 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 Vendee to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the CSA; 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 the Builder to deliver the Equipment in accordance with the CSA or with respect to its warranties and agreements referred to in Article 13 of the CSA or relieve the Vendee from its obligations to the Builder contained in Articles 2, 3, 4, 6 and 13 of the CSA, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 14 of the CSA, all obligations of the Builder to the Vendee with respect to the Equipment shall be and remain enforceable by the Vendee against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Vendee 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 Assignee.

SECTION 2. The Builder agrees that it shall construct the Equipment in full accordance with the CSA and will deliver the same upon completion to the Vendee in accordance with the provisions of the CSA; and that, notwithstanding this Assignment, it will perform and fully comply with each of and all the covenants and conditions of the CSA set forth to be performed and complied with by the Builder. The Builder further agrees that it will warrant to the Assignee and the Vendee that at the time of delivery of each unit of the 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 Vendee under the CSA, the rights of the Lessee under the Lease and the rights of the Assignee hereunder; 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 the Builder under the CSA; all subject, however, to the provisions of the CSA and the rights of the Vendee thereunder. The Builder will not deliver any unit of its Equipment to the Vendee under the CSA until the CSA, the Lease, this Assignment and the Lease Assignment (as defined in the Lease) have been filed in accordance with 49 U.S.C. § 11303 (the Builder and its counsel being entitled to rely on advice from special counsel for the Assignee that such filing has been made).

SECTION 3. The Builder agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the CSA for any installment of, or interest on, the CSA Indebtedness (as defined in the CSA) or to enforce any provision of the CSA, the 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 Vendee 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 Vendee or the Lessee by the Builder. The 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 CSA, to strike any defense, setoff, counterclaim or recoupment asserted by the Vendee 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 the Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving the Builder the right, at the Builder's expense, to compromise, settle or defend against such defense, setoff, counterclaim or recoupment.

Except in cases of articles or materials specified by the Lessee and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Lessee and not developed or purported to be developed by the Builder, the Builder agrees, except as otherwise specifically provided in Annex A to the CSA, 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 the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Assignee will give prompt notice to the Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give the Builder the right, at the Builder's expense, to compromise, settle or defend against such claim. The Builder agrees that any amounts payable to it by the Vendee or the Lessee with respect to the Equipment, whether pursuant to the CSA or otherwise, not hereby assigned to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof.

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the CSA with respect to a Group (as defined in said Article 4) of the Equipment, shall pay or cause to be paid to the Builder an amount equal to the portion of the Purchase Price of the units of the Equipment being settled for on such Closing Date which, under the terms of said Article 4, is payable in installments; provided that there shall have been delivered to the Assignee (with a copy to the Vendee) on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel:

(a) a bill or bills of sale from the Builder to the Assignee transferring to the Assignee all right, title and interest of the Builder in such units, warranting to the Assignee and to the Vendee that, at the time of delivery of such units 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 other than these created by the CSA, the rights of the Lessee under the Lease and the rights of the

Assignee under this Assignment, 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 the Builder under the CSA;

(b) a Certificate or Certificates of Acceptance with respect to such units as contemplated by Article 3 of the CSA and § 2 of the Lease;

(c) an invoice for such units accompanied by or having endorsed thereon a certification by the Vendee and the Lessee as to their approval thereof;

(d) an opinion of counsel for the Builder, dated as of the Closing Date, addressed to the Assignee and the Vendee, to the effect that the aforesaid bill or bills of sale have been duly authorized, executed and delivered by the Builder and are valid and effective to vest in the Assignee all right, title and interest of the Builder in such units, free from all claims, liens, security interests and other encumbrances at the time of delivery (other than those created by the CSA, the rights of the Lessee under the Lease and the rights of the Assignee under this Assignment) arising from, through or under the Builder; and

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

The obligation of the Assignee hereunder to make payment or cause payment to be made for any of the Equipment assigned hereunder is hereby expressly conditioned upon the satisfaction of all of the conditions contained in Paragraph 6 of the Participation Agreement and upon payment by the Vendee of the amount required to be paid by it pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA. In the event that the Assignee shall not make any such payment or cause such payment to be made, the Assignee shall reassign to the Builder, without recourse to the Assignee, all right, title and interest of the Assignee in and to the units of Equipment with respect to which payment has not been made or caused to be made by the Assignee.

SECTION 5. The Assignee may assign all or any of its rights under the CSA. In the event of any such assignment, any such subsequent assignee shall, to the extent of such assignment, and upon giving the written notice required in Article 14 of the CSA, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. The Builder hereby:

(a) represents and warrants to the Assignee, the Vendee and their successors and assigns, that the CSA 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 Vendee, the CSA is, insofar as the Builder is concerned, a legal and valid agreement binding upon the Builder in accordance with its terms and that 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, 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 CSA.

SECTION 7. This Assignment shall be governed by 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 as shall be conferred by the laws of the several jurisdictions in which the CSA 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, but the counterpart delivered to the Assignee shall be deemed to be the original counterpart.

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.

TRINITY INDUSTRIES, INC.,

by _____

[Corporate Seal]

Attest:

_____

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Agent,

by _____
Assistant Vice President

[Corporate Seal]

Attest:

_____
Corporate Trust Officer

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged as of May 15, 1980.

NEW ENGLAND MERCHANTS LEASING CORPORATION B-7,

by _____

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

On this day of June 1980, before me personally appeared , to me personally known, who being by me duly sworn, says that he is an Assistant Vice President of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, 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 banking 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 June 1980, before me personally appeared , to me personally known, who being by me duly sworn, says that he is a 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