11412
RECORDATION NO. Filed 1425
JAN 23 1980 -10 15 AM
INTERSTATE COMMERCE COMMISSION

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CRAVATH, SWAINE & MOORE

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WILLIAM J. SCHRENK, JR.
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FRANCIS F. RANDOLPH, JR.
JOHN F. HUNT
GEORGE J. GILLESPIE, III
RICHARD S. SIMMONS
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THOMAS D. BARR
MELVIN L. BEDRICK
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No. 0-023A027
Date JAN 23 1980
Fee $ 100.00
ICC Washington, D. C.

January 22, 1980

The Pittsburgh and Lake Erie Railroad Company
Lease Financing Dated as of December 1, 1979
12% Conditional Sale Indebtedness Due 1995

Dear Madam:

Pursuant to 19 U.S.C. § 11303(a), I enclose herewith on behalf of The Pittsburgh and Lake Erie Railroad Company (the "Railroad") for filing and recordation, counterparts of the following:

(1)(a) Conditional Sale Agreement dated as of December 1, 1979, between the The Chessie Corporation and the Railroad;

(1)(b) Agreement and Assignment dated as of December 1, 1979, between First Security Bank of Utah, N.A., and The Chessie Corporation;

(2)(a) Lease of Railroad Equipment dated as of December 1, 1979, between the Railroad and The Connecticut Bank and Trust Company; and

(2)(b) Assignment of Lease and Agreement dated as of December 1, 1979, between The Connecticut Bank and Trust Company and First Security Bank of Utah.

The addresses of the parties to the aforementioned agreements are:

Builder-Vendor:

The Chessie Corporation
P. O. Box 6419
Cleveland, Ohio 44101

Railroad:

The Pittsburgh and Lake Erie Railroad Company
324 Pittsburgh and Lake Erie Terminal Building
Smithfield and Carson Streets
Pittsburgh, Pennsylvania 15219

Agent-Assignee:

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

Trustee:

The Connecticut Bank and Trust Company
One Constitution Plaza
Hartford, Connecticut 06115

The equipment covered by the aforementioned agreement consists of 850 100-ton Open Top Hopper Cars bearing the road numbers of the Railroad 80,500-81,349 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,

Anna E. Panayotou

Anna E. Panayotou
As Agent for The Pittsburgh
and Lake Erie Railroad Company

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

Encls.
16Y

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RECORDATION NO. ..... Filed 1425

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INTERSTATE COMMERCE COMMISSION

[CS&M Ref. 2043-96~~1~~]
9

AGREEMENT AND ASSIGNMENT

Dated as of December 1, 1979

between

THE CHESSIE CORPORATION

and

FIRST SECURITY BANK OF UTAH, N.A.,

as Agent

AGREEMENT AND ASSIGNMENT dated as of December 1, 1979, between THE CHESSIE CORPORATION (the "Builder") and FIRST SECURITY BANK OF UTAH, N.A., acting not in its individual capacity but solely as Agent under a Participation Agreement dated as of the date hereof (the "Participation Agreement"), a copy of which has been delivered to the Builder, said Agent, as so acting, being hereinafter called the "Assignee".

The Builder and THE CONNECTICUT BANK AND TRUST COMPANY, acting as Trustee (the "Trustee") under a Trust Agreement dated as of the date hereof (the "Trust Agreement") with GENERAL ELECTRIC CREDIT CORPORATION and J.P. MORGAN INTERFUNDING CORP. (collectively the "Owners" and severally the "Owner") 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 Trustee of the railroad equipment described in Annex B to the CSA (the "Equipment").

The Trustee and THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY (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 $1 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 Equipment when and as severally delivered to and accepted by the Trustee, subject to payment by the Assignee to the Builder of the amount required to be paid pursuant to Section 4 hereof and of the amounts due from the Trustee to the Builder under the CSA;

(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 paragraph 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 paragraph 4.1 of the CSA) of the Equipment and interest thereon and in and to any other sums becoming due from the Trustee under the CSA, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) of this paragraph, 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 Trustee 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 14 of the CSA or relieve the Trustee from its obligations to the Builder contained in Articles 2, 3, 4, 6 and 14 of the CSA, it being agreed that, notwithstanding this Agreement, or any subsequent assignment pursuant to the provisions of Article 15 of the CSA, all obligations of the Builder to the Trustee with respect to the Equipment shall be and remain enforceable by the Trustee, its successors and assigns, against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Trustee 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 Trustee 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 Trustee that at the time of delivery of each unit of its 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 Trustee under the CSA and the rights of the Lessee under the Lease; and the Builder further agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Builder under the CSA; all subject, however, to the provisions of the CSA and the rights of the Trustee thereunder. The Builder will not deliver any of the Equipment to the Trustee under the CSA until the CSA, the CSA Assignment, the Lease and the Lease Assignment have been filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303(a). The Builder and its counsel shall be entitled to rely on advice from special counsel for the Assignee that such filing has occurred.

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, indebtedness 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 Assignee from and against all expenses, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever claimed by the Trustee 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 Trustee 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 15 of the CSA, to strike any defense, setoff, counterclaim or recoupment asserted by the Trustee or the Lessee in any such suit, proceeding or action and (b) if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and

accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Assignee's prompt notification to 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 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 Trustee or the Lessee with respect to its 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 such Equipment or any unit thereof.

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the CSA, shall pay to the Builder an amount equal to the portion of the Purchase Price of the Equipment as shown on the invoice therefor then being settled for, which under the terms of paragraph 4.3(b) thereof, is payable in installments, provided that the conditions specified in Paragraphs 7 and 8 of the Participation Agreement shall have been satisfied and there shall have been delivered to the Assignee (with a copy to the Trustee) on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to Messrs. Cravath, Swaine & Moore, special counsel to the Assignee, 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 Assignee transferring to the Assignee the security interest of the Builder in such units, warranting to the Assignee and to the Trustee 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 except only the rights of the Trustee under the CSA and the rights of the Lessee under the Lease, and covenanting to defend the title to such units against demands of all persons whomsoever based on claims originating prior to the delivery of such units by the Builder under the CSA;

(b) a Certificate or Certificates of Acceptance with respect to the units of the Equipment as contemplated by paragraph 3.4 of the CSA and § 2 of the Lease;

(c) an invoice of the Builder for the units of the Equipment accompanied by or having endorsed thereon a certification by the Trustee and the Lessee as to their approval thereof if the invoice is in an amount other than the base price as specified in paragraph 4.1 of the CSA;

(d) an opinion of counsel for the Builder, dated as of the Closing Date, addressed to the Assignee and the Trustee, 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 the security interest of the Builder in the units of the Equipment, free from all claims, liens, security interests and other encumbrances (other than those created by the CSA and the rights of the Lessee under the Lease) arising from, through or under the Builder; and

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

The obligation of the Assignee hereunder to make payment for any of the Equipment assigned hereunder is hereby conditioned upon the Assignee having on deposit,

pursuant to the terms of the Participation Agreement, sufficient funds available to make such payment and upon payment by the Trustee of the amount required to be paid by it pursuant to paragraph 4.3(a) of the CSA. In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the Builder, without recourse to the Assignee, all rights, titles, interests, powers, privileges and remedies assigned to the Assignee pursuant to Section 1 hereof insofar as they relate to units of Equipment with respect to which payment has not been made by the Assignee.

SECTION 5. The Assignee may assign all or any of its rights under the CSA, including the right to receive any payments due or to become due to it from the Trustee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving the written notice required in Article 15 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 Trustee 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 Trustee, the CSA is, insofar as the Builder is concerned, a legal, valid and binding agreement, enforceable against 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 or any other instrument

evidencing any interest of the Builder therein or in the Equipment.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Ohio; 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 Agreement 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.

THE CHESSIE CORPORATION,

by _____
Assistant Vice President and Treasurer,

[Corporate Seal]

Attest:

_____
Assistant Secretary

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

by

_____
Authorized Officer

[Seal]

Attest:

_____
Authorized Offier

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged as of December 1, 1979.

THE CONNECTICUT BANK AND TRUST
COMPANY, not in its individual
capacity but solely as Trustee,

by

_____
Authorized Officer

STATE OF OHIO,)
) ss.:
COUNTY OF CUYAHOGA,)

On this 18TH day of January 1980, before me personally appeared L. C. ROIG, JR., to me personally known, who being by me duly sworn, says that he is the ~~Senior~~ Assistant VICE-PRESIDENT AND Treasurer of THE CHESSIE 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.

Clara Masuga
Notary Public

[Notarial Seal]

My Commission expires CLARA MASUGA, Notary Public
State of Ohio - Cuyahoga County
My Commission Expires April 21, 1984

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

On this day of January 1980, before me personally appeared , to me personally known, who being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, N.A, that one of the seals affixed to the foregoing instrument is the seal of said national 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. 2043-961]

9

AGREEMENT AND ASSIGNMENT

Dated as of December 1, 1979

between

THE CHESSIE CORPORATION

and

FIRST SECURITY BANK OF UTAH, N.A.,

as Agent

AGREEMENT AND ASSIGNMENT dated as of December 1, 1979, between THE CHESSIE CORPORATION (the "Builder") and FIRST SECURITY BANK OF UTAH, N.A., acting not in its individual capacity but solely as Agent under a Participation Agreement dated as of the date hereof (the "Participation Agreement"), a copy of which has been delivered to the Builder, said Agent, as so acting, being hereinafter called the "Assignee".

The Builder and THE CONNECTICUT BANK AND TRUST COMPANY, acting as Trustee (the "Trustee") under a Trust Agreement dated as of the date hereof (the "Trust Agreement") with GENERAL ELECTRIC CREDIT CORPORATION and J.P. MORGAN INTERFUNDING CORP. (collectively the "Owners" and severally the "Owner") 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 Trustee of the railroad equipment described in Annex B to the CSA (the "Equipment").

The Trustee and THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY (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 $1 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 Equipment when and as severally delivered to and accepted by the Trustee, subject to payment by the Assignee to the Builder of the amount required to be paid pursuant to Section 4 hereof and of the amounts due from the Trustee to the Builder under the CSA;

(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 paragraph 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 paragraph 4.1 of the CSA) of the Equipment and interest thereon and in and to any other sums becoming due from the Trustee under the CSA, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) of this paragraph, 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 Trustee 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 14 of the CSA or relieve the Trustee from its obligations to the Builder contained in Articles 2, 3, 4, 6 and 14 of the CSA, it being agreed that, notwithstanding this Agreement, or any subsequent assignment pursuant to the provisions of Article 15 of the CSA, all obligations of the Builder to the Trustee with respect to the Equipment shall be and remain enforceable by the Trustee, its successors and assigns, against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Trustee 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 Trustee 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 Trustee that at the time of delivery of each unit of its 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 Trustee under the CSA and the rights of the Lessee under the Lease; and the Builder further agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Builder under the CSA; all subject, however, to the provisions of the CSA and the rights of the Trustee thereunder. The Builder will not deliver any of the Equipment to the Trustee under the CSA until the CSA, the CSA Assignment, the Lease and the Lease Assignment have been filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303(a). The Builder and its counsel shall be entitled to rely on advice from special counsel for the Assignee that such filing has occurred.

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, indebtedness 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 Assignee from and against all expenses, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever claimed by the Trustee 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 Trustee 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 15 of the CSA, to strike any defense, setoff, counterclaim or recoupment asserted by the Trustee or the Lessee in any such suit, proceeding or action and (b) if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and

accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Assignee's prompt notification to 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 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 Trustee or the Lessee with respect to its 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 such Equipment or any unit thereof.

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the CSA, shall pay to the Builder an amount equal to the portion of the Purchase Price of the Equipment as shown on the invoice therefor then being settled for, which, under the terms of paragraph 4.3(b) thereof, is payable in installments, provided that the conditions specified in Paragraphs 7 and 8 of the Participation Agreement shall have been satisfied and there shall have been delivered to the Assignee (with a copy to the Trustee) on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to Messrs. Cravath, Swaine & Moore, special counsel to the Assignee, 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 Assignee transferring to the Assignee the security interest of the Builder in such units, warranting to the Assignee and to the Trustee 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 except only the rights of the Trustee under the CSA and the rights of the Lessee under the Lease, and covenanting to defend the title to such units against demands of all persons whomsoever based on claims originating prior to the delivery of such units by the Builder under the CSA;

(b) a Certificate or Certificates of Acceptance with respect to the units of the Equipment as contemplated by paragraph 3.4 of the CSA and § 2 of the Lease;

(c) an invoice of the Builder for the units of the Equipment accompanied by or having endorsed thereon a certification by the Trustee and the Lessee as to their approval thereof if the invoice is in an amount other than the base price as specified in paragraph 4.1 of the CSA;

(d) an opinion of counsel for the Builder, dated as of the Closing Date, addressed to the Assignee and the Trustee, 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 the security interest of the Builder in the units of the Equipment, free from all claims, liens, security interests and other encumbrances (other than those created by the CSA and the rights of the Lessee under the Lease) arising from, through or under the Builder; and

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

The obligation of the Assignee hereunder to make payment for any of the Equipment assigned hereunder is hereby conditioned upon the Assignee having on deposit,

pursuant to the terms of the Participation Agreement, sufficient funds available to make such payment and upon payment by the Trustee of the amount required to be paid by it pursuant to paragraph 4.3(a) of the CSA. In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the Builder, without recourse to the Assignee, all rights, titles, interests, powers, privileges and remedies assigned to the Assignee pursuant to Section 1 hereof insofar as they relate to units of Equipment with respect to which payment has not been made by the Assignee.

SECTION 5. The Assignee may assign all or any of its rights under the CSA, including the right to receive any payments due or to become due to it from the Trustee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving the written notice required in Article 15 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 Trustee 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 Trustee, the CSA is, insofar as the Builder is concerned, a legal, valid and binding agreement, enforceable against 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 or any other instrument

evidencing any interest of the Builder therein or in the Equipment.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Ohio; 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 Agreement 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.

THE CHESSIE CORPORATION,

by

_____
Vice President

[Corporate Seal]

Attest:

_____
Assistant Secretary

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

by _____
Authorized Officer

[Seal]

Attest:

_____
Authorized Officer

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged as of December 1, 1979.

THE CONNECTICUT BANK AND TRUST
COMPANY, not in its individual
capacity but solely as Trustee,

by

_____
Authorized Officer

STATE OF OHIO,)
) ss.:
COUNTY OF CUYAHOGA,)

On this day of January 1980, before me personally appeared , to me personally known, who being by me duly sworn, says that he is the Senior Assistant Treasurer of THE CHESSIE 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 UTAH,)
) ss.:
CITY OF SALT LAKE,)

On this 18th day of January 1980, before me personally appeared Fuchia B. Eichers, to me personally known, who being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, N.A, that one of the seals affixed to the foregoing instrument is the seal of said national 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.

Randy R Marchant
Notary Public

[Notarial Seal]

My Commission expires 2-8-82

[CS&M Ref. 2043-96]

9

AGREEMENT AND ASSIGNMENT

Dated as of December 1, 1979

between

THE CHESSIE CORPORATION

and

FIRST SECURITY BANK OF UTAH, N.A.,

as Agent

AGREEMENT AND ASSIGNMENT dated as of December 1, 1979, between THE CHESSIE CORPORATION (the "Builder") and FIRST SECURITY BANK OF UTAH, N.A., acting not in its individual capacity but solely as Agent under a Participation Agreement dated as of the date hereof (the "Participation Agreement"), a copy of which has been delivered to the Builder, said Agent, as so acting, being hereinafter called the "Assignee".

The Builder and THE CONNECTICUT BANK AND TRUST COMPANY, acting as Trustee (the "Trustee") under a Trust Agreement dated as of the date hereof (the "Trust Agreement") with GENERAL ELECTRIC CREDIT CORPORATION and J.P. MORGAN INTERFUNDING CORP. (collectively the "Owners" and severally the "Owner") 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 Trustee of the railroad equipment described in Annex B to the CSA (the "Equipment").

The Trustee and THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY (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 $1 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 Equipment when and as severally delivered to and accepted by the Trustee, subject to payment by the Assignee to the Builder of the amount required to be paid pursuant to Section 4 hereof and of the amounts due from the Trustee to the Builder under the CSA;

(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 paragraph 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 paragraph 4.1 of the CSA) of the Equipment and interest thereon and in and to any other sums becoming due from the Trustee under the CSA, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) of this paragraph, 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 Trustee 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 14 of the CSA or relieve the Trustee from its obligations to the Builder contained in Articles 2, 3, 4, 6 and 14 of the CSA, it being agreed that, notwithstanding this Agreement, or any subsequent assignment pursuant to the provisions of Article 15 of the CSA, all obligations of the Builder to the Trustee with respect to the Equipment shall be and remain enforceable by the Trustee, its successors and assigns, against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Trustee 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 Trustee 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 Trustee that at the time of delivery of each unit of its 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 Trustee under the CSA and the rights of the Lessee under the Lease; and the Builder further agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Builder under the CSA; all subject, however, to the provisions of the CSA and the rights of the Trustee thereunder. The Builder will not deliver any of the Equipment to the Trustee under the CSA until the CSA, the CSA Assignment, the Lease and the Lease Assignment have been filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303(a). The Builder and its counsel shall be entitled to rely on advice from special counsel for the Assignee that such filing has occurred.

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, indebtedness 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 Assignee from and against all expenses, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever claimed by the Trustee 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 Trustee 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 15 of the CSA, to strike any defense, setoff, counterclaim or recoupment asserted by the Trustee or the Lessee in any such suit, proceeding or action and (b) if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and

accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Assignee's prompt notification to 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 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 Trustee or the Lessee with respect to its 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 such Equipment or any unit thereof.

SECTION 4. The Assignee, on each Closing Date fixed as provided in Article 4 of the CSA, shall pay to the Builder an amount equal to the portion of the Purchase Price of the Equipment as shown on the invoice therefor then being settled for, which under the terms of paragraph 4.3(b) thereof, is payable in installments, provided that the conditions specified in Paragraphs 7 and 8 of the Participation Agreement shall have been satisfied and there shall have been delivered to the Assignee (with a copy to the Trustee) on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to Messrs. Cravath, Swaine & Moore, special counsel to the Assignee, 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 Assignee transferring to the Assignee the security interest of the Builder in such units, warranting to the Assignee and to the Trustee 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 except only the rights of the Trustee under the CSA and the rights of the Lessee under the Lease, and covenanting to defend the title to such units against demands of all persons whomsoever based on claims originating prior to the delivery of such units by the Builder under the CSA;

(b) a Certificate or Certificates of Acceptance with respect to the units of the Equipment as contemplated by paragraph 3.4 of the CSA and § 2 of the Lease;

(c) an invoice of the Builder for the units of the Equipment accompanied by or having endorsed thereon a certification by the Trustee and the Lessee as to their approval thereof if the invoice is in an amount other than the base price as specified in paragraph 4.1 of the CSA;

(d) an opinion of counsel for the Builder, dated as of the Closing Date, addressed to the Assignee and the Trustee, 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 the security interest of the Builder in the units of the Equipment, free from all claims, liens, security interests and other encumbrances (other than those created by the CSA and the rights of the Lessee under the Lease) arising from, through or under the Builder; and

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

The obligation of the Assignee hereunder to make payment for any of the Equipment assigned hereunder is hereby conditioned upon the Assignee having on deposit,

pursuant to the terms of the Participation Agreement, sufficient funds available to make such payment and upon payment by the Trustee of the amount required to be paid by it pursuant to paragraph 4.3(a) of the CSA. In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the Builder, without recourse to the Assignee, all rights, titles, interests, powers, privileges and remedies assigned to the Assignee pursuant to Section 1 hereof insofar as they relate to units of Equipment with respect to which payment has not been made by the Assignee.

SECTION 5. The Assignee may assign all or any of its rights under the CSA, including the right to receive any payments due or to become due to it from the Trustee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving the written notice required in Article 15 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 Trustee 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 Trustee, the CSA is, insofar as the Builder is concerned, a legal, valid and binding agreement, enforceable against 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 or any other instrument

evidencing any interest of the Builder therein or in the Equipment.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Ohio; 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 Agreement 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.

THE CHESSIE CORPORATION,

by

_____
Vice President

[Corporate Seal]

Attest:

_____
Assistant Secretary

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

by _____
Authorized Officer

[Seal]

Attest:

_____
Authorized Offier

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged as of December 1, 1979.

THE CONNECTICUT BANK AND TRUST
COMPANY, not in its individual
capacity but solely as Trustee,

by _____
Authorized Officer

STATE OF OHIO,)
) ss.:
COUNTY OF CUYAHOGA,)

On this day of January 1980, before me personally appeared , to me personally known, who being by me duly sworn, says that he is the Senior Assistant Treasurer of THE CHESSIE 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 UTAH,)
) ss.:
CITY OF SALT LAKE,)

On this day of January 1980, before me personally appeared , to me personally known, who being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, N.A, that one of the seals affixed to the foregoing instrument is the seal of said national 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