

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

LAW DEPARTMENT  
701 COMMERCE STREET  
DALLAS, TEXAS 75202

WILLIAM A. THIE  
GENERAL COUNSEL  
JOE C. CRAWFORD  
GENERAL SOLICITOR

214-651-6736

12320

RECORDATION NO. .... Filed 1425

ARTHUR M. ALBIN  
GENERAL ATTORNEY  
MICHAEL E. ROPER  
COMMERCE COUNSEL

October 16, 1980

OCT 17 1980 -3 22 PM

INTERSTATE COMMERCE COMMISSION  
IN REPLY REFER TO: 410.043-65A

12320 -A

RECORDATION NO. .... Filed 1425

Mrs. Agatha L. Mergenovich  
Secretary

Interstate Commerce Commission  
Washington, DC 20423

INTERSTATE COMMERCE COMMISSION

Re: Car Lease Agreement and Assignment dated as of October 16, 1980, between Southwestern States Management Co. and Missouri-Kansas-Texas Railroad Company, covering lease of 100 100-ton covered hopper cars

RECEIVED  
OCT 17 3 11 PM '80  
FEE OPERATED  
I.C.C. OF  
D.C.

Dear Mrs. Mergenovich:

In accordance with the provisions of Section 11303 of the Interstate Commerce Act and rules and regulations approved and prescribed by the Interstate Commerce Commission pursuant thereto, there are submitted for filing and recording seven executed counterparts of the Car Lease Agreement and Assignment dated as of October 16, 1980, between Southwestern States Management Co., 701 Commerce Street, Dallas, TX 75202, and Missouri-Kansas-Texas Railroad Company, 701 Commerce Street, Dallas, TX 75202, said Car Lease Agreement and Assignment covering the lease of one hundred (100) 100-ton covered triple hopper cars, said cars to bear recording marks and numbers of the Missouri-Kansas-Texas Railroad Company: MKT 4300 - 4399 both inclusive, by Southwestern States Management Co. as Lessor and Missouri-Kansas-Texas Railroad Company as Lessee.

Please return to me the file-marked copies of the Car Lease Agreement and Assignment for distribution to the parties. I am enclosing a cashier's check in the amount of \$10 to cover the prescribed fee for recording these instruments.

I certify that I have knowledge of the matters set forth herein.

Yours very truly,

*Arthur M. Albin*  
Arthur M. Albin  
General Attorney

da  
Enc.

cc: Dewain Hill, First City Bank  
R. A. Martin, Trinity Industries, Inc.  
K. R. Ziebarth

0-291A050  
No. 1  
OCT 17 1980  
Date.....  
Fee \$ 6.00  
ICC Washington, D. C.

*Steven Southworth*  
*Conrad Pae*

**Interstate Commerce Commission**

**Washington, D.C. 20423**

**10/17/80**

**OFFICE OF THE SECRETARY**

**Arthur M. Albin  
General Attorney  
Southwestern States Management Co.  
701 Commerce Street**

**Dallas, Texas 75202**

Dear

**Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **10/17/80** at **3:20pm**, and assigned re-  
recording number(s).

**12320 & 12320-A**

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

12320

RECORDATION NO. .... Filed 1426

OCT 17 1980 -3 20 PM

CAR LEASE AGREEMENT

INTERSTATE COMMERCE COMMISSION

AGREEMENT made and entered as of the 16 day of October, 1980, between SOUTHWESTERN STATES MANAGEMENT CO., hereinafter referred to as "Lessor," and MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, hereinafter referred to as "Lessee."

R E C I T A L S

Lessor desires to lease to Lessee, and Lessee desires to lease from Lessor certain 100-ton covered hopper cars as described in Exhibit A attached hereto.

A G R E E M E N T

NOW, THEREFORE, IT IS COVENANTED AND AGREED BY THE PARTIES AS FOLLOWS:

1. Lease of Cars. Lessor (as the purchaser of the Cars under a Conditional Sale Agreement which has been assigned to First City Bank of Dallas), agrees to lease to Lessee, and Lessee agrees to and hereby does lease from Lessor those certain Cars (hereinafter referred to collectively as the "Cars" and individually as the "Car"), being 100 100-ton covered hopper Cars as further described and set forth in Exhibit A, attached hereto and incorporated herein by reference.
2. Delivery and Acceptance of Cars. Lessor should deliver the Cars to Lessee on or about the date set forth in Exhibit A and Lessee accepts delivery of the Cars as of the date first set forth therein. Lessee warrants and represents that it has inspected all of the Cars described in Exhibit A, is fully familiar with the physical condition of each of said Cars, and accepts the Cars in their present condition.
3. Use and Possession. Throughout the continuance of this lease and so long as Lessee is not in default hereunder, Lessee shall be entitled to possession of the Cars and may use such Cars either on its own property or upon the lines of any railroad in the usual interchange of traffic and to receive such compensation for the use of said Cars (i) as is provided for in the then-current Code of Rules Governing the Condition of, and Repairs to, Freight and Passenger Cars for the interchange of traffic adopted by the Association of American Railroads (hereinafter called the "Interchange Rules"), or (ii) such other compensation as Lessee and the user railroads may agree to, provided Lessee shall comply at all times with the requirements of Section 5 hereof, but any such uses of said Cars shall at all times be subject to the terms and conditions of this lease. Lessee acknowledges that its rights, titles and interests in the Cars under this lease are inferior, subordinate, and subject to the rights, titles and interests in the Cars of First City Bank of Dallas ("Bank") as the assignee of the Conditional Sale Agreement (herein so called) dated as of September 24, 1980, between Lessor and Trinity Industries, Inc.

4. Term. This lease shall be for a term of one hundred eight (108) months, commencing on the date said Cars are actually purchased pursuant to that certain Conditional Sale Agreement between Lessor and Trinity Industries, Inc., dated as of September 24, 1980, assigned by Agreement and Assignment of even date to First City Bank of Dallas, being the same date as the "closing date" as provided for in said Agreement and Assignment.
5. Rental. During the first 36 months of the term of this lease, Lessee shall pay to Lessor for each Car, commencing as set forth in the preceding paragraph, a rental of \$800 per Car per month. During the second 36 months of the term of this lease, Lessee shall pay to Lessor for each Car a rental of \$650 per Car per month. During the last 36 months of the term hereof, Lessee shall pay to Lessor for each Car a rental of \$500 per Car per month. Monthly rental shall be due and payable by Lessee to Lessor on or before each month anniversary date of the commencement of this lease.
6. Title. Lessor is acquiring title to the Cars from First City Bank in and to said Cars pursuant to the aforesaid Conditional Sale Agreement, and Lessee shall not, by reason of this lease or any action taken hereunder, acquire or have any right or title in the Cars except the rights expressly granted to it as Lessee.
7. Maintenance. Lessee, during the continuance of this lease, shall perform or cause to be performed and shall pay all costs and expenses of all maintenance and repair work necessary to maintain the Cars in good working order and general condition as when delivered to Lessee, ordinary wear and tear excepted. Any parts, replacements, or additions made to any Car shall be accessions to such Car, and title thereto shall immediately vest in Bank without cost or expense to Lessor or Bank.
8. Taxes. Lessee shall promptly pay all taxes, assessments and other governmental charges, including sales, use or ad valorem taxes levied or assessed during the continuance of this lease upon the Cars or the interest of the Lessee or therein or any thereof, or upon the use or operation thereof or the earnings arising therefrom, and if any levy or assessment is made against Lessor or Bank on account of any of the foregoing matters or on account of ownership of the Cars, exclusive, however, of any taxes on the rentals herein provided or the net income of Lessor or Bank therefrom (except any such tax on rentals which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as hereinbefore provided), Lessee will promptly pay or reimburse Lessor or Bank for same; but the Lessee shall not be required to pay the same so long as it shall in good faith and by appropriate legal or administrative proceedings contest the validity or amount thereof unless thereby, in the judgment of Lessor or Bank, the rights or interests of Lessor or Bank in and to the Cars will be materially impaired. In the event any tax reports are required to be made on the basis of individual Cars, the Lessee will either make such reports in such manner as

to show the ownership of such Cars by Bank or will notify Lessor or Bank of such requirements and will make such report in such manner as shall be satisfactory to Lessor and Bank.

9. Liens. Lessee shall keep the Cars free from any encumbrances or liens which may be a cloud upon or otherwise affect Lessor's or Bank's interest, which arise out of any suit involving Lessee or any act, omission or failure of Lessee or Lessee's failure to comply with the provisions of this lease and shall promptly discharge any such lien, encumbrances or legal process.
10. Warranty - Representations. Except as otherwise provided in paragraph 6 hereof Lessor (nor Bank) makes no warranty, or representation of any kind whatsoever, either express or implied as to any matter whatsoever, including specifically but not exclusively, fitness, design, workmanship, condition or quality of the Cars or parts thereof which Cars have been accepted by Lessee hereunder, and Lessor (nor Bank) shall have no liability hereunder for damages of any kind, including specifically but not exclusively, special, indirect, incidental, or consequential on account of any matter which would otherwise constitute a breach of warranty or representation.
11. Car Marking. In the event Lessee shall paint or otherwise stencil any of the cars, Lessee shall also cause such Cars to be stenciled:

FIRST CITY BANK OF DALLAS, OWNER

Lessee shall also cause said cars to be stenciled in accordance with any instructions from Lessor resulting from Lessor's financing of the Cars so that said Cars will reflect the interest of any bank or corporation which may act as mortgage or trustee or which may have a security interest in and to said Cars. Except as provided for herein, Lessee shall not permit any marking or labeling or stenciling of said Cars.

12. Loss, Theft or Destruction of Cars. In the event any Car is lost, stolen, or is destroyed, or is damaged beyond economic repair from any cause whatsoever, Lessee shall promptly and fully inform Lessor of such occurrence and shall, at the time of the next monthly payment or at such other date as may be mutually agreed upon, pay to Lessor, as liquidated damages in lieu of any further claim of Lessor hereunder except for accrued rent and such claims as may have arisen under paragraphs 8 and 9 hereof, an amount in cash equal to the applicable amount shown in Schedule A attached hereto and incorporated herein by reference. Lessor will request that Bank give to Lessee a Bill of Sale covering any Car lost, stolen or destroyed and paid for by Lessee in accordance with Schedule A.
13. Return of Cars. Upon the termination of this lease, as provided for herein, the Lessee agrees to return the Cars (except for any Cars lost, stolen, or destroyed, and paid for pursuant to paragraph 12, above) forthwith in as good working order and general condition as when delivered to Lessee, ordinary wear and tear excepted.

14. Default. The term "event of default" for the purpose hereof shall mean any one or more of the following:
- (a) non-payment by Lessee within thirty (30) days after the same becomes due of any installment of rental or any other sum required to be paid hereunder by Lessee;
  - (b) Lessee shall default or fail for a period of thirty (30) days in the due observance or performance of any covenant, condition or agreement required to be observed or performed on its part hereunder;
  - (c) A petition for reorganization under Subchapter IV of Chapter 11 of the Bankruptcy Code, as now constituted or as said Subchapter IV may be hereafter amended is filed by or against the Lessee and the trustee or trustees fail to adopt this lease of the Cars to Lessee within 60 days of the date of the filing of such petition and all defaults occurring during such 60-day period are remedied;
  - (d) Lessee shall (i) become insolvent within the meaning of the Bankruptcy Code, as amended, or (ii) execute an assignment for the benefit of creditors or make a proposal to its creditors under any liquidation, conservatorship, bankruptcy, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws from time to time in effect and affecting the rights of creditors generally (collectively herein called "Debtor Relief Laws"), other than as contemplated in (c) preceding or under Subchapter IV of Chapter 113 of the Interstate Commerce Act (collectively herein called the "Railroad Proceedings"), or (iii) admit in writing its inability to pay its debts generally as they become due, or (iv) voluntarily seek, consent, to or acquiesce in the benefit or benefits of any Debtor Relief Law other than any Railroad Proceedings, or (v) become a party to any proceeding provided for by Debtor Relief Law that could suspend or otherwise affect any of the rights of the Lessor, other than pursuant to any Railroad Proceedings, or (vi) consent to the appointment of a receiver, trustee, liquidator, conservator, or similar person for it or all or substantially all of its assets, other than pursuant to any Railroad Proceedings.
  - (e) Lessee shall involuntarily (i) have an order, judgment, or decree entered against it by any tribunal pursuant to any Debtor Relief Law (other than pursuant to any Railroad Proceedings) that could suspend or otherwise affect any of the rights granted to Lessor, and such order, judgment, or decree is not permanently stayed or reversed within 30 days after the entry thereof, or (ii) have a petition filed against it seeking the benefit or benefits provided for by any Debtor Relief Law (other than pursuant to any Railroad Proceedings)

that would suspend or otherwise affect any of the rights granted to Lessor, and such petition is not discharged within 30 days after the filing thereof.

15. Remedies. Upon the happening of an event of default, Lessor, at its option, may:
- (a) proceed by appropriate court action either at law or in equity for specific performance by the Lessee of the applicable covenants of this lease or to recover from Lessee all damages, including specifically but not exclusively, expenses and attorneys' fees which Lessor may sustain by reason of Lessee's default or on account of Lessor's enforcement of its remedies hereunder;
  - (b) elect only to terminate the Lessee's right of possession (but not to terminate the lease) without releasing Lessee in whole or in part from its liabilities and obligations accrued hereunder or hereafter to accrue for the remaining term of the lease and thereupon take possession of any or all of the Cars wherever same may be found. Lessor may, but need not, require delivery of the Cars to it or repossess the Cars, but in the event the Cars are delivered to Lessor or are repossessed, Lessor shall use reasonable efforts to relet the same or any part thereof to others upon a reasonable rental and such other terms as it may see fit. The proceeds of any such reletting shall first be applied to the expenses (including reasonable attorneys' fees) of retaking and reletting of the Cars and delivery to the new lessee and then to the payment of rent due under this lease. Lessee shall pay any deficiency remaining due after so applying the proceeds as the same shall accrue. Lessor shall not be required to accept or receive any lessee offered by Lessee or do any act whatsoever or exercise any diligence whatsoever in or about the procuring of another lessee to mitigate the damages of the Lessee or otherwise. The election by Lessor to relet the Cars and the acceptance of a new lessee shall not operate to release Lessee from liability for any existing or future default in any other covenant or promise herein contained;
  - (c) declare this lease terminated and recover from Lessee all amounts then due and payable plus, as liquidated damages for loss of the bargain and not as penalty, a sum which represents the present worth, at the time of such termination, if any, of the aggregate rental which would have thereafter accrued from the date of such termination to the end of the original term hereof. Present worth is to be computed in each case on the basis of a five percent (5%) per annum discount, compounded annually from the respective dates upon which rental would have been payable hereunder had this lease not terminated. In addition to the foregoing, Lessor shall recover any damages sustained by reason of the breach of any covenant of the lease other than for the payment of rental;
  - (d) recover or take possession of any or all of the Cars and hold, possess and enjoy the same, free from any right of the Lessee to use the Cars for any purposes whatsoever.

The remedies provided in this paragraph 15 in favor of Lessor shall not be deemed exclusive but shall, where not by rule of law inconsistent with each other, be cumulative and may be availed of singly, in combination, or all together and in any order, and shall be in addition to all other remedies, in Lessor's favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law now or hereafter in effect which might limit or modify any of the remedies herein provided to the extent that such waiver is permitted by law.

16. Sublease and Assignment. Lessee shall have no right to sublease any of the Cars. Lessor shall have the right to assign this lease or its rights hereunder as follows: All rights of Lessor hereunder may be assigned, pledged, mortgaged, transferred or otherwise disposed of either in whole or in part with or without notice to Lessee, but subject to Lessee's rights under this lease (without in any way impairing the subordination hereof described in Paragraph 3 hereof). If Lessor shall have given written notice to Lessee stating the identity and post office address or any assignee entitled to receive future rentals and any other sums payable to Lessee hereunder, Lessee shall thereafter make such payments to the designated assignee. Lessee will not amend, alter or terminate this lease without the consent of the assignee while such assignment is in effect. The rights of any assignee or any party or parties on behalf of whom such assignee is acting shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever, whether arising out of any breach of any obligation of Lessor hereunder or by reason of any other indebtedness or liability at any time owing by Lessor to the Lessee.
17. Indemnification. Lessee hereby agrees to indemnify and save harmless the Lessor and Bank from and against any and all liability, demands, and causes of action, whether well-founded or otherwise, including the cost of defending same, for bodily injury to or death of any person or damage to the property of any person whatsoever, including the parties hereto or the employees of either of the parties, arising out of or in connection with the use or operation of said Cars leased hereunder, whether said damage shall be the result of obvious defects, latent defects, or other causes, and shall not call upon the Lessor or Bank for contribution in any sum whatsoever by reason of the fact that Lessor or Bank is the owner of said Cars. Indemnity shall apply from the time the said cars are accepted by the Lessee until they are returned to and accepted by the Lessor or Bank.
18. Notice. Any notice required or permitted to be given pursuant to the terms of this lease shall be properly given when forwarded by registered United States mail, return receipt requested, postage prepaid, addressed to:

Southwestern States Management Co.  
701 Commerce Street  
Dallas, TX 75202

or at such other address as Lessor may from time to time designate by notice in writing and to Lessee at:

Missouri-Kansas-Texas Railroad Company  
701 Commerce Street  
Dallas, TX 75202

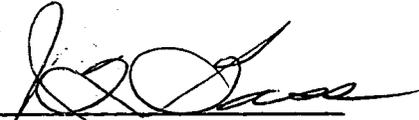
or any such other place as Lessee may from time to time designate by notice in writing.

19. Recording of Lease. Lessee agrees to forthwith, following execution hereof, cause this lease to be recorded with the Interstate Commerce Commission in accordance with Section 11303 of the Interstate Commerce Act.
20. Counterparts. This agreement may be executed in multiple counterparts, each of which shall be deemed an original.
21. Law Governing. The terms of this agreement and all rights and obligations hereunder shall be governed by the laws of the State of Texas and the United States of America.

IN WITNESS WHEREOF, Lessor and Lessee have duly executed this lease as of the day and year first above written.

SOUTHWESTERN STATES MANAGEMENT CO.,  
Lessor

ATTEST:

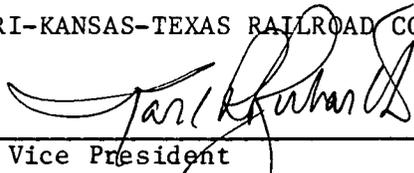
  
\_\_\_\_\_  
Assistant Secretary

By   
\_\_\_\_\_  
Vice President

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY,  
Lessee

ATTEST:

  
\_\_\_\_\_  
Assistant Secretary

By   
\_\_\_\_\_  
Vice President

THE STATE OF TEXAS )  
 )  
COUNTY OF DALLAS )

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared W. H. Zeidel, Vice President, known to me to be the person and office whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said SOUTH-WESTERN STATES MANAGEMENT CO., a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 16 day of October, 1980.

Sue Matlock  
Notary Public in and for Dallas County,  
Texas

My Commission expires: 12/31/80

THE STATE OF TEXAS )  
 )  
COUNTY OF DALLAS )

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Karl R. Ziebarth, Vice President, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 16 day of October, 1980.

Sue Matlock  
Notary Public in and for Dallas County,  
Texas

My Commission expires: 12/31/80

EXHIBIT "A"

Exhibit A dated as of October 16, 1980, to Car Lease Agreement dated October 16, 1980, by and between Southwestern States Management Co. ("Lessor") and Missouri-Kansas-Texas Railroad Company ("Lessee").

Type and Description of Car:

One hundred (100) 100-ton, 4750 cu.ft. covered triple hopper cars with through center sill constructed by Manufacturer in accordance with its general specification HC3-47-1 dated October 1, 1979, as revised July 11, 1980, said Cars to bear recording marks and numbers of the Missouri-Kansas-Texas Railroad Company: MKT 4300 - 4399 both inclusive.

Number of Cars:

100

Reporting Marks and Numbers:

MKT 4300 - 4399

Specifications Designated by Lessee:

Cars to be painted per Lessee's specification

Initial F.O.T. Delivery Point:

Fort Worth, Texas

#### SCHEDULE A

Any Car destroyed during the term of that certain Lease between Southwestern States Management Co., Lessor, and Missouri-Kansas-Texas Railroad Company, Lessee, to which this schedule is attached, shall have a "destruction value" calculated in the following manner: Any Car lost, stolen or destroyed during the period of time from its date of delivery to Lessee until the last day of the month following the month in which it was delivered shall have a destruction value of \$38,700. Thereafter, the destruction value for any given Car shall be reduced by the sum of \$350 for each subsequent calendar month during the term hereof.

ASSIGNMENT OF FUNDS UNDER  
CAR LEASE AGREEMENT

THIS ASSIGNMENT is made this 16 day of October, 1980, by SOUTHWESTERN STATES MANAGEMENT CO., a Missouri corporation ("Assignor"), to FIRST CITY BANK OF DALLAS, a Texas banking corporation ("Assignee").

WITNESSETH:

WHEREAS, by Conditional Sale Agreement (as hereafter renewed, extended, modified, or substituted, herein so called) dated as of September 24, 1980, between Trinity Industries, Inc., a Texas corporation ("Manufacturer"), and Assignor, Manufacturer agreed to sell to Assignor and Assignor agreed to purchase the following railroad equipment:

One hundred (100) 100-ton, 4750 cu. ft. covered triple hopper cars with through center sill constructed by Manufacturer in accordance with its general specification HC3-47-1 dated October 1, 1979, as revised July 11, 1980, such cars to bear recording marks and numbers of Missouri-Kansas-Texas Railroad Company: MKT 4300 - 4399, both inclusive (together with all accessories and accessions to, and any tools, parts and equipment supplied by Manufacturer in connection with, such cars, herein collectively called the "Cars"); and

WHEREAS, by Agreement and Assignment (as hereafter renewed, extended, modified, or substituted, herein so called) dated as of September 24, 1980, Manufacturer assigned to Assignee all Manufacturer's rights, titles, and interests (but not its obligations) under the Conditional Sale Agreement, and pursuant to the Conditional Sale Agreement and Agreement and Assignment (the "Sale Agreements") Assignor is obligated to pay to Assignee the deferred purchase price for the Cars, together with interest thereon and other sums specifically provided for in the Sale Agreements; and

WHEREAS, by Car Lease Agreement (as hereafter renewed, extended, modified, or substituted, the "Lease") dated as of the date of this assignment, Assignor has leased the cars to Missouri-Kansas-Texas Railroad Company, a Delaware corporation ("Lessee");

NOW THEREFORE, for and in consideration of the premises and Assignee's payment to Manufacturer of certain sums of money under the Sale Agreements, and in order to secure the full and complete payment of all principal, interest, and other obligations and liabilities of Assignor of whatever nature now or hereafter owing by Assignor to Assignee under the Sale Agreements (all such obligations and liabilities, and renewals and extensions of all or any part thereof, herein collectively called the "Obligation"), Assignor hereby assigns, transfers, and sets over unto Assignee all rental payments and other sums of money (collectively, "Rental") due or to become due to Assignor from Lessee under the Lease, subject to and upon the terms and conditions hereinafter set forth:

1. Assignor represents and warrants to Assignee that: (a) Assignor has full power and authority to execute and deliver this assignment; (b) the Lease is in full force

and effect and no default (or event which, with the passage of time, notice, or both, could become a default) has occurred thereunder; (c) the Lease is not subject to any defenses, offsets, or counterclaims; and (d) there have been no renewals, extensions, supplements, modifications, or amendments of or to the Lease.

2. Until Assignee gives notice to Lessee of the occurrence of a default under the Sale Agreements (herein, a "Default"), Lessee may pay all Rental directly to Assignor, ~~but Assignor agrees to hold all Rental so paid in trust for Assignee.~~ Upon the giving of notice by Assignee to Lessee of the occurrence of a Default, Lessee is hereby authorized and directed to pay directly to Assignee all Rental thereafter accruing, and the receipt by Assignee shall be a release to Lessee to the extent of the amounts so paid. Without impairing its rights hereunder, Assignee may then release to Assignor Rental so received, or any part thereof.

3. As between Assignee and Assignor and any person claiming through or under Assignor other than Lessee (if Lessee has not been given a notice of Default under Paragraph 2 hereof), this assignment is intended to be absolute, unconditional, and presently effective, and the provisions of the first two sentences of Paragraph 2 hereof are intended solely for the benefit of Lessee and shall never inure to the benefit of Assignor or any person claiming through or under Assignor other than Lessee (if Lessee has not been given a notice of Default under Paragraph 2 hereof). It shall never be necessary for Assignee to institute legal proceedings of any kind whatsoever to enforce the provisions of this assignment.

4. Any Rental received by Assignee and not released to Assignor shall be applied first to Assignee's expenses incurred in the collection thereof and then to the Obligation in the order and manner that Assignee shall, in its sole discretion, elect.

5. Assignee shall not be liable for its failure to exercise diligence in the collection of Rental but shall be accountable only for Rental it shall actually receive. Assignee does not, by the execution of this assignment or by its acceptance thereof, assume or become liable in any manner whatsoever for the performance of any of the terms and conditions in the Lease, unless and until Assignee shall expressly assume any such obligations in writing.

6. Nothing in this assignment shall be construed as subordinating Assignee's rights, titles, and interests in and to the Cars under the Sale Agreements to Lessee's rights, titles, and interests in and to the Cars under the Lease.

7. Assignor covenants and agrees with Assignee that without Assignee's prior written consent and except as herein provided, Assignor shall: (a) Not amend, modify, extend, or renew the Lease; (b) not assign, transfer, mortgage, cancel, or accept surrender of the Lease; (c) not assign, transfer, pledge, or mortgage any Rental; (d) not waive, excuse, release, or condone any nonperformance of any covenants of Lessee; (e) give to Assignee duplicate notice of each default by Lessee; and (f) cause Lessee to agree (and by its acknowledgement hereof Lessee agrees) to give to Assignee written notice of each and every default under the Lease by Assignor and not to exercise any remedies under the Lease unless Assignee fails to cure such default within ten days, or within such longer period as may be reasonably necessary if such default cannot be cured within ten days after Assignee has received such notice; provided that Assignee shall never have any obligation or duty to cure any such default.

8. This assignment shall terminate upon payment to Assignee of all the Obligation.

9. Whenever this assignment requires or permits any consent, approval, notice, request, or demand from one party to another, the consent, approval, notice, or demand must be in writing to be effective and shall be deemed to have been given on the day actually delivered or, if mailed, on the third business day after it is enclosed in an envelope, addressed to the party to be notified at the address stated for such party below (or to such other address as may have been designated by written notice), properly stamped, sealed, and deposited in the United States mail:

ASSIGNOR: Southwestern States Management Co.  
701 Commerce Street  
Dallas, Texas 75202

Attention: Mr. H. O. Brandt  
Vice President

LESSEE: Missouri-Kansas-Texas Railroad Company  
701 Commerce Street  
Dallas, Texas 75202

Attention: Mr. Karl R. Ziebarth,  
Executive Vice President

ASSIGNEE: First City Bank of Dallas  
One Main Place  
P.O. Box 50688  
Dallas, Texas 75250

Attention: Mr. Dewain V. Hill,  
Vice President

Assignor and Lessee agree to give Assignee copies of each notice or other communication under the Lease and agree that any such notice or communication shall not be effective under the Lease until a copy has been given the Assignee in accordance with this assignment.

10. Assignor will have this assignment and the Lease filed, registered, and recorded with the Interstate Commerce Commission under Section 11303 of the Interstate Commerce Act.

11. This assignment may be simultaneously executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together shall constitute but one and the same instrument.

12. The terms of this assignment and all rights and obligations hereunder shall be governed by the laws of the State of Texas and the United States of America.

13. If any provision of this assignment is held to be illegal, invalid, or unenforceable under present or future laws effective during the term hereof, such provisions shall be fully severable; this assignment shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof; and the remaining provisions hereof shall remain in full force and effect and shall not be

affected by the illegal, invalid, or unenforceable provision or by its severance herefrom. Furthermore, in lieu of such illegal, invalid, or unenforceable provision there shall be added automatically as a part of this assignment a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

14. This assignment is binding upon and inures to the benefit of Assignee and Assignor, and the respective successors and assigns of each.

IN WITNESS WHEREOF, Assignor and Assignee have caused this instrument to be executed in their respective names by their respective officers, thereunto duly authorized, as of the day and year first above written.

SOUTHWESTERN STATES MANAGEMENT CO.

By W. H. Zeidel  
Vice President

ATTEST:

[Signature]  
Asst. Secretary

FIRST CITY BANK OF DALLAS

By [Signature]  
Vice President

ACKNOWLEDGMENT

Missouri-Kansas-Texas Railroad Company, lessee under the Lease (herein so called) described in the foregoing assignment, consents and agrees to the foregoing assignment, agrees to be bound by those provisions therein specifically addressing agreements and undertakings of the undersigned, and agrees that upon receipt of a notice of Default (as defined in the foregoing assignment) from First City Bank of Dallas, or its successors or assigns, as set forth in such assignment, to pay any and all Rental (as defined in the foregoing assignment) to First City Bank of Dallas, at its office in Dallas, Texas, without counterclaim or set-off arising out of such Lease or any other transaction between Missouri-Kansas-Texas Railroad Company and Southwestern States Management Co. The undersigned hereby waives all rights it may have or become entitled to cancel such Lease for any cause whatsoever, until such time as the Obligation (as defined in the foregoing assignment) of Southwestern States Management Co. to First City Bank of Dallas is fully satisfied and discharged or until such time such event of Default is cured and appropriate notice received from First City Bank of Dallas, whichever occurs first.

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

By [Signature]  
Vice President

THE STATE OF TEXAS    )  
                                  )  
COUNTY OF DALLAS    )

On this 16 day of October, 1980, before me personally appeared W. H. Zeidel, to me personally known, who, being by me duly sworn, says that he is a Vice President of SOUTHWESTERN STATES MANAGEMENT CO., that one of the seals affixed to the foregoing instrument is the corporate seal of such corporation, and that such instrument was signed and sealed on behalf of such 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 such corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 16 day of October, 1980.

*See Matlock*  
Notary Public in and for  
Dallas County, Texas

My Commission expires:

12/31/80

THE STATE OF TEXAS    )  
                                  )  
COUNTY OF DALLAS    )

On this 16 day of October, 1980, before me personally appeared Dewain V. Hill, to me personally known, who, being by me duly sworn, says that he is a Vice President of FIRST CITY BANK OF DALLAS and that such instrument was signed on behalf of such 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 such corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 16 day of October, 1980.

*See Matlock*  
Notary Public in and for  
Dallas County, Texas

My Commission expires:

12/31/80

THE STATE OF TEXAS    )  
                                  )  
COUNTY OF DALLAS    )

On this 16 day of October, 1980, before me personally appeared Karl R. Ziebarth, to me personally known, who, being by me duly sworn, says that he is a Vice President of MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of such corporation, and that such instrument was signed and sealed on behalf of such 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 such corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 16 day of October, 1980.

Sue Matlock  
Notary Public in and for  
Dallas County, Texas

My Commission expires:

12/31/80

STATE OF TEXAS     )  
                          )  
COUNTY OF DALLAS    )

On this 16th day of October, 1980, before me personally appeared  
W. H. Zeidel, to me personally known, who, being by me duly  
sworn says that he is Vice President of SOUTHWESTERN STATES MANAGEMENT CO., 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 corpora-  
tion.

Sue Mallock  
Notary Public in and for Dallas County,  
Texas

My Commission expires: 12/31/80

STATE OF TEXAS     )  
                          )  
COUNTY OF DALLAS    )

On this 16th day of October, 1980, before me personally appeared \_\_\_\_\_  
Karl R. Ziebarth, to me personally known, who, being by me duly  
sworn says that he is Vice President of MISSOURI-KANSAS-TEXAS RAILROAD 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 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.

Sue Mallock  
Notary Public in and for Dallas County, Texas

My Commission expires: 12/31/80 -34-

AGREEMENT AND ASSIGNMENT, dated as of September 24, 1980, between TRINITY INDUSTRIES, INC., a corporation organized under the laws of the State of Texas with an office in Dallas, Texas (hereinafter called "Manufacturer"), FIRST CITY BANK OF DALLAS (hereinafter called "Bank"), and SOUTHWESTERN STATES MANAGEMENT CO., a corporation organized under the laws of the State of Missouri, with an office in the City of Dallas, Texas (hereinafter called "Company").

WHEREAS, the Manufacturer and the Company have entered into a Conditional Sale Agreement dated as of September 24, 1980 (hereinafter called the "Conditional Sale Agreement"), covering the manufacture, sale, and delivery, on the conditions therein set forth, by the Manufacturer and the purchase by the Company of

One hundred (100) 100-ton, 4750 cu.ft. covered triple hopper cars with through center sill constructed by Manufacturer in accordance with its general specification HC3-47-1 dated October 1, 1979, as revised July 11, 1980, said cars to bear recording marks and numbers of the Missouri-Kansas-Texas Railroad Company: MKT 4300 - 4399 both inclusive, (together with all accessories and accessions to, and any tools, parts and equipment supplied by Manufacturer in connection with, such cars, herein collectively called the "Cars").

NOW THEREFORE, this Agreement and Assignment Witnesseth that in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration paid by the Bank to the Manufacturer, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

1. The Manufacturer hereby sells, assigns, transfers and sets over unto the Bank, its successors and assigns, all the right, title and interest of the Manufacturer (a) under the Conditional Sale Agreement (except the right to manufacture and the right to receive the initial cash payments specified in Article 3 thereof), and (b) in and to each Car in respect of which the Bank shall pay to the Manufacturer the purchase price thereof (provided, however, that the Bank shall not be required to pay the Manufacturer any amount on account of such

purchase price in excess of \$3,780,000 for all 100 cars, or if less than 100 cars are delivered by Manufacturer, then the Bank shall not be required to pay any amount of such purchase price in excess the lesser of \$37,800 or of 90 percent of the cost for each such Car so delivered), pursuant to Article 3 thereof; (c) in and to any and all amounts which may become due or owing by the Company to the Manufacturer under the Conditional Sale Agreement on account of the purchase price of each Car and interest thereon excluding the initial cash payment; and (d) in to any other sums becoming due under the Conditional Sale Agreement together with all the Manufacturer's rights, powers, privileges and remedies under the Conditional Sale Agreement (without any recourse, however, against the Manufacturer for or on account of the failure of the Company to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement); provided, however, that this Assignment shall not subject the Bank to transfer, or pass, or in any way affect or modify, the liability of the Manufacturer or of any successor or successors to its manufacturing properties and business in respect to its obligations to construct and deliver the Cars or in respect to its obligations contained in Articles 5 (general warranty of title), 9 and 15 of the Conditional Sale Agreement, or relieve the Company from its obligations to the Manufacturer or the Bank under Articles 3, 14, 15 and 16 of the Conditional Sale Agreement. The Company agrees to pursue its remedies against Manufacturer for the failure or refusal of the Manufacturer to perform or comply with such obligations, and the Company agrees that it will not offset or attempt to do so against its obligations to the Bank under the Conditional Sale Agreement by virtue of this Assignment because of such failure or refusal of the Manufacturer to perform or comply with such obligations. Notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 16 of the Conditional Sale Agreement, all obligations of the Manufacturer

to the Company in respect to the Cars shall be and remain enforceable by the Company, its successors and assigns, against and only against the Manufacturer and any successor or successors to its manufacturing properties and business. In furtherance of the foregoing assignment and transfer, the Manufacturer hereby irrevocably authorizes and empowers the Bank, in the Bank's own name or in the name of the Bank's nominee, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Bank is or may become entitled under this Assignment and compliance by the Railroad with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but without expense and liability to the Manufacturer and for the sole benefit of the Bank.

2. The Manufacturer will construct the Cars in full and complete accordance with the Conditional Sale Agreement and will deliver each of them on completion to the Company free of all claims, liens and encumbrances and in accordance with the provisions of the Conditional Sale Agreement; notwithstanding this Assignment, it will perform and fully comply with each and all the covenants and conditions of the Conditional Sale Agreement to be performed and complied with by the Manufacturer. The Manufacturer further covenants that it has good and lawful right to sell the Cars as aforesaid; and that it will warrant and defend the same against the demands of all persons whomsoever based on claims originating prior to the delivery of the Cars by the Manufacturer to the Company; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Company thereunder.

3. The rights of the Bank to the purchase price, less the amount of the initial cash payment, if any, made by the Company, of each Car accepted by the Company, and interest thereon, as well as any other rights which have been assigned hereunder, shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever arising out of a breach by the Manufacturer or by any

successor or successors to its manufacturing properties or business of any obligations in respect to the manufacture or delivery of the Cars or under Articles 5, 9 and 15 of the Conditional Sale Agreement nor subject to any defense, offset, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Company by the Manufacturer or the successor or successors to its manufacturing business. Any and all such obligations shall be and remain enforceable by the Company against and only against the Manufacturer and the successor or successors to its manufacturing properties and business and shall not be enforceable against the Bank or any party or parties in whom title to the Cars or any of them or the rights of the Manufacturer under the Conditional Sale Agreement shall vest by reason of this assignment or transfer or of successive sales, assignments or transfers; and the Manufacturer will save harmless and indemnify the Bank from any expense, losses or damage suffered by reason of any defense, set-off, counterclaim or recoupment of the Company resulting from the breach by Manufacturer or any terms or conditions of said Conditional Sale Agreement. The Manufacturer will save, indemnify and keep harmless the Bank from and against, and defend Bank against, any and all royalties, damages, claims, suits, judgments and costs (including attorneys' fees and court costs) that may result from the use of any patented article on the Cars at the time of delivery, except with regard to any appliances, devices or materials specified or required by the Company or the Missouri-Kansas-Texas Railroad Company (hereinafter called "Railroad") and not included in the Manufacturer's standard specifications. Company will save, indemnify and keep harmless the Bank from and against, and defend Bank against, any and all royalties, damages, claims, suits, judgments and costs (including attorneys' fees and court costs) that may result from the use of any appliances, devices, or materials specified or required by the Company or Railroad which are not included in the Manufacturer's standard specifications.

4. The Manufacturer will cause to be plainly, distinctly, permanently and conspicuously stenciled on each side of each Car, at the time of delivery of each of the Cars to the Railroad, marking bearing the words in letters not less than one inch in height:

FIRST CITY BANK OF DALLAS, OWNER

5. Upon request of the Bank, its successors and assigns, the Manufacturer will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of the Manufacturer therein or in the Cars therein described.

6. Following delivery to and acceptance by Company of said Cars, the Bank will pay to Manufacturer the full purchase price of said Cars (including freight charges) as stated in the Conditional Sale Agreement up to the amount stipulated in the proviso of paragraph 1(b) of this Agreement upon receipt by the Bank of the following documents in form and substance satisfactory to it, payment to be made within five days following receipt of said documents (such payment date(s) being the "closing date(s)"):

(a) A Bill of Sale from the Manufacturer to the Bank, transferring to the Bank title to all Cars so delivered and warranting said title to be free, as of the time of delivery to the Company, of all liens and encumbrances except only the rights of the Company under the Conditional Sale Agreement;

(b) Certificates of Inspection and Acceptance signed by an authorized representative of the Company stating that the Cars covered by such Certificates have been inspected and accepted by it on behalf of the Company as conforming in all respects to the requirements and provisions of the Conditional Sale Agreement, and further stating that there was plainly, distinctly, permanently and conspicuously stenciled

on each side of each Car at the time of its acceptance the words in letters not less than one inch in height:

FIRST CITY BANK OF DALLAS, OWNER

(c) A duplicate of the Manufacturer's invoice covering each Car so accepted, accompanied by or having endorsed thereon a certification by the Company as to the correctness of prices set forth in the invoice.

(d) Unless payment of the amount, if any, payable pursuant to subparagraph (a) of Article 3 of the Conditional Sale Agreement shall be made by Bank with funds furnished to it for that purpose by the Company, a receipt from Manufacturer of such payment by Company for such purposes. Subject to the terms and provisions set forth herein and in the Conditional Sale Agreement, it is agreed between the parties hereto that there shall be four (4) separate closing dates, each covering 25 cars.

7. The Bank may assign its rights under the Conditional Sale Agreement, as a whole in respect to all or any designated number of the Cars, including the right to receive any payments due or to become due to it from the Company thereunder in respect to such Cars. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

8. The Company may refinance the purchase of the Cars at a later date during the term hereof, in which event, the Company will give Bank 30 days written notice of its intention to refinance the purchase of the Cars. Following the expiration of said 30-day period and upon written instructions from Company to Bank, Bank will assign or otherwise transfer all of its rights, title and interest in, to and under the Conditional Sale Agreement and this Agreement and Assignment to Company's designee(s) by means of such documenta-

tion reasonably required by Company or its designee(s), in any event, however, without recourse on, or representation or warranty by, the Bank, other than a special warranty of title; provided, however, that the execution of such assignment, transfer or other documents shall be contingent upon Company not then being in default and upon all principal, outstanding interest, and any other payments required to be paid pursuant to the Conditional Sale Agreement and this Agreement and Assignment being tendered to the Bank concurrently with the delivery of said executed documents. Company shall reimburse Bank for any and all out-of-pocket expenses and attorneys' fees incurred by Bank in connection with the above-described transaction.

9. The Manufacturer hereby:

(a) represents and warrants to the Bank, its successors and assigns, that the Conditional Sale Agreement was lawfully executed by the Manufacturer for a valid consideration, that the Conditional Sale Agreement is a valid existing agreement and, according to its terms, binding upon the Manufacturer and that the Manufacturer is the sole owner of all rights of of the manufacturer thereunder, that the Manufacturer has full power and authority to assign such rights hereunder, and that said agreement is now in force without amendment thereto and no default or occurred default has accrued thereunder; and

(b) covenants and agrees that it will from time to time and at all times, at the request of the Bank or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do 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 Bank or intended so to be; and

(c) represents and warrants to the Bank, its successors and assigns, that no payments (except the initial cash payments in amount equal to excess of final purchase price of all Cars over the sum of \$3,780,000) have been made by the Railroad to the Manufacturer under said Conditional Sale Agreement.

10. It is agreed that all sums, both principal and interest, due hereunder shall be paid by the Company to said Bank at its place of business at One Main Place, Dallas, Texas.

11. All covenants, agreements, undertakings, representations, and warranties made in this assignment shall survive all closings hereunder and shall not be affected by any investigation made by any party.

12. Whenever this assignment or the Conditional Sale Agreement require or permit any consent, approval, notice, request, or demand from one party to another, the consent, approval, notice, or demand must be in writing to be effective and shall be deemed to have been given on the day actually delivered or, if mailed, on the third business day after it is enclosed in an envelope, addressed to the party to be notified at the address stated for such party below (or to such other address as may have been designated by written notice), properly stamped, sealed, and deposited in the United States mail:

MANUFACTURER:

Trinity Industries, Inc.  
4001 Irving Boulevard  
P. O. Box 10587  
Dallas, Texas 75207

Attention: Mr. R. A. Martin,  
Vice President

COMPANY:

Southwestern States Management Co.  
701 Commerce Street  
Dallas, Texas 75202

Attention: Mr. W. H. Zeidel  
Vice President

BANK:

First City Bank of Dallas  
One Main Place  
P. O. Box 50688  
Dallas, Texas 75250

Attention: Mr. Dewain V. Hill,  
Vice President

The Company and the Manufacturer agree to give the Bank copies of each notice or other communication under the Conditional Sale Agreement and agree that any such notice or communication shall not be effective under the Conditional Sale Agreement until a copy has been given the Bank in accordance with this assignment.

13. The Company will have this Assignment filed, registered and recorded in the same manner as provided in Article 23 of the Conditional Sale Agreement hereby assigned.

14. This Agreement and Assignment may be simultaneously executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together shall constitute but one and the same instrument. The Bank agrees to deliver one of such counterparts, or a certified copy thereof, to the Railroad. Although this Agreement and Assignment is dated for convenience as of September 24, 1980, 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.

15. The terms of this Agreement and Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Texas and the United States of America.

16. If any provision of this assignment is held to be illegal, invalid, or unenforceable under present or future laws effective during the term hereof, such provisions shall be fully severable; this assignment shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never

comprised a part hereof; and the remaining provisions hereof shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance herefrom. Furthermore, in lieu of such illegal, invalid, or unenforceable provision there shall be added automatically as a part of this assignment a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

17. This assignment is binding upon and inures to the benefit of the Bank, the Company, and the Manufacturer, and the respective successors and assigns of each; provided that neither the Company nor the Manufacturer may, without the prior written consent of the Bank, assign any of their respective rights, duties, or obligations hereunder.

IN WITNESS WHEREOF, the Manufacturer, the Bank, and the Company have caused this instrument to be executed in their respective names by their respective officers, thereunto duly authorized, as of the day and year first above written.

TRINITY INDUSTRIES, INC.

By Richard A. Mauter  
Vice President

Attest:

Ass't. Neil O. Shoop  
Secretary

FIRST CITY BANK OF DALLAS

By Stephen V. Huff  
Vice President

SOUTHWESTERN STATES MANAGEMENT CO.

By W. H. Zeidel  
Vice President

ATTEST:

[Signature]  
Assistant Secretary

STATE OF TEXAS     )  
                                  )  
COUNTY OF DALLAS    )

On this 16th day of October, 1980, before me personally appeared Richard A. Martin, to me personally known, who, being by me duly sworn, says that he is a Vice President of TRINITY INDUSTRIES, INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 16<sup>th</sup> of October, 1980.

Sue Matlock  
Notary Public in and for Dallas  
County, Texas

My Commission expires: 12/31/80

STATE OF TEXAS     )  
                              )  
COUNTY OF DALLAS   )

On this 16th day of October, 1980, before me personally appeared  
Dewain V. Hill, to me personally known, who, being by me duly  
sworn, says that he is a Vice President of FIRST CITY BANK OF DALLAS, that said  
instrument was signed on behalf of said corporation by authority of its Board  
Directors, and he acknowledged that the execution of the foregoing instrument  
was the free act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 16 day of October, 1980.

Sue Matlock  
Notary Public in and for Dallas  
County, Texas

My Commission expires: 12/31/80

STATE OF TEXAS     )  
                              )  
COUNTY OF DALLAS   )

On this 16 day of October, 1980, before me personally appeared  
W. H. Zeidel, to me personally known, who, being by me duly  
sworn, says that he is Vice President of SOUTHWESTERN STATES MANAGEMENT CO.,  
that one of the seals affixed to the foregoing instrument was signed and sealed  
on behalf of said corporation by authority of its Board of Directors, and he ac-  
knowledged that the execution of the foregoing instrument was the free act and  
deed of said corporation.

Sue Matlock  
Notary Public in and for Dallas  
County, Texas

My Commission expires: 12/31/80

ACKNOWLEDGMENT OF NOTICE OF  
ASSIGNMENT

Southwestern States Management Co. hereby acknowledges due notice of  
the assignment made by the foregoing Agreement and Assignment.

Dated: October 16, 1980

SOUTHWESTERN STATES MANAGEMENT CO.

By W. H. Zaidel  
Vice President