CRAVATH, SWAINE & MOORE

11482

ONE CHASE MANHATTAN PLAZA RECORDATION NO. ..... Filed 1425

NEW YORK, N. Y. 10005

FEB 11 1980 -1 05 PM

INTERSTATE COMMERCE COMMISSION

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MAURICE T. MOORE
BRUCE BROMLEY
WILLIAM B. MARSHALL
RALPH L. McAFEE
ROYALL VICTOR
HENRY W. DeKOSMIAN
ALLEN F. MAULSBY
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HENRY P. RIORDAN
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SAMUEL C. BUTLER
WILLIAM J. SCHRENK, JR.
BENJAMIN F. CRANE
FRANCIS F. RANDOLPH, JR.
JOHN F. HUNT
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RICHARD S. SIMMONS
WAYNE E. CHAPMAN
THOMAS D. BARR
MELVIN L. BEDRICK
GEORGE T. LOWY
ROBERT ROSENMAN
JAMES H. DUFFY
ALAN J. HRUSKA
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JAMES M. EDWARDS
DAVID G. ORMSBY
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ROBERT F. MULLEN
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LONDON, EC2N 2BR, ENGLAND
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CABLE ADDRESSES
CRAVATH, N. Y.
CRAVATH, PARIS
CRAVATH, LONDON E. C. 2

11482 A
RECORDATION NO. ..... Filed 1425
FEB 11 1980 -1 05 PM
INTERSTATE COMMERCE COMMISSION

0-042A069

11482 B
RECORDATION NO. ..... Filed 1425
FEB 11 1980 -1 05 PM
INTERSTATE COMMERCE COMMISSION

Date FEB 11 1980
Fee $ 100.00
CC Washington, D. C.

11482 C
RECORDATION NO. ..... Filed 1425
FEB 11 1980 -1 05 PM
INTERSTATE COMMERCE COMMISSION

File 4th

February 7, 1980

Trailer Train Company
Lease Financing Dated as of February 1, 1980
11-7/8% Conditional Sale Indebtedness Due July 15, 1996
Green Covers – D

Dear Ms. Mergenovich:

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

Need Number

(1) (a) Conditional Sale Agreement dated as of February 1, 1980, between First Security State Bank, as Trustee, and each of Bethlehem Steel Corporation, Pullman Incorporated (Pullman Standard Division) and ACF Industries, Incorporated; and

– A

(b) Agreement and Assignment dated as of February 1, 1980, between First Security Bank of Utah, N.A., and each of Bethlehem Steel Corporation, Pullman Incorporated (Pullman Standard Division) and ACF Industries, Incorporated.

– B

(2) (a) Lease of Railroad Equipment dated as of February 1, 1980, between Trailer Train Company and First Security State Bank, as Trustee; and

– C next page

(b) Assignment of Lease and Agreement dated as of February 1, 1980, between First Security State Bank, as Trustee, and First Security Bank of Utah, N.A., as Agent.

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

(1) Vendor-Assignee-Agent:

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

(2) Trustee:

First Security State Bank,
79 South Main Street,
Salt Lake City, Utah 84111.

(3) Builders-Vendors:

Bethlehem Steel Corporation,
Bethlehem, Pennsylvania 18016.

Pullman Incorporated
(Pullman Standard Division),
200 South Michigan Avenue,
Chicago, Illinois 60604.

ACF Industries, Incorporated,
750 Third Avenue,
New York, N. Y. 10017

(4) Lessee:

Trailer Train Company,
300 South Michigan Avenue,
Chicago, Illinois 60606.

Please file and record the documents referred to in this letter and cross-index them under the names of the Vendor-Assignee-Agent, the Trustee, the Builders-Vendors and the Lessee.

The equipment covered by the aforementioned documents consists of the following:

313 89'4" 70-ton capacity, hydraulic draft gear,

flush deck flatcars equipped with trailer hitches and container pedestals, AAR Mechanical Designation FC, bearing identifying numbers of the Lessee 982508-982559, 982683-982752, 992232-992343, 992599-992649 and 922214-922241, all inclusive.

There is also enclosed a check for $100 payable to the Interstate Commerce Commission, representing the fee for recording the Conditional Sale Agreement and related Agreement and Assignment (together constituting one document) and the Lease of Railroad Equipment and related Assignment of Lease and Agreement (together constituting one document).

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of the instruments for your files. It is requested that the remaining counterparts be delivered to the bearer of this letter.

Very truly yours,

Laurance V. Goodrich

Laurance V. Goodrich
As Agent for
Trailer Train Company

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

Encls.

11482-A
RECORDATION NO. Filed 1425
FEB 11 1980 - 1 0 PM
INTERSTATE COMMERCE COMMISSION

[CS&M Ref.: 1698-082]

-D

AGREEMENT AND ASSIGNMENT dated as of February 1, 1980, between FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity but solely as Agent under a Participation Agreement dated as of the date hereof (together with its successors and assigns (the "Assignee") and each of the other respective parties executing this Agreement and Assignment (each individually a "Builder").

WHEREAS each Builder and FIRST SECURITY STATE BANK, as Trustee (the "Trustee") under a Trust Agreement dated as of the date hereof with MERCANTILE TRUST COMPANY NATIONAL ASSOCIATION have entered into a Conditional Sale Agreement dated as of the date hereof ("CSA") covering the construction, sale and delivery, on the conditions therein set forth, by each Builder and the purchase by the Trustee of the railroad equipment for the Owner described in Annex B to the CSA manufactured by such Builder (its "Equipment"); and

WHEREAS the Trustee and TRAILER TRAIN COMPANY ("Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof ("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 each 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. Each Builder hereby assigns, transfers and sets over unto the Assignee:

(a) the security interest of such Builder in and to each unit of its Equipment when and as severally delivered to and accepted by the Trustee, and when and as payment is made (i) by the Assignee to such Builder of the amount required to be paid pursuant to Section 4 hereof and (ii) by the Trustee to such Builder of the amount required to be paid pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA (but this clause (ii) shall be applicable only if the Trustee shall have received a timely invoice therefor at least ten business days prior to the applicable Closing Date) and of the amount required to be paid pursuant to subparagraph (b) of the third paragraph of Article 4 of the CSA;

(b) all the right, title and interest of such Builder in and to the CSA (except the right to construct and deliver the Equipment, the right to receive the payments specified in subparagraphs (a) and (b) of the third paragraph of Article 4 thereof and reimbursement for taxes paid or incurred by such Builder), and except as aforesaid in and to any and all amounts which may be or become due or owing to such Builder under the CSA on account of the indebtedness in respect of the Purchase Price (as defined in Article 4 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 subparagraphs (a) and (b) of this paragraph, all such Builder's rights, titles, powers, privileges and remedies under the CSA;

without any recourse hereunder, however, against such 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 such Builder to construct and deliver its Equipment in accordance with the CSA or with respect to its warranties and agreements referred to in Article 13 of the CSA or relieve the Trustee from its obligations to the Builder

contained in Articles 2, 3, 4, 6 and 13 of the CSA, it being understood and agreed that, notwithstanding this Agreement, or any subsequent assignment pursuant to the provisions of Article 14 of the CSA, all obligations of such Builder to the Trustee shall be and remain enforceable by the Trustee, its successors and assigns, against and only against such Builder. In furtherance of the foregoing assignment and transfer, each 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 such 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. Each Builder agrees that it shall construct its 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 such Builder. Each 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 created under the CSA, this Assignment and the Lease; and such 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 such Builder under the CSA; all *subject, however,* to the provisions of the CSA and the rights of the Trustee thereunder.

SECTION 3. Each 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 its Equipment or to enforce any provision of the CSA, such 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 such Builder of any obligation with respect to its 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 such Builder. Each Builder's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 14 of the CSA, to strike any defense, setoff, counterclaim or recoupment asserted by the 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 such Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving such Builder the right, at such 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 appropriate Builder and in cases of designs, systems, processes, formulae or combinations specified by the Lessee and not developed or purported to be developed by such Builder, such Builder agrees 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 its 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 appropriate Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give such Builder the right, at such Builder's expense,

to compromise, settle or defend against such claim. Each 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 the Equipment or any unit thereof settled for under Section 4 hereof.

SECTION 4. Subject to the provisions of Article 3 of the CSA, the Assignee, on each Closing Date fixed as provided in Article 4 of the CSA with respect to a Group (as defined in said Article 4) of the Equipment, shall pay to the appropriate Builder an amount equal to the portion of the Purchase Price thereof which, under the terms of said Article 4, is payable in installments, provided that there shall have been delivered to the Assignee on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel, Messrs. Cravath, Swaine & Moore, in such number of counterparts as may be reasonably requested by said special counsel:

(a) an instrument or instruments from such Builder to the Assignee transferring to the Assignee the security interest of such Builder in such units, warranting to the Assignee and to the Trustee that, at the time of delivery of such units under the CSA, such 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 created under the CSA, this Assignment and 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 such Builder under the CSA;

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

(c) an invoice of the Builder for the units of its Equipment in such Group accompanied by or having endorsed thereon a certification by the Lessee and the Trustee as to their approval thereof;

(d) an opinion of counsel for such Builder, dated as of such Closing Date, addressed to the Assignee and the Trustee, to the effect that the aforesaid instrument or instruments have been duly authorized, executed and delivered by such Builder and are valid and effective to vest in the Assignee the security interest of the Builder in the units of the Equipment in such Group, free from all claims, liens, security title and interests and other encumbrances (other than those created by the CSA, this Assignment and the Lease) arising from, through or under such Builder; and

(e) a receipt from the appropriate 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 its 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 any payment provided for in this Section 4 is hereby expressly conditioned upon the Assignee's having on deposit, pursuant to the terms of the Participation Agreement pursuant to which the Assignee is acting as Agent, sufficient funds available thereunder to make such payment, and upon compliance by the Builder of the Equipment to be paid for with the provisions of Article 3 of the CSA. In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the appropriate Builder, without recourse to the Assignee unless the Assignee shall have failed to make such payment notwithstanding compliance with the provisions of Article 3 of the CSA and its receipt of the documents specified in this Section in satisfactory form as aforesaid, all rights, titles, interests, powers, privileges and remedies assigned to the Assignee pursuant to Section 1 hereof insofar as they relate to the units of its 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 14 of the CSA, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. Each Builder hereby:

(a) represents and warrants to the Assignee and the Trustee 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 such Builder is concerned, a legal, valid and existing agreement binding upon such Builder in accordance with its terms and that, insofar as such Builder is concerned, it is now in force without amendment thereto;

(b) agrees that it will from time to time, at the request of the Assignee, 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, subsequent to payment of the sums due it hereunder and under the CSA, upon request of the Assignee, 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 its Equipment.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Utah, *provided, however,* that the parties shall be entitled to all the rights conferred by 49 U.S.C. § 11303, such additional rights arising out of the filing, recording or depositing of the CSA and this Assignment as shall be conferred by the laws of the several jurisdictions in which the CSA or this Assignment shall be filed, recorded or deposited, or in which any unit of the Equipment shall be located, and any rights arising out of the marking on the units of Equipment.

SECTION 8. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument. Each Builder shall be bound hereunder notwithstanding the failure of the other Builder to execute and deliver this Assignment or to perform its obligations hereunder. 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.

BETHLEHEM STEEL CORPORATION,

by _____
Vice President

[CORPORATE SEAL]

Attest:

_____
Assistant Secretary

PULLMAN INCORPORATED
(Pullman Standard Division),

by _____
Vice President—Freight Unit

[CORPORATE SEAL]

Attest:

_____
Assistant Secretary

ACF INDUSTRIES, INCORPORATED,

by _____
Vice President

[CORPORATE SEAL]

Attest:

_____
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 February 1, 1980.

FIRST SECURITY STATE BANK, not in its individual capacity, but solely as Trustee,

by _____
Authorized Officer

COMMONWEALTH OF PENNSYLVANIA,
COUNTY OF LEHIGH, } SS.:

On this 5th day of February, 1980, before me personally appeared R. E. Johnston, to me personally known, who, being by me duly sworn, says that he is a Vice President of BETHLEHEM STEEL 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.

Evelyn L Hawkes
Notary Public

My Commission Expires
City of Bethlehem
Lehigh County
October 13, 1982

[NOTARIAL SEAL]
My Commission Expires:

STATE OF ILLINOIS,
COUNTY OF COOK, } SS.:

On this day of February, 1980, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President-Freight Unit of PULLMAN INCORPORATED (Pullman Standard Division), 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 NEW YORK,
COUNTY OF NEW YORK, } SS.:

On this day of February, 1980, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of ACF INDUSTRIES, INCORPORATED, 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,
CITY OF SALT LAKE, } ss.:

On this day of February, 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 corporate 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.: 1698-082]

AGREEMENT AND ASSIGNMENT dated as of February 1, 1980, between FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity but solely as Agent under a Participation Agreement dated as of the date hereof (together with its successors and assigns (the "Assignee") and each of the other respective parties executing this Agreement and Assignment (each individually a "Builder").

WHEREAS each Builder and FIRST SECURITY STATE BANK, as Trustee (the "Trustee") under a Trust Agreement dated as of the date hereof with MERCANTILE TRUST COMPANY NATIONAL ASSOCIATION have entered into a Conditional Sale Agreement dated as of the date hereof ("CSA") covering the construction, sale and delivery, on the conditions therein set forth, by each Builder and the purchase by the Trustee of the railroad equipment for the Owner described in Annex B to the CSA manufactured by such Builder (its "Equipment"); and

WHEREAS the Trustee and TRAILER TRAIN COMPANY ("Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof ("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 each 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. Each Builder hereby assigns, transfers and sets over unto the Assignee:

(a) the security interest of such Builder in and to each unit of its Equipment when and as severally delivered to and accepted by the Trustee, and when and as payment is made (i) by the Assignee to such Builder of the amount required to be paid pursuant to Section 4 hereof and (ii) by the Trustee to such Builder of the amount required to be paid pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA (but this clause (ii) shall be applicable only if the Trustee shall have received a timely invoice therefor at least ten business days prior to the applicable Closing Date) and of the amount required to be paid pursuant to subparagraph (b) of the third paragraph of Article 4 of the CSA;

(b) all the right, title and interest of such Builder in and to the CSA (except the right to construct and deliver the Equipment, the right to receive the payments specified in subparagraphs (a) and (b) of the third paragraph of Article 4 thereof and reimbursement for taxes paid or incurred by such Builder), and except as aforesaid in and to any and all amounts which may be or become due or owing to such Builder under the CSA on account of the indebtedness in respect of the Purchase Price (as defined in Article 4 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 subparagraphs (a) and (b) of this paragraph, all such Builder's rights, titles, powers, privileges and remedies under the CSA;

without any recourse hereunder, however, against such 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 such Builder to construct and deliver its Equipment in accordance with the CSA or with respect to its warranties and agreements referred to in Article 13 of the CSA or relieve the Trustee from its obligations to the Builder

contained in Articles 2, 3, 4, 6 and 13 of the CSA, it being understood and agreed that, notwithstanding this Agreement, or any subsequent assignment pursuant to the provisions of Article 14 of the CSA, all obligations of such Builder to the Trustee shall be and remain enforceable by the Trustee, its successors and assigns, against and only against such Builder. In furtherance of the foregoing assignment and transfer, each 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 such 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. Each Builder agrees that it shall construct its 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 such Builder. Each 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 created under the CSA, this Assignment and the Lease; and such 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 such Builder under the CSA; all *subject, however,* to the provisions of the CSA and the rights of the Trustee thereunder.

SECTION 3. Each 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 its Equipment or to enforce any provision of the CSA, such 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 such Builder of any obligation with respect to its 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 such Builder. Each Builder's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 14 of the CSA, to strike any defense, setoff, counterclaim or recoupment asserted by the 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 such Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving such Builder the right, at such 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 appropriate Builder and in cases of designs, systems, processes, formulae or combinations specified by the Lessee and not developed or purported to be developed by such Builder, such Builder agrees 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 its 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 appropriate Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give such Builder the right, at such Builder's expense,

to compromise, settle or defend against such claim. Each 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 the Equipment or any unit thereof settled for under Section 4 hereof.

SECTION 4. Subject to the provisions of Article 3 of the CSA, the Assignee, on each Closing Date fixed as provided in Article 4 of the CSA with respect to a Group (as defined in said Article 4) of the Equipment, shall pay to the appropriate Builder an amount equal to the portion of the Purchase Price thereof which, under the terms of said Article 4, is payable in installments, provided that there shall have been delivered to the Assignee on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel, Messrs. Cravath, Swaine & Moore, in such number of counterparts as may be reasonably requested by said special counsel:

(a) an instrument or instruments from such Builder to the Assignee transferring to the Assignee the security interest of such Builder in such units, warranting to the Assignee and to the Trustee that, at the time of delivery of such units under the CSA, such 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 created under the CSA, this Assignment and 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 such Builder under the CSA;

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

(c) an invoice of the Builder for the units of its Equipment in such Group accompanied by or having endorsed thereon a certification by the Lessee and the Trustee as to their approval thereof;

(d) an opinion of counsel for such Builder, dated as of such Closing Date, addressed to the Assignee and the Trustee, to the effect that the aforesaid instrument or instruments have been duly authorized, executed and delivered by such Builder and are valid and effective to vest in the Assignee the security interest of the Builder in the units of the Equipment in such Group, free from all claims, liens, security title and interests and other encumbrances (other than those created by the CSA, this Assignment and the Lease) arising from, through or under such Builder; and

(e) a receipt from the appropriate 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 its 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 any payment provided for in this Section 4 is hereby expressly conditioned upon the Assignee's having on deposit, pursuant to the terms of the Participation Agreement pursuant to which the Assignee is acting as Agent, sufficient funds available thereunder to make such payment, and upon compliance by the Builder of the Equipment to be paid for with the provisions of Article 3 of the CSA. In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the appropriate Builder, without recourse to the Assignee unless the Assignee shall have failed to make such payment notwithstanding compliance with the provisions of Article 3 of the CSA and its receipt of the documents specified in this Section in satisfactory form as aforesaid, all rights, titles, interests, powers, privileges and remedies assigned to the Assignee pursuant to Section 1 hereof insofar as they relate to the units of its 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 14 of the CSA, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. Each Builder hereby:

(a) represents and warrants to the Assignee and the Trustee 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 such Builder is concerned, a legal, valid and existing agreement binding upon such Builder in accordance with its terms and that, insofar as such Builder is concerned, it is now in force without amendment thereto;

(b) agrees that it will from time to time, at the request of the Assignee, 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, subsequent to payment of the sums due it hereunder and under the CSA, upon request of the Assignee, 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 its Equipment.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Utah, *provided, however,* that the parties shall be entitled to all the rights conferred by 49 U.S.C. § 11303, such additional rights arising out of the filing, recording or depositing of the CSA and this Assignment as shall be conferred by the laws of the several jurisdictions in which the CSA or this Assignment shall be filed, recorded or deposited, or in which any unit of the Equipment shall be located, and any rights arising out of the marking on the units of Equipment.

SECTION 8. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument. Each Builder shall be bound hereunder notwithstanding the failure of the other Builder to execute and deliver this Assignment or to perform its obligations hereunder. 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.

BETHLEHEM STEEL CORPORATION,

by _____
Vice President

[CORPORATE SEAL]

Attest:

_____
Assistant Secretary

PULLMAN INCORPORATED
(Pullman Standard Division),

by _____
Vice President—Freight Unit

[CORPORATE SEAL]

Attest:

_____
Assistant Secretary

ACF INDUSTRIES, INCORPORATED,

by _____
Vice President

[CORPORATE SEAL]

Attest:

_____
Secretary

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

by _____
Authorized Officer

[SEAL]

Attest:

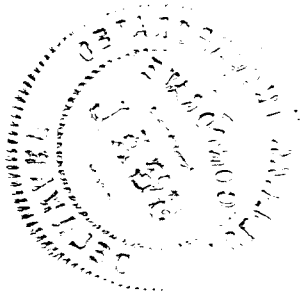
_____
Authorized Officer

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 February 1, 1980.

FIRST SECURITY STATE BANK, not in its individual capacity, but solely as Trustee,

by _____
Authorized Officer



COMMONWEALTH OF PENNSYLVANIA, }
COUNTY OF LEHIGH, } ss.:

On this day of February, 1980, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of BETHLEHEM STEEL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[NOTARIAL SEAL]

My Commission Expires:

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

On this 2nd day of February, 1980, before me personally appeared Stanley Brown, to me personally known, who, being by me duly sworn, says that he is a Vice President-Freight Unit of PULLMAN INCORPORATED (Pullman Standard Division), 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.

Janice K. Peters
Notary Public

[NOTARIAL SEAL]

My Commission Expires: 8/7/83

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

On this day of February, 1980, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of ACF INDUSTRIES, INCORPORATED, 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:

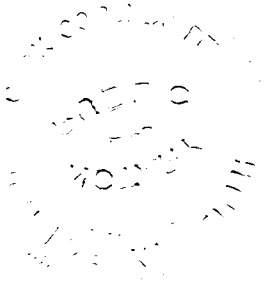
STATE OF UTAH,
CITY OF SALT LAKE, } ss.:

On this day of February, 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 corporate 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.: 1698-082]

AGREEMENT AND ASSIGNMENT dated as of February 1, 1980, between FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity but solely as Agent under a Participation Agreement dated as of the date hereof (together with its successors and assigns (the "Assignee") and each of the other respective parties executing this Agreement and Assignment (each individually a "Builder").

WHEREAS each Builder and FIRST SECURITY STATE BANK, as Trustee (the "Trustee") under a Trust Agreement dated as of the date hereof with MERCANTILE TRUST COMPANY NATIONAL ASSOCIATION have entered into a Conditional Sale Agreement dated as of the date hereof ("CSA") covering the construction, sale and delivery, on the conditions therein set forth, by each Builder and the purchase by the Trustee of the railroad equipment for the Owner described in Annex B to the CSA manufactured by such Builder (its "Equipment"); and

WHEREAS the Trustee and TRAILER TRAIN COMPANY ("Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof ("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 each 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. Each Builder hereby assigns, transfers and sets over unto the Assignee:

(a) the security interest of such Builder in and to each unit of its Equipment when and as severally delivered to and accepted by the Trustee, and when and as payment is made (i) by the Assignee to such Builder of the amount required to be paid pursuant to Section 4 hereof and (ii) by the Trustee to such Builder of the amount required to be paid pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA (but this clause (ii) shall be applicable only if the Trustee shall have received a timely invoice therefor at least ten business days prior to the applicable Closing Date) and of the amount required to be paid pursuant to subparagraph (b) of the third paragraph of Article 4 of the CSA;

(b) all the right, title and interest of such Builder in and to the CSA (except the right to construct and deliver the Equipment, the right to receive the payments specified in subparagraphs (a) and (b) of the third paragraph of Article 4 thereof and reimbursement for taxes paid or incurred by such Builder), and except as aforesaid in and to any and all amounts which may be or become due or owing to such Builder under the CSA on account of the indebtedness in respect of the Purchase Price (as defined in Article 4 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 subparagraphs (a) and (b) of this paragraph, all such Builder's rights, titles, powers, privileges and remedies under the CSA;

without any recourse hereunder, however, against such 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 such Builder to construct and deliver its Equipment in accordance with the CSA or with respect to its warranties and agreements referred to in Article 13 of the CSA or relieve the Trustee from its obligations to the Builder

contained in Articles 2, 3, 4, 6 and 13 of the CSA, it being understood and agreed that, notwithstanding this Agreement, or any subsequent assignment pursuant to the provisions of Article 14 of the CSA, all obligations of such Builder to the Trustee shall be and remain enforceable by the Trustee, its successors and assigns, against and only against such Builder. In furtherance of the foregoing assignment and transfer, each 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 such 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. Each Builder agrees that it shall construct its 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 such Builder. Each 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 created under the CSA, this Assignment and the Lease; and such 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 such Builder under the CSA; all *subject, however,* to the provisions of the CSA and the rights of the Trustee thereunder.

SECTION 3. Each 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 its Equipment or to enforce any provision of the CSA, such 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 such Builder of any obligation with respect to its 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 such Builder. Each Builder's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 14 of the CSA, to strike any defense, setoff, counterclaim or recoupment asserted by the 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 such Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving such Builder the right, at such 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 appropriate Builder and in cases of designs, systems, processes, formulae or combinations specified by the Lessee and not developed or purported to be developed by such Builder, such Builder agrees 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 its 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 appropriate Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give such Builder the right, at such Builder's expense,

to compromise, settle or defend against such claim. Each 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 the Equipment or any unit thereof settled for under Section 4 hereof.

SECTION 4. Subject to the provisions of Article 3 of the CSA, the Assignee, on each Closing Date fixed as provided in Article 4 of the CSA with respect to a Group (as defined in said Article 4) of the Equipment, shall pay to the appropriate Builder an amount equal to the portion of the Purchase Price thereof which, under the terms of said Article 4, is payable in installments, provided that there shall have been delivered to the Assignee on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel, Messrs. Cravath, Swaine & Moore, in such number of counterparts as may be reasonably requested by said special counsel:

(a) an instrument or instruments from such Builder to the Assignee transferring to the Assignee the security interest of such Builder in such units, warranting to the Assignee and to the Trustee that, at the time of delivery of such units under the CSA, such 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 created under the CSA, this Assignment and 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 such Builder under the CSA;

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

(c) an invoice of the Builder for the units of its Equipment in such Group accompanied by or having endorsed thereon a certification by the Lessee and the Trustee as to their approval thereof;

(d) an opinion of counsel for such Builder, dated as of such Closing Date, addressed to the Assignee and the Trustee, to the effect that the aforesaid instrument or instruments have been duly authorized, executed and delivered by such Builder and are valid and effective to vest in the Assignee the security interest of the Builder in the units of the Equipment in such Group, free from all claims, liens, security title and interests and other encumbrances (other than those created by the CSA, this Assignment and the Lease) arising from, through or under such Builder; and

(e) a receipt from the appropriate 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 its 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 any payment provided for in this Section 4 is hereby expressly conditioned upon the Assignee's having on deposit, pursuant to the terms of the Participation Agreement pursuant to which the Assignee is acting as Agent, sufficient funds available thereunder to make such payment, and upon compliance by the Builder of the Equipment to be paid for with the provisions of Article 3 of the CSA. In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the appropriate Builder, without recourse to the Assignee unless the Assignee shall have failed to make such payment notwithstanding compliance with the provisions of Article 3 of the CSA and its receipt of the documents specified in this Section in satisfactory form as aforesaid, all rights, titles, interests, powers, privileges and remedies assigned to the Assignee pursuant to Section 1 hereof insofar as they relate to the units of its 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 14 of the CSA, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. Each Builder hereby:

(a) represents and warrants to the Assignee and the Trustee 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 such Builder is concerned, a legal, valid and existing agreement binding upon such Builder in accordance with its terms and that, insofar as such Builder is concerned, it is now in force without amendment thereto;

(b) agrees that it will from time to time, at the request of the Assignee, 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, subsequent to payment of the sums due it hereunder and under the CSA, upon request of the Assignee, 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 its Equipment.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Utah, *provided, however*, that the parties shall be entitled to all the rights conferred by 49 U.S.C. § 11303, such additional rights arising out of the filing, recording or depositing of the CSA and this Assignment as shall be conferred by the laws of the several jurisdictions in which the CSA or this Assignment shall be filed, recorded or deposited, or in which any unit of the Equipment shall be located, and any rights arising out of the marking on the units of Equipment.

SECTION 8. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument. Each Builder shall be bound hereunder notwithstanding the failure of the other Builder to execute and deliver this Assignment or to perform its obligations hereunder. 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.

BETHLEHEM STEEL CORPORATION,

by _____
Vice President

[CORPORATE SEAL]

Attest:

_____
Assistant Secretary

PULLMAN INCORPORATED
(Pullman Standard Division),

by _____
Vice President—Freight Unit

[CORPORATE SEAL]

Attest:

_____
Assistant Secretary

ACF INDUSTRIES, INCORPORATED,

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:

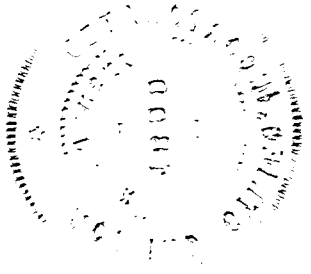
_____
Authorized Officer

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 February 1, 1980.

FIRST SECURITY STATE BANK, not in its individual capacity, but solely as Trustee,

by _____
Authorized Officer



COMMONWEALTH OF PENNSYLVANIA,
COUNTY OF LEHIGH, } ss.:

On this day of February, 1980, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of BETHLEHEM STEEL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[NOTARIAL SEAL]

My Commission Expires:

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

On this day of February, 1980, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President-Freight Unit of PULLMAN INCORPORATED (Pullman Standard Division), 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 NEW YORK,
COUNTY OF NEW YORK, } ss.:

On this 5th day of February, 1980, before me personally appeared C. R. GARR , to me personally known, who, being by me duly sworn, says that he is a Vice President of ACF INDUSTRIES, INCORPORATED, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Anthony M. Romanello
Notary Public

[NOTARIAL SEAL]

My Commission Expires:

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

On this day of February, 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 corporate 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.: 1698-082]

AGREEMENT AND ASSIGNMENT dated as of February 1, 1980, between FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity but solely as Agent under a Participation Agreement dated as of the date hereof (together with its successors and assigns (the "Assignee") and each of the other respective parties executing this Agreement and Assignment (each individually a "Builder").

WHEREAS each Builder and FIRST SECURITY STATE BANK, as Trustee (the "Trustee") under a Trust Agreement dated as of the date hereof with MERCANTILE TRUST COMPANY NATIONAL ASSOCIATION have entered into a Conditional Sale Agreement dated as of the date hereof ("CSA") covering the construction, sale and delivery, on the conditions therein set forth, by each Builder and the purchase by the Trustee of the railroad equipment for the Owner described in Annex B to the CSA manufactured by such Builder (its "Equipment"); and

WHEREAS the Trustee and TRAILER TRAIN COMPANY ("Lessee") have entered into a Lease of Railroad Equipment dated as of the date hereof ("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 each 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. Each Builder hereby assigns, transfers and sets over unto the Assignee:

(a) the security interest of such Builder in and to each unit of its Equipment when and as severally delivered to and accepted by the Trustee, and when and as payment is made (i) by the Assignee to such Builder of the amount required to be paid pursuant to Section 4 hereof and (ii) by the Trustee to such Builder of the amount required to be paid pursuant to subparagraph (a) of the third paragraph of Article 4 of the CSA (but this clause (ii) shall be applicable only if the Trustee shall have received a timely invoice therefor at least ten business days prior to the applicable Closing Date) and of the amount required to be paid pursuant to subparagraph (b) of the third paragraph of Article 4 of the CSA;

(b) all the right, title and interest of such Builder in and to the CSA (except the right to construct and deliver the Equipment, the right to receive the payments specified in subparagraphs (a) and (b) of the third paragraph of Article 4 thereof and reimbursement for taxes paid or incurred by such Builder), and except as aforesaid in and to any and all amounts which may be or become due or owing to such Builder under the CSA on account of the indebtedness in respect of the Purchase Price (as defined in Article 4 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 subparagraphs (a) and (b) of this paragraph, all such Builder's rights, titles, powers, privileges and remedies under the CSA;

without any recourse hereunder, however, against such 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 such Builder to construct and deliver its Equipment in accordance with the CSA or with respect to its warranties and agreements referred to in Article 13 of the CSA or relieve the Trustee from its obligations to the Builder

contained in Articles 2, 3, 4, 6 and 13 of the CSA, it being understood and agreed that, notwithstanding this Agreement, or any subsequent assignment pursuant to the provisions of Article 14 of the CSA, all obligations of such Builder to the Trustee shall be and remain enforceable by the Trustee, its successors and assigns, against and only against such Builder. In furtherance of the foregoing assignment and transfer, each 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 such 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. Each Builder agrees that it shall construct its 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 such Builder. Each 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 created under the CSA, this Assignment and the Lease; and such 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 such Builder under the CSA; all *subject, however,* to the provisions of the CSA and the rights of the Trustee thereunder.

SECTION 3. Each 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 its Equipment or to enforce any provision of the CSA, such 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 such Builder of any obligation with respect to its 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 such Builder. Each Builder's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 14 of the CSA, to strike any defense, setoff, counterclaim or recoupment asserted by the 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 such Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving such Builder the right, at such 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 appropriate Builder and in cases of designs, systems, processes, formulae or combinations specified by the Lessee and not developed or purported to be developed by such Builder, such Builder agrees 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 its 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 appropriate Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give such Builder the right, at such Builder's expense,

to compromise, settle or defend against such claim. Each 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 the Equipment or any unit thereof settled for under Section 4 hereof.

SECTION 4. Subject to the provisions of Article 3 of the CSA, the Assignee, on each Closing Date fixed as provided in Article 4 of the CSA with respect to a Group (as defined in said Article 4) of the Equipment, shall pay to the appropriate Builder an amount equal to the portion of the Purchase Price thereof which, under the terms of said Article 4, is payable in installments, provided that there shall have been delivered to the Assignee on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel, Messrs. Cravath, Swaine & Moore, in such number of counterparts as may be reasonably requested by said special counsel:

(a) an instrument or instruments from such Builder to the Assignee transferring to the Assignee the security interest of such Builder in such units, warranting to the Assignee and to the Trustee that, at the time of delivery of such units under the CSA, such 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 created under the CSA, this Assignment and 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 such Builder under the CSA;

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

(c) an invoice of the Builder for the units of its Equipment in such Group accompanied by or having endorsed thereon a certification by the Lessee and the Trustee as to their approval thereof;

(d) an opinion of counsel for such Builder, dated as of such Closing Date, addressed to the Assignee and the Trustee, to the effect that the aforesaid instrument or instruments have been duly authorized, executed and delivered by such Builder and are valid and effective to vest in the Assignee the security interest of the Builder in the units of the Equipment in such Group, free from all claims, liens, security title and interests and other encumbrances (other than those created by the CSA, this Assignment and the Lease) arising from, through or under such Builder; and

(e) a receipt from the appropriate 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 its 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 any payment provided for in this Section 4 is hereby expressly conditioned upon the Assignee's having on deposit, pursuant to the terms of the Participation Agreement pursuant to which the Assignee is acting as Agent, sufficient funds available thereunder to make such payment, and upon compliance by the Builder of the Equipment to be paid for with the provisions of Article 3 of the CSA. In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the appropriate Builder, without recourse to the Assignee unless the Assignee shall have failed to make such payment notwithstanding compliance with the provisions of Article 3 of the CSA and its receipt of the documents specified in this Section in satisfactory form as aforesaid, all rights, titles, interests, powers, privileges and remedies assigned to the Assignee pursuant to Section 1 hereof insofar as they relate to the units of its 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 14 of the CSA, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. Each Builder hereby:

(a) represents and warrants to the Assignee and the Trustee 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 such Builder is concerned, a legal, valid and existing agreement binding upon such Builder in accordance with its terms and that, insofar as such Builder is concerned, it is now in force without amendment thereto;

(b) agrees that it will from time to time, at the request of the Assignee, 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, subsequent to payment of the sums due it hereunder and under the CSA, upon request of the Assignee, 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 its Equipment.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Utah, *provided, however,* that the parties shall be entitled to all the rights conferred by 49 U.S.C. § 11303, such additional rights arising out of the filing, recording or depositing of the CSA and this Assignment as shall be conferred by the laws of the several jurisdictions in which the CSA or this Assignment shall be filed, recorded or deposited, or in which any unit of the Equipment shall be located, and any rights arising out of the marking on the units of Equipment.

SECTION 8. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument. Each Builder shall be bound hereunder notwithstanding the failure of the other Builder to execute and deliver this Assignment or to perform its obligations hereunder. 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.

BETHLEHEM STEEL CORPORATION,

by _____
Vice President

[CORPORATE SEAL]

Attest:

_____
Assistant Secretary

PULLMAN INCORPORATED
(Pullman Standard Division),

by _____
Vice President—Freight Unit

[CORPORATE SEAL]

Attest:

_____
Assistant Secretary

ACF INDUSTRIES, INCORPORATED,

by _____
Vice President

[CORPORATE SEAL]

Attest:

_____
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 February 1, 1980.

FIRST SECURITY STATE BANK, not in its individual capacity, but solely as Trustee,

by _____
Authorized Officer

COMMONWEALTH OF PENNSYLVANIA,
COUNTY OF LEHIGH, } ss.:

On this day of February, 1980, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of BETHLEHEM STEEL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[NOTARIAL SEAL]

My Commission Expires:

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

On this day of February, 1980, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President-Freight Unit of PULLMAN INCORPORATED (Pullman Standard Division), 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 NEW YORK,
COUNTY OF NEW YORK, } ss.:

On this day of February, 1980, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of ACF INDUSTRIES, INCORPORATED, 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,
CITY OF SALT LAKE, } ss.:

On this 5th day of February, 1980, before me personally appeared Robt S. Clark, 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 corporate 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 Marshall
Notary Public

[NOTARIAL SEAL]
My Commission Expires:
2-8-82