
MANUFACTURING AGREEMENT NO. 2

7252

Dated as of October 15, 1973

RECORDATION NO. _____ Filed & Recorded

among

DEC 3 1973 - 12 20 PM

INTERSTATE COMMERCE COMMISSION

BETHLEHEM STEEL CORPORATION

BORG WARNER EQUITIES CORPORATION

and

CANADIAN PACIFIC LIMITED

Covering 12 70-ton Pedestal Flat Cars

MANUFACTURING AGREEMENT NO. 2 dated as of October 15, 1973, among BETHLEHEM STEEL CORPORATION (hereinafter called the Manufacturer), BORG WARNER EQUITIES CORPORATION (hereinafter called the Company) and CANADIAN PACIFIC LIMITED, a corporation organized and existing under the laws of Canada (hereinafter called the Lessee).

WHEREAS the Manufacturer agrees to construct, sell and deliver to the Company and the Company agrees to purchase 12 new, standard gauge 70-ton pedestal flat cars (hereinafter called the Equipment); and

WHEREAS in consideration of the execution and delivery of this Agreement, the purchase agreements or purchase orders, if any, heretofore executed between the Lessee, the Manufacturer or others covering the Equipment are hereby canceled in so far as they relate to the Equipment; and

WHEREAS the Company proposes to enter into an Equipment Trust Agreement dated as of the date hereof (hereinafter called the Equipment Trust Agreement) with INTER NATIONAL BANK OF MIAMI, as Trustee (hereinafter called the Trustee); and

WHEREAS it is contemplated that, pursuant to the Equipment Trust Agreement, there will be paid by the Trustee and the Company to the Manufacturer on one or more Closing Dates (as hereinafter defined) the Purchase Price (as hereinafter defined) of all the Equipment; and

WHEREAS the Company, as lessor, proposes to enter into a Lease dated as of the date hereof to the Lessee in substantially the form annexed to the Equipment Trust Agreement as Annex B (hereinafter called the Lease) and the Lessee has joined in this Agreement for the purpose of making certain agreements as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. Construction and Sale. Subject to the terms and conditions hereinafter set forth, the Manufacturer will construct the Equipment at its plant at Johnstown, Pennsylvania, and will sell to the Company, and deliver the Equipment as hereinbelow provided and the Company will pay or cause the Trustee to pay to the Manufacturer the Purchase Price of the Equipment, each unit of which will be constructed in accordance with the specifications referred to in Schedule I hereto and in accordance with such modifications thereof as may have been agreed upon in writing by the Manufacturer and the Lessee (which specifications and modifications, if any, are hereinafter called the

Specifications) and will, at or before delivery thereof to the Lessee pursuant to Article 2 hereof, have the following ownership markings stencilled on each side thereof in a conspicuous place in letters not less than one inch in height:

"OWNED BY A CORPORATION, BANK OR TRUST COMPANY SUBJECT TO AN EQUIPMENT TRUST AGREEMENT FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20C".

The Manufacturer agrees that the design, quality and component parts of the Equipment except as to design, quality and component parts specified or supplied by the Lessee will conform to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to new railroad equipment of the character of such units of the Equipment as of the date of delivery thereof.

The Lessee agrees that the design, quality and component parts of the Equipment specified by it will conform to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads, reasonably interpreted as being applicable to new railroad equipment of the character of such units of Equipment as of the date of delivery thereof.

ARTICLE 2. Delivery and Security Interest. The Manufacturer will deliver the Equipment to the Lessee, as agent of the Trustee and the Company, freight charges, if any, prepaid, at Johnstown, Pennsylvania, and in accordance with the time of delivery schedule set forth in Schedule I hereto, provided, however, that no unit of the Equipment shall be delivered under this Agreement until this Agreement shall have been filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act (and in delivering the Equipment, the Manufacturer may rely upon telephonic or telegraphic advice from counsel for the Lessee that this Agreement has been so filed and recorded). Each unit of the Equipment shall be subject to a security interest retained by the Manufacturer until the Manufacturer is paid the Purchase Price of such unit pursuant to Article 3 hereof.

The Manufacturer and the Lessee each severally represents and warrants that, to the best of its knowledge, at the time of the delivery of the Equipment to the Lessee, as agent of the Trustee and the Company, the Equipment will be new railroad equipment, not having been used by any person after completion of manufacture and prior to delivery, and no amortization, depreciation or investment credit will have been claimed by any person with respect thereto.

The Manufacturer's obligation as to time of delivery is subject to delays resulting from causes beyond the Manufacturer's reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, labor shortages, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities or delays in receiving necessary materials.

Notwithstanding the preceding provisions of this Article 2, any unit of the Equipment not delivered, accepted and settled for pursuant to Article 3 hereof before April 15, 1974, shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement. If the Manufacturer's failure to deliver the units of the equipment so excluded from this Agreement resulted from one or more of the causes set forth in the immediately preceding paragraph, a separate agreement shall be entered into between the Manufacturer and the Lessee providing for the purchase of such excluded equipment by the Lessee on the terms herein specified, payment to be made in cash in accordance with the terms of this Agreement after delivery of such excluded equipment either directly or by means of a conditional sale, equipment trust or such other appropriate method of financing the purchase as the Lessee and the Manufacturer shall mutually determine.

The Equipment shall be subject to inspection and approval prior to delivery by inspectors or other authorized representatives of the Company and the Trustee (who may be employees or authorized representatives of the Lessee), and the Manufacturer shall grant to any such inspector or other authorized representative reasonable access to its plant. From time to time upon the completion of the construction of each unit or a number of units of the Equipment, such unit or units shall thereupon be presented to an inspector or other authorized representative of the Company and the Lessee for inspection at the Manufacturer's plant and, if each such unit conforms to the Specifications and the other requirements, specifications and standards set forth or referred to in Article 1 hereof, such inspector or authorized representative shall promptly execute and deliver to the Manufacturer, in such number of counterparts or copies as may reasonably be requested, a certificate of acceptance (hereinafter called a Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Company and the Trustee and are marked in accordance with Article 1 hereof; provided, however, that the Manufacturer shall not thereby be relieved of its warranty contained in Article 5 of this Agreement.

On acceptance of each of the units of the Equipment pursuant to this Article 2 on behalf of the Company and the Trustee as aforesaid, the Company assumes with respect thereto the

responsibility and risk of loss or damage and the Manufacturer shall deliver to the Trustee (i) an invoice describing such unit and stating that such unit is new standard gauge railroad equipment (other than passenger or work equipment) and that the Purchase Price of such unit is an amount therein specified in U.S. dollars and (ii) a bill of sale transferring such unit to the Trustee and warranting to the Trustee, the Company and to the Lessee that at the time of such delivery the Manufacturer had legal title to such unit and good and lawful right to sell the same and that title to such unit was, at the time of such delivery of such unit, free from all claims, liens, security interests and other encumbrances of any nature except as created by this Agreement, the Equipment Trust Agreement or as permitted by Section 6.01 thereof and except for the rights of the Lessee under the Lease.

ARTICLE 3. Purchase Price and Payment. The base price per unit of the Equipment, stated in U.S. dollars, is \$24,933. Such base price shall include freight charges, if any, prepaid by the Manufacturer, from the Manufacturer's plant to the point of delivery and is subject to such increase or decrease as may be or has been agreed to by the Manufacturer and the Lessee whether such prior agreement is canceled hereby or not. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased. If on any Closing Date the aggregate of (i) the aggregate Invoiced Purchase Prices (as hereinafter defined in this Article 3) for which settlement has theretofore been and is then being made under this Agreement and (ii) the aggregate Invoiced Purchase Prices as defined in Article 3 of Manufacturing Agreement No. 1 (as defined in the Equipment Trust Agreement), for which settlement has theretofore been made or is then scheduled to be made under said Manufacturing Agreement No. 1 would but for the provisions of this sentence, exceed \$4,650,000 (U.S.) (or such larger amount as the Company may at its option agree to), the Manufacturer and the Lessee will, upon request of the Company, enter into an agreement excluding from this Agreement such unit or units of the Equipment then proposed to be settled for as specified by the Company, as will, after giving effect to such exclusion, reduce such aggregate Invoiced Purchase Prices to not more than \$4,650,000 (U.S.) (or such larger amount as aforesaid); and the Lessee agrees to purchase on the terms herein specified any such unit or units of the Equipment so excluded from this Agreement from the Manufacturer for cash on such Closing Date, or on such other date to which the Manufacturer and the Lessee shall mutually agree, either directly or, if the Manufacturer and the Lessee shall mutually agree, by means of a conditional sale, equipment trust or other appropriate method of financing; in which event the Company shall execute such instruments and take such other action as shall be reasonably requested by the Lessee to vest in the Lessee or its designee, full title to such unit or units.

The Equipment shall be settled for in one group of Units of the Equipment delivered to and accepted by the Lessee, as agent for the Trustee, on a Closing Date fixed as hereinafter provided (the Equipment settled for on the Closing Date being hereinafter called the Group).

Subject to the provisions of Article 4 hereof, the Company hereby promises to pay or cause to be paid in cash to the Manufacturer at such place as the Manufacturer may designate, on the Closing Date with respect to the Group, an amount equal to (x) the Purchase Price of all units of the Equipment in the Group as set forth in the invoice or invoices therefor (such invoiced prices being herein called the Invoiced Purchase Prices), less (y) the amount paid to the Manufacturer by the Trustee pursuant to Section 3.02 of the Equipment Trust Agreement.

The term "Closing Date" with respect to the Group shall mean January 12, 1974, or such later date following the date of deposit of the net proceeds of the sale of the Equipment Trust Certificates (hereinafter called the Equipment Trust Certificates) issued pursuant to Section 2.01 of the Equipment Trust Agreement, following presentation by the Manufacturer to the Lessee of the invoice and the Certificate or Certificates of Acceptance for any such Group, as shall be fixed by the Company and the Lessee by written notice delivered to the Manufacturer and the Trustee at least five business days prior to the Closing Date designated therein and consented to in writing by the Trustee. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and legal holidays or days on which banking institutions are authorized by law to close in Miami, Florida, or New York, New York.

Upon payment to the Manufacturer for the Group as provided for in this Agreement, any and all claims, liens, security interests or other encumbrances of any nature of the Manufacturer with respect to title to the Group under this Agreement shall forthwith cease and determine.

ARTICLE 4. Conditions to Obligations of the Company. The obligation of the Company under this Agreement to pay or cause to be paid to the Manufacturer any amount required to be paid pursuant to the third paragraph of Article 3 hereof with respect to the Group of the Equipment is subject to the condition (a) that prior thereto or concurrently therewith the Trustee shall have paid to the Manufacturer the amount agreed to be paid under Section 3.02 of the Equipment Trust Agreement and (b) that the Company shall have received, on or prior to the Closing Date, the following documents in such number of counterparts or copies as may reasonably be requested in form and substance satisfactory to it:

(i) the bill or bills of sale from the Manufacturer to the Trustee referred to in the last paragraph of Article 2 hereof, with respect to the Equipment in the Group;

(ii) the Certificate or Certificates of Acceptance with respect to the Equipment in the Group, referred to in the fifth paragraph of Article 2 hereof and the Lessee's Certificate or Certificates of Acceptance with respect thereto referred to in Section 1 of the Lease;

(iii) the invoice or invoices with respect to the Equipment in the Group referred to in the last paragraph of Article 2 hereof, accompanied by or having endorsed thereon a certification by the Lessee as to the correctness of the prices of such Equipment as set forth in said invoices;

(iv) a signed copy of the opinion of counsel for the Lessee required by Section 3.04(d) of the Equipment Trust Agreement;

(v) a signed copy of the opinion of counsel for the Manufacturer required by Section 3.04(e) of the Equipment Trust Agreement;

(vi) a signed copy of the opinion of Messrs. McCarthy & McCarthy, special Canadian counsel, required by Section 3.04(f) of the Equipment Trust Agreement;

(vii) a Lessee's Certificate (as defined in the Equipment Trust Agreement) dated the Closing Date to the effect that no Event of Default (as defined in the Equipment Trust Agreement) which relates to the Lessee nor an Event of Default (as defined in the Lease), nor any event which with the lapse of time and/or notice provided for in the Equipment Trust Agreement or in the Lease would constitute such an Event of Default thereunder shall have occurred and be continuing; and

(viii) such other documents as the Company may reasonably request.

ARTICLE 5. Manufacturer's Warranty of Materials and Workmanship. The Manufacturer warrants that the units of the Equipment will be built in accordance with the Specifications and with the other requirements, specifications and standards set forth or referred to in Article 1 of this Agreement and warrants the Equipment will be free from defects in material (except as to specialties incorporated therein which were specified or supplied by the Lessee and not manufactured by the Manufacturer) and workmanship or design (except as to designs specified by the Lessee and not developed or purported to be developed by the Manufacturer) under normal use and service; the Manufacturer's

obligation under this paragraph being limited to making good at its plant any part or parts of any unit of the Equipment which shall be returned to the Manufacturer, the transportation charges prepaid, within one year after delivery of such unit and which the Manufacturer's examination shall disclose to its satisfaction to have been thus defective. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, and the Manufacturer neither makes nor authorizes any other person to make for it any other warranty in connection with the construction and delivery of the Equipment, except as aforesaid.

The Manufacturer further agrees that neither the inspection as provided in Article 2 of this Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in said Article 2, shall be deemed a waiver or modification by the Company, the Trustee and/or the Lessee of any of their rights under this Article 5.

ARTICLE 6. Patent Indemnities. Except in cases of articles or materials specified by the Lessee and not manufactured by the Manufacturer and in cases of designs, systems, processes, formulae or combinations specified by the Lessee and not developed or purported to be developed by the Manufacturer, the Manufacturer agrees to indemnify, protect and hold harmless the Lessee, the Company and the Trustee 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 Lessee, the Company and the Trustee, their assigns or the users of the Equipment because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Lessee likewise will indemnify, protect and hold harmless the Manufacturer, the Trustee and the Company 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 Manufacturer, the Trustee and the Company because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Lessee and not manufactured by the Manufacturer or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by the Manufacturer which infringes or is claimed to infringe on any patent or other right. The Manufacturer agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Lessee every claim, right and cause of action which the Manufacturer has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the

Lessee and purchased or otherwise acquired by the Manufacturer for use in or about the construction or operation of any of the Equipment, on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. The Manufacturer further agrees to execute and deliver to the Lessee or the users of the Equipment all and every such further assurance as may be reasonably requested by the Lessee more fully to effectuate the assignment and delivery of every such claim, right and cause of action. The Manufacturer will give notice to the Lessee of any claim known to the Manufacturer from which liability may be charged against the Lessee hereunder and the the Lessee and the Company, respectively, will give notice to the Manufacturer of any claim known to the Lessee or the Company, as the case may be, on the basis of which liability may be charged against the Manufacturer hereunder. For purposes of this Article 6, the term "Trustee" shall include each holder from time to time of any Trust Certificate or Trust Certificates.

ARTICLE 7. Taxes. All payments to be made or caused to be made by the Company or the Lessee hereunder will be free of expense to the Manufacturer with respect to the amount of any local, state, provincial, or federal United States or Canadian taxes (other than net income, gross receipts, franchise taxes measured by net income based on such receipts, excess profits and similar taxes), assessments, license fees, charges, fines or penalties levied or imposed upon, or in connection with, or measured by, this Agreement or any use, payment, shipment, delivery or transfer of title under the terms hereof, all of which taxes, assessments, license fees, charges, fines or penalties the Company or the Lessee, as the case may be, assumes and agrees to pay on demand in addition to the Purchase Price of the Equipment; provided, however, that the Company will have no obligation to pay any such taxes, assessments, license fees, charges, fines or penalties unless it shall have received payment thereof from the Lessee pursuant to Section 5 of the Lease.

ARTICLE 8. Notice. Any notice hereunder to the party designated below shall be deemed to be properly served if delivered or mailed to it at the following specified addresses:

(a) to the Company, at 4001 West Devon Avenue, Chicago, Illinois 60646, Attention of Vice President -- Finance;

(b) to the Lessee, at Windsor Station, Room 245, Montreal 101, Quebec, Canada, Attention of Vice President -- Finance and Accounting;

(c) to the Manufacturer, at Bethlehem Steel Corporation, Bethlehem, Pennsylvania 18016, Attention: Manager of Sales, Railroad Products;

or at such other addresses as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 9. Article Headings. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

ARTICLE 10. Effect and Modification of Agreement. This Agreement, and the Schedules relating hereto, exclusively and completely state the rights and agreements of the Manufacturer, the Company and the Lessee with respect to the Equipment and supersede all other agreements, oral or written, with respect to the Equipment. No variation of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and duly executed on behalf of the Company, the Manufacturer and the Lessee.

ARTICLE 11. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Pennsylvania.

ARTICLE 12. Successors and Assigns. As used herein the terms Manufacturer, Company, Trustee and Lessee shall be deemed to include the successors and assigns of the Manufacturer, the Company, the Trustee and the Lessee.

ARTICLE 13. Execution. This Agreement may be executed in any number of counterparts, each of which when so executed, shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this Agreement to be duly executed as of the date first above written.

BETHLEHEM STEEL CORPORATION

by



 Vice President

[Corporate Seal]

Attest:



 Assistant Secretary

BORG WARNER EQUITIES
CORPORATION

by

Vice President

[Corporate Seal]

Attest:

Secretary

CANADIAN PACIFIC LIMITED

by

Vice President
of the Company

[Corporate Seal]

Attest:

Secretary

COMMONWEALTH OF PENNSYLVANIA)

COUNTY OF LEHIGH)

) ss. :

On this 12th day of November, 1973, before me personally appeared FRANCIS VAN NUYS, 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.

[Handwritten Signature]

Notary Public

My Commission Expires
City of Bethlehem
Lehigh County
March 24, 1975

My commission expires:

[Notarial Seal]

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

On this day of , 1973, before me personally
appeared , to me personally known, who
being by me duly sworn, says that he is Vice President of BORG
WARNER EQUITIES 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]

SCHEDULE I

1. Specifications:
Bethlehem Specification 3400-353 date November 16, 1973.
2. Delivery Schedule:
Twelve cars not later than April 13, 1974.

MANUFACTURING AGREEMENT NO. 2

Dated as of October 15, 1973

among

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BORG WARNER EQUITIES CORPORATION

and

CANADIAN PACIFIC LIMITED

Covering 12 70-ton Pedestal Flat Cars

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WHEREAS in consideration of the execution and delivery of this Agreement, the purchase agreements or purchase orders, if any, heretofore executed between the Lessee, the Manufacturer or others covering the Equipment are hereby canceled in so far as they relate to the Equipment; and

WHEREAS the Company proposes to enter into an Equipment Trust Agreement dated as of the date hereof (hereinafter called the Equipment Trust Agreement) with INTER NATIONAL BANK OF MIAMI, as Trustee (hereinafter called the Trustee); and

WHEREAS it is contemplated that, pursuant to the Equipment Trust Agreement, there will be paid by the Trustee and the Company to the Manufacturer on one or more Closing Dates (as hereinafter defined) the Purchase Price (as hereinafter defined) of all the Equipment; and

WHEREAS the Company, as lessor, proposes to enter into a Lease dated as of the date hereof to the Lessee in substantially the form annexed to the Equipment Trust Agreement as Annex B (hereinafter called the Lease) and the Lessee has joined in this Agreement for the purpose of making certain agreements as hereinafter set forth.

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The Equipment shall be settled for in one group of Units of the Equipment delivered to and accepted by the Lessee, as agent for the Trustee, on a Closing Date fixed as hereinafter provided (the Equipment settled for on the Closing Date being hereinafter called the Group).

Subject to the provisions of Article 4 hereof, the Company hereby promises to pay or cause to be paid in cash to the Manufacturer at such place as the Manufacturer may designate, on the Closing Date with respect to the Group, an amount equal to (x) the Purchase Price of all units of the Equipment in the Group as set forth in the invoice or invoices therefor (such invoiced prices being herein called the Invoiced Purchase Prices), less (y) the amount paid to the Manufacturer by the Trustee pursuant to Section 3.02 of the Equipment Trust Agreement.

The term "Closing Date" with respect to the Group shall mean January 12, 1974, or such later date following the date of deposit of the net proceeds of the sale of the Equipment Trust Certificates (hereinafter called the Equipment Trust Certificates) issued pursuant to Section 2.01 of the Equipment Trust Agreement, following presentation by the Manufacturer to the Lessee of the invoice and the Certificate or Certificates of Acceptance for any such Group, as shall be fixed by the Company and the Lessee by written notice delivered to the Manufacturer and the Trustee at least five business days prior to the Closing Date designated therein and consented to in writing by the Trustee. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and legal holidays or days on which banking institutions are authorized by law to close in Miami, Florida, or New York, New York.

Upon payment to the Manufacturer for the Group as provided for in this Agreement, any and all claims, liens, security interests or other encumbrances of any nature of the Manufacturer with respect to title to the Group under this Agreement shall forthwith cease and determine.

ARTICLE 4. Conditions to Obligations of the Company. The obligation of the Company under this Agreement to pay or cause to be paid to the Manufacturer any amount required to be paid pursuant to the third paragraph of Article 3 hereof with respect to the Group of the Equipment is subject to the condition (a) that prior thereto or concurrently therewith the Trustee shall have paid to the Manufacturer the amount agreed to be paid under Section 3.02 of the Equipment Trust Agreement and (b) that the Company shall have received, on or prior to the Closing Date, the following documents in such number of counterparts or copies as may reasonably be requested in form and substance satisfactory to it:

(i) the bill or bills of sale from the Manufacturer to the Trustee referred to in the last paragraph of Article 2 hereof, with respect to the Equipment in the Group;

(ii) the Certificate or Certificates of Acceptance with respect to the Equipment in the Group, referred to in the fifth paragraph of Article 2 hereof and the Lessee's Certificate or Certificates of Acceptance with respect thereto referred to in Section 1 of the Lease;

(iii) the invoice or invoices with respect to the Equipment in the Group referred to in the last paragraph of Article 2 hereof, accompanied by or having endorsed thereon a certification by the Lessee as to the correctness of the prices of such Equipment as set forth in said invoices;

(iv) a signed copy of the opinion of counsel for the Lessee required by Section 3.04(d) of the Equipment Trust Agreement;

(v) a signed copy of the opinion of counsel for the Manufacturer required by Section 3.04(e) of the Equipment Trust Agreement;

(vi) a signed copy of the opinion of Messrs. McCarthy & McCarthy, special Canadian counsel, required by Section 3.04(f) of the Equipment Trust Agreement;

(vii) a Lessee's Certificate (as defined in the Equipment Trust Agreement) dated the Closing Date to the effect that no Event of Default (as defined in the Equipment Trust Agreement) which relates to the Lessee nor an Event of Default (as defined in the Lease), nor any event which with the lapse of time and/or notice provided for in the Equipment Trust Agreement or in the Lease would constitute such an Event of Default thereunder shall have occurred and be continuing; and

(viii) such other documents as the Company may reasonably request.

ARTICLE 5. Manufacturer's Warranty of Materials and Workmanship. The Manufacturer warrants that the units of the Equipment will be built in accordance with the Specifications and with the other requirements, specifications and standards set forth or referred to in Article 1 of this Agreement and warrants the Equipment will be free from defects in material (except as to specialties incorporated therein which were specified or supplied by the Lessee and not manufactured by the Manufacturer) and workmanship or design (except as to designs specified by the Lessee and not developed or purported to be developed by the Manufacturer) under normal use and service; the Manufacturer's

obligation under this paragraph being limited to making good at its plant any part or parts of any unit of the Equipment which shall be returned to the Manufacturer, the transportation charges prepaid, within one year after delivery of such unit and which the Manufacturer's examination shall disclose to its satisfaction to have been thus defective. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, and the Manufacturer neither makes nor authorizes any other person to make for it any other warranty in connection with the construction and delivery of the Equipment, except as aforesaid.

The Manufacturer further agrees that neither the inspection as provided in Article 2 of this Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in said Article 2, shall be deemed a waiver or modification by the Company, the Trustee and/or the Lessee of any of their rights under this Article 5.

ARTICLE 6. Patent Indemnities. Except in cases of articles or materials specified by the Lessee and not manufactured by the Manufacturer and in cases of designs, systems, processes, formulae or combinations specified by the Lessee and not developed or purported to be developed by the Manufacturer, the Manufacturer agrees to indemnify, protect and hold harmless the Lessee, the Company and the Trustee 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 Lessee, the Company and the Trustee, their assigns or the users of the Equipment because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Lessee likewise will indemnify, protect and hold harmless the Manufacturer, the Trustee and the Company 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 Manufacturer, the Trustee and the Company because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Lessee and not manufactured by the Manufacturer or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by the Manufacturer which infringes or is claimed to infringe on any patent or other right. The Manufacturer agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Lessee every claim, right and cause of action which the Manufacturer has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the

Lessee and purchased or otherwise acquired by the Manufacturer for use in or about the construction or operation of any of the Equipment, on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. The Manufacturer further agrees to execute and deliver to the Lessee or the users of the Equipment all and every such further assurance as may be reasonably requested by the Lessee more fully to effectuate the assignment and delivery of every such claim, right and cause of action. The Manufacturer will give notice to the Lessee of any claim known to the Manufacturer from which liability may be charged against the Lessee hereunder and the the Lessee and the Company, respectively, will give notice to the Manufacturer of any claim known to the Lessee or the Company, as the case may be, on the basis of which liability may be charged against the Manufacturer hereunder. For purposes of this Article 6, the term "Trustee" shall include each holder from time to time of any Trust Certificate or Trust Certificates.

ARTICLE 7. Taxes. All payments to be made or caused to be made by the Company or the Lessee hereunder will be free of expense to the Manufacturer with respect to the amount of any local, state, provincial, or federal United States or Canadian taxes (other than net income, gross receipts, franchise taxes measured by net income based on such receipts, excess profits and similar taxes), assessments, license fees, charges, fines or penalties levied or imposed upon, or in connection with, or measured by, this Agreement or any use, payment, shipment, delivery or transfer of title under the terms hereof, all of which taxes, assessments, license fees, charges, fines or penalties the Company or the Lessee, as the case may be, assumes and agrees to pay on demand in addition to the Purchase Price of the Equipment; provided, however, that the Company will have no obligation to pay any such taxes, assessments, license fees, charges, fines or penalties unless it shall have received payment thereof from the Lessee pursuant to Section 5 of the Lease.

ARTICLE 8. Notice. Any notice hereunder to the party designated below shall be deemed to be properly served if delivered or mailed to it at the following specified addresses:

(a) to the Company, at 4001 West Devon Avenue, Chicago, Illinois 60646, Attention of Vice President -- Finance;

(b) to the Lessee, at Windsor Station, Room 245, Montreal 101, Quebec, Canada, Attention of Vice President -- Finance and Accounting;

(c) to the Manufacturer, at Bethlehem Steel Corporation, Bethlehem, Pennsylvania 18016, Attention: Manager of Sales, Railroad Products;

or at such other addresses as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 9. Article Headings. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

ARTICLE 10. Effect and Modification of Agreement. This Agreement, and the Schedules relating hereto, exclusively and completely state the rights and agreements of the Manufacturer, the Company and the Lessee with respect to the Equipment and supersede all other agreements, oral or written, with respect to the Equipment. No variation of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and duly executed on behalf of the Company, the Manufacturer and the Lessee.

ARTICLE 11. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Pennsylvania.

ARTICLE 12. Successors and Assigns. As used herein the terms Manufacturer, Company, Trustee and Lessee shall be deemed to include the successors and assigns of the Manufacturer, the Company, the Trustee and the Lessee.

ARTICLE 13. Execution. This Agreement may be executed in any number of counterparts, each of which when so executed, shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this Agreement to be duly executed as of the date first above written.

BETHLEHEM STEEL CORPORATION

by

Vice President

[Corporate Seal]

Attest:

Assistant Secretary

BORG WARNER EQUITIES
CORPORATION

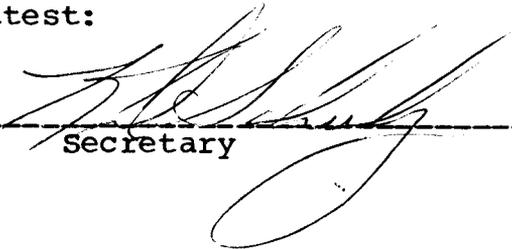
by



Vice President

[Corporate Seal]

Attest:



Secretary

CANADIAN PACIFIC LIMITED

by

Vice President
of the Company

[Corporate Seal]

Attest:

Secretary

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

On this *9th* day of *November*, 1973, before me personally appeared *J. G. Quinnet*, to me personally known, who being by me duly sworn, says that he is Vice President of BORG WARNER EQUITIES 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.

My Commission Expires Sept. 13, 1976

Kathryn K. Hornak

Notary Public

[Notarial Seal]

PROVINCE OF QUEBEC)
) ss.:
 CITY OF MONTREAL)

On this day of , 1973, before me personally
 appeared , to me personally known, who,
 being by me duly sworn, says that he is Vice President of the
 Company of CANADIAN PACIFIC LIMITED, that one of the seals
 affixed to the foregoing instrument is the corporate seal of said
 corporation and 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.

 Commissioner of Oaths

My commission is for life.

[Commissioner's Seal]

SCHEDULE I

1. Specifications:
Bethlehem Specification 3400-353 date November 16, 1973.
2. Delivery Schedule:
Twelve cars not later than April 13, 1974.

MANUFACTURING AGREEMENT NO. 2

Dated as of October 15, 1973

among

BETHLEHEM STEEL CORPORATION

BORG WARNER EQUITIES CORPORATION

and

CANADIAN PACIFIC LIMITED

Covering 12 70-ton Pedestal Flat Cars

MANUFACTURING AGREEMENT NO. 2 dated as of October 15, 1973, among BETHLEHEM STEEL CORPORATION (hereinafter called the Manufacturer), BORG WARNER EQUITIES CORPORATION (hereinafter called the Company) and CANADIAN PACIFIC LIMITED, a corporation organized and existing under the laws of Canada (hereinafter called the Lessee).

WHEREAS the Manufacturer agrees to construct, sell and deliver to the Company and the Company agrees to purchase 12 new, standard gauge 70-ton pedestal flat cars (hereinafter called the Equipment); and

WHEREAS in consideration of the execution and delivery of this Agreement, the purchase agreements or purchase orders, if any, heretofore executed between the Lessee, the Manufacturer or others covering the Equipment are hereby canceled in so far as they relate to the Equipment; and

WHEREAS the Company proposes to enter into an Equipment Trust Agreement dated as of the date hereof (hereinafter called the Equipment Trust Agreement) with INTER NATIONAL BANK OF MIAMI, as Trustee (hereinafter called the Trustee); and

WHEREAS it is contemplated that, pursuant to the Equipment Trust Agreement, there will be paid by the Trustee and the Company to the Manufacturer on one or more Closing Dates (as hereinafter defined) the Purchase Price (as hereinafter defined) of all the Equipment; and

WHEREAS the Company, as lessor, proposes to enter into a Lease dated as of the date hereof to the Lessee in substantially the form annexed to the Equipment Trust Agreement as Annex B (hereinafter called the Lease) and the Lessee has joined in this Agreement for the purpose of making certain agreements as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. Construction and Sale. Subject to the terms and conditions hereinafter set forth, the Manufacturer will construct the Equipment at its plant at Johnstown, Pennsylvania, and will sell to the Company, and deliver the Equipment as hereinbelow provided and the Company will pay or cause the Trustee to pay to the Manufacturer the Purchase Price of the Equipment, each unit of which will be constructed in accordance with the specifications referred to in Schedule I hereto and in accordance with such modifications thereof as may have been agreed upon in writing by the Manufacturer and the Lessee (which specifications and modifications, if any, are hereinafter called the

Specifications) and will, at or before delivery thereof to the Lessee pursuant to Article 2 hereof, have the following ownership markings stencilled on each side thereof in a conspicuous place in letters not less than one inch in height:

"OWNED BY A CORPORATION, BANK OR TRUST COMPANY SUBJECT TO AN EQUIPMENT TRUST AGREEMENT FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20C".

The Manufacturer agrees that the design, quality and component parts of the Equipment except as to design, quality and component parts specified or supplied by the Lessee will conform to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to new railroad equipment of the character of such units of the Equipment as of the date of delivery thereof.

The Lessee agrees that the design, quality and component parts of the Equipment specified by it will conform to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads, reasonably interpreted as being applicable to new railroad equipment of the character of such units of Equipment as of the date of delivery thereof.

ARTICLE 2. Delivery and Security Interest. The Manufacturer will deliver the Equipment to the Lessee, as agent of the Trustee and the Company, freight charges, if any, prepaid, at Johnstown, Pennsylvania, and in accordance with the time of delivery schedule set forth in Schedule I hereto, provided, however, that no unit of the Equipment shall be delivered under this Agreement until this Agreement shall have been filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act (and in delivering the Equipment, the Manufacturer may rely upon telephonic or telegraphic advice from counsel for the Lessee that this Agreement has been so filed and recorded). Each unit of the Equipment shall be subject to a security interest retained by the Manufacturer until the Manufacturer is paid the Purchase Price of such unit pursuant to Article 3 hereof.

The Manufacturer and the Lessee each severally represents and warrants that, to the best of its knowledge, at the time of the delivery of the Equipment to the Lessee, as agent of the Trustee and the Company, the Equipment will be new railroad equipment, not having been used by any person after completion of manufacture and prior to delivery, and no amortization, depreciation or investment credit will have been claimed by any person with respect thereto.

The Manufacturer's obligation as to time of delivery is subject to delays resulting from causes beyond the Manufacturer's reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, labor shortages, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities or delays in receiving necessary materials.

Notwithstanding the preceding provisions of this Article 2, any unit of the Equipment not delivered, accepted and settled for pursuant to Article 3 hereof before April 15, 1974, shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement. If the Manufacturer's failure to deliver the units of the equipment so excluded from this Agreement resulted from one or more of the causes set forth in the immediately preceding paragraph, a separate agreement shall be entered into between the Manufacturer and the Lessee providing for the purchase of such excluded equipment by the Lessee on the terms herein specified, payment to be made in cash in accordance with the terms of this Agreement after delivery of such excluded equipment either directly or by means of a conditional sale, equipment trust or such other appropriate method of financing the purchase as the Lessee and the Manufacturer shall mutually determine.

The Equipment shall be subject to inspection and approval prior to delivery by inspectors or other authorized representatives of the Company and the Trustee (who may be employees or authorized representatives of the Lessee), and the Manufacturer shall grant to any such inspector or other authorized representative reasonable access to its plant. From time to time upon the completion of the construction of each unit or a number of units of the Equipment, such unit or units shall thereupon be presented to an inspector or other authorized representative of the Company and the Lessee for inspection at the Manufacturer's plant and, if each such unit conforms to the Specifications and the other requirements, specifications and standards set forth or referred to in Article 1 hereof, such inspector or authorized representative shall promptly execute and deliver to the Manufacturer, in such number of counterparts or copies as may reasonably be requested, a certificate of acceptance (hereinafter called a Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Company and the Trustee and are marked in accordance with Article 1 hereof; provided, however, that the Manufacturer shall not thereby be relieved of its warranty contained in Article 5 of this Agreement.

On acceptance of each of the units of the Equipment pursuant to this Article 2 on behalf of the Company and the Trustee as aforesaid, the Company assumes with respect thereto the

responsibility and risk of loss or damage and the Manufacturer shall deliver to the Trustee (i) an invoice describing such unit and stating that such unit is new standard gauge railroad equipment (other than passenger or work equipment) and that the Purchase Price of such unit is an amount therein specified in U.S. dollars and (ii) a bill of sale transferring such unit to the Trustee and warranting to the Trustee, the Company and to the Lessee that at the time of such delivery the Manufacturer had legal title to such unit and good and lawful right to sell the same and that title to such unit was, at the time of such delivery of such unit, free from all claims, liens, security interests and other encumbrances of any nature except as created by this Agreement, the Equipment Trust Agreement or as permitted by Section 6.01 thereof and except for the rights of the Lessee under the Lease.

ARTICLE 3. Purchase Price and Payment. The base price per unit of the Equipment, stated in U.S. dollars, is \$24,933. Such base price shall include freight charges, if any, prepaid by the Manufacturer, from the Manufacturer's plant to the point of delivery and is subject to such increase or decrease as may be or has been agreed to by the Manufacturer and the Lessee whether such prior agreement is canceled hereby or not. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased. If on any Closing Date the aggregate of (i) the aggregate Invoiced Purchase Prices (as hereinafter defined in this Article 3) for which settlement has theretofore been and is then being made under this Agreement and (ii) the aggregate Invoiced Purchase Prices as defined in Article 3 of Manufacturing Agreement No. 1 (as defined in the Equipment Trust Agreement), for which settlement has theretofore been made or is then scheduled to be made under said Manufacturing Agreement No. 1 would but for the provisions of this sentence, exceed \$4,650,000 (U.S.) (or such larger amount as the Company may at its option agree to), the Manufacturer and the Lessee will, upon request of the Company, enter into an agreement excluding from this Agreement such unit or units of the Equipment then proposed to be settled for as specified by the Company, as will, after giving effect to such exclusion, reduce such aggregate Invoiced Purchase Prices to not more than \$4,650,000 (U.S.) (or such larger amount as aforesaid); and the Lessee agrees to purchase on the terms herein specified any such unit or units of the Equipment so excluded from this Agreement from the Manufacturer for cash on such Closing Date, or on such other date to which the Manufacturer and the Lessee shall mutually agree, either directly or, if the Manufacturer and the Lessee shall mutually agree, by means of a conditional sale, equipment trust or other appropriate method of financing; in which event the Company shall execute such instruments and take such other action as shall be reasonably requested by the Lessee to vest in the Lessee or its designee, full title to such unit or units.

The Equipment shall be settled for in one group of Units of the Equipment delivered to and accepted by the Lessee, as agent for the Trustee, on a Closing Date fixed as hereinafter provided (the Equipment settled for on the Closing Date being hereinafter called the Group).

Subject to the provisions of Article 4 hereof, the Company hereby promises to pay or cause to be paid in cash to the Manufacturer at such place as the Manufacturer may designate, on the Closing Date with respect to the Group, an amount equal to (x) the Purchase Price of all units of the Equipment in the Group as set forth in the invoice or invoices therefor (such invoiced prices being herein called the Invoiced Purchase Prices), less (y) the amount paid to the Manufacturer by the Trustee pursuant to Section 3.02 of the Equipment Trust Agreement.

The term "Closing Date" with respect to the Group shall mean January 12, 1974, or such later date following the date of deposit of the net proceeds of the sale of the Equipment Trust Certificates (hereinafter called the Equipment Trust Certificates) issued pursuant to Section 2.01 of the Equipment Trust Agreement, following presentation by the Manufacturer to the Lessee of the invoice and the Certificate or Certificates of Acceptance for any such Group, as shall be fixed by the Company and the Lessee by written notice delivered to the Manufacturer and the Trustee at least five business days prior to the Closing Date designated therein and consented to in writing by the Trustee. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and legal holidays or days on which banking institutions are authorized by law to close in Miami, Florida, or New York, New York.

Upon payment to the Manufacturer for the Group as provided for in this Agreement, any and all claims, liens, security interests or other encumbrances of any nature of the Manufacturer with respect to title to the Group under this Agreement shall forthwith cease and determine.

ARTICLE 4. Conditions to Obligations of the Company. The obligation of the Company under this Agreement to pay or cause to be paid to the Manufacturer any amount required to be paid pursuant to the third paragraph of Article 3 hereof with respect to the Group of the Equipment is subject to the condition (a) that prior thereto or concurrently therewith the Trustee shall have paid to the Manufacturer the amount agreed to be paid under Section 3.02 of the Equipment Trust Agreement and (b) that the Company shall have received, on or prior to the Closing Date, the following documents in such number of counterparts or copies as may reasonably be requested in form and substance satisfactory to it:

(i) the bill or bills of sale from the Manufacturer to the Trustee referred to in the last paragraph of Article 2 hereof, with respect to the Equipment in the Group;

(ii) the Certificate or Certificates of Acceptance with respect to the Equipment in the Group, referred to in the fifth paragraph of Article 2 hereof and the Lessee's Certificate or Certificates of Acceptance with respect thereto referred to in Section 1 of the Lease;

(iii) the invoice or invoices with respect to the Equipment in the Group referred to in the last paragraph of Article 2 hereof, accompanied by or having endorsed thereon a certification by the Lessee as to the correctness of the prices of such Equipment as set forth in said invoices;

(iv) a signed copy of the opinion of counsel for the Lessee required by Section 3.04(d) of the Equipment Trust Agreement;

(v) a signed copy of the opinion of counsel for the Manufacturer required by Section 3.04(e) of the Equipment Trust Agreement;

(vi) a signed copy of the opinion of Messrs. McCarthy & McCarthy, special Canadian counsel, required by Section 3.04(f) of the Equipment Trust Agreement;

(vii) a Lessee's Certificate (as defined in the Equipment Trust Agreement) dated the Closing Date to the effect that no Event of Default (as defined in the Equipment Trust Agreement) which relates to the Lessee nor an Event of Default (as defined in the Lease), nor any event which with the lapse of time and/or notice provided for in the Equipment Trust Agreement or in the Lease would constitute such an Event of Default thereunder shall have occurred and be continuing; and

(viii) such other documents as the Company may reasonably request.

ARTICLE 5. Manufacturer's Warranty of Materials and Workmanship. The Manufacturer warrants that the units of the Equipment will be built in accordance with the Specifications and with the other requirements, specifications and standards set forth or referred to in Article 1 of this Agreement and warrants the Equipment will be free from defects in material (except as to specialties incorporated therein which were specified or supplied by the Lessee and not manufactured by the Manufacturer) and workmanship or design (except as to designs specified by the Lessee and not developed or purported to be developed by the Manufacturer) under normal use and service; the Manufacturer's

obligation under this paragraph being limited to making good at its plant any part or parts of any unit of the Equipment which shall be returned to the Manufacturer, the transportation charges prepaid, within one year after delivery of such unit and which the Manufacturer's examination shall disclose to its satisfaction to have been thus defective. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, and the Manufacturer neither makes nor authorizes any other person to make for it any other warranty in connection with the construction and delivery of the Equipment, except as aforesaid.

The Manufacturer further agrees that neither the inspection as provided in Article 2 of this Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in said Article 2, shall be deemed a waiver or modification by the Company, the Trustee and/or the Lessee of any of their rights under this Article 5.

ARTICLE 6. Patent Indemnities. Except in cases of articles or materials specified by the Lessee and not manufactured by the Manufacturer and in cases of designs, systems, processes, formulae or combinations specified by the Lessee and not developed or purported to be developed by the Manufacturer, the Manufacturer agrees to indemnify, protect and hold harmless the Lessee, the Company and the Trustee 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 Lessee, the Company and the Trustee, their assigns or the users of the Equipment because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Lessee likewise will indemnify, protect and hold harmless the Manufacturer, the Trustee and the Company 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 Manufacturer, the Trustee and the Company because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Lessee and not manufactured by the Manufacturer or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by the Manufacturer which infringes or is claimed to infringe on any patent or other right. The Manufacturer agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Lessee every claim, right and cause of action which the Manufacturer has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the

Lessee and purchased or otherwise acquired by the Manufacturer for use in or about the construction or operation of any of the Equipment, on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. The Manufacturer further agrees to execute and deliver to the Lessee or the users of the Equipment all and every such further assurance as may be reasonably requested by the Lessee more fully to effectuate the assignment and delivery of every such claim, right and cause of action. The Manufacturer will give notice to the Lessee of any claim known to the Manufacturer from which liability may be charged against the Lessee hereunder and the the Lessee and the Company, respectively, will give notice to the Manufacturer of any claim known to the Lessee or the Company, as the case may be, on the basis of which liability may be charged against the Manufacturer hereunder. For purposes of this Article 6, the term "Trustee" shall include each holder from time to time of any Trust Certificate or Trust Certificates.

ARTICLE 7. Taxes. All payments to be made or caused to be made by the Company or the Lessee hereunder will be free of expense to the Manufacturer with respect to the amount of any local, state, provincial, or federal United States or Canadian taxes (other than net income, gross receipts, franchise taxes measured by net income based on such receipts, excess profits and similar taxes), assessments, license fees, charges, fines or penalties levied or imposed upon, or in connection with, or measured by, this Agreement or any use, payment, shipment, delivery or transfer of title under the terms hereof, all of which taxes, assessments, license fees, charges, fines or penalties the Company or the Lessee, as the case may be, assumes and agrees to pay on demand in addition to the Purchase Price of the Equipment; provided, however, that the Company will have no obligation to pay any such taxes, assessments, license fees, charges, fines or penalties unless it shall have received payment thereof from the Lessee pursuant to Section 5 of the Lease.

ARTICLE 8. Notice. Any notice hereunder to the party designated below shall be deemed to be properly served if delivered or mailed to it at the following specified addresses:

(a) to the Company, at 4001 West Devon Avenue, Chicago, Illinois 60646, Attention of Vice President -- Finance;

(b) to the Lessee, at Windsor Station, Room 245, Montreal 101, Quebec, Canada, Attention of Vice President -- Finance and Accounting;

(c) to the Manufacturer, at Bethlehem Steel Corporation, Bethlehem, Pennsylvania 18016, Attention: Manager of Sales, Railroad Products;

or at such other addresses as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 9. Article Headings. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

ARTICLE 10. Effect and Modification of Agreement. This Agreement, and the Schedules relating hereto, exclusively and completely state the rights and agreements of the Manufacturer, the Company and the Lessee with respect to the Equipment and supersede all other agreements, oral or written, with respect to the Equipment. No variation of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and duly executed on behalf of the Company, the Manufacturer and the Lessee.

ARTICLE 11. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Pennsylvania.

ARTICLE 12. Successors and Assigns. As used herein the terms Manufacturer, Company, Trustee and Lessee shall be deemed to include the successors and assigns of the Manufacturer, the Company, the Trustee and the Lessee.

ARTICLE 13. Execution. This Agreement may be executed in any number of counterparts, each of which when so executed, shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this Agreement to be duly executed as of the date first above written.

BETHLEHEM STEEL CORPORATION

by

Vice President

[Corporate Seal]

Attest:

Assistant Secretary

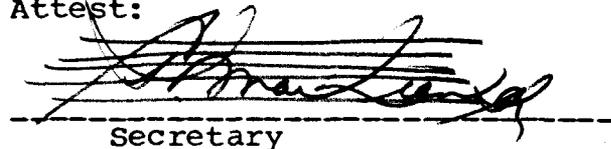
BORG WARNER EQUITIES
CORPORATION

by

Vice President

[Corporate Seal]

Attest:



Secretary

CANADIAN PACIFIC LIMITED

by



Vice President
of the Company

[Corporate Seal]

Attest:



Secretary

SSISTANT

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

On this day of , 1973, before me personally
appeared , to me personally known, who
being by me duly sworn, says that he is Vice President of BORG
WARNER EQUITIES 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]

SCHEDULE I

1. Specifications:
Bethlehem Specification 3400-353 date November 16, 1973.
2. Delivery Schedule:
Twelve cars not later than April 13, 1974.

ANNEX A

Twelve 70-ton flush deck flat cars with saddleback equipment, bearing Bethlehem Steel Corporation identifying numbers CPAA-570025 to CPAA-570036, inclusive.