

# RSL CORP.

RECEIVED

OCT 27 1 43 PM '78

2510 Van Ness Avenue, San Francisco, California 94109 (415) ~~775-6800~~ 775-6800 FEE OPERATION BR. I. C. C.

No. ~~8-300419~~  
Date **OCT 27 1978**  
Fee \$ 100.00

**9800**  
RECORDATION NO. **9800** FILED 1428  
**OCT 27 1978 1 52 PM**  
**INTERSTATE COMMERCE COMMISSION**

October 23, 1978 /  
RECORDATION NO. **9805** FILED 1428

ICC Washington, D. C.  
Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

**9800-A**  
RECORDATION NO. **9800** FILED 1428  
**OCT 27 1978 1 52 PM**  
**INTERSTATE COMMERCE COMMISSION**

Dear Sir:

Enclosed for filing and recording pursuant to Section 20c of the Interstate Commerce Act are the following documents relating to the railroad equipment described and marked in accordance with Schedule I attached hereto:

1. Loan and Security Agreement dated as of October 23, 1978 between Bank of California, N.A. and Thomas B. Garber
2. Lease Agreement dated as of May 10, 1978 between Thomas B. Garber and Celanese Plastic Company a division of Celanese Corporation (including Rider No. 1 thereto).

The names and addresses of the parties to the above transactions are as follows:

1. Loan and Security Agreement
  - (a) Lender: Bank of California, N.A.  
400 California Street  
San Francisco, California 94104
  - (b) Debtor: Thomas B. Garber  
2510 Van Ness Ave.  
San Francisco, California 94109
2. Lease Agreement
  - (a) Lessor: Thomas B. Garber  
2510 Van Ness Ave.  
San Francisco, California 94109
  - (b) Lessee: Celanese Corporation  
Celanese Plastic Company Division  
26 Main Street  
Chatham, New Jersey 07928

*Handwritten signature: Thomas B. Garber*

*Handwritten mark*

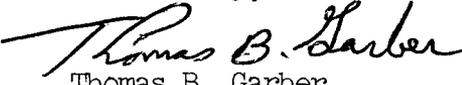
(c) Assignee: Bank of California, N.A.  
400 California Street  
San Francisco, California 94104

Also enclosed is our check payable to the order of the Interstate Commerce Commission in the amount of \$100.00, the prescribed fee for filing and recording the enclosed documents.

Please file and record the enclosed documents and cross-index them under the names of, in the case of the Loan and Security, the Lender and the Debtor and, in the case of the Lease Agreement, the Lessor and Lessee.

Return to the person presenting this letter, together with your letter confirming such filing and recordation and your fee receipt therefor, all counterparts of the enclosed documents not required for filing.

Yours truly,

  
Thomas B. Garber

EQUIPMENT SCHEDULE No. A

Thomas B. Garber hereby leases the following Cars to Celanese Corporation pursuant to that certain Lease Agreement dated as of October 20, 1978.

A.A.R. Mech. Design	Description	Numbers	Dimensions			No. of Cars
			Length	Inside Width	Height	
LO	Covered Hoppers	11001- 11025	59'4"	10'4"	15'1"	25

CELANESE CORPORATION

BY: \_\_\_\_\_  
Thomas B. Garber

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

STATE OF .....  
COUNTY OF .....

On this ..... day of ....., 197..., before me personally appeared ..... to me personally known, who being by me duly sworn says that such person is ..... of ..... that the foregoing Lease Agreement, Rider(s) No. .... and Equipment Schedule(s) No. .... were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the acts and deeds of such corporation.

---

Notary Public

STATE OF.....  
COUNTY OF .....

On this ..... day of ....., 197..., before me personally appeared ..... to me personally known, who being by me duly sworn says that such person is ..... of BRAE CORPORATION, that the foregoing Lease Agreement, Rider(s) No. .... and Equipment Schedule(s) No. .... were signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instruments were the free acts and deeds of such corporation.

---

Notary Public

## EQUIPMENT SCHEDULE No. A

A. A. R. Mech. Design	Description	Numbers	Dimensions Inside			No. of Cars
			Length	Width	Height	
LO	Covered Hoppers	11001- 11025	59'4"	10'4"	15'1"	25

**Interstate Commerce Commission**  
**Washington, D.C. 20423**

10/27/78

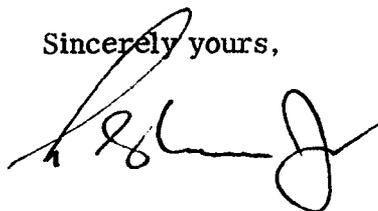
OFFICE OF THE SECRETARY

Thomas B. Garber  
RSL Corp.  
2510 Van Ness Ave.  
San Francisco, Calif. 94109

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 10/27/78 at 1:50pm and assigned recordation number(s) 9405, 9806-~~8~~ 9806-A

Sincerely yours,



H.G. Homme, Jr.,  
Acting Secretary

Enclosure(s)

SE-30-T  
(2/78)

9806  
RECORDATION NO. .... Filed 1428

JCC

OCT 27 1978 1 10 PM

Contract No. 1

INTERSTATE COMMERCE COMMISSION

THOMAS B. GARBER

RAIL CAR LEASE AND SERVICE CONTRACT

THIS AGREEMENT, made this 10<sup>th</sup> day of May, 1978 by and between Thomas B. Garber having its principal office at 2510 Van Ness Avenue, San Francisco, California 94109 hereinafter called "Lessor", and Celanese Plastics Company, a Division of Celanese Corp. a Delaware Corporation, having its principal office at 26 Main Street, Chatham, New Jersey, 07928, hereinafter called "Lessee".

W I T N E S S E T H:

Rental and Service Charges. Lessor hereby leases to the Lessee, and the Lessee hereby leases and hires from the Lessor and agrees to accept delivery of, upon the terms and conditions set forth herein and in the "riders" attached hereto and made a part hereof (hereinafter referred to as the "Riders", this instrument, together with the Riders shall be herein referred to as the "Agreement"), the covered hoppers (for plastic pellets) cars described in the Riders (hereinafter referred to singularly as the "Car" or collectively as the "Cars") for the use of each of which Cars the Lessee agrees to pay the Lessor the rental and service charges for the full term hereof all as set forth in the Riders.

Payment. Lessee agrees to pay said rental and service charges to Lessor at its principal office as described above on the first day of each calendar month in advance, without deduction except that the Lessee shall pay in advance on the delivery of each Car respectively a pro rata portion of one month's rental and service charges for the period intervening the date of delivery and the first of the next succeeding calendar month and shall pay only the pro rata portion of such monthly charge attributable to any fractional month accruing at the termination of this lease.

Inspection of Car. Each of the Cars shall be subject to Lessee's inspection before loading; and the successful loading of such Car shall constitute acceptance thereof of Lessee, and shall be conclusive evidence (i) of the fit and suitable condition of such Car for the purpose of transporting the commodities then and thereafter loaded therein and (ii) that it is one of the Cars described in the Riders. In any event, however, monthly rental and service charges shall be paid from the date of delivery at the point of delivery described in the Riders.

Responsibility of Lading. Lessor shall not be liable for any loss of, or damage to, commodities, or any part thereof, loaded or shipped in the Cars, however such loss or damage shall be caused, or shall result. Lessee agrees to assume responsibility for, to indemnify Lessor against, and to save it harmless from, any such loss or damage, or claim therefor, except if such loss, damage or claim is directly attributable to the fault or neglect of Lessor.

Damage to Car Resulting from Lading. In the event any of the Cars, or the hopper, fittings or appurtenances thereto, including the interior lining for tanks so equipped, shall become damaged by the commodity loaded therein, Lessee agrees to assume the responsibility for such damage.

Alteration and Lettering. Lessee will preserve the Cars in good condition and will not in any way alter the physical structure of the Cars without the advance approval in writing of Lessor. Lessee shall place no lettering or marking of any kind upon the Cars without Lessor's prior written consent, except that, for the purpose of evidencing the operation of the Cars in Lessee's service hereunder, Lessee will be permitted to board, and placard the Cars with letters not to exceed two inches (2") in height.

Limitations on Use. Lessee will not use the Cars in a "unit train" without advance approval in writing of the Lessor. Lessee agrees not to load any of the Cars in excess of the load limit stenciled thereon.

Maintenance. Lessor agrees to maintain the cars in accordance with the present requirements and in compliance with the new existing A.A.R. rules of interchange, and Lessee agrees to forward the cars to the shops of the Lessor for periodic maintenance repairs as may be directed by the Lessor upon reasonable (not less than ten [10] days) prior written notice from Lessor to Lessee. Lessee shall at its expense replace any removable parts if lost or broken. If any of the cars shall be completely destroyed, or if the physical condition of any car shall become such that such car cannot be operated in railroad service as determined by the Lessor, then Lessor may at its option cancel this lease as to such car as of the date on which such event occurred, or may substitute therefor another car within a reasonable period of time. As cars are placed in a shop for maintenance and/or repair at the direction of Lessor, the rental charges on each such car shall cease five days after arrival at such shop and will be reinstated on date such car is ready to leave such shop to Lessee's specified point suitable for service. If a car becomes bad order while en route and is placed in railroad shops for repairs, then after the lapse of five days the rent on the car so placed shall cease until such car is returned to Lessee's service. If any repairs are required as a result of the misuse by or negligence of Lessee, its consignee, agent or sub-lessee, the rental charge shall continue during the period of repair and Lessee will pay Lessor for the cost of repairs within ten (10) days after receipt of invoice from Lessor.

Indemnity. Lessee will indemnify Lessor against any loss, damage, claim, expense (including attorney's fees and expenses of litigation) or injury imposed on, incurred by, or asserted against Lessor arising, directly or indirectly, out of Lessee's or any sub-lessee's use, lease, possession, or operation of the Cars occurring during the term of this lease, or by the contents of such Cars, howsoever occurring, except any loss, liability, claim, damage, or expense which is directly attributable to the fault or neglect of the Lessor, or for which a railroad or railroads have assumed full responsibility and satisfy such responsibility. All indemnities contained in this Agreement shall survive the termination hereof, however same shall occur.

Return of Cars. Upon the expiration or termination of this lease as to any of the Cars, Lessee agrees to return each of the Cars in good working order, ordinary wear and tear excepted, free from all charges and liens which may result from any act or default of Lessee, to Lessor at the point of delivery or at a point mutually agreed upon, free from residue and complete with all parts, equipment and accessories with which the Car was originally equipped or which had been added during the term of the lease, and to give Lessor advance written notice of such return. Lessee shall on demand reimburse Lessor for the cost of cleaning any Cars containing residue or for converting the Cars from the Lessee's service to another service, as well as monthly rental and service charges incurred during the cleaning process.

Reports. Each month Lessee shall give Lessor monthly reports for the immediately preceding month of the complete movements of the Cars, giving dates loaded and shipped, commodity, destination, and full junction routing of each movement. Lessee shall, within ten (10) days, give Lessor written notice of any injury to either person or commodities which involve the Cars. If shipping reports are not provided, Lessor will not be responsible for payment of mileage credits until reports are received.

Additional Charges by Railroads. Lessee agrees to use the Cars, upon each railroad over which the Cars shall move, in accordance with the then prevailing tariffs to which each such railroad shall be a party; and, if the operation or movements of any of the Cars during the term hereof shall result in any charges being made against Lessor by any such railroad, Lessee shall pay Lessor for such charges within the period prescribed by and at rates and under the conditions established by said then prevailing tariffs. Lessee agrees to indemnify Lessor against same and shall be liable for any switching, demurrage, track storage, or detention charge imposed on any of the Cars during the term hereof.

During the term of this Agreement, Lessee agrees that it will use its best efforts to maintain the aggregate mileage under load for all Cars covered by this Agreement equal to or exceeding the aggregate mileage empty for such Cars. Following (i) the end of each calendar year during the term of this Agreement and (ii) the termination or expiration of this Agreement, the Lessor will determine for the calendar year or portion thereof just ended the aggregate loaded mileage and empty mileage of the Cars and advise Lessee of same. In the event that the empty mileage of the Cars should exceed, in the aggregate, their loaded mileage for the calendar year or portion thereof covered by the determination mentioned in the immediately preceding sentence, Lessee shall promptly pay Lessor for such excess at the rate established by the governing tariff.

Taxes and Liens. Lessor agrees to pay all property taxes levied upon the Cars and to file all property tax reports relating thereto. Lessee agrees to report and pay in addition to rent and service charges all sales, use, leasing, operation, excise and other taxes with respect to the Cars together with any penalties, fines, or interest thereon and all duties, taxes, investment tax credit reductions and similar charges arising out of use of the Cars outside the United States. Lessee agrees not to encumber or dispose of this lease or of any of the Cars or any part of a Car or permit any encumbrance or lien to be entered or levied upon any of the Cars.

Assignment. Lessee agrees to use the Cars exclusively in Lessee's own service within the boundaries of the continental United States (exclusive of Alaska and Hawaii)\* and to make no transfer, or assignment of this Agreement, except that Lessee shall have the right to sublease any of the Cars, for single trips, to its customers or to its suppliers, and to cause such Cars so subleased to be boarded or placarded with the names of the sublessees in accordance with the provisions of demurrage tariffs lawfully in effect, where the sole purpose of such subleasing is to obtain an exemption from demurrage for said Cars so subleased; provided, however, that notwithstanding any such sublease, Lessee shall continue to remain liable to Lessor under this Agreement. Permission to sub-lease of cars to other shippers much be obtained from the Lessor in writing. In the event any of the Cars are used outside of the area specified in this paragraph for any reason whatsoever, Lessee agrees to bear full responsibility for, to defend, and to reimburse Lessor for any loss or damage suffered by Lessor, or claim against Lessor, and for all costs and expenses, including legal costs and attorney's fees arising in any way from such Car movement.

Subject always to the foregoing, this Agreement inures to the benefit of, and is binding upon, the Lessor, its successors and assigns, and the Lessee, its successors and assigns.

Default. It is mutually agreed that the time of payment of rental and service charges is of the essence of this contract and that if the Lessee shall make default in the payment of rental and service charges on any of the Cars at the time when same become due and payable or shall make default in the performance or observance of any of the other agreements herein contained and by Lessee to be performed or observed and such default shall continue for ten (10) days or there shall be filed by or against Lessee a petition in bankruptcy or for reorganization under the Bankruptcy Law or there shall be a receiver appointed of any part of Lessee's property or Lessee shall make a general assignment for the benefit of creditors, then and in any of said events Lessor, at its election, may, upon notice to Lessee of termination, terminate the lease set forth herein and repossess itself of any or all of said Cars and this lease shall thereupon become and be terminated. In the alternative, Lessor may, without notice repossess itself of said Cars and relet the same or any part thereof to others for such rent and upon such terms as it may see fit; and if a sufficient sum shall not be thus realized after repaying all expenses of re-taking and reletting said Cars (including attorney's fees and expenses of litigation) and collecting the rentals thereof to satisfy the rental and service charges herein reserved, the Lessee agrees to satisfy and pay the deficiency accrued from time to time upon demand. The obligation to pay such deficiency as well as the obligation for any and all other payments by Lessee to Lessor called for by this Agreement shall survive any termination of this Agreement or the lease contained herein for whatever reason and/or such retaking of the Cars. Lessee shall without expense to Lessor assist it in repossessing itself of said Cars and shall for a reasonable time if required furnish suitable trackage space for the storage of said Cars. The rights and remedies herein given to Lessor shall in no way limit its rights and remedies given or provided by law or in equity.

Reliance on Lease. Lessor, in consideration of the Lessee's oral representations and agreement to observe and be bound by each and all of the terms and conditions of this Agreement as set forth herein, and the immediate need of Cars by Lessee, may have shipped one or more of the Cars to Lessee prior to the formal

execution of this Agreement. If this has occurred, this Agreement whether or not executed shall be the agreement between the parties for such Cars and supersedes prior negotiations and correspondence.

Notice. All notices provided for herein as well as all correspondence pertaining to this Agreement, shall be considered as properly given if given: (a) in writing and delivered personally or sent by registered or certified mail, or (b) by telex or cable and confirmed thereafter in writing sent by registered or certified mail. The respective addresses for notice shall be the addresses of the parties given at the outset hereof. Such addresses may be changed by either party giving written notice thereof to the other.

Miscellaneous. Nothing herein contained shall give or convey to Lessee any right, title or property interests in and to the Cars except as Lessee. LESSOR MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND EXPRESS OR IMPLIED, WITH RESPECT TO THE CARS, THEIR MERCHANTABILITY, THEIR FITNESS FOR A PARTICULAR PURPOSE, INFRINGEMENT OR OTHERWISE.

This instrument, together with any and all Riders attached hereto, constitutes the entire agreement between Lessor and Lessee and it shall not be amended, altered or changed except by written agreement signed by the parties hereto.

This Agreement is subject and subordinate to any chattel mortgage, conditional sales agreement, or equipment trust covering the Cars or any of them heretofore or hereafter created.

All terms used in the Riders shall have the same meaning as used or defined herein except as may be otherwise specifically defined in such Riders. Should any term or condition of any Rider be inconsistent or conflict with any term or condition hereof, the term or condition of the Rider shall govern.

This Agreement shall be governed and construed by the laws of the State of California.

IT WITNESS WHEREOF, the parties have caused this instrument to be executed and delivered the day and year first above written.

Date: May 10, 1978  
By Thomas B. Garber  
Thomas B. Garber "Lessor"  
President

Date: June 23, 1978  
By Robert L. Mitchell  
Exec. Vice President "Lessee"  
Title



STATE OF CALIFORNIA,

City & County of San Francisco } ss.

On this 26th day of October in the year one thousand nine hundred and 78,

before me, Cleona M. Wademan, a Notary Public, State of California, duly commissioned and sworn, personally appeared

Thomas B. Garber

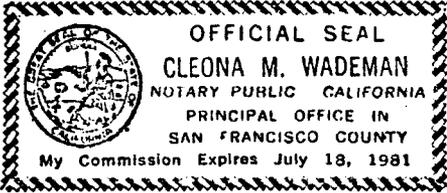
known to me to be the president

of the corporation described in and that executed the within instrument, and also known to me to be the person who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the City and County of San Francisco the day and year in this certificate first above written.

*Cleona M. Wademan*

Notary Public, State of California.



Cowdery's Form No. 28—(Acknowledgment—Corporation),  
(C. C. Secs. 1190-1190.1) (Printed 11-10-67) S221-0420-1

My Commission Expires July 13, 1981