

RECORDATION NO. 8987 Filed & Recorded

SEP 9 1977-1 45 PM

# CRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA  
NEW YORK, N.Y. 10005

212 HANOVER 2-3000

INTERNATIONAL TELEX: 620976

TELETYPE: 710-581-0338

TELEX: 125547

TELEPHONE: 212-512-2521

RECEIVED  
INTERSTATE COMMERCE COMMISSION

SEP 9 1 37 PM '77

I. C. C.

FEE OPERATION BR.

CARLYLE E. MAW  
L. R. BRESLIN, JR.  
HAROLD R. MEDINA, JR.  
COUNSEL

4, PLACE DE LA CONCORDE  
75008 PARIS, FRANCE  
TELEPHONE: 265-81-54  
TELEX: 290530

TERMINAL HOUSE  
52, GROSVENOR GARDENS  
LONDON, SW1W 0AU, ENGLAND  
TELEPHONE: 01-730-5203  
TELEX: 917840

CABLE ADDRESSES  
CRAVATH, N. Y.  
CRAVATH, PARIS  
CRAVATH, LONDON S. W. 1

MAURICE T. MOORE  
BRUCE BROMLEY  
ROSWELL L. GILPATRICK  
ALBERT R. CONNELLY  
FRANK H. DETWEILER  
GEORGE G. TYLER  
CHARLES R. LINTON  
WILLIAM B. MARSHALL  
RALPH L. MCAFEE  
ROYALL VICTOR  
ALLEN H. MERRILL  
HENRY W. DEKOSMIAN  
ALLEN F. MAULSBY  
STEWART R. BROSS, JR.  
HENRY P. RIORDAN  
JOHN R. HUPPER  
SAMUEL C. BUTLER  
WILLIAM J. SCHRENK, JR.  
BENJAMIN F. CRANE  
FRANCIS F. RANDOLPH, JR.  
JOHN F. HUNT, JR.  
GEORGE J. GILLESPIE, III  
RICHARD S. SIMMONS  
WAYNE E. CHAPMAN  
THOMAS D. BARR

MELVIN L. BEDRICK  
GEORGE T. LOWY  
ROBERT ROSENMAN  
JAMES H. DUFFY  
ALAN J. HRUSKA  
JOHN E. YOUNG  
JAMES M. EDWARDS  
DAVID G. ORMSBY  
DAVID L. SCHWARTZ  
RICHARD J. HIEGEL  
FREDERICK A. O. SCHWARZ, JR.  
CHRISTINE BESHAR  
ROBERT S. RIFKIND  
DAVID BOIES  
DAVID O. BROWNWOOD  
PAUL M. DODYK  
RICHARD M. ALLEN  
THOMAS R. BROME  
ROBERT D. JOFFE  
ROBERT F. MULLEN  
ALLEN FINKELSON  
RONALD S. ROLFE  
JOSEPH R. SAHID  
PAUL C. SAUNDERS  
MARTIN L. SENZEL

8987-2521081  
SEP 9 1977-1 45 PM Date  
SEP 9 1977  
FEE \$ 1.00  
ICC Washington, D. C.  
September 5, 1977

8987  
RECORDATION NO. Filed & Recorded

SEP 9 1977-1 45 PM

8987-14  
RECORDATION NO. Filed & Recorded

SEP 9 1977-1 45 PM

Dear Sir:

INTERSTATE COMMERCE COMMISSION

Herewith for recordation pursuant to Section 20c of the Interstate Commerce Act, on behalf of International Minerals & Chemical Corporation, are counterparts of the following:

(1) Conditional Sale Agreement dated as of August 1, 1977, between The Connecticut Bank and Trust Company, as trustee, vendee, and each of ACF Industries, Incorporated, General American Transportation Corporation and North American Car Corporation, as builders, vendor.

(2) Lease of Railroad Equipment dated as of August 1, 1977, between International Minerals & Chemical Corporation, as lessee, and The Connecticut Bank and Trust Company, as trustee, lessor.

(3) Assignment of Lease and Agreement dated as of August 1, 1977, between The Connecticut Bank and Trust Company, as trustee, lessor, vendee, and First Security Bank of Utah, National Association, as agent, vendor.

(4) Agreement and Assignment dated as of August 1, 1977, between each of ACF Industries, Incorporated, General American Transportation Corporation and North American Car Corporation, as builders, and First Security Bank of Utah, as agent, assignee.

The addresses of the parties to the aforementioned agreements are:

*Carlyle E. Maw*  
*John R. Hupper*  
*John F. Hunt, Jr.*

Trustee-Vendee-Lessor:

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

Builders-Vendor:

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

General American Transportation Corporation,  
222 South Riverside Plaza,  
Chicago, Illinois 60606.

North American Car Corporation,  
222 South Riverside Plaza,  
Chicago, Illinois 60606.

Lessee:

International Minerals & Chemical Corporation,  
IMC Plaza,  
Libertyville, Illinois 60048.

Agent-Vendor-Assignee:

First Security Bank of Utah,  
National Association,  
79 South Main Street,  
Salt Lake City, Utah 84125.

The equipment covered by the aforementioned agreements consists of 30 100-ton roller bearing 33,600 gallon tank cars, 40 100-ton roller bearing 33,500 gallon tank cars and 30 100-ton roller bearing 34,000 gallon tank cars bearing the road numbers of the lessee IMCX 2800 through 2829, IMCX 2700 through 2739 and IMCX 2900 through 2929, and also bearing the legend "Ownership subject to a security agreement filed under the Interstate Commerce Act, Section 20c".

Enclosed is our check for \$100 for the required recordation fee. Please accept for recordation one counterpart of each of the enclosed agreements, stamp the remaining

counterparts with your recordation number and return them to the delivering messenger along with your fee receipt, addressed to the undersigned.

Very truly yours,

*Laurance V. Goodrich*  
Laurance V. Goodrich

Robert L. Oswald, Esq., Secretary,  
Interstate Commerce Commission,  
Washington, D. C. 20423

Encls.

26

BY HAND

8987-B

RECORDATION NO. .... Filed & Recorded

SEP 9 1977 1 45 PM

INTRA-STATE COMMERCE COMMISSION

---

LEASE OF RAILROAD EQUIPMENT

Dated as of August 1, 1977

among

INTERNATIONAL MINERALS & CHEMICAL CORPORATION

and

THE CONNECTICUT BANK AND TRUST COMPANY

, as Trustee

---

LEASE OF RAILROAD EQUIPMENT dated as of August 1, 1977, between INTERNATIONAL MINERALS & CHEMICAL CORPORATION, a New York corporation (hereinafter called the Lessee), and THE CONNECTICUT BANK AND TRUST COMPANY, as Trustee (hereinafter called the Lessor) under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with AMERICAN ROAD EQUITY CORPORATION (hereinafter called the Beneficiary).

WHEREAS the Lessor is entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Security Documentation) with ACF Industries, Incorporated, General American Transportation Corporation and North American Car Corporation (hereinafter collectively called the Builders), wherein the Builders have agreed to manufacture, sell and deliver to the Lessor the units of railroad equipment described in Schedule A hereto (hereinafter called the Units);

WHEREAS each Builder is assigning its interests in the Security Documentation pursuant to an Agreement and Assignment (hereinafter called the Assignment) to First Security Bank of Utah, National Association, acting as Agent (hereinafter together with its successors and assigns called the Vendor), under a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Lessee, the Lessor, the Beneficiary and the Parties named in Schedule A thereto;

WHEREAS the Lessee desires to lease such number of Units as are delivered and accepted and settled for under the Security Documentation at the rentals and for the terms and upon the conditions hereinafter provided; and

WHEREAS the Lessor will assign this Lease for security to the Vendor pursuant to an Assignment of Lease and Agreement (hereinafter called the Lease Assignment) and the Lessee will consent to the Lease Assignment pursuant to a Lessee's Consent and Agreement (hereinafter called the Consent);

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter

mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions:

§ 1. Net Lease. This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor under this Lease or under the Security Documentation, or against any Builder or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

§ 2. Delivery and Acceptance of Units. The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Security Documentation. The Lessor will cause each Unit to be delivered to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor under

the Security Documentation. Upon such delivery, the Lessee will cause an employee of the Lessee to inspect the same, and if such Unit is found to be in accordance with the Specifications (as defined in the Security Documentation), to accept delivery of such Unit and execute and deliver to the Lessor a certificate of acceptance (hereinafter called the Certificate of Acceptance) in accordance with the provisions of Article 3 of the Security Documentation, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with § 5 hereof, whereupon, except as provided in the last sentence hereof, such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease. The Lessee will not accept the delivery of any Unit unless the conditions of the second proviso of the first paragraph of Article 3 of the Security Documentation are met. The delivery, inspection and acceptance hereunder of any Unit excluded from the Security Documentation shall be null and void as to this Lease and ineffective to subject such Unit to this Lease.

§ 3. Rentals. The Lessee agrees to pay the Lessor, as rental for each Unit subject to this Lease, 81 consecutive quarterannual payments on March 15, June 15, September 15 and December 15, in each year, commencing December 15, 1977. The rental payment due on December 15, 1977, shall be an amount equal to 0.0216% of the Purchase Price (as defined in the Security Documentation) of each Unit then subject to this Lease for each day elapsed from the Closing Date (as defined in the Security Documentation) for such Unit to and including the date of such payment. The next 68 quarterannual rental payments shall each be an amount equal to 1.9420% of the Purchase Price of each Unit then subject to this Lease and the last 12 quarterannual payments shall each be an amount equal to .9710% of the Purchase Price of each Unit then subject to this Lease. If, as a result of the provisions of subparagraph (a)(ii) of the third paragraph of Article 4 of the ~~Participation Agreement~~, SECURITY DOCUMENTATION, the Beneficiary is required to pay in excess of 32% of the Purchase Price of the Units, the quarterannual rental payments shall be adjusted to cause the Beneficiary's net after tax cash flows and rates of return to be at least the same as such cash flows and rates of return would have been had the Beneficiary paid only 32% of said Purchase Price.

If any of the quarterannual rental payment dates referred to above is not a business day the quarterannual rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, Hartford, Connecticut, Detroit, Michigan, or Salt Lake City, Utah, are authorized or obligated to remain closed.

Unless the Assignment is not executed and delivered, the Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease, other than the payments provided for in §§ 6 (except indemnification payments owing to the Vendor pursuant to Articles 6 and 13 of the Security Documentation) and 9 hereof which are to be made to the Lessor or the Beneficiary, but including without limitation the payments provided for in this § 3 and in § 7 hereof, at the principal office of the Vendor until the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment (as defined in the Security Documentation), together with interest and all other payments required by the Security Documentation, for the account of the Lessor in care of the Vendor, with instructions to the Vendor (subject to the provisions of the Consent) first, to apply such payments to satisfy the obligations of the Lessor under the Security Documentation, and second, so long as no event of default or event which with the lapse of time and/or demand provided for in the Security Documentation could constitute an event of default under the Security Documentation shall have occurred and be continuing, to pay any balance promptly to the Lessor at such place as the Lessor shall specify in writing. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in Federal or other funds immediately available to the Vendor or as otherwise provided in the Lease Assignment and the Consent, by 11:00 a.m., local time, on the date when and in the city where such payment is due.

§ 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on the day prior to the date on which the final payment of rent in respect thereof is due pursuant to § 3 hereof. The obligations of the Lessee hereunder arising during the term of this Lease or as may otherwise be specifically provided for herein (including, but

not limited to, the obligations under §§ 3, 6, 7, 9 and 14 hereof) shall survive the expiration of the term of this Lease.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the Security Documentation. If an event of default should occur under the Security Documentation, the Vendor may terminate this Lease (or rescind its termination), all as provided therein.

§ 5. Identification Marks. The Lessee will cause at its expense each Unit to be kept numbered with the road number set forth in Schedule A hereto, or in the case of any Unit not there listed, such road number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20c", or other appropriate words to the same effect reasonably designated by the Vendor, with, if so designated by the Vendor, appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's title and Vendor's security title to and interest in such Unit and the rights of the Lessor under this Lease and of the rights of the Vendor under the Security Documentation. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked and will replace, as soon as practicable, any such markings which may be removed, defaced or destroyed. The Lessee will not change the road number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and duly filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Documentation shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to such effect. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee, its subsidiaries or its affiliates.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person,

association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

§ 6. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, Federal or foreign taxes (other than gross receipts taxes [except gross receipt taxes in the nature of or in lieu of sales or use or rental taxes], taxes measured by Lessor's net income, Lessor's value added taxes, excess profits taxes and similar taxes or general corporation, franchise or like taxes measured by Lessor's capital, capital stock or net worth) or license fees, assessments, charges, fines or penalties now or hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Security Documentation (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions), all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein; provided, however, that the Lessee shall be under no obligation to pay any such imposition resulting from the gross negligence or wilful misconduct of the Lessor. The Lessee will also pay promptly all impositions which may be imposed upon any Unit (except as may be provided above) or for the use or operation thereof (except as provided above) or upon the earnings arising therefrom (except as provided above) or upon the Lessor solely by reason of its ownership thereof (except as provided above) and will keep at all times all and every part of such Unit free and clear of all impositions (except those resulting from the gross negligence or wilful misconduct of the Lessor) which might in any way affect the title of the Lessor or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal or administrative proceedings such impositions and the nonpayment thereof is permitted by law and does not, in the reasonable opinion of the Lessor, adversely affect the title or property or rights of the Lessor hereunder or the Vendor under the Security Documentation. The Lessee agrees to give the Lessor notice of such contest within 30 days after institution thereof and the Lessor agrees to provide such information as may be reasonably requested by the Lessee in

furtherance of such contest. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor; provided, however, that the Lessee shall not be obligated to reimburse the Lessor for any impositions so paid unless the Lessor shall have been legally liable with respect thereto.

In the event that the Lessor shall become obligated to make any payment pursuant to Article 6 of the Security Documentation to any Builder or the Vendor or otherwise pursuant to any correlative provision of the Security Documentation not covered by the foregoing paragraph of this § 6, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said provision; provided, however, that the Lessee shall not be required to fulfill any such obligation resulting from the gross negligence or wilful misconduct of the Lessor.

In the event any returns, statements or reports with respect to impositions pursuant to this § 6 are required to be made, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Lessor and the Vendor in such Units. The Lessor will provide to the Lessee all information reasonably requested by the Lessee in connection with the preparation of such returns, statements and reports and will execute such returns, statements or reports if required to do so by the applicable tax authority.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any imposition, pursuant to this § 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such impositions are paid or reimbursed by the Lessee.

To the extent the Lessee may be prohibited by law from performing in its own name the duties required by this § 6, the Lessor hereby authorizes the Lessee to act in the Lessor's own name and on the Lessor's behalf; provided, however, that the Lessee shall indemnify and hold the Lessor harmless from and against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of, or incident to, any action by the Lessee pursuant to this authorization.

The Lessee shall, whenever reasonably requested by the Lessor, submit to the Lessor copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor of the Lessee's performance of its duties under this § 6. The Lessee shall also furnish promptly upon request such data as the Lessor reasonably may require to permit the Lessor's compliance with the requirements of taxing jurisdictions.

§ 7. Maintenance; Casualty Occurrences; Termination Right; Insurance. The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit which is subject to this Lease in good operating order, repair and condition, reasonable wear and tear excepted.

In the event that any Unit shall be or become worn out, lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever or taken or requisitioned by condemnation or requisitioned for use or otherwise, except requisition for use by the United States Government for a stated period not in excess of the then remaining term of this Lease (such occurrences being hereinafter called Casualty Occurrences), prior to the return of such Unit in the manner set forth in § 14 hereof, the Lessee shall promptly and fully inform the Lessor and the Vendor with respect thereto. On the rental payment date next succeeding such Casualty Occurrence the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit determined as of the date of such rental payment date in accordance with the schedule referred to below. As of the rental payment date on which the Casualty Value is due the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, or complete destruction) the Lessor shall be entitled to recover possession of such Unit. Any Casualty Value not paid when due shall accrue interest as provided in § 16 hereof. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor, the Lessee shall be entitled to the net proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor.

The Casualty Value of each Unit as of the payment date on which payment is to be made as aforesaid shall be that percentage of the Purchase Price of such Unit as is set forth in Schedule B hereto opposite the rental payment date next succeeding the actual date of such Casualty Occurrence, or if there is no such rental payment date, the last rental payment date; but in no event less than the Casualty Value (as defined in the Security Documentation) as of such rental payment date.

Whenever any Unit shall suffer a Casualty Occurrence after termination of this Lease and before such Unit shall have been returned in the manner provided in § 14 hereof, the Lessee shall promptly and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit. Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or complete destruction of such Unit), the Lessor shall be entitled to recover possession of such Unit, and the Lessee shall be entitled to the net proceeds of any sale to the extent they do not exceed the Casualty Value of such Unit.

In the event of the requisition for use by the United States Government (hereinafter called the Government) of any Unit during the term of this Lease or any renewal thereof not constituting a Casualty Occurrence, all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned by the Government at any time after the end of the term of this Lease or any renewal thereof, the Lessee shall be obligated to return such Unit to the Lessor pursuant to § 11 or 14 hereof, as the case may be, promptly upon such return by the Government rather than at the end of the term of this Lease or any renewal thereof, but the Lessee shall in all other respects comply with the provisions of said § 11 or 14, as the case may be, with respect to such Unit. All payments received by the Lessor or the Lessee from the Government for the use of such Unit during the term of this Lease or any renewal thereof shall be paid over to, or retained by, the Lessee provided no Event of Default as defined in § 10 hereof (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing; and all payments received by the Lessor or the Lessee from the Government for the use of such Unit after the

term of this Lease or any renewal thereof, shall be paid over to, or retained by, the Lessor.

Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

The Lessee shall have the right at its option, on at least 150 days' prior written notice to the Lessor, to terminate (subject to the provisions for the survival of obligations contained herein) this Lease in respect of all Units then covered by this Lease on the rental payment date next succeeding the expiration of such notice period (for the purpose of this § 7 called the "termination date"); provided, however, that (i) the termination date shall be not earlier than December 15, 1994, (ii) no Event of Default (or other event which after lapse of time of notice or both would become an Event of Default) shall have occurred and be continuing and (iii) on the termination date such Units shall be in the same condition as if being redelivered pursuant to § 14 hereof. During the period from the 90th day after the giving of such notice until the fifth business day preceding the termination date, the Lessee shall use its best efforts to obtain bids for the purchase of such Units, and the Lessee shall at least 5 business days prior to such termination date certify to the Lessor the amount of each such bid and the name and address of the party (which shall not be a corporation or individual affiliated with the Lessee or any party from whom the Lessee or any such affiliate intends thereafter to lease such Units) submitting such bid. On the termination date the Lessor shall, subject to the Lessee's obtaining, on behalf of the Lessor, any governmental consents required, sell such Units for cash to the bidder who shall have submitted the highest bid prior to the termination date. The total sales price realized at such sale shall be paid to the Lessor in immediately available funds on the termination date and, in addition, on the termination date the Lessee shall pay to the Lessor the excess, if any, of the Termination Value (as hereinafter defined) in respect of the Units over the net sales price of such Units after deducting from such sales price any and all costs and expenses whatsoever incurred by the Lessor in connection with such sale. If no sale shall occur on the date scheduled therefor as above provided, this Lease shall continue in full force and effect without change unless and until the Lessee pays to the Lessor

an amount equal to the Termination Value; provided, however, that the Lessee, on behalf of the Lessor, may attempt to sell the Units at some later date upon 150 days' prior written notice to the Lessor and following the procedure set forth above. In the event of any such sale and the receipt by the Lessor of the amounts above described, the obligation of the Lessee to pay rent pursuant to § 3 hereof in respect of such Units on each rental payment date shall continue to and including the termination date but shall then terminate. The Lessor shall be under no duty to solicit bids, to inquire into the efforts of the Lessee to obtain bids or otherwise to take any action or incur any cost or expense in connection with any sale pursuant to this § 7, other than to transfer or to cause to be transferred all of the Lessor's right, title and interest in and to such Units to the purchaser named in the highest bid certified by the Lessee to the Lessor as above provided. Any sale pursuant to this § 7 shall be free and clear of all of the Lessee's rights to such Units, but otherwise shall be made without warranties other than against Lessor's acts.

If the Lessee shall exercise its option to terminate under this § 7, the Lessor may, notwithstanding such election by the Lessee, by written notice to the Lessee given within 90 days after the termination notice is given to the Lessor, elect to retain the Units then subject to this Lease in which case the Lessee shall not be obligated to obtain bids for the purchase of such Units or to pay the Termination Value to the Lessor. In the event the Lessor shall so elect to retain the Units, the Lessee shall assemble and deliver the Units to the Lessor in accordance with the provisions of § 14 hereof as if the original or any extended term of this Lease had expired on the termination date.

The Termination Value of each Unit shall be 20% of the Purchase Price of such Unit.

The Lessee will, at all times while this Lease is in effect, at its own expense, cause to be carried and maintained property insurance in respect of the Units at the time subject hereto, and public liability insurance, in amounts and against risks comparable to those insured against by the Lessee on similar equipment owned by it. Any policies of insurance carried in accordance with this paragraph shall (i) require 30 days prior notice to the ~~Lessee~~ and the Beneficiary of cancelation or the removal of the Lessor or the Beneficiary as named insureds and (ii) name the Lessor

LESSOR

*[Handwritten signature]*

and the Beneficiary as additional named insureds as their respective interests may appear with respect to public liability insurance and as loss payee with respect to property insurance.

Upon the execution of this Lease, and thereafter not less than 15 days prior to the expiration dates of the expiring policies relating hereto, the Lessee shall deliver to the Lessor and the Beneficiary a certificate of insurance issued by an authorized representative of the insurers for the insurance maintained pursuant to this § 7; provided, however, that if the delivery of a formal certificate is delayed, the Lessee shall deliver an executed binder with respect thereto and shall deliver the formal certificate upon receipt thereof.

§ 8. Reports. On or before October 30 in each year, commencing with the calendar year 1978, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as at the preceding June 30 the amount, description and numbers of all Units then leased hereunder and covered by the Security Documentation, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Lease in the case of the first such statement) or are then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by § 5 hereof and by the Security Documentation have been preserved or replaced. The Lessor, at its sole cost and expense, shall have the right by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

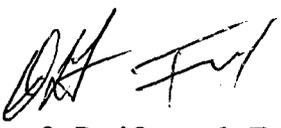
§ 9. Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR

PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against any Builder under the provisions of Item 3 of Annex A and the patent infringement and indemnification provisions of Article 13 of the Security Documentation; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all material respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executing, administrative or judicial body exercising any power of jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event

that prior to the expiration of the Lease or any renewal thereof, such laws or rules require any alteration, replacement, addition or modification of or to any part on any Unit which is readily removable without causing material damage to the Unit (hereinafter called Removable Government Mandated Alterations) or any alteration, replacement, addition or modification of or by any part on any Unit which is not readily removable without causing material damage to the Unit (hereinafter called Nonremovable Government Mandated Alterations), the Lessee (i) with respect to Removable Government Mandated Alterations, will conform therewith at its own expense and the Lessee will have title to such Removable Government Mandated Alterations, (ii) with respect to Nonremovable Government Mandated Alterations (including Nonremovable Government Mandated Alterations theretofore and then being made) not exceeding an aggregate purchase price equal to 30% of the Purchase Price of the Units, will conform therewith at the Lessor's expense and the Lessor will have title to such Nonremovable Government Mandated Alterations and the Lessee will lease such Nonremovable Government Mandated Alterations until the termination of this Lease or any renewal thereof upon the same terms and conditions as are herein specified at a rental rate to be negotiated between the Lessee and the Lessor and (iii) with respect to (a) Nonremovable Government Mandated Alterations exceeding an aggregate purchase price equal to 30% of the Purchase Price of the Units and (b) Nonremovable Government Mandated Alterations that the Lessor would be obligated to purchase and the Lessee would be obligated to lease as provided in (ii) above but for the fact that the Lessor and the Lessee cannot agree on a rental rate, the Lessee will conform therewith at its own expense and the Lessor will have title thereto. The Lessee acknowledges and agrees that the value of any Nonremovable Government Mandated Alteration paid for by the Lessee shall be included in the gross income of the Lessor for Federal, state or local income tax purposes in the year in which such Nonremovable Government Mandated alterations are made and such inclusion for tax purposes of the value of such Nonremovable Government Mandated Alterations may have the effect of obligating the Lessee to indemnify the Beneficiary as provided in Paragraph 12(e) of the Participation Agreement. Notwithstanding the preceding sentences, the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule concerning the use, maintenance and operation of the Units, in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, adversely affect the property or

Rider 15

  
to Lease of Railroad Equipment  
dated as of August 1, 1977 among  
International Minerals & Chemical Corporation  
and The Connecticut Bank and Trust Company, as Trustee

; provided, however, that the Lessor may, at its option, purchase at the termination of this Lease, or any extension thereof, any Removable Government Mandated Alteration paid for by the Lessee at the "Fair Market Value" of such alteration as of the date of the exercise of such option. The Fair Market Value of any Removable Government Mandated Alteration shall be determined independently of the value of any other Removable Government Mandated Alteration and the value of the Unit to which such Removable Government Mandated Alteration is attached, and shall be determined on the basis of, and shall be equal in amount to, the price which would obtain in an arm's-length transaction between an informed and willing buyer and an informed and willing seller under no compulsion to sell. Notwithstanding anything to the contrary contained herein, the Lessee shall have the right to remove any Removable Government Mandated Alteration not purchased by the Lessor as provided above, upon return of the Units pursuant to Sections 11 and 14 hereof.

rights of the Lessor or the Vendor under this Lease or under the Security Documentation. Notwithstanding anything to the contrary contained herein, the Lessor's obligation to purchase Nonremovable Government Mandated Alterations shall not exceed an aggregate purchase price in an amount equal to the lesser of (x) 30% of the Purchase Price of the Units and (y) the difference of \$3 million and the aggregate amount payable to the Vendor pursuant to subparagraph (a) of the third paragraph of Article 4 of the Security Documentation.

Except as set forth in the first paragraph of § 7 and the second paragraph of this § 9, the Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units during the term of this Lease as are readily removable without causing material damage to the Units (and do not adversely and materially affect the value of the Units). All Removable Government Mandated Alterations and the additions, modifications and improvements made by the Lessee under the preceding sentence shall be owned by the Lessee and shall be removed by it upon the return of the Units pursuant to §§ 11 and 14 hereof, except to the extent such additions, modifications or improvements are made in order to comply with the next paragraph hereof.

^ RIDER 15

Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit and were installed or were added to such Unit in contravention of the agreements contained in the immediately preceding paragraph, (ii) the cost of which is included in the Purchase Price of such Unit, (iii) in the course of ordinary maintenance of the Units or (iv) which are required for the operation or use of such Unit by the interchange rules of the Association of American Railroads and of the Interstate Commerce Commission, and all lawful rules of the Department of Transportation or any other applicable regulatory body, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the Security Documentation) shall immediately be vested in the Lessor and the Vendor as their respective interests may appear in the Unit itself.

The Lessee agrees to indemnify, protect and hold harmless the Lessor (both in its individual and fiduciary capacities), the Beneficiary and the Vendor from and against

*and which are not readily removable without causing material damage to such Unit*

all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of, or the occurrence of a default, an event of default or an Event of Default under, the Security Documentation, the Participation Agreement or this Lease, the ownership of any Unit, the retention by the Vendor of a security interest in any Unit, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage, inspection or return of any Unit or any accident in connection with the operation, use, condition, possession, storage, inspection or return of any Unit resulting in damage to property or injury or death to any person or the transfer of the security interest in the Units by the Vendor pursuant to any provision of the Security Documentation; provided, however, that nothing contained hereinabove shall require the Lessee to indemnify the Lessor, the Beneficiary or the Vendor from any loss or liability resulting from the wilful misconduct or gross negligence of the party otherwise to be indemnified. The indemnities arising under this paragraph do not include the payment of principal or interest on the Conditional Sale Indebtedness (as defined in the Security Documentation) and shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the expiration or termination of the term of this Lease. The Lessee's obligations to indemnify the Beneficiary for any loss of tax benefits shall be governed by Paragraph 12 of the Participation Agreement.

The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports (other than tax returns with respect to which the Lessee is not responsible) to be filed by the Lessor with any Federal, state or other regulatory authority by reason of the ownership by the Lessor of the Units, the security interest of the Vendor in the Units or the leasing thereof to the Lessee. The Lessor agrees to promptly furnish the Lessee with any notice of any requirement for such filing received by the Lessor and not otherwise reasonably available to the Lessee. Upon request of the Lessee, the Lessor will furnish any information reasonably required, and not otherwise reasonably available to the Lessee, for the preparation and filing of such reports.

§ 10. Default. If, during the continuance of this Lease, one or more of the following events (each such event being herein sometimes called an Event of Default) shall occur:

A. default shall be made in payment of any amount provided for in §§ 3, 7 or 13 hereof, and such default shall continue for five days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof;

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee, contained herein, in the Consent or in the Participation Agreement, and such default shall continue for 30 days after written notice from the Lessor or the Vendor to the Lessee, specifying the default and demanding that the same be remedied, or if the representations of the Lessee contained in the Participation Agreement shall have been materially incorrect when made;

D. any proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee, hereunder, under the Consent or under the Participation Agreement, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee, hereunder, under the Consent or under the Participation Agreement), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease, the Consent or the Participation Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee, or for the property of the Lessee, in connection with any such

proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

E. an event of default set forth in Article 15 of the Security Documentation shall have occurred arising out of any default by the Lessee, in performing any of its obligations hereunder or under the Consent;

then, in any such case, the Lessor, at its option, may:

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof including net after-tax losses of Federal and state income tax benefits to which the Lessor would otherwise be entitled under this Lease; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units so terminated shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units so terminated may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty whichever of the following amounts which the Lessor, in its sole discretion, shall specify (x) a sum, with respect to each Unit, which represents

(A) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 6% per annum discount, compounded quarterannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, plus (B) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of rental, plus (C) an amount computed in accordance with Paragraph 12 of the Participation Agreement, or (y) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the net proceeds of the sale of the Equipment if sold, or, if not sold at such time, the amount the Lessor reasonably estimates to be the sales value of such Unit at such time.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

Except as otherwise provided in this Lease and the Security Documentation, the Lessee, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Units, or any one or more thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Lessor's rights under this Lease and the Security Documentation and any and all rights of the redemption.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

§ 11. Return of Units upon Default. If this Lease shall terminate pursuant to § 10 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, with any non-removable accessions to such Unit made pursuant to the ~~third~~ <sup>SECOND</sup> paragraph of § 9 hereof, and meet the standards then in <sup>AND FOURTH</sup> effect, if any, under the interchange rules of the Association of American Railroads applicable to railroad equipment of the same type as the Units. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged to return the Unit or Units so interchanged) place such Units upon such storage tracks as the Lessor reasonably may designate;

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee without charge for insurance, rent or storage until such Units have been sold, leased or otherwise disposed of by the Lessor; and

(c) transport the same to any place on the lines of railroad operated by the Lessee or any of its sub-

sidiaries or affiliates or to any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, insure, maintain and keep the Units in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. All gross amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter, until such Unit is so assembled, delivered and stored an amount equal to the amount, if any, by which 0.0216% of the Purchase Price of such Unit for each such day exceeds all gross amounts earned with respect to such Unit and received by the Lessor for each such day.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit, in a lawful manner, in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

§ 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor; provided, however, that any such assignment is subject to this Lease and to the Lessee's rights and interests hereunder. All the rights of the Lessor hereunder (including, but not limited to, the

rights under §§ 6, 7, 9 and 10 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns (including the Vendor).

So long as (i) the Lessee shall not be in default under this Lease (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments (as defined in the Consent) as therein provided, the Lessee shall be entitled to the possession and use of the Units, and the quiet enjoyment thereof, in accordance with the terms of this Lease and the Security Documentation; but without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under the Lease in the Units or any of them; provided, however, that if the Lessee so assigns or transfers its leasehold interest and has received prior written consent of the Lessor and the assignee or transferee fully performs all of the Lessee's obligations under and in accordance with the provisions of this Lease, the Lessor shall accept such performance. The Lessor and the Lessee agree that, except as limited by §§ 11 and 14 hereof, the Lessee is entitled to collect and retain all allowances paid to it with respect to the use of the Equipment and any demurrage payments made with respect to the Equipment. The Lessee at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or the Vendor or resulting from claims against the Lessor or the Vendor not related to the ownership of the Units) upon or with respect to any Unit, including any accession thereto, or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or encumbrance which arises; provided, however, that the Lessee shall be under no obligation to pay or discharge any such sum so long as it is contesting in good faith and by appropriate legal or administrative proceedings, the imposition of any such lien, charge, security interest or encumbrance in any reasonable manner, and the nonpayment thereof does not, in the reasonable opinion of the Lessor and the Vendor, adversely affect the property rights of either the Lessor or the Vendor in or to the Equipment or under this Lease. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph.

*and provided that the Lessee is not in default under this Lease.*  
*[Signature]*  
*[Signature]*

So long as (i) the Lessee shall not be in default under this Lease (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments (as defined in the Consent) as therein provided, the Lessee shall be entitled to the possession of the Units and to the use of the Units by it or any subsidiary or affiliate upon lines of railroad owned or operated by it or any such subsidiary or affiliate or upon lines of railroad over which the Lessee or any such subsidiary or affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such subsidiary or affiliate is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements, or a sublease for a term not exceeding 90 days, but only upon and subject to all the terms and conditions of this Lease and the Security Documentation; provided, however, that the Lessee shall not assign or permit the assignment of any Unit to Service involving the regular operation and maintenance thereof outside the United States of America. If any sublessee fully performs any of the Lessee's obligations under and in accordance with the provisions of this Lease, the Lessor shall accept such performance. The Lessee may receive and retain compensation for such use from railroads or other persons so using any of the Units. The Lessee represents and warrants to the Lessor that the Units will be used, and are intended for use, in connection with interstate commerce and that any use thereof outside the United States of America will be de minimis.

Nothing in this § 12 shall be deemed to restrict the right of the Lessee to assign or transfer its interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder and under the Participation Agreement and the Consent) into or with which it shall have become merged or consolidated or which shall have acquired its property as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease.

§ 13. Renewal and Right of First Refusal. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Lessor not less than six

months prior to the end of the original term or any extended term of this Lease, as the case may be, elect to extend the term of this Lease in respect of all but not fewer than all of the Units then covered by this Lease, for two additional five-year periods commencing on the scheduled expiration of the original term or any extended term of this Lease, as the case may be, provided that no such extended term extends beyond December 15, 2007, at the then "Fair Market Rental" payable in quarterannual payments on March 15, June 15, September 15 and December 15 in each year of such extended term.

Fair Market Rental shall be determined on the basis of, and shall be equal in amount to, the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental. If, after 60 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, the Lessee's right to extend this Lease shall expire.

The Lessor agrees that (provided that the Lessee has elected to extend the Lease for at least one extended term and that no default hereunder shall have occurred and be continuing) it will not sell the Units, or any of them, unless the Lessor shall have given the Lessee at least 30 business days' prior written notice of such sale, specifying the sale price and terms of such sale, and the Lessee shall have had the opportunity to purchase all, but not less than all, of the Units relating to such sale at the same price. Such opportunity of the Lessee shall continue for a period of 20 business days, commencing on the date it receives such notice from the Lessor. The foregoing right of the Lessee shall expire 90 days after the termination of this Lease or any renewal thereof. Upon payment of the purchase price of each such Unit, the Lessor shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without recourse, representation or warranties of any kind) for such Unit such as will transfer to the Lessee such title to such Unit as the Lessor derived from the Vendor, free and clear of all liens, security interests and other encumbrances arising through the Lessor other than those to be paid by the Lessee hereunder.

§ 14. Return of Units upon Expiration of Term.

The Lessor intends to retain the Units for re-lease at the expiration of the term of this Lease. As soon as practicable on or after the expiration of the original or, if the Lessee does not purchase the Units as provided in § 13 hereof, any extended term of this Lease, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of the Units to the Lessor upon such storage tracks as the Lessor may reasonably designate, or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store the Units on such tracks for a period not exceeding 120 days after the actual return of all such Units to the Lessor's possession and transport the same, at any time within such 120-day period, to any reasonable place on the lines of railroad operated by the Lessee, or to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Units to be at the expense and risk of the Lessee without charge to the Lessor for insurance. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of such Unit, to inspect the same. Each Unit returned to the Lessor pursuant to this § 14 shall, when delivered to the Lessor, (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, with any nonremovable accessions to such Unit made pursuant to the ~~third~~ <sup>second and fourth</sup> paragraph(s) of § 9 hereof, and (ii) meet the standards, if any, then in effect under the Interchange Rules of the Association of American Railroads and/or the applicable rules of any governmental agency or other organization with jurisdiction. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. All gross amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 30 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which 0.0216% of the Purchase Price of such Unit for each such day exceeds the

SECOND  
AND FOURTH

actual earnings received by the Lessor on such Unit for each such day.

§ 15. Recording. The Lessee, at its own expense, will cause this Lease, the Lease Assignment, the Security Documentation and the Assignment to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will (at its own expense) undertake the filing, registering, deposit, and recording required of the Lessor under the Security Documentation and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Security Documentation, the Assignment and the Lease Assignment; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing or recording, and an opinion of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease and the Security Documentation shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

§ 16. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder, including without limitation §§ 3, 6, 7, 9 and 10 hereof, shall result in the obligation on the part of the Lessee promptly to pay an amount equal to the lesser of 12% per annum or the maximum rate permitted by law of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 17. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when mailed, first class, postage prepaid, addressed as follows:

(a) if to the Lessor, at One Constitution Plaza, Hartford, Connecticut 06115, attention of Corporate Trust Department, with copies to the Beneficiary at The American Road, Dearborn, Michigan 48121, attention

of Vice President-CIR Financing, and to ITEL Capital Services Corporation, One Embarcadero Center, San Francisco, California 94111, attention of Contract Administration;

(b) if to the Lessee, at IMC Plaza, Libertyville, Illinois 60048, attention of Treasurer.

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

§ 18. Severability; Effect and Modification of Lease. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Except for the Participation Agreement, this Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Units and, except for the Participation Agreement, supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Lessor and the Lessee.

§ 19. No Recourse. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Lessor are each and every one of them made and intended not as personal representations, undertakings and agreements of The Connecticut Bank and Trust Company or for the purpose or with the intention of binding said bank personally, but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement; and this Lease is executed and delivered by the said bank solely in the exercise of the powers expressly conferred upon the said bank as trustee under said Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank or the Beneficiary or on account of any representation, undertaking or agreement of

said bank as Lessor, or the Beneficiary, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Lessee and by all persons claiming by, through or under the Lessee.

§ 20. Agreements for Benefit of Beneficiary. All rights of the Lessor hereunder (including, but not limited to, its rights under §§ 6, 7, 9 and 10 and the right to receive the rentals payable under this Lease) shall inure to the benefit of the Beneficiary and the Beneficiary's assigns under the Trust Agreement.

§ 21. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor pursuant to the Lease Assignment to the Vendor shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Lease is dated as of the date first set forth above, 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.

§ 22. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of Illinois; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

§ 23. Lessor's Right to Perform for the Lessee. If the Lessee fails to perform or comply with any of its agreements contained herein, the Lessor may upon notice to the Lessee itself perform or comply with such agreement, and the amount of the reasonable cost and expenses of the Lessor incurred in connection with such performance or compliance, together with interest on such amount at the rate of the lesser of 12% per annum or the maximum rate permitted by law, shall be payable by the Lessee upon demand.

§ 24. Immunities, Satisfaction of Undertakings. No recourse shall be had in respect of any obligation due under this Lease, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto or the Beneficiary, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in

equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Lease.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the date first above written.

THE CONNECTICUT BANK AND TRUST COMPANY, as Trustee,

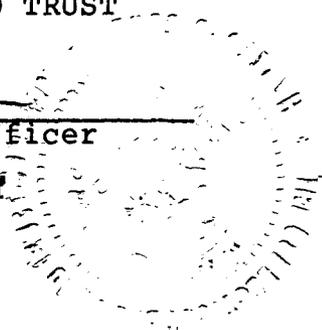
[Seal]

by *F. Kawam*  
Authorized Officer

Attest:

**E. W. Kawam**, Vice President

*[Signature]*  
Authorized Officer



INTERNATIONAL MINERALS & CHEMICAL CORPORATION,

[Corporate Seal]

by *[Signature]*  
~~Vice President~~  
*Treasurer*

Attest:

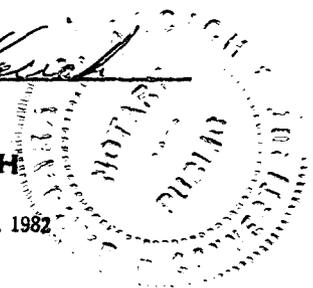
*Richard J. Kots*  
Assistant Secretary

STATE OF CONNECTICUT, )  
                                  ) )  
COUNTY OF HARTFORD ' ) ss.: HARTFORD

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of September 1977, by an VICE PRESIDENT of THE CONNECTICUT BANK AND TRUST COMPANY, a Connecticut corporation, on behalf of the corporation.

  
\_\_\_\_\_

**BARBARA S. KACICH**  
NOTARY PUBLIC  
MY COMMISSION EXPIRES MARCH 31, 1982



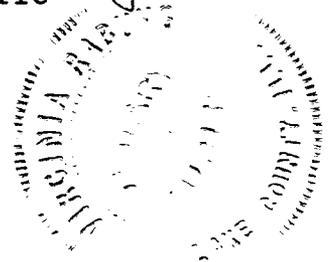
STATE OF ILLINOIS , )  
 ) ss.:  
COUNTY OF LAKE , )

On this 7<sup>th</sup> day of September 1977, before me personally appeared *Darrell L. Feakes* to me personally known, who, being by me duly sworn, says that he is a ~~Vice President~~ *Treasurer* of INTERNATIONAL MINERALS & CHEMICAL 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.

*Virginia Rabung*  
\_\_\_\_\_  
Notary Public

[Notarial Seal]

My Commission expires ~~My~~ Commission Expires March 20, 1981



SCHEDULE A TO LEASE

<u>Type</u>	<u>Quantity</u>	<u>Lessee's Road Numbers</u>
100 Ton Roller Bearing 33,600 Gallon Tank Cars (DOT 105A 300W)	30	IMCX 2800-2829
100 Ton Roller Bearing 33,500 Gallon Tank Cars (DOT 105A 300W)	40	IMCX 2700-2739
100 Ton Roller Bearing 34,000 Gallon Tank Cars (DOT 105A 300W)	30	IMCX 2900-2929

SCHEDULE B TO LEASE

Casualty Values

<u>Date</u>	<u>Percentage of Purchase Price*</u>
December 15, 1977	104.22
March 15, 1978	104.66
June 15, 1978	105.24
Sept. 15, 1978	105.67
Dec. 15, 1978	106.05
March 15, 1979	106.38
June 15, 1979	106.64
Sept. 15, 1979	106.80
Dec. 15, 1979	106.92
March 15, 1980	106.98
June 15, 1980	106.99
Sept. 15, 1980	106.90
Dec. 15, 1980	106.77
March 15, 1981	99.78
June 15, 1981	99.55
Sept. 15, 1981	99.23
Dec. 15, 1981	98.86
March 15, 1982	98.45
June 15, 1982	97.98
Sept. 15, 1982	97.44
Dec. 15, 1982	96.86
March 15, 1983	89.43
June 15, 1983	88.75
Sept. 15, 1983	88.01
Dec. 15, 1983	87.23
March 15, 1984	86.41
June 15, 1984	85.54
Sept. 15, 1984	84.65
Dec. 15, 1984	83.73
March 15, 1985	75.98
June 15, 1985	75.01
Sept. 15, 1985	74.01
Dec. 15, 1985	72.98
March 15, 1986	71.93

---

\* As defined in the Security Documentation.

## SCHEDULE B TO LEASE

Casualty Values

<u>Date</u>	<u>Percentage of Purchase Price*</u>
June 15, 1986	70.86
Sept. 15, 1986	69.76
Dec. 15, 1986	68.64
March 15, 1987	67.50
June 15, 1987	66.33
Sept. 15, 1987	65.14
Dec. 15, 1987	63.94
March 15, 1988	62.71
June 15, 1988	61.46
Sept. 15, 1988	60.19
Dec. 15, 1988	58.90
March 15, 1989	57.59
June 15, 1989	56.26
Sept. 15, 1989	54.92
Dec. 15, 1989	53.56
March 15, 1990	52.18
June 15, 1990	50.78
Sept. 15, 1990	49.37
Dec. 15, 1990	47.94
March 15, 1991	46.50
June 15, 1991	45.04
Sept. 15, 1991	43.59
Dec. 15, 1991	42.14
March 15, 1992	40.69
June 15, 1992	39.23
Sept. 15, 1992	37.80
Dec. 15, 1992	36.36
March 15, 1993	34.92
June 15, 1993	33.48
Sept. 15, 1993	32.07
Dec. 15, 1993	30.66
March 15, 1994	29.25
June 15, 1994	27.85
Sept. 15, 1994	26.48

---

\* As defined in the Security Documentation.

## SCHEDULE B TO LEASE

Casualty Values

<u>Date</u>	<u>Percentage of Purchase Price*</u>
Dec. 15, 1994	25.11
March 15, 1995	24.73
June 15, 1995	24.33
Sept. 15, 1995	23.95
Dec. 15, 1995	23.55
March 15, 1996	23.14
June 15, 1996	22.72
Sept. 15, 1996	22.29
Dec. 15, 1996	21.85
March 15, 1997	21.40
June 15, 1997	21.00
Sept. 15, 1997	20.73
Dec. 15, 1997	20.00
and thereafter	20.00

---

\* As defined in the Security Documentation.