

RECORDATION NO. 5867 Filed & Recorded

OCT 15 1970 - 362/My

SUPPLEMENTAL CHATTEL MORTGAGE, ASSIGNMENT  
OF RENTS AND SECURITY AGREEMENT

INTERSTATE COMMERCE COMMISSION

THIS SUPPLEMENTAL CHATTEL MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT made this 7th day of Oct., 1970, from TRANSERV SYSTEMS, INC., (herein called the "Mortgagor"), a Delaware corporation whose Post Office Address is P.O. Box 216, Katonah, New York 10536 to THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION) (herein called the "Mortgagee"), a national banking association having its principal place of business at 1 Chase Manhattan Plaza, New York, New York.

WHEREAS, the Mortgagor has heretofore executed and delivered to the Mortgagee a Chattel Mortgage, Assignment of Rents and Security Agreement (herein called the "Original Mortgage"), covering certain railroad tank cars and hopper cars of the Mortgagor, to secure its promissory notes (in the Original Mortgage and herein called the "Notes"), in an original principal amount not to exceed \$1,500,000 issued and to be issued to evidence loans made and to be made by the Mortgagee to the Mortgagor pursuant to a certain Loan Agreement dated August 7, 1970, which Original Mortgage was duly filed for record in the Office of the Secretary of the Interstate Commerce Commission, Washington, D.C. on August 17, 1970  
Recordation No. 5798 ;

WHEREAS, the Mortgagor is, or is about to become, the legal and beneficial owner of the railroad tank cars and hopper cars hereinafter described, free and clear of all liens and encumbrances, and

desires to execute and deliver this Supplemental Chattel Mortgage, Assignment of Rents and Security Agreement for the purpose of subjecting such additional Equipment to, and to confirm the lien of, the Original Mortgage;

NOW, THEREFORE, THIS INSTRUMENT WITNESSETH THAT, to secure the payment of the loans made by the Mortgagee, as aforesaid, and the Notes evidencing the same, and the performance of the covenants in the Loan Agreement and in the Original Mortgage and for the purpose of subjecting such property to, or confirming the lien of, the Original Mortgage, the Mortgagor does hereby sell, convey, warrant, mortgage, assign, pledge, grant a security interest in, and hypothecate unto the Mortgagee, its successors and assigns, the following described property:

DIVISION I

The railroad tank cars and hopper cars described in Annex A attached hereto and made a part hereof (hereinafter referred to collectively as the "Equipment" and individually as "Unit of Equipment") together with all accessories, equipment parts and appurtenances appertaining or attached to any of the Equipment hereinabove described, whether now owned or hereafter acquired, and all substitutions, renewals and replacements of and additions, improvements, accessions and accumulations to any and all of said Equipment together with all the rents, issues, income, profits and avails.

DIVISION II

All right, title and interest of the Mortgagor, as Lessor, in, under and to the Leases described in Annex B attached hereto and made a part hereof (herein referred to as the "Leases") and all rents and other sums due and to become due thereunder including any and all extensions or renewals thereof insofar as the same cover or relate to the Equipment; it being the intent and purpose hereof that the assignments and transfer to the Mortgagee of said rents and other sums due and to become due under the Leases shall be effective and operative immediately and shall continue in full force and effect and the Mortgagee shall have the right to collect and receive said rents and other sums for application in accordance with the provisions of Section 3 of the Original Mortgage at all times during the period from and after the date of this Mortgage until the indebtedness secured by the Original Mortgage has been fully paid and discharged.

SUBJECT, HOWEVER, to the lien of current taxes and assessments not in default, or, if delinquent, the validity of which is being contested in good faith.

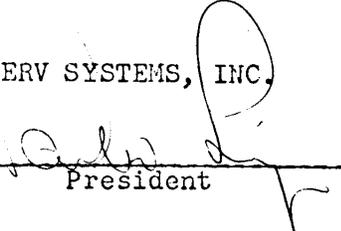
TO HAVE AND TO HOLD the mortgaged property unto the Mortgagee, its successors and assigns, for the uses and purposes and subject to the covenants, agreements, provisions and conditions set forth in the Original Mortgage.

This instrument shall be construed as supplemental to the Original Mortgage and shall form a part thereof, and the Original Mortgage is hereby by reference incorporated herein, and is hereby ratified, approved and confirmed.

This instrument may be executed and delivered in several counterparts, each of which shall be deemed to be an original.

IN WITNESS WHEREOF, the Mortgagor has caused this Mortgage to be executed all as of the day and year first above written.

TRANSERV SYSTEMS, INC.

By   
President

(Affix Corporate Seal)

ATTEST:

  
Secretary

ANNEX A

to

SUPPLEMENTAL

CHATTEL MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT,  
DATED AS OF OCTOBER 7, 1970 FROM TRANSERV SYSTEMS, INC., TO  
THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION).

<u>Number of Cars</u>	<u>Class</u>	<u>Car Numbers</u>
20	111A100W-1 20,800 gals.	TSVX 2005-2024
8	111A100W-2 13,500 gals.	TSVX 13510-13517
5	111A100W-1 23,500 gals.	TSVX 2515-2519

ANNEX B

to

SUPPLEMENTAL

/ CHATTEL MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT,  
DATED AS OF OCTOBER 7, 1970, FROM TRANSERV SYSTEMS, INC. TO  
THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION).

Lease or Car Service Agreement dated February 27,  
1970 between Transerv Systems, Inc. and Celanese  
Corporation providing for the furnishing by Tran-  
serv Systems, Inc. to Celanese Corporation of  
twenty (20) 20,000-gallon, Class 111A100W tank  
cars, as evidenced by the copy of such Car Service  
Agreement, annexed hereto.

TRANSE RV · SYSTEMS · INC.

ORIGINAL  
COPY

box 216 · katonah, new york · 10536

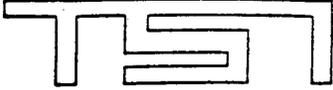
914 · 232 · 5044

twx · 710 · 574 · 2500

### CAR SERVICE AGREEMENT

EFFECTIVE this 27th day of February, 1970, TRANSE RV SYSTEMS, INC., a Delaware Corporation, Katonah, New York, (hereinafter referred to as LESSOR) and: CELANESE CORPORATION (hereinafter referred to as LESSEE), agree as follows:

1. LESSOR agrees to furnish and lease railroad tank cars (the "cars") to LESSEE and LESSEE agrees to accept and lease the cars from LESSOR in accordance with the terms and conditions herein set forth. The number of cars, rental periods and rental rates shall be shown on Riders to this Agreement.
2. The monthly rental shall be payable in advance, without offset or deduction, on the first day of each month. Rental for partial months shall be prorated. Rental shall be paid to LESSOR at P.O. Box 216, Katonah, N.Y., 10536, or at such other address as LESSOR shall designate in writing.
3. LESSEE agrees to furnish LESSOR promptly with complete reports or the movements of the cars, including dates loaded and shipped, commodity, destination, and full junction routing. All mileage earned by the cars, as and when allowed to LESSOR by the railroads and received by LESSOR will be credited to LESSEE provided, however, that in no case shall such aggregate amount of mileage credits exceed the aggregate monthly rental paid by LESSEE hereunder. LESSEE agrees to so use the cars on each railroad over which they move so that their mileage under load shall be at least equal to their mileage empty upon each railroad over which the cars shall move. LESSEE shall reimburse LESSOR, as additional rental, for any excess empty mileage payments that LESSOR may be required to make to any railroad.
4. Rental on each car shall commence on that date each car is billed to the LESSEE and continue until the (a) termination date for the car set forth in the Riders hereto, or (b) until LESSEE bills the car empty to LESSOR, whichever occurs later.
5. LESSEE agrees that none of the cars will be shipped beyond the boundaries of the United States or Canada, except with LESSOR's prior written consent. LESSEE shall reimburse LESSOR, as additional rental, for any customs duties, taxes or any other expense to LESSOR resulting from Canadian use.

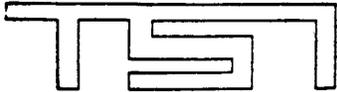


6. Each of the cars shall be subject to the LESSEE's inspection, such inspection to be made within five (5) days from arrival of each car at LESSEE's designated point and before initial loading. Failure by virtue of causes within LESSEE's control to so inspect and report any defects within the five day period or the initial loading of each such car shall constitute acceptance by the LESSEE hereunder, and shall be conclusive evidence of the fit and suitable condition of each car for the purpose of transporting the commodities then and thereafter loaded therein.

7. LESSEE shall not load any of the cars in excess of the load limit stenciled thereon. LESSEE shall use the cars for transportation of commodities which will not injure or damage the cars; LESSOR shall not be liable for any loss of or damage to commodities loaded or shipped in the cars except insofar as such loss or damage is caused by latent defects in the cars which LESSEE could not, with reasonable diligence, have detected. LESSEE shall also be liable for damage to any car, including all fittings, appliances and appurtenances, if such damage is caused, by the commodity loaded therein. If damage is determined to be caused in part by the loading of LESSEE's commodities, and in part by a defect in LESSOR's cars, then the liability for said damage shall be shared, pro rata, by LESSOR and LESSEE. LESSEE agrees to indemnify and hold LESSOR harmless from and against any loss, liability, claim, damage, or expense arising out of or in connection with the use of the cars during the term of this Agreement, except any loss, liability, claim, damage, or expense which is attributable to the fault or neglect of LESSOR or for which a railroad or railroads have assumed full responsibility therefor.

8. LESSOR agrees to maintain each of the cars in good condition and repair according to the Association of American Railroads Code of Interchange Rules, and is responsible for maintaining, repairing or modifying the cars covered by this Agreement in accordance with the requirements of the Association of American Railroads, the Interstate Commerce Commission, the Department of Transportation, and other federal and state authorities having jurisdiction. No repairs to any of the cars shall be made by the LESSEE for LESSOR's account without prior consent of LESSOR. In the event that any of the cars shall be damaged or destroyed as a result of the fault or neglect of LESSEE, its agents or employees, LESSEE shall be liable for such damage or destruction and rental thereon shall continue.

If, without the fault or neglect of LESSEE, any of the cars shall become unfit for service, and shall be reported to LESSOR as needing repair, then the rental for each such car shall abate five (5) days from date of such notification and shall not resume until such car is available for LESSEE's use. In the event that any of the cars shall be damaged or destroyed, without the fault or neglect of LESSEE, so that, in the judgment of LESSOR, it cannot be operated in railroad service,



- 3 -

LESSOR shall have the option to either cancel this Agreement with respect to such car or substitute a car of the same type and capacity for such damaged or destroyed car. If a substitute car is furnished rental on such car shall begin upon notification to LESSEE that the car is available for LESSEE's use. LESSEE shall replace or reimburse LESSOR for replacing any appliance or removable part if destroyed, damaged, lost, removed or stolen, unless the railroad or railroads have assumed full responsibility therefor or unless same results from the fault or neglect of LESSOR.

9. LESSEE shall be liable for any demurrage, track storage or detention charge imposed on or in connection with any car as well as loss of or damage to any car while on any private siding or track or on any private or industrial railroad or in the custody of any carrier not subject to the A.A.R. Rules of Interchange.

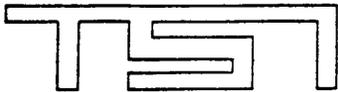
10. No title or property interest of any kind in any of the cars shall vest in LESSEE or in LESSEE's successors or assigns, by reason of this Agreement or by reason of delivery to or use by the LESSEE of the cars, except the right to use the cars upon the terms and conditions hereof. LESSEE shall not assign this Agreement nor shall LESSEE mortgage, pledge or otherwise encumber this Agreement or any of the cars.

11. LESSEE shall have the right to trip lease or otherwise sublease the cars, but shall at all times remain liable hereunder.

12. Upon termination of the lease period for each car, LESSEE agrees to return that car to LESSOR at final unloading point or at other points as may be mutually agreeable to LESSOR and LESSEE, empty and free from residue (or waive claim to any such residue removed). LESSEE shall reimburse LESSOR, as additional rental, for the cost of cleaning any car containing residue. Any cars returned to LESSOR must be in the same condition in which it was furnished, excepting ordinary wear and tear.

13. No lettering or marking of any kind shall be placed on any of the cars by LESSEE without the prior written consent of LESSOR.

14. In the event that: (a) LESSEE shall default in the payment of any installment of rent or in the observance or performance of any other covenant in this Agreement and such defaults shall continue for a period of thirty (30) days; or (b) LESSEE shall dissolve or become insolvent (however evidenced) or make a general assignment for the benefit of creditors, or any proceeding under any bankruptcy or insolvency statute or any laws relating to the relief of debtors shall be commenced by or against LESSEE, or a receiver, trustee, or liquidator shall



be appointed of the LESSEE or all or a substantial part of LESSEE's assets, or an order, judgment or decree shall be entered by a court of competent jurisdiction and such order, judgment or decree shall continue unpaid and in effect for any period of sixty (60) consecutive days without a stay of execution, or any execution or writ or process shall be issued under any action or proceeding against the LESSEE whereby the cars may be taken or restrained; then and in any such event LESSOR may (1) immediately terminate this Agreement and LESSEE's rights hereunder, and/or (2) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by LESSEE of the applicable covenants of this Agreement or to recover damages for the breach thereof, and/or (3) declare immediately due and payable all rental installments as liquidated damages and not as a penalty. All of LESSOR's rights and remedies shall be cumulative.

15. LESSEE understands that the cars or some of them may, at the time of delivery to LESSEE or at some future time during the term of this Agreement, be subject to the terms of a mortgage, deed of trust, equipment trust, pledge or similar security arrangement. LESSEE agrees that the cars may be stenciled or marked to set forth the ownership of any such cars in the name of a mortgagee, trustee, pledgee or security holder and that this Agreement, and LESSEE's rights thereunder, is and shall at all times be subject and subordinate to any and all rights of any mortgagee, trustee, pledgee or security holder.

ATTEST:

TRANSERV SYSTEMS, INC. ("Lessor")

By *R. Kay*

By *[Signature]*

ATTEST:

CELANESE CORPORATION ("Lessee")

By \_\_\_\_\_



By *W.C. Jomard*

# TRANSERV SYSTEMS, INC.

BOX 216 · KATONAH, NEW YORK · 10536

914 · 232 · 5044

TWX · 710 · 574 · 2500

## RIDER NO. 2

EFFECTIVE this 15th day of May, 1970 this Rider shall become  
a part of Car Service Agreement between TRANSERV SYSTEMS, INC., LESSOR),  
and CELANESE CORPORATION (LESSEE),  
dated February 27, 1970 and the cars described herein shall be  
leased to LESSEE subject to the terms and conditions in said Car Service Agree-  
ment during the term and for the rental shown below:

CLASS OR TYPE OF CAR	APPROXIMATE CAPACITY (Gallonage)	MONTHLY RENTAL (per car)	NO. OF CARS
111A100W	20,000	\$190.00	20

Cars to be billed from shipping date.

\* Upon termination of initial five year lease rental period, Lessee will retain year-to-year options to extend this lease subject to Lessee's written notice to Lessor 90 days prior to the expiration of the initial period or subsequent one year periods.

RENTAL PERIOD 5 Years

TRANSERV SYSTEMS, INC.  
(LESSOR)

(LESSEE)

BY

*[Signature]*



*[Signature]*

TITLE Vice President

TITLE Director of Traffic

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) SS:

On this 7<sup>th</sup> day of October, 1970, before me personally appeared PAUL W. SIEGE, to me personally known, who being by me duly sworn, says that he is the President of TRANSERV SYSTEMS, INC., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

  
Notary Public

(Affix Notarial Seal)

DENNIS C. CRON  
Notary Public, State of New York  
No. 31-5861927  
Qualified in New York County  
Commission Expires March 30, 1972

My commission expires: \_\_\_\_\_

STATE OF NEW YORK }  
COUNTY OF NEW YORK } SS:

On this 7<sup>th</sup> day of October, 1970, before me personally appeared PAUL W. SIEGE, to me personally known, who being by me duly sworn, says that he is the President of TRANSERV SYSTEMS, INC., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

  
Notary Public

(Affix Notarial Seal)

DENNIS C. CRONIN  
Notary Public, State of New York  
No. 31-5861927  
Qualified in New York County  
Commission Expires March 30, 1972

My commission expires: \_\_\_\_\_