

100

10160 B

RECORDATION NO. Filed 1425

FEB 28 1979 - 1 10 PM

INTERSTATE COMMERCE COMMISSION

SUPPLEMENT TO EQUIPMENT LEASE
AND PARTICIPATION AGREEMENT

SUPPLEMENT TO PARTICIPATION AGREEMENT dated as of November 15, 1978 (the "Participation Agreement") among FIRST SECURITY BANK OF UTAH, N.A. and THOMAS C. CUTHBERT, in their individual capacities and as trustees under a Master Trust Agreement dated as of November 1, 1977 between them and ITEL Corporation, Leasing Division, as Owner-Trustees (the "Owner Trustees"), UNITED STATES TRUST COMPANY OF NEW YORK, in its individual capacity and as trustee under a Trust Indenture dated as of November 1, 1977 between it and the Owner Trustees, as Trustee (the "Trustee"), I. P. MORTON CREDIT CORPORATION, as Beneficiary, SOLTEX POLYMER CORPORATION, as Lessee (the "Lessee"), and THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, as Lender (the "Lender"), and to EQUIPMENT LEASE dated as of November 15, 1978 (the "Lease") between the Owner Trustees, as Lessor, and the Lessee.

WHEREAS the parties hereto have heretofore entered into the Participation Agreement and the Owner Trustees and the Lessee have entered into the Lease, and now desire to supplement the Participation Agreement and the Lease as hereinafter provided;

NOW, THEREFORE, it is hereby agreed that the Participation Agreement and the Lease be and they hereby are supplemented as follows (the defined terms used in the Participation Agreement being used herein with the same meaning unless the context otherwise requires):

1. Subject to satisfaction of the conditions set forth in Section 12 of the Participation Agreement, the Lender agrees to deposit with the Trustee the amount of the Lender's Maximum Loan Commitment (the "Deposited Funds") on or before March 2, 1979 (the "Date of Deposit") in satisfaction of its obligations under Section 2 of the Participation Agreement. Such deposit shall be evidenced by a Note in the principal amount of the Deposited Funds.

2. The Trustee agrees upon written request of the Lessee to invest and reinvest the Deposited Funds, as specified in such request, in (i) direct obligations of the United States of America or obligations for which the full faith and credit of the United States is pledged to provide for the payment of principal and interest, or (ii) certificates of deposit of domestic commercial banks in the United States of America having total assets in excess of \$1,000,000,000 (the "Investments") in each case maturing in such amounts and on such dates as will permit the Trustee to make payment for the Loan Percentage of the Lessor's Cost of all Items of Leased Equipment to be paid for on the Closing Date therefor.

3. On each Closing Date the Trustee agrees to pay to the Lender interest at the rate of 9.75% per annum from the Date of Deposit to such Closing Date on the amount of the Deposited Funds equal to the Loan Percentage of the Lessor's Cost of all Items of Leased Equipment to be paid for on such Closing Date. On the last Closing Date or August 13, 1979 (whichever shall be earlier), if an amount equal to the Deposited Funds has not been invested in the Items of Equipment, the Trustee will pay to the Lender an amount equal to the sum of (i) the excess of the Deposited Funds over the

amount as invested, plus (ii) interest thereon at the rate of 9.75% per annum from the Date of Deposit, to such date. The obligation of the Trustee to make the foregoing payments is limited to the interest and proceeds received from the Investments, the Deposited Funds and the Supplemental Rents provided for in Paragraph 4 hereof.

4. The Lessee and the Owner Trustees each agrees that the Lease is supplemented so as to require the payment by the Lessee to the Trustee (as assignee of the Lease) (a) on each date on which the Trustee is required to make any payments to the Lender provided for in Paragraph 3 hereof such amounts as, when taken with the amounts otherwise available to the Trustee pursuant to such Paragraph 3, will enable the Trustee to make such payments to the Lender and (b) if there is any loss of principal on any Investments at the maturity or the earlier liquidation of such Investments, an amount equal to such loss.

5. The Trustee enters into this Supplement to Equipment Lease and Participation Agreement upon the terms and conditions set forth in Article X of the Trust Indenture (including the Supplement) with the same force and effect as if those terms and conditions were repeated at length herein and made applicable to the Trustee in respect of any action taken by the Trustee hereunder. Without limiting the generality of the foregoing, the Trustee assumes no responsibility as to the validity or enforceability hereof or for the correctness of the recitals of fact herein contained, which shall be taken as the statements, representations and warranties of the other parties hereto.

6. This Supplement may be executed in any number of counterparts and by the different parties hereto on separate

counterparts. The single executed original of this Supplement marked "Original" shall be the "Original" and all other counterparts hereof shall be marked and be "Duplicates". To the extent that this Supplement constitutes chattel paper, as such term is defined in the Uniform Commercial Code as in effect in any applicable jurisdiction, no security interest in this Supplement may be created through the transfer or possession of any counterpart other than the "Original".

7. This Supplement shall be governed by, and construed in accordance with, the laws of the State of New York.

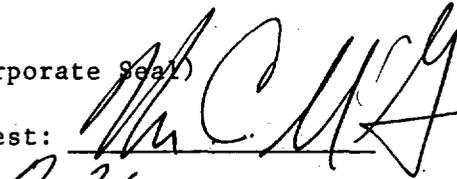
IN WITNESS WHEREOF, the parties hereto have each caused this Supplement to the Participation Agreement and the Equipment Lease as of November 15, 1978 to be duly executed by their respective officers thereunto duly authorized as of the date set forth hereto.

FIRST SECURITY BANK OF UTAH, N.A.
and THOMAS C. CUTHBERT, in their
individual capacities and as
trustees under a Master Trust
Agreement dated as of November
1, 1977 between them and Itel
Corporation, Leasing Division,
as Owner Trustees

By FIRST SECURITY BANK OF UTAH,
N.A., in its individual capacity
and as Corporate Trustee and on
behalf of the Individual
Trustee, as Corporate Trustee

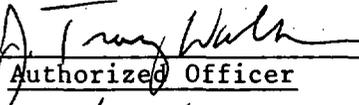
(Corporate Seal)

Attest:



2-26, 1979

By


Authorized Officer

Date

2/26/79

UNITED STATES TRUST COMPANY OF NEW YORK, in its individual capacity and as trustee under a Trust Indenture dated as of November 1, 1977 between it and the Owner Trustees, as Trustee

(Corporate Seal)

Attest: _____

_____, 1979

By _____
Assistant Vice President

Date _____

(Corporate Seal)

I. P. Morton Credit Corporation, as Beneficiary

Attest: _____

By _____

_____, 1979

Date _____

(Corporate Seal)

The Prudential Insurance Company of America, as Lender

Attest: _____

By _____

_____, 1979

Vice President

Date _____

(Corporate Seal)

Soltex Polymer Corporation, as Lessee

Attest: _____

By _____

_____, 1979

Date _____

STATE OF UTAH)
)
COUNTY OF SALT LAKE)

On this the 26 day of February, 1979 before me personally appeared J. TRACY WALKER, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of First Security Bank of Utah, National Association, that one of the seals affixed to the foregoing instrument is the seal of said bank, that said instrument was signed and sealed on behalf of said bank 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 bank.

Venna Hill Coia
Notary Public

(Notarial Seal)

My Commission expires 11-15-81

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

On this the _____ day of _____, 19__ before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a _____ of United States Trust Company of New York, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Trustees, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

(Notarial Seal)

My Commission expires

STATE OF NEW JERSEY)

COUNTY OF _____)

On this the _____ day of _____, 19__ before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a _____ of The Prudential Insurance Company of America, that one of the seals affixed to the foregoing instrument is the seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

(Notarial Seal)

My Commission expires

STATE OF TEXAS)

COUNTY OF HARRIS)

On this the _____ day of _____, 19__ before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is a _____ of Soltex Polymer Corporation, that one of the seals affixed to the foregoing instrument is the seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

(Notarial Seal)

My Commission expires

