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INTERSTATE COMMERCE COMMISSION

LEASE OF RAILROAD EQUIPMENT, dated as of December 1, 1970 between PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION OF COLORADO, STATE DIVISION, 1390 Logan Street, Denver, Colorado 80203 (hereinafter called the Lessor), and PHILLIPS PETROLEUM COMPANY, a Delaware corporation (hereinafter called the Lessee),

W I T N E S S E T H:

WHEREAS, the Lessor is the owner of 95 DOT-114A-340W dual-purpose tank cars, nominal capacity 33,500 gallons each, manufactured by General American Transportation Corporation (hereinafter called "the Cars"); and

WHEREAS, the Lessee desires to lease the Cars from the Lessor at the rentals and for the term and upon the conditions hereinafter provided;

NOW, THEREFORE, in consideration of the premises and of the rental to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Cars to the Lessee upon the following terms and conditions:

SECTION 1. Delivery and Acceptance of Cars. The Lessee hereby acknowledges delivery to it under this Lease of the Cars and that each such Car complies with the Rules of Interchange of the Association of American Railroads and with all governmental laws, rules, regulations and requirements relating to the construction and equipment of railroad cars of the same character as such Car and is in good order and ready for service.

The Lessor warrants that each Car so delivered to the Lessee is free and clear of all liens and encumbrances created by the Lessor.

SECTION 2. Term of Lease. The Lease Term for each Car subject to this Lease shall commence on December 1, 1970, and, subject to the provisions of Section 11, shall continue up to and including November 30, 1990 (such term being hereinafter sometimes called the original term).

Unless this Lease shall have been theretofore terminated pursuant to Section 11, the Lessee shall have the annual option to continue this Lease for not more than 10 successive additional terms of one year each (each such additional term being hereinafter called an extended term), each such option to be exercised, subject to the provisions of Section 15, by giving written notice thereof to the Lessor not more than 180 days and not less than 90 days prior to November 30, 1990, in the case of the first extended term and not more than 180 days and not less than 90 days prior to the end of the then current extended term, in the case of each subsequent extended term.

SECTION 3. Rentals. The Lessee agrees to pay to the Lessor as fixed rental for the Cars the following amounts in cash:

- A. (1) For each Car subject to this Lease during the period of this Lease beginning

December 1, 1970, to and including November 30, 1990, an annual fixed rental of \$2688.56 payable in arrears in equal quarter-annual installments of \$672.14 each, on the dates referred to below.

- (2) For each Car subject to this Lease during any extended term of this Lease, the Lessee shall pay an annual fixed rental in the amount of \$896.20 in arrears in equal quarter-annual installments of \$224.05 each, on the dates referred to below.

For the purposes of making payments of fixed rental hereunder, each period of three calendar months commencing with the First Day of March, June, September and December, as the case may be, is hereinafter called a "quarter-annual period". All fixed rentals which will accrue for each quarter-annual period pursuant to Subsection A of this Section shall be paid to the Lessor on the first day of the next succeeding quarter-annual period.

The Lessee agrees to pay as additional rental for all of the Cars at any time subject to this Lease the following amounts (hereinafter collectively referred to as Additional Rental):

- B. all amounts required to be paid by the Lessee under Section 4 and Section 5 in preserving or replacing on the Cars the identifying legend, identifying symbols and car numbers required by said Sections;
- C. all amounts required to be paid by the Lessee under Section 6 as taxes, assessments or other governmental charges levied or assessed against the Lessee or the Lessor;
- D. all amounts required to be paid by the Lessee under Section 9 in connection with the reports and inspection relating to the Cars;
- E. all amounts required to be paid by the Lessee under Section 10 in maintaining and repairing the Cars, in complying with regulations relating to the Cars, in indemnifying the Lessor against any expenses or liabilities arising from the operation of the Cars, and in discharging the risks assumed by the Lessee as to the fitness, design or condition of the Cars;
- F. all amounts required to be paid by the Lessee under Section 12 in connection with the return of the Cars;
- G. all amounts required to be paid by the Lessee under Section 17 in connection with the filing,

recording or registering of this Lease or any other documents in connection therewith; and

- H. all other amounts of every kind or character required to be paid by the Lessee on account of this Lease or the operation of the Cars hereunder, other than amounts required to be paid under Subsection A of Section 3, Section 7, Section 8, Section 11, Section 14, and Section 15.

All such Additional Rentals shall be paid by the Lessee as and when they accrue, such payments to be made to the parties entitled thereto; provided, however, that if the Lessor is required to make any such payments, the Lessee shall promptly reimburse the Lessor therefor.

It is contemplated that the Lessee shall receive, insofar as applicable law and regulations allow, all mileage allowances, rentals and other compensation payable by carriers by reason of the use of the Cars (hereinafter called Mileage), and it is understood and agreed that if for any reason the Lessor receives any Mileage, then (unless an event of default specified in Section 11 shall have occurred and be continuing) the Lessor shall remit such Mileage to the Lessee promptly after the Lessee shall have furnished or caused to be furnished to the Lessor an opinion, ruling or other evidence, satisfactory to the Lessor, that the remittance thereof to the Lessee will not violate any applicable law or regulation.

All payments provided for in this Lease shall, if to the Lessor, be made to the Lessor at the address stated above, or to such other person or at such other address as Lessor may from time to time direct by written notice delivered to the Lessee, without further notice or demand, and without set-off, counterclaim, abatement, deduction or defense for any cause, it being understood and agreed that the obligation to make each such payment shall be a separate and independent covenant and agreement. All payments to the Lessee provided for in this Lease shall be made at the office of the Treasurer of the Lessee, at Fourth and Keeler Streets, Bartlesville, Oklahoma. Notwithstanding the foregoing, such payments shall be made at such other place or places as the parties hereto shall agree in writing.

SECTION 4. Identifying Legend. Within 30 days after the time of delivery of the Cars to the Lessee, the Lessee shall cause to be plainly and conspicuously placed upon each side or each end of each Car in paint of a contrasting color an identifying legend in the following words in letters not less than one inch in height:

"PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION OF
COLORADO, STATE DIVISION, LESSOR"

or such other appropriate words designated by the Lessor as from time to time may be required by law to protect the title to the Cars and the rights under this Lease of the Lessor. If during the continuance of this Lease any such identifying legend shall

at any time be removed, defaced, destroyed or become illegible on any Car, the Lessee shall immediately cause the identifying legend to be replaced. The Lessee shall not allow the name of any person, association or corporation to be placed on any of the Cars as a designation which might be interpreted as indicating a claim of ownership thereof by any person, association or corporation other than the Lessor, but the Lessee may letter the Cars with the names or initials or other insignia customarily used by the Lessee on its railroad cars of the same or a similar type for convenience of identification of the right of the Lessee to use and operate the Cars under this Lease.

SECTION 5. Numbering. At or prior to the time of the delivery of the Cars to the Lessee, the Lessee will cause the identifying symbol PSPX to be placed on, and will cause one of the Lessee's car numbers to be assigned to and placed on each side of each such Car, such car numbers to be 33713 to 33807, inclusive, and at all times thereafter the Lessee will cause each Car subject to this Lease to bear on each side thereof such identifying symbol and the car number so assigned to it.

SECTION 6. Taxes. The Lessee agrees that, during the continuance of this Lease, in addition to the fixed rental herein provided, it will promptly pay all taxes, assessments and other governmental charges levied or assessed upon the interest of the Lessee in the Cars subject to this Lease or any thereof or upon the use or operation of the Cars or any thereof or the earnings arising therefrom, and will promptly pay or reimburse the Lessor for all taxes (except taxes measured by net income), assessments and other governmental charges, together with any interest and penalties thereon, levied or assessed against the Lessor on account of the Lessor's acquisition or ownership of such Cars or any thereof or on account of the use or operation of the Cars or any thereof or on account of the earnings arising therefrom, including any sales or similar taxes payable on account of the acquisition of such Cars from the Lessee or the leasing of the Cars hereunder; but the Lessee shall not be required to pay the same so long as it shall in good faith and by appropriate legal or administrative proceedings contest the validity or amount thereof unless thereby, in the judgment of the Lessor, the title of the Lessor to such Cars will be materially endangered. The Lessor shall not voluntarily pay any such tax, assessment or other governmental charge which the Lessee is obligated to pay or to reimburse the Lessor as aforesaid without first consulting with the Lessee and affording the Lessee an opportunity to contest, in good faith by appropriate legal or administrative proceedings, the validity or amount thereof, unless thereby, in the judgment of the Lessor, the title of the Lessor to such Cars will be materially endangered. In the event any tax reports are required to be made on the basis of individual Cars, the Lessee will either make such reports in such manner as to show the ownership of such Cars by the Lessor or will notify the Lessor of such requirement and will make such report in such manner as shall be satisfactory to the Lessor.

SECTION 7. Substitution. The Lessee may on the first day of any quarter-annual period substitute railroad cars (hereinafter called the "replacement cars") for any Cars subject to this

Lease in accordance with and subject to the conditions set forth in this Section 7, provided in any event (a) that the replacement cars have at the date of substitution an aggregate fair market value at least as great as the greater of (i) the aggregate fair market value of the Cars to be withdrawn from this Lease or (ii) the aggregate of the scheduled values of the Cars to be withdrawn from this Lease as of the date of substitution, and (b) that the Lessor shall have received an opinion from its counsel that the proposed substitution will not result in any tax to the Lessor.

Except as modified in the case of a replacement car, as used in this Lease, the term "scheduled value" means as to each Car the amount set forth on Schedule A hereto with respect to such Car as of the date specified for determination.

Substitution shall not diminish or otherwise affect the amount of rent payable hereunder or the aggregate of the scheduled values of the Cars. From and after the date on which replacement cars shall be substituted, the fixed rental applicable to each such replacement car shall bear the same relationship to the aggregate fixed rental applicable to all Cars being withdrawn from the Lease on such date as the fair market value of each such replacement car bears to the aggregate of the fair market values of all replacement cars becoming subject to the Lease on such date; and the scheduled value of each such replacement car as of the date of determination shall be an amount which bears the same relationship to the aggregate of the scheduled values of all Cars withdrawn from this Lease as of the date of determination as the fair market value as of the date of substitution of each such replacement car bears to the aggregate of the fair market values as of the date of substitution of all replacement cars which became subject to this Lease on the date of substitution.

Such substitution shall be accomplished by the Lessee's giving the Lessor at least 90 days' notice of its intention to substitute, which notice shall (1) state the date of such proposed substitution; (2) identify each Car to be withdrawn from this Lease; (3) state the fair market value thereof as determined by an independent appraiser mutually agreed to by the Lessor and the Lessee, who shall be a manufacturer of railroad cars or in the business of repairing railroad cars (hereinafter called the "appraiser") and the scheduled value thereof on the date of the proposed substitution; (4) identify each replacement car by type, number, and such other data as may be customary or requested by the Lessor; and (5) state the fair market value of each replacement car on the date of substitution and the useful life thereof (which shall not be less than the longest estimated remaining useful life of any car being substituted) as determined by the appraiser. The Lessee agrees to pay all expenses incurred by the Lessor in connection with any such substitution, including, but not limited to, any sales or other taxes (except taxes measured by net income) incurred or payable in connection with such substitution and all out-of-pocket expense incurred by the Lessor in connection with such substitution.

Substitution of the replacement cars shall be effected on the date designated by the Lessee; provided, however, that no

substitution shall take place unless on or before the substitution date the Lessee shall (1) cause each replacement car to be marked in accordance with Section 4, (2) if the owner of the replacement cars is a corporation, deliver to the Lessor a certified copy of a resolution of the Board of Directors of the owner (or the executive committee acting by authority of the Board of Directors if the Lessee is owner of the replacement cars) authorizing the conveyance of the replacement cars to the Lessor; or if the owner is not a corporation, deliver such appropriate evidence of the authority of the owner to sell as the Lessor may reasonably require, (3) deliver to the Lessor a certified copy of a resolution of the Board of Directors of the Lessee (or the executive committee acting by authority of the Board) authorizing the execution of a supplement to this Lease, (4) deliver to the Lessor a bill of sale for the replacement cars warranting that the owner has title thereto free and clear of all liens and encumbrances, (5) deliver to the Lessor a certificate of the appraiser as to the fair market value and remaining useful life, (6) execute, deliver and cause to be recorded with the Interstate Commerce Commission a supplement to this Lease in form satisfactory to the Lessor and the Lessee describing each Car to be withdrawn from this Lease and each replacement car, and (7) deliver to the Lessor an opinion of counsel for the Lessee that title to each replacement car is vested in the Lessor free and clear of all liens and encumbrances, that each such replacement car has come under and become subject to this Lease, and to the same effect as the opinion of counsel required by Section 16. Title to each such replacement car shall be free and clear of all liens and encumbrances and shall be taken and remain in the name of the Lessor subject to the provisions of this Lease, and the Lessee shall execute, acknowledge, deliver, file and record all such documents and do such acts as may be necessary to cause each replacement car to come under and be subject to this Lease and to protect the title of the Lessor to each replacement car. From and after the substitution date each replacement car shall be subject to all the terms and conditions of this Lease as though it were a Car originally subject to this Lease.

On or before the substitution date, the Lessor shall, at no additional consideration and at the Lessee's cost and expense, (1) transfer title to each Car to be withdrawn from this Lease to the Lessee, or to such other party as the Lessee shall designate, free and clear of all liens and encumbrances created by the Lessor or any party claiming through the Lessor; (2) execute, acknowledge, deliver, file and record all such documents and do such acts as may be necessary to so cause title to be vested in the Lessee or such other party; (3) deliver to the Lessee an opinion of counsel for the Lessor that title to each Car to be withdrawn is vested in the Lessee or the party designated by the Lessee free and clear of all liens and encumbrances, and that:

(i) the Lessor is an association legally formed and validly existing in good standing under the laws of Colorado, with adequate power to make such transfer;

(ii) all documents in connection with such transfer have been duly authorized, executed and delivered by the Lessor and are valid, legal and binding upon the Lessor and enforceable in accordance with their terms;

(iii) no approval is required from any public regulatory body with respect to the transfer of such Cars; and

(iv) the transfer of such Cars will not result in any breach of, or constitute a default under or pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which the Lessor is a party or by which it may be bound.

This Lease shall remain in full force and effect with respect to all Cars subject thereto, and no Cars shall be withdrawn from this Lease, until the substitution of the replacement cars for the Cars to be withdrawn from this Lease shall have been completed in accordance with the foregoing provisions of this Section 7, without regard to the reason for the failure of or delay in the completion of such substitution.

In the event one of the cars to be withdrawn from this Lease is lost, destroyed, damaged or requisitioned prior to completion of the substitution of the replacement cars in accordance with this Section 7, the Lessee shall make payment therefor in accordance with Section 8; provided, however, that upon the completion of the substitution as aforesaid the amount so paid shall be repaid to the Lessee by the Lessor.

SECTION 8. Payment for Cars Lost, Destroyed, Damaged or Requisitioned. In case any Car shall become lost, is destroyed, or in the Lessee's opinion is damaged beyond repair, or is requisitioned by any governmental authority:

- A. The Lessee shall advise the Lessor of the loss, destruction, irreparable damage or of the requisition by any governmental authority of any Car as soon as practicable.
- B. If the Lessee shall learn of any such loss or destruction or shall determine that a Car has been irreparably damaged at any time after the date hereof but on or before November 30, 1990, then on the next succeeding quarterly rental payment date the Lessee shall pay to the Lessor (in addition to the accrued fixed rental for such car which is payable on such date and any Additional Rental then due on account of such Car), as damages in lieu of any further claim of the Lessor to or on account of such Car, in cash, an amount equal to the scheduled value of such Car on the date of payment.

- C. If the Lessee shall learn of such loss or destruction or shall determine that the Car has been irreparably damaged at any time after November 30, 1990, then on the next succeeding quarterly rental payment date (or the date on which said payment would have become due in the event the term of this Lease shall not have been extended) the Lessee shall pay to the Lessor the accrued fixed rental for such car which is payable on such date and any Additional Rental then due on account of such Car in complete settlement of any further claim of the Lessor to or on account of such Car.
- D. If a Car shall be requisitioned by any governmental authority prior to December 1, 1985, it shall be deemed to be lost, for purposes of this Section, on a date five years from the date of such requisition if not returned prior to the end of such period. If such requisition occurs on or after December 1, 1985, the Car shall be deemed to be lost, for purposes of this Section, on the date of such requisition.
- E. Whenever any such cash payment is made to the Lessor under this Section with respect to any Car, (1) the fixed rental for such Car provided for in Subsection A of Section 3, shall be abated and shall cease to accrue as of the day on which such cash payment is made, (2) such Car shall no longer be deemed to be one of the Cars subject to this Lease, and (3) the Lessee shall be entitled to the proceeds of any settlement made by any insurance company, railroad company or other person, firm or corporation in connection with such loss, destruction or damage beyond repair, or any award made by the appropriate government in the case of a requisition of a Car deemed to be lost pursuant to this Section, whether such settlement or award is made with the Lessor or the Lessee, except that if the Lessor shall take out and pay for any policy of insurance on such Car, then the Lessor shall be entitled to the entire proceeds of any settlement made under such policy in connection with such loss, destruction or damage beyond repair. The Lessor agrees that any insurance the Lessor may take out on the Cars shall be endorsed to waive the right of subrogation against the Lessee and the railroad involved. The Lessee shall bear the risk of and, except as hereinabove in this Section provided, shall not be released from its obligations under this Lease in the event of any loss or destruction of or damage to any of the Cars or requisition thereof as aforesaid for any cause whatsoever after the acceptance of delivery thereof hereunder by the Lessee.

SECTION 9. Reports and Inspection. The Lessee will furnish to the Lessor on or before the First Day of June, 1971, and annually thereafter, and at such other times as the Lessor shall reasonably request, during the continuance of this Lease, an accurate statement, signed by the President or one of the Vice Presidents of the Lessee, stating:

- A. as of the preceding 31st day of March, (1) the car numbers of all Cars then subject to this Lease, (2) the car numbers of all Cars that have become lost, destroyed or damaged beyond repair during the period elapsed since the end of the period covered by the last previous such report (or since the date hereof in the case of the first such report), (3) the car numbers of all serviceable Cars, (4) the car numbers of all Cars awaiting repairs, and (5) the car numbers of all Cars in the shops for repairs; and
- B. in the case of all Cars repainted or repaired during such period, that the identifying legend required to be affixed thereto by Section 4 has been preserved on such Cars or that such Cars have been again painted as required by Section 4, and that the identifying symbol and the appropriate car number have been repainted or preserved on each side of each such Car in accordance with Section 5.

The Lessor shall have the right by its authorized representatives to inspect the Cars at such times as shall be reasonably necessary to confirm to the Lessor the existence and proper maintenance thereof during the continuance of this Lease. Any such inspection shall be at the Lessee's expense only in the event it is made necessary by reason of a default hereunder by the Lessee.

SECTION 10. Maintenance and Repair, Temporary Requisition; Compliance with Laws and Rules; Alteration and Indemnification. The Lessee agrees to maintain and keep all of the Cars subject to this Lease in good order and repair, ordinary wear and tear excepted, at its own cost and expense. The Lessee shall promptly repair all damaged Cars (except those subject to the provisions of Section 8) at its own cost and expense, and there shall be no abatement of the rent due hereunder with respect to such Cars. The Lessor shall have no responsibility for maintenance of or repairs to the Cars. The Lessee shall be entitled to the proceeds of any settlement made by any insurance company, railroad company, or other person, firm or corporation in connection with any repairable damage to the Cars, or any award made by the appropriate government in the case of a requisition of the Cars or any of them by any governmental authority not subject to the terms of Section 8, whether such settlement or award is made with the Lessor or the Lessee.

The Lessee agrees to comply with all governmental laws, regulations and requirements, and with the Rules of Interchange

of the Association of American Railroads (or of any successor thereto), with respect to the use, maintenance and operation of each Car subject to this Lease: in case any equipment or appliance on any such Car shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such Car in order to comply with such laws, regulations, requirements and Rules, the Lessee agrees to make such changes, additions and replacements; and the Lessee agrees to maintain such Car in full compliance with such laws, regulations, requirements and Rules so long as it is subject to this Lease.

The Lessee shall make no alterations to any of the Cars without the prior consent of the Lessor unless such alterations, in the case of undamaged Cars, do not lessen the value of the Cars, or in the case of damaged Cars, would not lessen the value of the Cars if repaired without alteration. All alterations shall be at the expense of the Lessee.

Any parts (except parts temporarily installed to adapt the Car for transportation of various products) installed or replacements made upon the Cars by the Lessee shall be considered accessions to the Cars and title thereto shall be immediately vested in the Lessor, without cost or expense to the Lessor.

The Lessee agrees to indemnify and save harmless, the Lessor against any charge or claim made against the Lessor, and against any expense or liability (including, without limitation, attorneys' fees and other expenses incurred in defending claims) which the Lessor may incur by reason of its ownership of any Car while it is subject to this Lease, in any manner arising out of or as a result of the use or operation of such Car or the violation (other than by the Lessor) of any provision of this Lease or of any law, ordinance or regulation affecting any Car or the use, condition or operation thereof, and to indemnify and save harmless the Lessor against any charge or claim, and against any expense or liability (including, without limitation, attorneys' fees and other expenses incurred in defending claims) that the use or incorporation in any Car of any patented article or design constitutes an infringement of any patent, and to indemnify and save harmless the Lessor against any claim or suit on account of any accident in connection with the operation of such Car resulting in damage to property or injury to any person.

The Lessor makes no warranty or representation, either expressed or implied, as to the fitness, design or condition of, or as to the quality of the material, equipment or workmanship in the Cars, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee.

SECTION 11. Default. If, during the continuance of this Lease, one or more of the following events (herein sometimes called events of default) shall occur:

- A. default shall be made in the payment of any part of the rental provided in Section 3 and such default shall continue for 20 days;

- B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of any Car;
- 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 and such default shall continue for 30 days after written notice from the Lessor to the Lessee specifying the default and demanding that the same be remedied;
- D. a decree or order by a court having jurisdiction in the premises shall have been entered
 - (1) adjudging the Lessee a bankrupt or insolvent,
 - (2) approving as properly filed a petition seeking reorganization of the Lessee under the Bankruptcy Act or any other state or federal law,
 - (3) for the appointment of a receiver or liquidator or trustee in bankruptcy or insolvency of the Lessee or of the property or any substantial portion of the property of the Lessee, or
 - (4) for the winding up or liquidation of the affairs of the Lessee,

and such decree or order shall have remained in force undischarged and unstayed for 60 days;

- E. the Lessee shall
 - (1) institute proceedings to be adjudged a voluntary bankrupt,
 - (2) consent to the filing of a bankruptcy proceeding against it,
 - (3) file a petition or answer or consent seeking reorganization or readjustment under the Bankruptcy Act or any other state or federal law, or otherwise invoke any law for the aid of debtors, or consent to the filing of any such petition,
 - (4) consent to the appointment of a receiver or liquidator or trustee in bankruptcy or insolvency of it or of its property or any substantial portion of its property,
 - (5) make an assignment for the benefit of creditors, or admit in writing its inability to pay its debts generally as they become due, or

(6) take any corporate action in furtherance of any of the aforesaid purposes; or

F. an event of default as defined in any other lease of railroad equipment between the Lessor and the Lessee shall occur and shall be continuing unremedied;

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;

(b) by notice in writing to the Lessee terminate this Lease, whereupon all right of the Lessee to or in the use of the Cars shall absolutely cease and determine as though this Lease had never been made, but the Lessee shall remain liable as herein-after provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Cars may be and take possession of all or any of such Cars and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, or anyone claiming through the Lessee, or its successors or assigns, to use the Cars for any purpose 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, and also to recover forthwith from the Lessee, (i) as damages for loss of the bargain and not as a penalty, a sum which represents the excess of the present worth, at the time of such termination, of the aggregate fixed rentals for the Cars which would otherwise have accrued hereunder from the date of such termination to the end of the then current term of this Lease over the then present worth of the fair rental value of the Cars for such period, such present worth to be computed in each case on the basis of a 7% per annum discount, compounded quarter-annually from the respective dates upon which fixed rentals would have been payable hereunder had this Lease not been terminated, and (ii) any damages in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, 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 any of the remedies herein provided, to the extent that such waiver is permitted by law.

SECTION 12. Return of Cars. Upon the termination of this Lease pursuant to the provisions of Section 11, or upon the expiration of the original term or of any extended term of this Lease (unless the Lessee shall have exercised its option to continue this Lease pursuant to Section 2 or shall have exercised

an option to purchase the Cars pursuant to Section 15) the Lessee shall forthwith deliver possession of the Cars to the Lessor in good order and repair, ordinary wear and tear excepted. For the purpose of delivering possession of any Cars to the Lessor as above required, the Lessee shall at its own cost and expense forthwith:

- A. assemble such Cars and place them upon such storage tracks in East St. Louis, Illinois (or such other place or places as the parties hereto shall agree in writing) as the Lessee may select;
- B. provide storage at the risk of the Lessor for such Cars on such tracks for a period of 100 days after written notice to the Lessor specifying the place of storage and the car numbers of the Cars so stored; and
- C. cause the same or any thereof to be transported, at any time within such 100-day period, to any place or places on lines of railroad within a 25-mile radius of such storage tracks, all as directed by the Lessor.

The assembling, delivery, storage and transporting of the Cars 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 Cars.

Without in any way limiting the obligations of the Lessee under the foregoing provisions of this Section 12, 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 Car to the Lessor, to demand and take possession of such Car in the name and on behalf of the Lessee from whomsoever shall at the time be in possession of such Car.

SECTION 13. Ownership, Assignment and Possession. The Lessor may transfer its interest in any of the Cars, subject to this Lease and the Lessee's rights hereunder, and any transferee may similarly transfer its interest in any of the Cars. The provisions of this Lease shall inure to the benefit of any such transferee. The Lessor shall give prompt written notice to the Lessee of any such transfer, giving the date thereof and the name and address of the transferee.

This Lease shall be assignable 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.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and

use of the Cars in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessee shall not assign, transfer or encumber its interest under this Lease in the Cars or any of them. 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 Cars, except that the Lessee may use the same upon the railroad lines of railroad companies in the usual interchange of traffic and may permit the Cars to be so used by any railroad company or shipper, provided that the right to such use shall be subject at all times to all the terms and conditions of this Lease.

Notwithstanding the foregoing provisions of this Section 13, the Lessee may (i) sublease all or any of the Cars or assign the Lease to any subsidiary of the Lessee, and (ii) sublease all or any of the Cars to any other person, firm or corporation to the extent that such sublease is, in the judgment of the Lessee necessary or appropriate or helpful to the conduct of its business, provided, that (i) each such sublease shall be evidenced by a written sublease between the Lessee and the sublessee which shall specifically state that such Car or Cars and such sublease are in all respects subject and subordinate to this Lease and, if required for the protection of the Lessor's title to such Car or Cars, the Lessee shall cause such sublease to be filed, registered or recorded wherever required for such protection, (ii) no such sublease or assignment shall affect or reduce any obligations of the Lessee or rights of the Lessor hereunder, and all obligations of the Lessee hereunder shall continue in full force and effect as the obligations of a principal and not of a guarantor or surety, to the same extent as though no assignment or subletting had been made, and no such sublease or assignment shall relieve the Lessee from any of its obligations hereunder, and (iii) the Lessee shall give the Lessor written notice of each such assignment at least ten days prior to the effective date thereof and shall furnish to the Lessor a true copy thereof. Any such sublease or assignment may grant the sublessee or assignee the right to use its own identifying symbol and car numbers in place of those required by Section 5; provided, that the Lessee shall give ten days' prior written notice to the Lessor of a sublease granting such right or of such assignment and of the identifying symbols and car numbers to be used by the sublessee or assignee.

Nothing in this Section shall restrict the right of the Lessee to assign or transfer its interest under this Lease in the Cars or possession of the Cars to any corporation (which shall have assumed the obligations hereunder of the Lessee) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety.

SECTION 14. Early Termination. At such times during the original term as the use of any of the Cars is not economical in the business of the Lessee and the Lessee no longer intends to use such Cars for their designed purpose, the Lessee may terminate this Lease as to such Cars. Such termination shall be effected on the first day of such quarter-annual period as shall be designated

by the Lessee (hereinafter called the designated date) in a written notice delivered to the Lessor not less than 90 nor more than 180 days prior to the designated date, provided that the Lessee shall have delivered with such notice (1) a certificate of a Vice President of the Lessee designating Cars as to which this Lease is to be terminated (hereinafter called designated Cars) and stating that (a) the Executive Committee or the Board of Directors of the Lessee has determined that the use of the designated Cars is not economical in the business of the Lessee, and (b) the Lessee does not in the future intend to use the designated Cars for their designed purpose; and (2) the Lessee's written offer to purchase the designated Cars from the Lessor at the scheduled value with respect to such Cars on the designated date. The Lessor shall, not less than 30 days prior to the designated date, give the Lessee written notice of its intention to accept or reject such offer. If the Lessor accepts such offer, it shall, on the designated date, and upon receipt of the purchase price (in addition to the accrued fixed rental for the designated Cars which is payable on such date and any Additional Rental then due on account of such Cars), deliver an appropriate bill of sale for the designated Cars; and such bill of sale shall contain the Lessor's warranty that immediately prior to the delivery thereof the Lessor's interest in the designated Cars was free and clear of all liens and encumbrances created by the Lessor or any party claiming through the Lessor. The Lessee agrees to pay all expenses incurred by the Lessor in connection with such sale, including, but not limited to, any sales or other taxes (except taxes measured by net income) incurred or payable in connection therewith and any out-of-pocket expenses incurred by the Lessor in connection therewith. If the Lessor does not accept such offer, this Lease shall, on the designated date, terminate as to the designated Cars, and the provisions of Section 12 shall thereupon be applicable.

If the Lessor accepts the offer it will, upon receipt of payment, transfer title to the Cars to the Lessee, free and clear of all liens and encumbrances created by the Lessor or any party claiming through the Lessor, and shall execute, acknowledge, deliver, file and record all such documents and do such acts as are specified to be performed by the Lessor in the case of the substitution of Cars pursuant to Section 7. The Lessee agrees that, promptly after receiving title to the Cars hereunder, it will dispose of them to a bona fide purchaser unrelated to the Lessee.

This Lease shall remain in full force and effect with respect to the Cars to be purchased by the Lessee until such purchase shall have been completed and the purchase price therefor paid in accordance with the foregoing provisions of this Section 14.

SECTION 15. Options to Purchase. As a part of the consideration for the execution of this Lease by Lessee, Reproco, Inc., a Delaware corporation with an office at 129 South State Street, Dover, Delaware (all of the stock of which is owned by First National City Bank, New York, New York), or its assignee (hereinafter in this Section 15 collectively referred to as

"Reproco") is hereby granted as a third-party beneficiary to this Lease the option to purchase on November 30, 1985 (unless theretofore this Lease shall have been terminated pursuant to Section 11), all, but not less than all, of the Cars then subject to this Lease upon payment on said date of a purchase price of \$10,540.00 for each Car. If Reproco elects to exercise such option, it shall give written notice to such effect to the Lessor not more than 180 days nor less than 90 days prior to said date; and unless such notice be given within such specified period, Reproco's option to purchase the Cars on said date shall expire. In case such option shall be exercised, the Lessor, upon receipt of the purchase price for said Cars, will deliver to Reproco an appropriate bill of sale for said Cars; and such bill of sale shall contain the Lessor's warranty that immediately prior to such purchase the Lessor's interest in said Cars was free and clear of all liens and encumbrances created by the Lessor or of any party claiming through or under the Lessor. The Lessee agrees to pay all expenses incurred by the Lessor in connection with such sale, including, but not limited to any sales or other taxes (except taxes measured by net income) incurred or payable in connection therewith and any out-of-pocket expenses incurred by the Lessor in connection therewith.

If the foregoing option to purchase is not exercised then, subject to the giving of notice as hereinafter provided, Reproco shall also have the option to purchase on November 30, 1990 (unless theretofore this Lease shall have been terminated pursuant to Section 11) all, but not less than all, of the Cars then subject to this Lease upon payment on said date of a purchase price for each such car in the amount of \$10.00.

If Reproco elects to exercise its option to purchase on November 30, 1990, all of the Cars then subject to this Lease, it shall give written notice to such effect to the Lessor not more than 180 days nor less than 90 days prior to said date; and unless such notice be given within such specified period, Reproco's option to purchase the Cars on said date shall expire. In case such option shall be exercised, the Lessor, upon receipt of the purchase price for said Cars and the payment by Lessee of the fixed rental for the Cars accrued to the date of such receipt of the purchase price and any Additional Rental due on account of the Cars, will deliver to Reproco an appropriate bill of sale for said Cars; and such bill of sale shall contain the Lessor's warranty that immediately prior to such purchase the Lessor's interest in said Cars was free and clear of all liens and encumbrances created by the Lessor or any party claiming through or under the Lessor. The Lessee agrees to pay all expenses incurred by the Lessor in connection with such sale, including, but not limited to, any sales or other taxes (except taxes measured by net income) incurred or payable in connection therewith and all out-of-pocket expenses incurred by the Lessor in connection therewith.

This Lease shall remain in full force and effect until such purchase shall have been completed and the purchase price for the Cars paid in accordance with the foregoing provisions of this Section 15.

SECTION 16. Opinion of Counsel. Concurrently with the execution and delivery of this Lease, and of each supplement hereto provided for in Section 7, the Lessee will deliver to the Lessor the written opinion of counsel for the Lessee, in scope and substance satisfactory to the Lessor to the effect that:

- A. the Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of the State of Delaware, with adequate corporate power to enter into this Lease;
- B. this Lease has been duly authorized, executed and delivered by the Lessee and constitutes a valid, legal and binding agreement of the Lessee enforceable in accordance with its terms;
- C. no approval is required from any public regulatory body with respect to the entering into or performance of this Lease; and
- D. the entering into and performance of this Lease will not result in any breach of, or constitute a default under, or result in the creation of any lien, charge or encumbrance upon the Lessee's interest in the Cars under this Lease pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which the Lessee is a party or by which it may be bound.

SECTION 17. Recording. The Lessee will promptly cause this Lease to be filed with the Interstate Commerce Commission and to be filed, registered or recorded wherever else required (and thereafter will cause it to be filed, registered or recorded and refiled, reregistered, or rerecorded whenever and wherever required), in each place in the United States of America or elsewhere for the proper protection, to the satisfaction of the Lessor, of the Lessor's Title to the Cars; and the Lessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register or record (and will refile, reregister or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor for the purpose of such protection of its title, or for the purpose of carrying out the intention of this Lease. The Lessee will pay all cost, charges and expenses incident to the filing, refiling, registering, reregistering, recording and rerecording of this Lease and incident to the preparation, execution, filing, refiling, registering, reregistering, recording and rerecording of any such further instrument or incident to the taking of any such other action.

SECTION 18. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States mails, first class postage prepaid, addressed as follows:

If to the Lessor:

PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION
OF COLORADO, STATE DIVISION
1390 Logan Street
Denver, Colorado 80203
Attention: Jack E. Kennedy, Executive Secretary

If to the Lessee:

PHILLIPS PETROLEUM COMPANY
Fourth and Keeler Streets
Bartlesville, Oklahoma 74004
Attention: Vice President, Supply and
Transportation Department

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

SECTION 19. Execution in Counterparts. This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and in each case such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Lessor and the Lessee, pursuant to due authority, have caused these presents to be signed in their respective names and their respective seals to be hereunto affixed, duly attested, as of the day and year first above written.

ATTEST:

PUBLIC EMPLOYEES' RETIREMENT
ASSOCIATION OF COLORADO -
STATE DIVISION, Lessor

By Jack E. Kennedy
Executive Secretary

ATTEST:

PHILLIPS PETROLEUM COMPANY,
Lessee

By [Signature]
VICE PRESIDENT

[Signature]
ASSISTANT SECRETARY

SCHEDULE "A"

TO: Phillips Petroleum Company lease dated as of December 1, 1970, with Public Employee's Retirement Association of Colorado, State Division.

SCHEDULED VALUE OF EACH CAR

(dates shown below are as of the 1st of each month)

<u>Date</u>	<u>Value</u>	<u>Date</u>	<u>Value</u>
3-71	\$23,460.75	6-81	16,531.51
6-71	23,360.47	9-81	16,262.33
9-71	23,257.74	12-81	15,986.58
12-71	23,152.51	3-82	15,704.11
3-72	23,044.71	6-82	15,414.76
6-72	22,934.28	9-82	15,118.35
9-72	22,821.16	12-82	14,814.72
12-72	22,705.29	3-83	14,503.69
3-73	22,586.59	6-83	14,185.08
6-73	22,465.00	9-83	13,858.70
9-73	22,340.44	12-83	13,524.37
12-73	22,212.85	3-84	13,181.89
3-74	22,082.15	6-84	12,831.06
6-74	21,948.26	9-84	12,471.68
9-74	21,811.11	12-84	12,103.54
12-74	21,670.62	3-85	11,726.42
3-75	21,526.70	6-85	11,340.11
6-75	21,379.27	9-85	10,944.39
9-75	21,228.25	12-85	10,539.02
12-75	21,073.55	3-86	10,123.77
3-76	20,915.08	6-86	9,698.40
6-76	20,752.75	9-86	9,262.66
9-76	20,586.46	12-86	8,816.30
12-76	20,416.11	3-87	8,359.06
3-77	20,241.61	6-87	7,890.67
6-77	20,062.86	9-87	7,410.87
9-77	19,879.75	12-87	6,919.37
12-77	19,692.18	3-88	6,415.89
3-78	19,500.04	6-88	5,900.14
6-78	19,303.21	9-88	5,371.82
9-78	19,101.59	12-88	4,830.62
12-78	18,895.05	3-89	4,276.23
3-79	18,683.48	6-89	3,708.32
6-79	18,466.75	9-89	3,126.57
9-79	18,244.74	12-89	2,530.64
12-79	18,017.32	3-90	1,920.18
3-80	17,784.35	6-90	1,294.84
6-80	17,545.70	9-90	654.26
9-80	17,301.24	12-90	-0-
12-80	17,050.82		
3-81	16,794.29		

STATE OF COLORADO)
) SS.
CITY AND COUNTY OF DENVER)

On this 1st day of December, 1970, before me personally appeared Jack E. Kennedy, to me personally known, who, being by me duly sworn, says that he is the Executive Secretary of Public Employees' Retirement Association of Colorado, State Division, that the foregoing instrument was signed on behalf of said association, and that the execution of the foregoing instrument was the free act and deed of said association.

WITNESS my hand and official seal.

My commission expires:

My Commission expires Oct. 17, 1973

Paul C. Kumbie
Notary Public

STATE OF OKLAHOMA)
) SS.
COUNTY OF WASHINGTON)

On this 25th day of Nov., 1970, before me personally appeared W. F. Martin, to me personally known, who being by me duly sworn, says that he is the Vice President of Phillips Petroleum Company, 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.

WITNESS my hand and official seal.

My commission expires:

Nov. 1, 1971

Gloria Ann Morris
Notary Public