



# THE BANK OF CALIFORNIA

Portland Office: 407 S. W. Broadway · Portland, Oregon · Mailing Address: P.O. Box 3121, 97208 · (503) 225-3636

August 28, 1978

RECORDATION NO. 9577 Filed & Recorded

RECEIVED  
SEP 1 2 26 PM '78  
I.C.C.  
FEE OPERATION BR.

Hon. H. G. Homme  
Acting Secretary  
Interstate Commerce Commission  
Washington, D. C. 20423

SEP 1 1978 2 30 PM  
INTERSTATE COMMERCE COMMISSION

Dear Sir:

Will you please record, as provided in Section 20C of the Interstate Commerce Act, the Railroad Equipment Security Agreement dated as of August 1, 1978 granting a security interest in railroad hopper cars. The original and two certified copies of the document are enclosed with this letter of transmittal, along with a check in the amount of \$50.00.

The information required for such recordation by order of the Interstate Commerce Commission is as follows:

Section 1116.4 (b). The names and addresses of the parties to the transaction:

Mortgagor: William A. L. Lyons and Dolores J. Lyons  
11556 S. E. Hilltop Court  
Portland, Oregon 97266

Mortgagee: The Bank of California, N.A.  
P. O. Box 3121  
Portland, Oregon 97208  
Attn: Commercial Loans

*H. S. Lawley*

*[Signature]*

8-25-1978  
SEP 1 1978  
Date .....  
Fee \$ 50

ICC Washington, D. C

THE BANK OF CALIFORNIA

*National Association*

Hon. H. G. Homme

August 28, 1978

Page Two

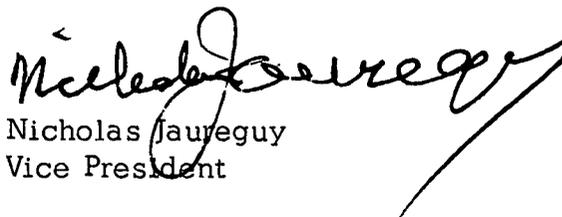
Section 1116.4 (c). Description of the equipment:

<u>Type</u>	<u>Quantity</u>	Lessee's <u>Car Nos.</u>	<u>Marked*</u>	A.A.R. Mechanical <u>Designation</u>
P-2-CD	Three	WCRX 105		L153
100 Ton Covered		WCRX 106		
Hopper Cars		WCRX 107		

\*Each unit will have stenciled on each side thereof the following legend:  
"Ownership subject to a security interest filed under the Interstate Commerce Act, Section 20C, in favor of The Bank of California, Portland, Oregon."

Section 1116.4 (f). The original document being recorded should be returned to David Wood, Esq., c/o Pullman Standard, 1616 H. Street, N.W., Washington, D. C. 20006.

Sincerely,



Nicholas Jaureguy  
Vice President

NJ:ll  
Enclosures

Railroad Equipment Security Agreement

SEP 1 1978 8 22 PM

THIS SECURITY AGREEMENT is dated as of SEPTEMBER 1 1978 at MINNESOTA COMMERCE COMMISSION 1978, from William A. L. Lyons and Dolores J. Lyons (the "Mortgagor") to THE BANK OF CALIFORNIA, NATIONAL ASSOCIATION (the "Mortgagee").

## W I T N E S S E T H:

WHEREAS, the Mortgagor is justly indebted to Mortgagee as evidenced by the Promissory Note(s), of the Mortgagor (the "Notes" whether one or more) payable to the order of the Mortgagee, secured hereby, including but not limited to that certain Note, dated August 1, 1978, in the principal amount of \$ 82,200.00. Said Notes and the principal and interest thereon, and any and all extensions or renewals thereof in whole or in part, and all other sums at any time due or owing from or required to be paid by the Mortgagor under the terms hereof or of said Notes are hereinafter referred to as "indebtedness hereby secured".

NOW, THEREFORE, the Mortgagor, as security for the payment of all the indebtedness hereby secured and all other obligations of Mortgagor to Mortgagee now or hereafter existing, present or contingent and the performance and observance of all the covenants and agreements in said Notes or in this Security Agreement provided to be performed or observed by the Mortgagor, does hereby grant, bargain, sell, convey, confirm, transfer, mortgage and set over unto hereby grant to the Mortgagee a security interest in, any and all the following described property, rights and interests, and all of the estate, right, title and interest of the Mortgagor therein, whether now owned or hereafter acquired (all of which property, rights and interests hereby transferred, conveyed and mortgaged is hereinafter collectively referred to as the "mortgaged property"):

- (a) The railroad cars bearing, respectively, the car reporting marks and being leased by Mortgagor under the lease(s) ("Leases" whether one or more) delivered to the respective lessee(s) ("Lessees" whether one or more) all as set forth and more fully described in Schedule 1 hereto.
- (b) 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, including all additions thereto which are now or shall hereafter be incorporated therein, together with all the rents, issues, income, profits and proceeds thereof.

TO HAVE AND TO HOLD said mortgaged property unto the Mortgagee, its successors and assigns, forever, for the uses and purposes herein set forth.

SECTION 1. COVENANTS AND WARRANTIES:

The Mortgagor covenants, warrants and agrees as follows:

1.1. The Mortgagor is the owner and is lawfully seized and possessed of the mortgaged property and has good right, full power and authority to convey, transfer and mortgage the same to the Mortgagee; and such property is free from any and all liens and encumbrances prior to or on parity with or junior to the lien of this Security Agreement, and the Mortgagor will warrant and defend the title thereto against all claims and demands whatsoever.

1.2 The Mortgagor will do, execute, acknowledge, and deliver all and every further acts, deeds, conveyances, transfer and assurances necessary or proper for the better assuring, conveying, assigning and confirming unto the Mortgagee all of the mortgaged property, or property intended so to be, whether now owned or hereafter acquired.

1.3 The Mortgagor will promptly pay the indebtedness hereby secured as and when the same or any part thereof becomes due.

1.4 Subject to the rights and obligations of the Lessor and Lessees under the Leases, to maintain the equipment covered thereunder the Mortgagor will maintain, preserve and keep or will cause the mortgaged property and each and every part thereof to be maintained, preserved and kept in safe and good repair, working order and condition, and will from time to time make or cause to be made all necessary and proper repairs, renewals, and replacements so that the value and efficiency of such property shall not be impaired.

1.5 The Mortgagor will from time to time duly pay and discharge or cause to be paid and discharged all taxes, assessments and governmental charges lawfully imposed upon or against the mortgaged property or any part thereof, and will not suffer to exist any mechanics', laborers', statutory or other lien on the mortgaged property or any part thereof.

1.6 The Mortgagor will at its own expense duly comply with and perform all the covenants and obligations of the Mortgagor under the Leases and will at its own expense seek to cause the Lessees to comply with and observe all the terms and conditions of the Leases and, without limiting the foregoing, at the request of the Mortgagee, the Mortgagor will at its own expense take such action with respect to the enforcement of the Leases, and the duties and obligations of the Lessees thereunder, as the Mortgagee may from time to time direct; provided that the Mortgagor shall not have any right to settle, adjust, compound or compromise any claim against the Lessees under the Leases without the prior written consent of the Mortgagee. Mortgagor at its sole cost will appear and defend every action or proceeding arising under; growing out of or in any manner connected with the obligations, duties or liabilities of Mortgagor as Lessor under the Leases.

1.7 The Mortgagor shall not, without the prior consent of the Mortgagee take any action to terminate, modify or accept a surrender of any Lease or consent to the creation or existence of any mortgage, security interest, or other lien on the Lease, the rentals due thereunder, or any of the mortgaged property.

1.8 The Mortgagor will furnish to the Mortgagee such information respecting the financial condition of the Mortgagor and its business and operations, as the Mortgagee shall from time to time reasonably request.

1.9 If the Mortgagor shall fail to observe and perform any of the covenants set forth in this Section 1, the Mortgagee may advance sums to, and may perform the same and all advances made by the Mortgagee shall, with interest thereon at the rate then provided in the Notes or 10% per annum, whichever is higher, and same shall constitute part of the indebtedness hereby secured and shall be payable forthwith; but no such act or expenditure by the Mortgagee shall relieve the Mortgagor from the consequence of any default.

1.10 The Mortgagor shall at all reasonable times provide Mortgagee access to all Mortgagor's books and records relating to the mortgaged property and disclose to Mortgagee all information concerning the condition and location of the mortgaged property as Mortgagee may reasonably request.

1.11 Mortgagor will at all times maintain physical damage, fire and extended coverage insurance under a policy (showing mortgagee as loss payee or with a lienholder's endorsement in favor of Mortgagee from a reliable insurance company, all as shall be acceptable to Mortgagee. The extent of such insurance coverage shall at all times be in an amount in excess of the amount of indebtedness hereby secured and proof of such coverage and of its being in full force and effect shall promptly upon Mortgagee's request provided by Mortgagor.

1.12 Marking of Equipment. Mortgagor will cause the mortgaged property to be numbered with its identifying number and the number of the ICC filing relating thereto, and will keep and maintain plainly, distinctly, permanently and conspicuously marked on each side of each unit of mortgaged property in letters not less than one inch in height, the words:

Ownership subject to a security interest filed under the Interstate Commerce Act, Section 20c, in favor of The Bank of California, Portland, Oregon.

or other appropriate markings approved by Mortgagee. Mortgagor will make the changes thereof and additions thereto which may be required by law in order to protect the Mortgagors rights under this agreement. Mortgagor will not allow the Mortgaged property to be operated until such markings have been made thereon and will replace promptly and such markings which may be removed, defaced or destroyed.

The identifying numbers shall be as follows: WCRX 105, WCRX 106, WCRX 107. Mortgagor will not permit the identifying number to be changed except in accordance with a statement of new number to be substituted therefor, which statement previously shall have been filed with Mortgagee and filed, recorded or deposited on behalf of Mortgagor in all public offices where this Agreement shall have been filed, recorded or deposited. Except as provided in this paragraph, Mortgagor will not allow the name of any person, association or corporation to be placed on any unit of mortgaged property as a designation that might be interpreted as a claim of ownership; provided, however, that United Grain Corporation of Oregon as Lessee may cause the mortgaged property to be lettered with the names or initials or other insignia customarily used by United Grain Corporation of Oregon as Lessee, on railroad equipment used by it of the same or a similar type for convenience or identification.

## SECTION 2. APPLICATION OF PROCEEDS OF LEASES

2.1 The Mortgagor has executed and delivered to Mortgagee an Assignment of Lease in the form and text attached hereto as Schedule II, dated on or prior to the date hereof ("Assignment") with respect to each of the Leases, under which the Mortgagor assigns or transfers unto Mortgagee, its successors and assigns, as further security for the indebtedness hereby secured, each such Lease and all rentals and other sums due and to be come due thereunder provided that unless and until an event of default under Section 3 hereof has occurred and is continuing, all rentals and other sums from time to time payable on account of such Lease shall be paid to and be received by Mortgagor. If an event of default under Section 3 hereof, has occurred and is continuing, all rentals and other sums from time to time payable on the Leases shall be paid to and received by the Mortgagee pursuant to the Assignment, and shall be applied in the manner set forth in Section 3.3 hereof.

2.2 Without regard to whether an event of default under Section 3 hereof has occurred and is continuing, Mortgagor agrees that it will pay over to Mortgagee all monies ("settlement monies") paid to it pursuant to a Lease as settlement for the loss, theft, destruction, or damage beyond repair of any car or cars leased thereunder for application, at Mortgagee's discretion to principal and/or interest on the Notes. The Mortgagor shall promptly transmit to Mortgagee any notice or information it receives concerning loss, theft, destruction or damage to cars covered by a Lease requiring settlement payment under such Lease.

## SECTION 3. DEFAULTS AND OTHER PROVISIONS:

3.1 The term "event of default" for the purpose hereof shall mean any one or more the following:

- (a) Default in the payment of principal or interest on any of the Notes when due.
- (b) Default in the payment of the Notes at maturity, whether by acceleration or otherwise;

(c) Default in the due observance or performance of any other covenant, condition or agreement required to be observed and performed by the Mortgagor in the Notes, the Assignment, any Loan Agreement executed by Mortgagor in favor of Mortgagee or this Mortgage.

(d) Any representation or warranty made by the Mortgagor to the Mortgagee in writing herein or in any Loan Agreement executed by Mortgagor in favor of Bank, or in the Assignment or in any statement or certificate furnished by the Mortgagor to the Mortgagee in connection with the making of any loan or loans evidenced by the Notes, proves untrue in any material respect as of the date of the issuance or making thereof;

(e) The entry of a decree or order by a court having jurisdiction adjudging the Mortgagor, a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Mortgagor under the Federal Bankruptcy Act or any other applicable Federal or State law, or appointing a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Mortgagor or of any substantial part of its property, or ordering the winding up or liquidation of its affairs; and the continuance of any such decree or order unstayed and in effect for a period of thirty (30) consecutive days;

(f) The institution by the Mortgagor, of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under the Federal Bankruptcy Act or any other applicable Federal or State law, or the consent by it to the filing of any such petition or to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Mortgagor or of any substantial part of its property, or the making by the Mortgagor of an assignment for the benefit of creditors, or the admission in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Mortgagor in furtherance of any such action;

3.2 When any such event of default occurs, the Mortgagee may exercise any one or more or all, and in any order, of the remedies hereinafter set forth, it being expressly understood that no remedy herein conferred is intended to be exclusive of any other remedy or remedies; but each and every remedy shall be cumulative and shall be in addition to every other remedy given herein or now or hereafter existing at law or in equity or by statute:

(a) The Mortgagee may, by notice in writing to the Mortgagor, declare the entire unpaid balance of the Notes to be immediately due and payable; and thereupon all such unpaid balance, together with all accrued interest thereon, shall be and become immediately due and payable;

(b) The Mortgagee, personally or by agents or attorneys, shall have the right to take immediate possession of the mortgaged property, or any portion thereof, and for that purpose may pursue the same wherever it may be found, and may enter any of the premises of the Mortgagor, with or without notice, demand, process of law or legal procedure, and search for, take

possession of; remove, keep and store the same, or use and operate the same until sold; it being understood, without limiting the foregoing, that the Mortgagee may, and is hereby given the right and authority to, keep and store said mortgaged property, or any part thereof, on the premises of the Mortgagor, and that the Mortgagee shall not thereby be deemed to have surrendered, or to have failed to take, possession of such mortgaged property;

(c) The Mortgagee may, if at the time such action may be lawful either with or without taking possession and either before or after taking possession, and without instituting any legal proceedings whatsoever, and having first given such notice of such sale as may be affirmatively required by applicable law, sell and dispose of said mortgaged property, or any part thereof, at public auction or private sale to the highest bidder, in one lot as an entirety or in separate lots, and either for cash or on credit and on such terms as the Mortgagee may determine, and at any place (whether or not it be the location of the mortgaged property or any part thereof) designated in the notice above referred to. Any such sale or sales may be adjourned from time to time by announcement at the time and place appointed for such sale or sales, or for any such adjourned sale or sales, without further published notice; and the Mortgagee or the holder or holders of the Notes, or of any interest therein, may bid and become the purchaser at any such sale;

(d) The Mortgagee may proceed to protect and enforce this Mortgage and the Notes by suit or suits or proceedings in equity, at law or in pending bankruptcy, and whether for the specific performance of any covenant or agreement herein contained or in execution or aid of any power herein granted, or for foreclosure hereunder, or for the appointment of a receiver or receivers for the mortgaged property or any part thereof, for the recovery of judgment for the indebtedness hereby secured, or for the enforcement of any other proper legal or equitable remedy available under applicable law;

(e) The Mortgagee may proceed to exercise in respect of the Leases and the property covered thereby and the duties, obligations and liabilities of the Lessees thereunder, all rights, privileges and remedies in said Leases or by applicable law permitted or provided to be exercised by the Mortgagor, and may exercise all such rights and remedies either in the name of the Mortgagee or in the name of the Mortgagor for the use and benefit of the Mortgagee and Mortgagee may contact any Lessee under the Loan directly and direct that all payments under the Loan be made solely and directly to Mortgagee. Without limiting any of the other terms of this Mortgage or of the Assignment, it is acknowledged and agreed by the Mortgagor that the Assignment shall be deemed to give and assign to and vest in the Mortgagee all the rights and powers in this paragraph (e) provided for;

(f) The Mortgagee may sell the rentals reserved under any or all of the Leases, and all right, title and interest of the Mortgagee as assignee thereof, at public auction to the highest bidder and either for cash or on credit, and provided always that the Mortgagee shall also comply with any applicable mandatory legal requirements in connection with such sale.

3.3 If the Mortgagee shall be receiving or shall have received monies pursuant to the Assignment, it may from time to time apply such monies against the next succeeding installment of interest and then against principal due on the Notes, or if proceedings have been commenced for the sale of the mortgaged property then all sums so received and

the purchase money proceeds and avails of any sale of the mortgaged property or any part thereof, and the proceeds and avails of any other remedy hereunder, or other realization of the security hereby given, and the proceeds of any sale pursuant to subparagraph (f) of Section 3.2 hereof, shall be applied:

- (a) First, to the payment of the costs and expenses of the sale, proceeding or other realization, including all costs and expenses and charges for pursuing, searching for, taking, removing, keeping, storing, advertising and selling such mortgaged property or, as the case may be, said rentals, the reasonable fees and expenses of the attorneys and agents of the Mortgagee in connection therewith, and to the payment of all taxes, assessments, or similar liens on the mortgaged property which may at that time be superior to the lien of this Mortgage;
- (b) Second, to the payment of all advances made by the Mortgagee pursuant to Section 1.9 hereof, together with all interest therefor;
- (c) Third, to the payment of the whole amount remaining unpaid on the Notes, both for principal and interest, and to the payment of any other indebtedness of the Mortgagor hereunder or the indebtedness secured hereby, so far as such proceeds may reach;
- (d) Fourth, to the payment of the surplus, if any, to the Mortgagor, or to whomsoever may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

The Mortgagee shall not be liable for interest on any sums held by it pursuant to this Paragraph 3.3. If there is a deficiency, the Mortgagor shall remain liable therefor and shall forthwith pay the amount of any such deficiency to the Mortgagee.

3.4 Any sale or sales pursuant to the provisions hereof, whether under the power of sale granted hereby or pursuant to any legal proceedings, shall operate to divest the Mortgagor of all right, title, interest, claim and demand whatsoever, either at law or in equity, of, in and to the mortgaged property so sold, and shall be free and clear of any and all rights of redemption by, through or under the Mortgagor, the Mortgagor hereby covenanting and agreeing that it will not at any time insist upon or plead, or take the benefit or advantage of or from, any law now or hereafter in force providing for a valuation of appraisalment of the mortgaged property prior to any sale or sales thereof or providing for any right to redeem the mortgaged property or any part thereof. In the event at any such sale the holder or holders of the Notes is or are the successful purchaser or purchasers, such holder or holders of said Notes shall be entitled, for the purpose of making settlement or payment, to use and apply said Notes by crediting thereon the amount apportionable and applicable thereto out of the net proceeds of such sale.

SECTION 4. MISCELLANEOUS:

4.1 Any notice provided for hereby or by any applicable law to be given to the Mortgagor or Mortgagee shall be in writing and shall be deemed to have been given when delivered personally or when deposited in the United States mail, postage prepaid, addressed to the Mortgagor at its address set forth as follows:

Mortgagor:

Mr. William A. L. Lyons  
11556 S. E. Hilltop Court  
Portland, Oregon 97266

Mortgagee:

The Bank of California, N.A.  
P. O. Box 3121  
Portland, Oregon 97208

Attn: Commercial Loans

4.2 The failure or delay of the Mortgagee to insist in any one or more instances upon the performance of any of the terms, covenants or conditions of this Mortgage, or to exercise any right, remedy or privilege herein conferred, shall not impair, or be construed as thereafter waiving any such covenants, remedies, conditions or provisions; but every such term, condition and covenant shall continue and remain in full force and effect. Nor shall the giving, taking or enforcement of any other or additional security, collateral or guaranty for the payment of the indebtedness secured under this Mortgage operate to prejudice, waive or affect the security of this Mortgage or any rights, powers or remedies hereunder; nor shall the Mortgagee be required to first look to, enforce or exhaust such other or additional security, collateral or guaranties.

4.3 The unenforceability or invalidity of any provision or provisions of this Mortgage shall not render any other provision or provisions herein contained unenforceable or invalid.

4.4 All the covenants, stipulations, promises, undertakings and agreements herein contained by or on behalf of the Mortgagor shall bind and inure to the benefit of its successors, assigns, heirs and representatives, whether so expressed or not.

IN WITNESS WHEREOF, the Mortgagor has executed this Railroad Equipment Security Agreement as of the day and year first written above.

William A. Lyons

Robert J. Lyons

Accepted by Mortgagee  
this 28 day of August, 1978.

The Bank of California,  
National Association

By Michael J. [Signature]  
Name: \_\_\_\_\_ Title: VICE PRES.

By Jamaia [Signature]  
Name: \_\_\_\_\_ Title: Vice Pres.

**SCHEDULE I**  
LEASE OF RAILROAD EQUIPMENT.

This lease dated as of the 1st day of August, 1978, by and between William A. L. Lyons and Dolores J. Lyons (hereinafter referred to as "Lessor", and UNITED GRAIN CORPORATION, an Oregon corporation, (hereinafter referred to as "lessee").

WITNESSETH THAT:

- ARTICLE 1 Lessor agrees to furnish to Lessee and Lessee agrees to accept and use upon the terms and conditions herein set forth the railroad cars, (hereinafter collectively referred to as the "cars" and separately as a "car"), shown on Riders, that may be added to this Lease from time to time by mutual agreement of Lessor and Lessee.
- ARTICLE 2 The term of this Lease with respect to each of the cars shall be the term specified on the Rider to this Lease that is applicable to such car, unless sooner terminated in accordance with Article 24 hereof, subject to any extension thereof as may be agreed upon in writing by Lessor and Lessee.
- ARTICLE 3A Each of the cars shall be considered as delivered to Lessee hereunder upon the date of the arrival of each of the cars in the yards of delivering railroads, at the point mutually agreed upon by Lessor and Lessee, (hereinafter referred to as the "Effective Date"). Furnishing of the cars by Lessor shall be subject to all causes beyond the control of Lessor.
- ARTICLE 3B Each of the cars shall be subject to Lessee's inspection after delivery to Lessee hereunder and before loading. The loading of each such car by or on behalf of Lessee shall constitute acceptance thereof by 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.
- ARTICLE 4A At the time of delivery of the cars by Lessor to Lessee, each car will be plainly marked on each side with Lessee's identification mark. If during the continuance of this Lease such marking shall at any time be removed or become illegible, wholly or in part, Lessee shall immediately cause such marking to be restored or replaced at Lessor's expense.

ARTICLE 4B Lessee shall not place nor permit any lettering or marking of any kind to be placed upon the cars without Lessor's prior written consent, except that, for the purpose of evidencing the operation of the cars in Lessee's service hereunder, Lessee shall be permitted to board, placard or stencil the cars with letters not to exceed two inches (2") in height.

ARTICLE 5 The fixed rental with respect to each of the cars shall be the rental specified on the Rider to this Lease that is applicable to such car and such fixed rental shall become effective with respect to each of the cars covered by such Rider upon the Effective Date and shall continue in effect with respect to each such car throughout the term of this Lease with respect to such car unless such car is redelivered to Lessor at an earlier date, as provided in Article 25 hereof. The first fixed rental payment for each car shall be made at the pro rata daily rate for the number of days from the Effective Date to the end of the pay period in which the Effective Date falls. The last payment of rental shall cover the number of days from the first day of the final pay period to the termination date of this Lease at the pro rata rate per day.

ARTICLE 6 Immediately after the end of each year of this Lease, Lessor shall determine the total number of miles that each car traveled during such year, loaded and empty. If it is determined that any car traveled more than forty thousand (40,000) miles during such year, Lessee agrees to pay Lessor as additional rent for such car for such year the sum of two cents (\$.02) multiplied by the number of miles in excess of forty thousand (40,000) that such car traveled during such year. The determination of the total number of miles traveled by each car during any year shall be made by multiplying the total number of miles that such car traveled while loaded by two (2), unless Lessor has in its possession information sufficient to ascertain the exact mileage traveled by such car during such year.

ARTICLE 7A Lessee agrees to report promptly to Lessor each movement of the cars. Such report shall contain the date, car number, destination and routing of such movement and any other information which Lessee receives from railroad or other sources concerning such movement. Lessor agrees to use such reports and any other information which is received by Lessor to maintain records to be used to collect any mileage allowances, rentals and/or other compensation payable by railroads by reason of the use of the cars, (hereinafter referred to as "allowances").

ARTICLE 7B Insofar as applicable laws and regulations permit, Lessee, unless an event of default specified in Article 24 hereof shall have occurred and be continuing, shall be entitled to all allowances collected by Lessor from railroads as a credit against fixed rents, and any other amounts that Lessee may be required to pay Lessor, but in no event shall such credit exceed the sum of such obligations.

ARTICLE 8 Lessee agrees, insofar as possible, to so use the cars that their total mileage under load will equal or exceed their mileage empty on each railroad over which the cars move. In the event that the empty mileage of the cars should exceed their loaded mileage on any railroad and Lessor is notified by such railroad to equalize such mileage with loaded mileage or to pay for such excess empty mileage, Lessee, after notice from Lessor, shall equalize such excess empty mileage within the time limit established by such railroad or pay Lessor for such excess at the rate established by the governing tariff.

ARTICLE 9 Lessee will preserve the cars in good condition and will not alter the physical structure of any of the cars without the approval in writing of Lessor.

ARTICLE 10 Except where responsibility is placed upon others as provided in Article 12A hereof, Lessor, at its expense, agrees to maintain the cars exclusive of interior lading protection devices, special interior linings and removable parts, if any, in good condition and repair according to the Code of Rules hereinafter mentioned. Lessee, at its expense, agrees to maintain all interior lading protection devices, special interior linings and removable parts, if any, in good condition and repair. No repairs other than ordinary running repairs and repairs to interior lading protection devices, special interior linings and removable parts, if any, shall be made without Lessor's prior written consent.

ARTICLE 11 If any car becomes unfit for any reason unrelated to interior lading protection devices, special interior linings and/or removeable parts referred to in Section 10 hereof, if any, and if such condition is not due to damage to such car for which Lessee is responsible under this Lease, the following provisions of this Article 11 shall govern the abatement of rental for such car.

If such car is damaged but not damaged beyond repair and, at Lessor's request, it is moved to a non-railroad shop for repair, rental shall abate as of the date on which such car is switched into the property of such repair shop and shall be reinstated effective as of the fourth (4th) calendar date following the date on which Lessee is notified that such car has been repaired and is ready for redelivery to Lessee. If such car is delivered to a railroad shop for repairs and is not released for shipment to Lessee within five (5) calendar days after such delivery, rental shall abate as of the sixth (6th)

calendar day after the date on which such car is switched into the property of such railroad shop and shall be reinstated as of the date on which such car is released from such shop.

If a car is derailed and is not rerailed within five (5) calendar days following such derailment, rental shall abate as of the date of such derailment and shall be reinstated as of the date of rerailed, unless such car requires repairs, in which case the applicable preceding paragraph of this Article 11 shall determine the date on which such reinstatement shall occur.

If any car is damaged beyond repair or is destroyed, rental for such car shall abate as of the date of such damage or destruction. If such car is replaced by another car in accordance with Article 12B hereof, rental for such replacement car shall commence on delivery of such replacement car to Lessee.

ARTICLE 12A Responsibility for loss or destruction of or damage to cars or parts thereof or appurtenances thereto furnished under this Lease shall be as fixed by the then prevailing Code of Rules Governing the Condition of and Repairs to Freight and Passenger Cars for the Interchange of Traffic promulgated by the Association of American Railroads. Said Code of Rules shall establish the rights obligations and liabilities of Lessor. Lessee and any railroad subscribing to such Code of Rules and moving the cars over its lines in respect of matters to which said Code of Rules relate. In the event that any car is lost, damaged or destroyed while on the tracks of Lessee or any private track, or in the event that any car is damaged by any commodity which may be transported or stored in or on such car, such repairs, renewals or replacements as may be necessary to replace the car or to place it in good order and repair shall be at the sole cost and expense of Lessee. Lessor and Lessee agree to cooperate with and to assist each other in any reasonable manner requested by without affecting their respective obligations under this Article to establish proper claims against parties responsible for loss, or destruction of or damage to the cars.

ARTICLE 12B Lessor, at its election, may substitute another car of approximately the same age, type and capacity for any car which is damaged or destroyed during the term of this Lease. The rental for such replacement car shall be the same as the rental for the damaged or destroyed car, and it shall commence to accrue on the date of arrival of the replacement car in the yards of the delivering railroad at the point mutually agreed upon by Lessor and Lessee.

ARTICLE 13 Except where responsibility is placed on others, as provided in Article 12A hereof, Lessee agrees to indemnify and save

harmless Lessor and the manufacturer of the cars from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and any expenses in connection therewith, including counsel fees arising out of, or as a result of, the use and/or operation of the cars during the term of this Lease.

- ARTICLE 14 Neither Lessor nor the manufacturer of the cars shall be liable for any loss of, or damage to, commodities or any part thereof, loaded or shipped in the cars, however such loss or damage shall be caused, or shall result. The Lessee agrees to assume responsibility for, to indemnify Lessor and the manufacturer of the cars against, and to save them harmless from any such loss or damage or claim therefore, and to assume responsibility for any damage caused to the car by such commodities.
- ARTICLE 15 Neither Lessor nor the manufacturer of the cars shall have any liability to Lessee for loss of use of car or cars, in whole or in part, regardless of the cause thereof.
- ARTICLE 16 Lessor agrees to assume responsibility for and to pay all property taxes levied upon the cars and to file all property tax reports relating thereto.
- ARTICLE 17 Lessor will not be responsible for the payment of any sales and/or use taxes or similar taxes, tariff, duty, customs, switching, demurrage or other charges made by any governmental, railroad or other agency in respect of the cars except as specifically provided herein, and Lessee agrees to reimburse Lessor for any such charges.
- ARTICLE 18 All rights of Lessor hereunder may be assigned, pledged, mortgaged, transferred or otherwise disposed of, either in whole or in part, and/or Lessor may assign, pledge, mortgage, transfer or otherwise dispose of title to the cars with or without notice to Lessee. In the event of any such assignment, pledge, mortgage, transfer or other disposition, this Lease and all of Lessee's rights under this Lease and all rights of any person, firm or corporation who claims or who may hereafter claim any rights under this Lease under or through Lessee are hereby made subject and subordinate to the terms, covenants and conditions of any chattel mortgages, conditional sale agreements, assignments and/or equipment trust agreements covering the cars or any of them heretofore or hereafter created and entered into by Lessor, its successors or assigns and to all of the rights of any such chattel mortgagee, assignee, trustee or other holder of the legal title to the cars. Any sublease of the cars or any of them permitted by Article 19 hereof that is entered into by Lessee, its successors or assigns shall contain language which expressly makes such sublease subject to the subordination contained in this Article 18. At the request of Lessor or any chattel

mortgagee, assignee, trustee or other holder of the legal title to the cars, the cars may be lettered or marked to identify the legal owner of the cars at no expense to Lessee. If during the continuance of this Lease any such marking shall at any time be removed or become illegible, wholly or in part, Lessee shall immediately cause such marking to be restored or replaced at Lessor's expense.

ARTICLE 19 Lessee agrees to use the cars exclusively within the boundaries of the continental United States (exclusive of Alaska and Hawaii) or in international service between Canada and the United States and to make no transfer or assignment of this Lease or of the cars by operation of law or otherwise without Lessor's prior written consent. However, Lessee may sublease any of the cars for use in such areas without securing the prior written consent of Lessor. Such subleasing shall in no way relieve Lessee from any of its obligations to Lessor under this Lease.

ARTICLE 20 Lessee acknowledges and agrees that by the execution hereof it does not obtain and by payments and performance hereunder it does not and will not have or obtain any title to the cars or any of them at any time subject to this Lease nor any property right or interest legal or equitable therein, except solely as Lessee hereunder and subject to all of the terms hereof. Lessee shall keep the cars free from any encumbrances or liens which may be a cloud upon or otherwise affect Lessor's title.

ARTICLE 21 At the time of delivery of the cars by Lessor to Lessee, the cars will conform to the applicable specifications and to all of the governmental laws, regulations, requirements and rules, and to all of the standards recommended by the Association of American Railroads interpreted as being applicable to railroad equipment of the character of the cars as of the date of delivery to Lessee. Lessee agrees to comply with all governmental laws, regulations, requirements and rules, and with the Code of Rules of the Association of American Railroads with respect to the use and operation of each of the cars during the term of this Lease. In case any equipment or appliance on any of the cars shall be required to be changed or replaced or in case any additional or other equipment or appliance is required to be installed on any of the cars during the term of this Lease in order to comply with such laws, regulations, requirements, rules and/or Code of Rules as a result of any changes or revisions made therein during the term of this Lease, Lessor may elect to either (i) terminate this Lease, effective as of the date on which such change, replacement, and/or installation is required to be made or (ii) make such change, replacement and/or installation, pay the cost thereof and increase the monthly fixed rental for each of such cars on a pro-rata

basis. If Lessor elects to make such change, replacement and/or installation, the monthly fixed rental for each of such cars shall be increased, effective as of the date on which such work is completed, by an amount determined as follows: the total cost of completing such change, replacement and/or installation shall be divided by the number of cars requiring such work and by the number of months of useful life of such cars remaining as of the date on which such work is completed as determined from Lessor's books. Any part or parts changed, replaced and/or added to any of the cars shall be considered to be accessions to such cars and title thereto shall be immediately vested in Lessor.

ARTICLE 22 Lessee agrees to furnish Lessor promptly, at Lessor's request, with complete and accurate information reasonably required for the efficient administration of this Lease.

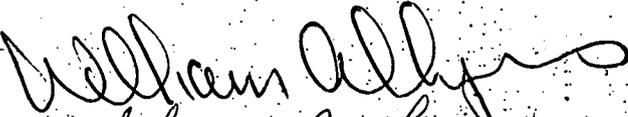
ARTICLE 23 Lessor or its assignee shall have the right by its authorized representatives to inspect the cars at the sole cost and expense of Lessor at such times as shall be deemed necessary.

ARTICLE 24 If (a) Lessee shall fail to carry out and perform any of its obligations under this Lease within twenty (20) days after Lessor shall have demanded in writing performance thereof, or (b) if a petition in bankruptcy or for reorganization or for a trustee or receiver is filed by or against Lessee and all of the obligations of Lessee under this Lease shall not have been duly assumed by the trustee or receiver appointed, of any, in such proceeding or otherwise given the same status as obligations assumed by the trustee or receiver within thirty (30) days after the appointment, if any, or sixty (60) days after such proceedings shall have been commenced, whichever shall be earlier, Lessor may take possession of the cars and any accessions thereto wherever they may be found and at the election of Lessor, or its assignee as the case may be, either (i) declare the Lease terminated in which event all rights and obligations of the parties hereunder shall cease except only the obligations of Lessee to pay accrued rentals to the date of retaking, or (ii) attempt to relet the cars as agent of Lessee, apply the proceeds of such reletting first to the expenses that may be incurred in the retaking and delivery of the cars to the new Lessee, then the payment of amounts due Lessor under this Lease, and Lessee shall remain liable for any sums remaining due after so applying the proceeds so realized. Lessee shall pay said deficit monthly as the same may accrue.

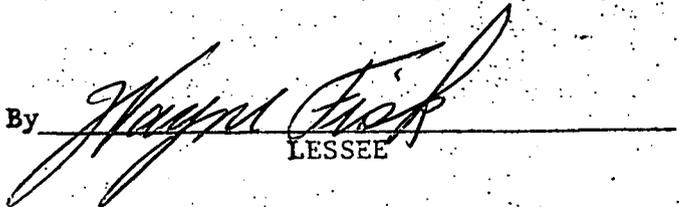
ARTICLE 25 At the termination of this Lease or applicable Rider, Lessee at its expense, shall return each of the cars and each part thereof to Lessor at either the loading point at

which Lessor delivered the cars to Lessee in accordance with Article 3A hereof, or to such other point or points as may be mutually agreed upon by Lessor and Lessee, on the date on which the term of this Lease or applicable Rider expires, empty, free from residue and in the same good order and condition as it was delivered by Lessor to Lessee, ordinary wear and tear and repairs that Lessor is required to make pursuant to Article 10 hereof excepted. Lessee, on demand, shall reimburse Lessor for the cost of cleaning any cars that contain residue. Lessee, at its option, may redeliver any or all of the cars to Lessor during the thirty (30) calendar day period immediately preceding the date on which the term of this Lease or applicable Rider expires. If Lessee shall elect to so redeliver any or all of the cars, the rental on such cars shall cease on the date on which such cars are so redelivered to Lessor. In the event that any or all of the cars are not redelivered to Lessor on or before the date on which the term of this Lease or applicable Rider with respect to such cars expires, all of the obligations of Lessee under this Lease with respect to such cars shall remain in full force and effect until such cars are redelivered to Lessor, provided, however, that the daily rental for each of such cars during such period shall be one and one-half times the pro rata daily rate of the rental specified in the Rider applicable to such cars.

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

  
By William A. Lyon  
LESSOR

UNITED GRAIN CORPORATION

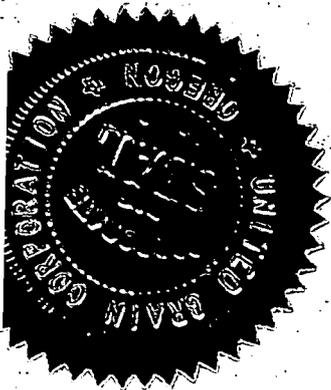
  
By Raymond Fish  
LESSEE

~~Assistant Secretary~~

This Rider shall be attached to and forms a part of Railroad Equipment Lease dated as of the 1st day of August, 1978, by and between William A. L. Lyons and Dolores J. Lyons and UNITED GRAIN CORPORATION.

Quantity	Description	Capacity, Each	Fixed Rental, Each
3	PS-2-CD Covered Hopper Cars WCRX 105-106-107	100 Tons	\$2,436.00 on March 1, 1979, and a like amount semi- annually thereafter through September 1, 1983.

With respect to the cars covered by this Rider, it is hereby agreed that, despite any terms or conditions of the Lease and/or this Rider:



All other terms or conditions of the Lease and/or this Rider shall remain unchanged.

The term of the Lease, with respect to the cars covered by this Rider, shall commence on the 1st day of August, 1978, and shall continue to and include the 31st day of August, 1983.

By William A. Lyons

By Dolores J. Lyons

UNITED GRAIN CORPORATION

By \_\_\_\_\_  
Assistant Secretary

By Wayne Dick

STATE OF OREGON )  
 ) SS  
COUNTY OF MULTNOMAH )

On this 23<sup>rd</sup> day of August, 1978, before me personally  
appeared William A. Lyons and Dolores J. Lyons  
\_\_\_\_\_ to me personally known, who being  
by me duly sworn, say that they have acknowledged that the execution of  
the foregoing instrument was their free act and deed.

J. D. Haller  
Notary Public

Commission expires April 30, 1979

CORPORATE FORM OF ACKNOWLEDGMENT

STATE OF OREGON )  
 ) SS  
COUNTY OF MULTNOMAH )

On this 23<sup>rd</sup> day of August, 1978, before me personally  
appeared Wayne Fisk, to me personally known, who being by me duly sworn,  
says that he is the Executive Vice President of United Grain Corporation,  
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.

J. D. Haller  
Notary Public

Commission expires April 30, 1979

## SCHEDULE II

### ASSIGNMENT OF LEASE

WHEREAS, William A. L. Lyons and Dolores J. Lyons, ("Lessor") and United Grain Corporation of Oregon (hereinafter referred to as "Lessee"), have entered into a lease (herein called the "Lease") dated August 1, 1978, providing for the lease by Lessor to the Lessee of three railroad covered hopper cars, therein described (hereinafter referred to as the "Cars"); and

WHEREAS, the Lease was recorded pursuant to the provisions of Section 20c of the Interstate Commerce Act, as amended, on \_\_\_\_\_, and was assigned recordation number \_\_\_\_\_; and

WHEREAS, THE BANK OF CALIFORNIA, NATIONAL ASSOCIATION (hereinafter referred to as "Bank"), at Portland, Oregon is the secured party under a certain Railroad Equipment Security Agreement ("Security Agreement") dated as of August 1, 1978, securing the loan of certain monies to Lessor evidenced by Lessor's Note(s) and Lessor has also agreed to assign all of its rights, title and interest in and to the Lease to Bank as additional security for the Notes, all as set forth in the Security Agreement.

NOW, THEREFORE, for value received and upon the terms and conditions hereinafter set forth:

1. Lessor does hereby sell, assign, transfer and set over to Bank all of the right, title and interest of Lessor in (and to the rentals and all other amounts payable by the Lessee or any other person, firm or corporation) with respect to the Cars or under the Lease, except that any amount so payable shall continue to be paid to and received by Lessor until and unless Bank or its successors or Lessor shall notify the Lessee that an Event of Default has occurred under the terms and provisions of the Security Agreement and that payments are thereafter to be made to Bank, or its successors; and in furtherance of this Assignment and transfer, Lessor does hereby authorize and empower Bank in the event of notice of a default as aforesaid, in its own name to sue for, collect, receive and enforce all payments to be made to Lessor by the Lessee under and in compliance on the part of the Lessee with the terms and provisions of the Lease, to exercise all of the rights of Lessor under any of the provisions of the Lease, and in its discretion to take any action under the Lease or with respect to the Cars as Lessor could have taken thereunder if it had not assigned and transferred its rights therein, provided that nothing herein shall obligate Bank to take any action under the Lease or in respect of the Cars.

2. Lessor warrants and covenants: (a) that on the date hereof title to the Cars and the Lease (subject to this Assignment) is vested in Lessor, that Lessor has good and lawful right to sell and assign the same as provided in the Security Agreement and herein, and that its right and title thereto is free from all liens and encumbrances, subject, however to the rights of the Bank hereunder; and (b) that notwithstanding this Assignment, it will perform and comply with each and all of the covenants and conditions in the Lease set forth to be complied with by the lessor thereunder. Lessor will cause notice of this Assignment forthwith to be given to the Lessee (together with a copy of this Assignment) and will cause to be delivered to Bank the Lessee's Acknowledgement of Assignment in the form attached hereto, as Exhibit 1.

3. Lessor represents and warrants that the Lease has been duly authorized and executed by it and by the Lessee. Lessor covenants that it will, from time to time, at the request of Bank, make, execute and deliver all such further instruments of assignment, transfer and assurance and to or cause to be done such further acts and things as Bank may reasonably request to give effect to the provisions hereof and to confirm the right, title and interest hereby assigned and transferred to Bank or intended so to be and/or to confirm that the Lease is a valid and binding obligation of the Lessee according to its terms, including without limitation by providing Bank with an opinion of counsel (selected by Lessor and satisfactory to Bank) to that effect, which opinion shall be satisfactory to Bank in form and substance.

4. Pursuant to the terms of the Security Agreement and this Assignment, Lessor shall not without the prior consent of Bank:

- (a) terminate, modify or accept a surrender of, or offer or agree to any termination, modification, or surrender of, the Lease (except as otherwise expressly provided in the Security Agreement) or by affirmative act consent to the creation or existence of any security interest or other lien to secure the payment of indebtedness upon the leasehold estate created by the Lease; or
- (b) receive or collect or permit the receipt or collection of any rental payment under the Lease prior to the date for payment thereof provided for by the Lease or assign, transfer or hypothecate (other than to the Agent under the Security Agreement) any rent payment then due or to accrue in the future under the Lease in respect of the Cars; or
- (c) sell, mortgage, transfer, assign or hypothecate (other than to Bank under the Security Agreement) its interest in the Cars or any part thereof or in any amount to be received by it from the use or disposition of the Cars.

5. Upon full discharge and satisfaction of all indebtedness secured by the Security Agreement, the assignment made hereby shall terminate and all estate, right, title and interest of Bank in and to the Lease shall cease and revert to Lessor or other party entitled thereto.

6. All provisions of the Security Agreement relating to the Lease are incorporated herein by reference as are (specifically) sections 2.1, 2.2, 3.1 through 3.4 inclusive and all of section 4 of the Security Agreement.

IN WITNESS WHEREOF, Lessor has executed this assignment as of the 1st day of August, 1978.

William Alby  
Robert J. Lyon

ACCEPTED:

THE BANK OF CALIFORNIA, NATIONAL ASSOCIATION

By: Nicholas J. Jaurige  
Vice President

By: James A. [Signature]  
Vice President

STATE OF OREGON )  
 )  
COUNTY OF Multnomah ) SS

On this 23rd date of August, 1978  
before me personally appeared William G. Lyons & Dolores J. Lyons to me  
personally known, who being by me duly sworn, say that they have  
acknowledged that the execution of the foregoing instrument was their  
free act and deed.

J. O. Haller  
Notary Public

Commission expires April 30, 1979

STATE OF OREGON )  
 )  
COUNTY OF Multnomah ) SS

On this 23rd day of August, 1978, before me  
personally appeared Nicholas Jamiegy and  
James A. Stinu to me personally known,  
who being by me duly sworn, say that they are, respectively,  
the Vice President and Vice President of The Bank  
of California, N.A., a national banking associa-  
tion, that the seal affixed to the foregoing instrument is  
the corporate seal of said association, that said instrument  
was signed and sealed on behalf of said association by authori-  
ty of its Board of Directors, and they acknowledged that the  
execution of the foregoing instrument was the free act and  
deed of said association.

Linda S. Lund  
Notary Public

My Commission expires June 23, 1979

EXHIBIT 1

ACKNOWLEDGEMENT OF LESSEE

To The Bank of California, National Association

The undersigned, United Grain Corporation of Oregon,  
as Lessee under that certain Lease of Railroad Equipment ("Lease")  
between the undersigned and William A. L. Lyons and Dolores I. Lyons, as Lessor, hereby  
acknowledges receipt of a copy of the foregoing Assignment of Lease dated  
August 1, 19 78 between the Lessor referred to above and The  
Bank of California, National Association ("Bank"), which assignment is  
made with the full knowledge and consent of the undersigned.

At Bank's request the undersigned agrees to make all payments  
due from it under the Lease directly and solely to Bank addressed as  
follows:

The Bank of California, N.A.

P. O. Box 3121

Portland, Oregon 97208

Attn: Commercial Loans

and to make such payments without offset, counterclaim or abatement of  
any kind on account of any obligation to the undersigned of William A. L. Lyons and Dolores I. Lyons as  
Lessor under the Lease, all of which rights (if any) the undersigned  
agrees to assert or pursue solely against the said Lessor and not against  
Bank.

Dated: Aug. 24, 1978

United Grain Corp.  
Wayne Mack  
(Lessee)

STATE OF OREGON )  
 ) SS  
COUNTY OF )

On this 23rd date of Aug, 1978  
before me personally appeared William C. Lyons and Dolores J. Lyons to me  
personally known, who being by me duly sworn, say that they have  
acknowledged that the execution of the foregoing instrument was their  
free act and deed.

J. O. Haller  
Notary Public

Commission expires April 30, 1979

STATE OF OREGON )  
 ) SS  
COUNTY OF Multnomah

On this 23rd day of August, 1978, before me  
personally appeared Nicholas J. Jurequey and  
James A. Kinn to me personally known,  
who being by me duly sworn, say that they are, respectively,  
the Vice President and Vice President of The Bank  
of California, N.A., a national banking associa-  
tion, that the seal affixed to the foregoing instrument is  
the corporate seal of said association, that said instrument  
was signed and sealed on behalf of said association by authori-  
ty of its Board of Directors, and they acknowledged that the  
execution of the foregoing instrument was the free act and  
deed of said association.

Linda S. Lund  
Notary Public

My Commission expires June 23, 1979