

LAW OFFICES
CONNER, MOORE & CORBER
1747 PENNSYLVANIA AVENUE, N. W.
WASHINGTON, D. C. 20006

AUG 29 1979

50.00

August 29, 1979

(202) 833-3500

ROBERT J. CORBER

10774

CABLE ADDRESS: ATOMLAW

RECORDATION NO. Filed 1425

AUG 29 1979 - 3 45 PM

INTERSTATE COMMERCE COMMISSION

Ms. Agatha Mergenovich,
Secretary
INTERSTATE COMMERCE COMMISSION
Room #2215
Washington, D. C. 20023

Dear Ms. Mergenovich:

Enclosed for filing and recordation pursuant to former section 20c of the Interstate Commerce Act, 49 USC §11303, are four counterparts of the Conditional Sale Agreement dated as of August 28, 1979 by and between FMC Corporation and Refco Transport Equipment, Inc., relating to railroad equipment described in the document.

The names and addresses of the parties to the Conditional Sale Agreement are as follows:

1. MANUFACTURER: FMC CORPORATION
(Vendor) Post Office Box 3616
4700 Northwest Front Avenue
Portland, Oregon 97208
2. VENDEE: REFCO TRANSPORT EQUIPMENT, INC.
39 South LaSalle Street
Chicago, Illinois 60603

Please file and record the accompanying document, cross-indexing it under the names of the manufacturer (vendor) and the vendee. Enclosed for this purpose is a check to the order of the Interstate Commerce Commission in the amount of \$50.

Please return to the person presenting this letter, your letter acknowledging the filing and recordation of the document, your fee receipt therefore and all copies of the enclosure not required for filing.

Very truly yours,



Robert J. Corber
Attorney for Refco Transport
Equipment, Inc.

counterparts

Donald

Boalberg

RECEIVED
AUG 29 1979

8/29/79

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Robert J. Corber
Conner, Moore & Corber
1747 Pennsylvania Ave N.W.
Washington D.C. 20006

Dear Sir

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 8/29/79 at 3:45pm , and assigned re-
recording number(s).10774

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

This CONDITIONAL SALE AGREEMENT ("Agreement"), dated as of August 28, 1979 by and between FMC Corporation, a Delaware corporation ("Manufacturer") and Refco Transport Equipment Inc., a Delaware corporation, ("Vendee").

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INTERNATIONAL COMMERCE COMMISSION

W I T N E S S E T H

WHEREAS, Manufacturer has agreed to sell and Vendee to buy 50 70-ton XM Boxcars for use by Helena Southwestern Railroad Company, car numbers HSW 1001-1050, inclusive, FMC Lot 18066, and 50 70-ton XM Boxcars for use by Virginia & Maryland Railroad, car numbers VMD 3000-3049, inclusive, FMC Lot 18067 (hereinafter individually called a "Car" and collectively called the "Cars"); and

WHEREAS, Vendee does not wish to pay for the Cars prior to their shipment and has asked Manufacturer to give Vendee title and possession to the Cars on completion, and Manufacturer is willing to do so upon the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the premises and of the promises of the parties, the parties agree as follows:

1. Manufacturer confirms its agreement to sell and Vendee confirms its agreement to buy the Cars.
2. Manufacturer agrees to deliver the Cars to Vendee and Vendee agrees to accept the Cars from Manufacturer at Manufacturer's plant.

When the purchase price of a Car has been paid, this Agreement shall automatically be terminated as to such Car and Manufacturer's purchase money security interest shall automatically terminate without further action by or notice to any party concerned as to such Car. On delivery of each Car to Vendee, Vendee will assume the responsibility and risk of loss with respect to such Car.

3. After Vendee's representative finds that each Car has been built in accordance with the requirements of the Proposal, he will execute and deliver to Manufacturer a certificate of acceptance acknowledging the receipt of delivery of such Car under this Agreement. Title to each Car shall pass to Vendee upon the receipt by Manufacturer of each such certificate of acceptance; provided, however, that Manufacturer retains a purchase money security interest in each Car until it has received payment in full for it. Upon receipt of payment, Manufacturer shall execute and deliver to Vendee a bill of sale confirming the earlier transfer of title for the Cars, free from all liens and encumbrances created by or arising from, through or under Manufacturer. Neither the inspection nor any examination nor the acceptance of any Car shall be deemed a waiver or a modification by Vendee of any of its rights against the Manufacturer under any warranties contained in the Proposal.

4. Vendee, without expense to Manufacturer, will promptly cause this Agreement to be filed with the Interstate Commerce Commission for recordation. In addition, Vendee shall do such other acts as may be required by law, or reasonably requested by Manufacturer, for the protection of the Manufacturer's security interest in the Cars.

5. Vendee agrees that it will not permit any liens of any kind to attach to the Cars (other than any rights of its lessee under Vendee's lease with such lessee) and that it will

- (a) indemnify and save harmless Manufacturer from any and all claims, expenses, or liabilities of whatsoever kind and
- (b) pay any and all taxes, fines, charges and penalties that may accrue or be assessed or imposed upon the Cars because of the ownership, use, marking, operation, management or handling of the Cars by Vendee or its lessee during the term of this Agreement.

Vendee's obligations contained in this paragraph shall survive the termination of this Agreement, by mutual agreement or otherwise.

6. Vendee will, at its own expense, keep and maintain the Cars in good order and running condition and will at its option repair or replace or promptly pay to the Manufacturer the purchase price in cash of those Cars which may be damaged or destroyed by any cause during the term of this Agreement.

7. Prior to the delivery to Vendee, each Car will be numbered from the car number series HSW 1001-1050 and VMD 3000-3049, each inclusive.

8. Vendee agrees with Manufacturer that the execution by Manufacturer of this Agreement or the delivery by Manufacturer to Vendee of the Cars shall not relieve Vendee of its obligations to accept, take and pay for the Cars, nor impair any of the Manufacturer's rights under the agreements of sale.

9. Manufacturer shall be entitled to all the rights of a secured party under the Uniform Commercial Code of Oregon and of the Interstate Commerce Act as in effect at any time during which it retains a security interest in the Cars.

10. Upon payment for any Car, Manufacturer will take such action as may be reasonably requested by Vendee to confirm the release of the security interest in such Car.

(Corporate Seal)
ATTEST:
Judith K. Davrik

REFCO TRANSPORT EQUIPMENT INC.

By: *[Signature]*
Title: Vice President

(Corporate Seal)
[Signature]
Assistant Secretary

FMC CORPORATION

By: *[Signature]*
B.R. van Eck
Vice President

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 28th day of August, 1979, before me personally appeared B.R. van Eck, to me personally known, who, being duly sworn, says that he is an authorized representative of FMC Corporation, that the foregoing instrument was signed 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.

NOTARIAL SEAL

Judith A. Zeman
Notary Public

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 28TH day of August, 1979, before me personally appeared ALLEN P. PALLES, to me personally known, who, being by me duly sworn, says that he is a VICE PRESIDENT of Refco Transport Equipment Inc., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

NOTARIAL SEAL

Carol D'Ascenzo
Notary Public