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WILMER, CUTLER & PICKERING

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February 23, 1978

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9247

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FEB 22 1978 - 3 30 PM

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 9247

FEB 22 1978 - 3 30 PM

INTERSTATE COMMERCE COMMISSION

EZEKIEL G. STODDARD
ARTHUR Z. GARDINER, JR.
COUNSEL

FEB 23 1978

Dear Mr. Homme:

On behalf of First Security Bank of Utah, N.A., I am submitting for filing and recording under Section 20c of the Interstate Commerce Act, ten (10) executed counterparts each of the following four documents:

1. Conditional Sale Agreement (No. 1) dated as of January 1, 1978 between First Security State Bank as Owner-Trustee, Salt Lake City, Utah, New England Merchants Leasing Corporation, B-6, Owner-Vendee, Boston, Massachusetts, ACF Industries Incorporated, Vendor, 750 Third Avenue, New York, New York 10017, Union Tank Car Company, Vendor, 11 West Jackson Boulevard, Chicago, Illinois 60604, Richmond Tank Car Company, Vendor, 777 South Post Oak Road, Suite 777, Houston, Texas 77056.

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INTERSTATE COMMERCE COMMISSION

2. Agreement and Assignment (No. 1) dated as of January 1, 1978, relating to the above-mentioned CSA, between ACF Industries Incorporated, Union Tank Car Company, and Richmond Tank Car Company each as Builder-Assignor, and First Security Bank of Utah, N.A., as Agent-Assignee, Salt Lake City, Utah.

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INTERSTATE COMMERCE COMMISSION

Lease of Railroad Equipment (No. 1) dated as of January 1, 1978 between Hooker Chemical Properties Corporation as Lessee, Los Angeles, California, First Security State Bank as Trustee-Lessor, and New England Merchants Leasing Corporation, B-6, as Owner-Lessor.

RECEIVED
FEB 23 3 27 PM '78
CERTIFICATION UNIT

Handwritten signature: Larry D. Utterback

4. Assignment of Lease and Agreement (No. 1) dated as of January 1, 1978, relating to the above-mentioned Lease, by and between First Security State Bank as Owner-Assignor and First Security Bank of Utah, N.A., as Agent-Assignee.

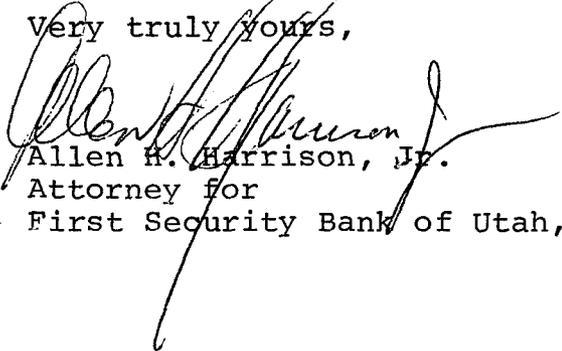
The equipment covered in the above-mentioned CSA and Lease is as attached: Annex B as listed in the CSA, and Appendix A as listed in the Leases.

Please enter in the ICC Register each party above mentioned under their own name, cross-indexing to these filings as may be necessary.

Enclosed is our firm's check for \$100.00 in payment of the recording fee.

Once the filings have been made, please return to the bearer the stamped counterparts of each of the four documents not required for filing purposes, the fee receipt and the letter from the Interstate Commerce Commission acknowledging the filings, together with the extra copies of this letter of transmittal.

Very truly yours,


Allen H. Harrison, Jr.
Attorney for
First Security Bank of Utah, N.A.

Mr. H. Gordon Homme, Jr.
Acting Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Encs.

BY HAND

Annex B(*)(**)
to
Conditional Sale Agreement (No. 1)

<u>Builder</u>	<u>Type</u>	<u>Builder's Specifications</u>	<u>Quantity</u>	<u>Estimated Unit Base Price</u>	<u>Estimated Total Base Price</u>	<u>Serial Numbers (Inclusive)</u>	<u>Estimated Time and Place of Delivery</u>
ACF Industries, Incorporated	100 ton, roller bearing, DOT 105A500W 17,360 gallons non-coil insulated chlorine tank cars	77-OEO-214 Rev.E dated 11/3/77	85	\$ 42,000	\$ 3,570,000	HOKX 7815-7899	February-March 1978, at Milton, Pennsylvania
Union Tank Car Company	100 ton, roller bearing, DOT 105A500W, 17,300 gallons, non-insulated chlorine tank cars	BD-70-100-17 Appr. No. 3661	86	42,000	3,612,000	HOKX 7901-7909; 7911-7987	February-April 1978, at East Chicago, Indiana
Union Tank Car Company	100 ton, roller bearing, DOT 111A100W1, 16,327 gallons, exterior header heaters, caustic soda tank cars	BD-35-100-16 Appr. No. 3665	42	39,000	1,638,000	HOKX 8181, 8185, 8186, 8190, 8201, 8204, 8205, 8208, 8212, 8214, 8215,	February-March 1978, at East Chicago, Indiana

The footnotes to this Annex B appear on the next succeeding page.

<u>Builder</u>	<u>Type</u>	<u>Builder's Specifications</u>	<u>Quantity</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>	<u>Serial Numbers (Inclusive)</u>	<u>Estimated Time and Place of Delivery</u>
Union Tank Car Company (cont'd)						8219, 8220, 8222, 8224- 8226, 8230, 8236, 8238- 8260	
Richmond Tank Car Company	16,000 gallon, roller bearing, DOT 111A100W1 caustic soda tank cars	2797-TS	180	38,500	6,930,000	HOKX 8000- 8179	February-April, 1978, at Sheldon Texas
	Totals		<u>393</u>		<u>\$15,750,000</u>		

* This Annex B sets forth a description of units of Equipment having an estimated total base price of \$15,750,000. It is understood, however, that certain of said units may be delivered to and accepted by the Lessee prior to the execution and delivery of this Agreement, in which case any unit of Equipment so delivered and accepted will be excluded from this Annex B by an appropriate supplement hereto. It is further understood and agreed, however, that Conditional Sale Agreement (No. 1) dated as of January 1, 1978, among First Security State Bank (not in its individual capacity, but solely as Owner-Trustee for New England Merchants Leasing Corporation B-6) and ACF Industries, Incorporated, Union Tank Car Company and Richmond Tank Car Company (hereinafter called the Builders) will cover all units of Equipment delivered by the Builders and accepted by said Owner-Trustee on or after March 1, 1978, and prior to the Termination Date having an aggregate Maximum Purchase Price not exceeding the amount stated in Item 5 of Annex A thereto, and that Conditional Sale Agreement (No. 2) dated as of January 1, 1978, among First Security State Bank (not in its individual capacity, but solely as Owner-Trustee for Republic National Leasing Corporation) and the Builders will cover (i) all units of Equipment delivered by the Builders and accepted by said Owner-Trustee in February 1978, and (ii) all the remaining units of Equipment not delivered and accepted under Conditional Sale Agreement (No. 1), having a Maximum Purchase Price not exceeding the amount stated in Item 5 of Annex A thereto. After delivery of all of the Equipment covered by both Conditional Sale Agreements or sooner once the delivery of Equipment commences, this Annex B will be appropriately amended to describe only those units of Equipment covered by this Conditional Sale Agreement. It is further understood and agreed that this Annex B may be amended by agreement between the Owner-Trustee and the Vendor (without the consent of any other party) to reflect the foregoing or to give effect to the understanding of the parties that Conditional Sale Agreement (No. 1) shall cover 30% of the aggregate Purchase Price of the Equipment to be acquired under both Conditional Sale Agreements and Conditional Sale Agreement (No. 2) shall cover 70% thereof.

** Termination Date: June 15, 1978, on Conditional Sale Agreement (No. 1) and June 15, 1978, on Conditional Sale Agreement (No. 2).

APPENDIX A TO LEASE (No. 1)*

<u>Builder</u>	<u>Type</u>	<u>Builder's Specifications</u>	<u>Quantity</u>	<u>Estimated Unit Base Price</u>	<u>Estimated Total Base Price</u>	<u>Serial Numbers (Inclusive)</u>	<u>Estimated Time and Place of Delivery</u>
ACF Industries Incorporated	100 ton, roller bearing, DOT 105A500W 17,360 gallons, non-coil insulated, chlorine tank cars	77-OEO-214 Rev.E dated 11/3/77	85	\$ 42,000	\$ 3,570,000	HOKX 7815-7899	February-March 1978, at Milton, Pennsylvania
Union Tank Car Company	100 ton, roller bearing, DOT 105A500W, 17,300 gallons, chlorine tank cars	BD-70-100-17 Appr. No. 3661	86	42,000	3,612,000	HOKX 7901-7909; 7911-7987	February-April 1978, at East Chicago, Indiana
Union Tank Car Company	100 ton, roller bearing, DOT111A100W1, 16,327 gallons, exterior header heaters, caustic soda tank cars**	BD-35-100-16 Appr. No. 3665	42	39,000	1,638,000	HOKX 8181, 8185, 8186, 8190, 8201, 8204, 8205, 8208, 8212, 8214, 8215,	February-March 1978, at East Chicago, Chicago, Indiana

*

**

The footnotes to this Appendix A appear on the next succeeding page.

<u>Builder</u>	<u>Type</u>	<u>Builder's Specifications</u>	<u>Quantity</u>	<u>Estimated Unit Base Price</u>	<u>Estimated Total Base Price</u>	<u>Serial Numbers (Inclusive)</u>	<u>Estimated Time and Place of Delivery</u>
Union Tank Car Company (cont'd)						8219, 8220, 8222, 8224- 8226, 8230, 8236, 8238- 8260	
Richmond Tank Car Company	16,000 gallon, roller bearing, DOT 111A100W1, caustic soda tank cars**	2797-TS	180	38,500	6,930,000	HOKX 8000- 8179	February-April 1978, at Sheldon, Texas
Totals			<u>393</u>		<u>\$15,750,000</u>		

* This Appendix A sets forth a description of Units having an estimated aggregate base price of \$15,750,000. It is understood, however, that certain of said Units may be delivered to and accepted by the Lessee by the appropriate builder prior to the execution and delivery of this Lease, in which case any Units so delivered and accepted will be excluded from this Appendix A by an appropriate supplement hereto. It is further understood and agreed, however, that Lease of Railroad Equipment (No. 1) dated as of January 1, 1978, between First Security State Bank, not in its individual capacity, but solely as Owner-Trustee (hereinafter called the Owner-Trustee) for New England Merchants Leasing Corporation B-6 will cover only the Units delivered and accepted under Conditional Sale Agreement (No. 1) dated as of January 1, 1978, among the Owner-Trustee and ACF Industries, Incorporated, Union Tank Car Company and Richmond Tank Car Company (hereinafter called the Builders) and that Lease of Railroad Equipment (No. 2) dated as of January 1, 1978, between the Owner-Trustee, not in its individual capacity, but solely as Owner-Trustee for Republic National Leasing Corporation will cover the Units delivered and accepted under Conditional Sale Agreement (No. 2) dated as of January 1, 1978, among the Owner-Trustee and the Builders. After delivery and acceptance of all Units covered by both Conditional Sale Agreements, this Appendix A will be appropriately amended to describe only those Units covered by this Lease of Railroad Equipment (No. 1).

** There will be installed in each caustic soda tank car Unit Glidden 301H linings.

Interstate Commerce Commission
Washington, D.C. 20423

2/23/78

OFFICE OF THE SECRETARY

Allen H. Harrison, Atty.
Wilmer, Cutler & Pickering
1666 K. Street N.W.
Washington, D.C. 20006

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act,

49 U.S.C. 20(c), on

2/23/78

at

3:30pm

and assigned recordation number(s)

9247, 9247-A, 9247-B & 9247-C

Sincerely yours,


H.G. Homme, Jr.
Acting Secretary

Enclosure(s)

SE-30-T
(6/77)

RECORDATION NO. **9247** Filed & Recorded

FEB 23 1978 -3 30 PM

INTERSTATE COMMERCE COMMISSION

*SEE E
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CONDITIONAL SALE AGREEMENT

(No. 1)

Dated as of January 1, 1978 :

between

FIRST SECURITY STATE BANK,
not in its individual capacity but solely
as Trustee under a Trust Agreement (No. 1)
dated as of the date hereof
with

NEW ENGLAND MERCHANTS LEASING CORPORATION B-6

and each of

ACF INDUSTRIES INCORPORATED,
UNION TANK CAR COMPANY
and
RICHMOND TANK CAR COMPANY

CONDITIONAL SALE AGREEMENT

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* This Table of Contents has been included in this document for convenience only and does not form a part of, or affect any construction or interpretation of this document.

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CONDITIONAL SALE AGREEMENT (No. 1) dated as of January 1, 1978, between each of ACF INDUSTRIES, INCORPORATED, UNION TANK CAR COMPANY and RICHMOND TANK CAR COMPANY (hereinafter called collectively the Builders or severally the Builder or collectively the Vendors or severally the Vendor as the context may require, all as more particularly set forth in Article 1 hereof) and FIRST SECURITY STATE BANK, a Utah corporation, acting not in its individual capacity but solely as Trustee (hereinafter, together with its successors and assigns, called the Owner-Trustee) under a Trust Agreement (No. 1) dated as of the date hereof (hereinafter called the Trust Agreement) with NEW ENGLAND MERCHANTS LEASING CORPORATION B-6 (hereinafter, together with its successors and assigns, called the Owner).

WHEREAS each Builder has agreed to construct, sell and deliver to the Owner-Trustee, and the Owner-Trustee agrees to purchase, subject to the terms and conditions hereof, the railroad equipment described in Annex B hereto opposite the name of such Builder to the extent not excluded herefrom under the provisions hereof (hereinafter called its Equipment or the Equipment);

WHEREAS the Owner-Trustee is entering into a lease with HOOKER CHEMICAL PROPERTIES CORPORATION (hereinafter called the Lessee) in substantially the form annexed hereto as Annex C (hereinafter called the Lease); and

WHEREAS FIRST SECURITY BANK OF UTAH, N.A. (hereinafter called the Assignee) is acting as agent for Bankers Life Company pursuant to a Participation Agreement (No. 1) dated as of the date hereof (hereinafter called the Participation Agreement), among the Lessee, HOOKER CHEMICAL CORPORATION (hereinafter called the Guarantor), the Assignee, the Owner-Trustee, the Owner and Bankers Life Company (hereinafter together with its successors and assigns called the Investors);

WHEREAS the Guarantor has guaranteed the obligations of the Lessee under the Lease pursuant to a Guaranty (No. 1) dated as of the date hereof (hereinafter called the Guaranty);

NOW, THEREFORE, in consideration of the mutual agreements hereinafter set forth, the parties hereto agree as follows:

ARTICLE 1. ASSIGNMENT; DEFINITIONS

§ 1.1. Contemplated Sources of Purchase Price.

The parties hereto contemplate that the Owner-Trustee will furnish (i) 42.9518% of the Purchase Price (as defined in § 4.1 hereof) of the chlorine units of the Equipment, and (ii) an amount equal to 42.9518% of the sum of (x) the Purchase Price (as hereinbefore defined) of the caustic units of the Equipment and (y) the cost of the Linings (as defined in the Participation Agreement), such amount to be reduced by the cost of the Linings, and that an amount equal to the balance of such Purchase Price shall be paid to the Builders by the Assignee pursuant to an Agreement and Assignment (No. 1) dated as of the date hereof (hereinafter called the Assignment) between each of the Builders and the Assignee.

§ 1.2 Lease Assignment. In conjunction with the assignment, the Owner-Trustee will assign to the Vendor as security for the performance of all the Owner-Trustee's obligations hereunder, all right, title, and interest of the Owner-Trustee in and to the Lease pursuant to an Assignment of Lease and Agreement in substantially the form of Annex D hereto (hereinafter called the Lease Assignment).

§ 1.3. Meaning of "Builder" and "Vendor". The term "Builder", whenever used in this Agreement, means, both before and after any assignment of its rights hereunder, the party hereto which has manufactured the units of Equipment to be constructed and sold by such party hereunder and any successor for the time being to its manufacturing properties and business. The term "Vendor", whenever used in this Agreement, means, before any such assignment, the Builder or Builders, as the context may require, and, after any such assignment, both any assignee for the time being of such particular assigned rights, as regards such rights, and also any assignor as regards any rights hereunder that are excluded from any assignment. The rights and obligations of the Builders under this Agreement are several in accordance with their interests and not joint. Accordingly, whenever this Agreement, by the use of such designation as "the Vendor", "such Builder" or other similar term, confers a right or imposes an obligation upon any Builder, such right

or obligation shall be construed to accrue to or to be enforceable against only the specific Builder furnishing the units of Equipment giving rise to such right or obligation as herein provided.

ARTICLE 2. CONSTRUCTION AND SALE

Each Builder shall construct its Equipment at its plant described in Annex B hereto, and will sell and deliver its Equipment to the Owner-Trustee, and the Owner-Trustee will (as hereinafter provided) purchase and accept delivery of and pay for such Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and any modifications thereof agreed upon in writing between the Builder, the Owner-Trustee and the Lessee (which specifications and modifications, if any, are hereinafter called the Specifications). Each Builder represents and warrants that the design, quality and component parts of each unit of its Equipment to be delivered under this Agreement shall conform, on the date of delivery and acceptance thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such unit, and each such unit will be new railroad equipment.

ARTICLE 3. INSPECTION AND DELIVERY

§ 3.1. Place of Delivery. Each Builder will deliver the units of its Equipment to the Owner-Trustee at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Owner-Trustee), freight charges and storage charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that the Builders shall not have any obligation to deliver any unit of Equipment hereunder subsequent to the commencement of any proceedings specified in clauses (c) or (d) of § 16.1 hereof or the occurrence of any event of default (as described in § 16.1 hereof), or event which, with the lapse of time and/or demand, could constitute such an event of default, or unless it has been assured to its reasonable satisfaction that it will receive the full Purchase Price (as hereinafter defined) thereof. Each Builder agrees not to

deliver any unit of its Equipment hereunder (a) following receipt of written notice from the Owner-Trustee or the Assignee of the commencement of any such proceedings or the occurrence of any such event, as aforesaid, and (b) until it receives notice from the Assignee and the Owner-Trustee that the conditions contained in Paragraphs 8 and 9, respectively, of the Participation Agreement have been met.

§ 3.2. Force Majeure. Each Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond such Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors, subject however to the good faith and due diligence of the Builders to minimize delays.

§ 3.3. Exclusion of Equipment. Any Equipment not delivered at the time of receipt of the notice specified in clause (a) of the last sentence of § 3.1 hereof and any Equipment not delivered and accepted hereunder on or before the Termination Date set forth in Annex B hereto shall be excluded from this Agreement, and the Owner-Trustee shall be relieved of its obligation to purchase and pay for such Equipment. If any Equipment shall be excluded herefrom as aforesaid, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom. In the event of any such exclusion of any unit of Equipment herefrom pursuant to the foregoing provisions of this § 3.3 or pursuant to § 4.1 hereof or not delivered and accepted by First Security State Bank, as Trustee for a different beneficial owner pursuant to a Conditional Sale Agreement (No. 2), dated as of January 1, 1978, with the Builders, the Lessee will be obligated pursuant to Paragraph 1 of the Participation Agreement to accept all such units completed and delivered by each Builder and to pay the full purchase price therefor when due, all in accordance with the terms of its prior contractual arrangements with such Builder (hereinafter called the Purchase Order), and the Owner-Trustee will reassign, transfer and set over to the Lessee all the right, title and interest of the Owner-Trustee in and to the units so excluded and the Purchase Order to the extent relating thereto.

§ 3.4. Inspection. During construction, the

Equipment shall be subject to inspection and approval by the authorized inspectors of the Owner-Trustee (who may be employees of the Lessee), and the Builders shall grant to such authorized inspectors reasonable access to its plant. Each Builder agrees to inspect the materials used in the construction of its Equipment in accordance with the standard quality control practices of such Builder. After completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector of the Owner-Trustee for inspection at the place specified for delivery of such unit or units, and if each such unit or units conform to the Specifications and requirements and standards applicable thereto, such inspector or an authorized representative of the Owner-Trustee (who may be an employee of the Lessee) shall execute and deliver to the Builder of such unit or units a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Owner-Trustee and are marked in accordance with Article 10 hereof; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in § 14.3 hereof. Acceptance of any unit of Equipment by the Lessee (or its employees as aforesaid) pursuant to Article 2 of the Lease shall be deemed to be acceptance of such unit by the Owner-Trustee.

§ 3.5. Builder's Responsibilities After Delivery. On delivery by each Builder hereunder of units of Equipment and acceptance hereunder at the place specified for delivery, the Builder shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such units; provided, however, that the Builder shall not thereby be relieved of its warranty referred to in § 14.3 hereof.

ARTICLE 4. PURCHASE PRICE AND PAYMENT

§ 4.1. Meaning of "Purchase Price"; Exclusion of Units. The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices are subject to such increase or decrease as may be agreed to by the appropriate Builder, the Owner-Trustee and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased, together with any applicable sales tax. If on any Closing Date (as hereinafter defined in § 4.2 hereof) the aggregate Purchase Price of Equipment for which settle-

ment has theretofore been and is then being made would, but for the provisions of this sentence, exceed the Maximum Purchase Price specified in Item 5 of Annex A hereto (or such higher amount as to which the Owner-Trustee and the Lessee may at their option agree), the Builders (and any assignee of the Builders) will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Owner-Trustee and the Lessee, as will, after giving effect to such exclusion, reduce such aggregate Purchase Price to not more than said Maximum Purchase Price (or such higher amount as aforesaid) and the Owner-Trustee shall have no further obligation or liability in respect of units so excluded.

§ 4.2. Designation of Equipment; Settlement and Closing Dates. The Equipment shall be settled for in such number of groups (hereinafter called a Group or Groups) of units of the Equipment delivered to and accepted by the Owner-Trustee as is provided in Item 2 of Annex A hereto. The term "Closing Date" with respect to any Group shall be such date as is specified by the Lessee in accordance with Item 2 of Annex A hereto by six days' written notice thereof, but in no event shall such Date be later than the Termination Date set forth in Annex B hereto. Such notice shall specify the aggregate Purchase Price of such Group and a copy thereof shall be sent by the Lessee to each Builder of the Equipment in such Group, the Assignee and the Owner-Trustee. Five business days prior to the Closing Date with respect to a Group of Equipment the Builder of any units in such Group shall present to the Owner-Trustee and the Lessee the invoices therefor to be settled for. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, or Salt Lake City, Utah, are authorized or obligated to remain closed.

§ 4.3. Indebtedness of Owner-Trustee to Vendor. Subject to the terms of this Agreement, the Owner-Trustee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash or immediately available funds to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) on the Closing Date with respect to each Group (i) an amount equal to 42.9518% of the aggregate Purchase Price of the chlorine units of the Equipment in such Group and (ii) an amount equal to 42.9518% of the sum of (x) the aggregate Purchase Price of the caustic units of the Equipment in such Group and (y) the cost of the Linings (as defined in the Participation Agreement) for such caustic units of the Equipment, such amount for such caustic units of the Equipment to be reduced by the cost of the Linings; and

(b) in 33 semiannual installments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph (said portion of the Purchase Price payable in installments under this subparagraph (b) being hereinafter called the Indebtedness).

§ 4.4. Indebtedness; Payment Dates; Interest.

(1) The installments of Indebtedness shall be payable semi-annually on January 15 and July 15 in each year, commencing January 15, 1979, to and including January 15, 1995, each such date being hereinafter called a Payment Date. The unpaid balance of the Indebtedness shall bear interest from the Closing Date at which it was incurred at the rate of 8.70% per annum. Interest on the unpaid balance of the Indebtedness shall be payable to the extent accrued on July 15, 1978, and on each Payment Date thereafter. The amount of Indebtedness payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest payable on each Payment Date shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto and the aggregate of such installments of principal and interest shall completely amortize the Indebtedness at maturity. The Owner-Trustee will furnish to the Vendor and the Lessee promptly after the last Closing Date a schedule showing the respective amounts of principal and interest payable on each Payment Date. In the event of a default under this Agreement caused by an Event of Default under the Lease, the Owner-Trustee shall have the right to prepay the Indebtedness in full at par, together with interest to the date of such prepayment.

(2) If any of the dates for payment of principal or interest is not a business day, such payment shall be payable on the next succeeding business day, and no interest

shall be payable thereon from and after the nominal date for payment thereof to such next succeeding business day.

§ 4.5. Calculation of Interest. Interest under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months except that interest payable on July 15, 1978, shall be computed on an actual elapsed day basis.

§ 4.6. Penalty Interest. The Owner-Trustee will pay interest, to the extent legally enforceable, at the rate of 9.70% per annum (hereinafter called the Penalty Rate) upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof or such lesser amount as shall be legally enforceable.

§ 4.7. Currency of Payment. All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 7 hereof, the Owner-Trustee shall not have the privilege of prepaying any portion of the Indebtedness prior to the date it becomes due.

§ 4.8. Liability of Owner-Trustee Limited to "Income and Proceeds from Equipment"; Limitation on Execution of Judgments. Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 16 and 17 hereof, except as set forth in this § 4.8), but not limiting the effect of Article 23 hereof, it is agreed by the Vendor that the liability of the Owner-Trustee for all payments to be made by it pursuant to this Agreement, with the exception only of the interest payment due on July 15, 1978, pursuant to § 4.4 hereof, the payments to be made pursuant to § 4.3(a) of this Article and the proviso to § 13.2 hereof, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment", and such payments shall be made by the Owner-Trustee only to the extent that the Owner-Trustee or any assignee of the Owner-Trustee shall have actually received sufficient "income and proceeds from the Equipment" to make such payments. Except as provided in the preceding sentence, the Vendor agrees that the Owner-Trustee shall have no personal liability to make any payments under this Agreement whatsoever except from the "income and

proceeds from the Equipment" to the extent actually received by the Owner-Trustee or any assignee of the Owner-Trustee. In addition, the Vendor agrees that the Owner-Trustee

(i) makes no representation or warranty as to, and is not responsible for, the due execution, validity, sufficiency or enforceability of the Lease or the Guaranty, insofar as it relates to the Lessee or the Guarantor (or any document relative thereto) or of any of the Lessee's or Guarantor's obligations thereunder, and

(ii) shall not be responsible for the performance by the Lessee or the Guarantor of any of its agreements, representations, indemnities, obligations or other undertakings under the Lease or the Guaranty, as the case may be; it being understood that as to all such matters the Vendor will look solely to the Vendor's rights under this Agreement against the Equipment and to the Vendor's rights under the Lease and the Guaranty and the Lease Assignment against the Lessee, the Guarantor and the Equipment.

As used herein the term "income and proceeds from the Equipment" shall mean

(i) if one of the events of default specified in § 16.1 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Owner-Trustee or any assignee of the Owner-Trustee at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences (as defined in § 7.2 hereof) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under any other provision of the Lease and (b) any and all payments or proceeds received for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition, and

(ii) at any other time only that portion of the amounts referred to in the foregoing clause (i) (not including amounts paid by the Lessee to the Owner-Trustee as reimbursement of sums paid by the Owner-Trustee on account of prior defaults under clause A of

§ 13.1 of the Lease) as are indefeasibly received by the Owner-Trustee or any assignee of the Owner-Trustee and as shall equal the portion of the Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date such amounts were required to be paid pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement;

it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clause (i) which were received by the Owner-Trustee (or any assignee of the Owner-Trustee) while no such event of default was continuing to the extent that such amounts exceeded on the date such amounts were required to be paid under the Lease (a) the amounts required to pay any portion of the Indebtedness (including prepayments thereof then required in respect of Casualty Occurrences) and/or interest thereon then due and payable and (b) any other payments then due and payable under this Agreement. Nothing contained herein limiting the liability of the Owner-Trustee shall derogate from the right of the Vendor to proceed against the Equipment as provided for herein for the full unpaid Purchase Price of the Equipment and interest thereon and all other payments and obligations hereunder. Notwithstanding anything to the contrary contained in Article 16 or 17 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Owner-Trustee for an amount in excess of the amounts payable by the Owner-Trustee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to amounts payable pursuant to the limitations set forth in this paragraph.

ARTICLE 5. SECURITY INTEREST IN THE EQUIPMENT

§ 5.1. Vendor to Retain Security Interest; Accessions. The Vendor shall and hereby does retain a security interest in the Equipment until the Owner-Trustee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Owner-Trustee. Such retention of security interest is solely to secure performance by the Owner-Trustee of its obligations under this Agreement (without regard to any provision of this Agreement limiting the liability of

the Owner-Trustee), and, subject thereto, ownership of the Equipment shall be and remain in the Owner-Trustee subject to such performance. Any and all parts installed on and additions and replacements made to any unit of the Equipment (i) which are not readily removable without causing material damage to such unit, (ii) the cost of which is included in the Purchase Price of such unit, (iii) which consist of the linings to be added thereto as provided in Article 2 of the Lease, or (iv) which are required for the operation or use of such unit by the Association of American Railroads and/or the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

§ 5.2. Obligations Upon Payment of Indebtedness.

Except as otherwise specifically provided in Article 7 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Owner-Trustee without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Owner-Trustee at that time, will (a) execute an instrument releasing its security interest in the Equipment and deliver such instrument to the Owner-Trustee at its address referred to in Article 22 hereof and (b) execute and deliver at the same place, for filing or depositing in all necessary public offices, such instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Owner-Trustee to the Equipment.

ARTICLE 6. TAXES

§ 6.1. Indemnification of Non-income Taxes. The Owner-Trustee agrees to pay, and to indemnify and hold the Vendor harmless from, all taxes, assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Owner-Trustee, the Owner, the Vendor, the Lessee, the trust estate created by the Trust Agreement or otherwise, by any Federal, state or local government or governmental subdivision in the United

States or by any foreign country or subdivision thereof, upon or with respect to: any unit of the Equipment or any part thereof; the purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the rentals, receipts or earnings arising therefrom; or this Agreement, the Assignment, the Lease, the Lease Assignment, the Guaranty, any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to the Equipment (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called Taxes); excluding, however, Taxes of the United States or any state or political subdivision thereof and (if and to the extent that any person indemnified hereunder is entitled to a credit therefor against its United States Federal income taxes) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits of the Vendor, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Agreement, provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or subdivision on its world-wide income without regard to the transactions contemplated by this Agreement shall be excluded whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; provided, however, that the Owner-Trustee shall not be required to pay any Taxes during the period it may be contesting the same in the manner provided in § 6.2 hereof.

§ 6.2. Claims; Contests; Refunds. If claim is made against the Vendor for any Taxes indemnified against under this Article 6, the Vendor shall promptly notify the Owner-Trustee. If reasonably requested by the Owner-Trustee in writing, the Vendor shall, upon receipt of a letter of indemnity satisfactory to it for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Owner-Trustee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Owner-Trustee may also contest, at its own expense, the

validity, applicability or amount of such Taxes in the name of the Vendor; provided that, no proceeding or actions relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of the Vendor in any such proceeding or action) without the prior written consent of the Vendor. If the Vendor shall obtain a refund of all or any part of such Taxes previously reimbursed by the Owner-Trustee in connection with any such contest or an amount representing interest thereon, the Vendor shall pay the Owner-Trustee the amount of such refund or interest net of expenses; provided, however, that no event of default set forth in § 16.1 hereof and no event which with notice or lapse of time or both would constitute such an event of default shall have occurred and be continuing.

§ 6.3. Survival; Limitation of Liability. All of the obligations of the Owner-Trustee under this Article 6 shall survive and continue, notwithstanding payment in full of all amounts due under this Agreement.

The obligations of the Owner-Trustee under this Article 6 are subject to the limitations contained in § 4.8 and in Article 23 hereof.

ARTICLE 7. MAINTENANCE; CASUALTY OCCURRENCES

§ 7.1. Maintenance. Subject to the limitations contained in § 4.8 and Article 23 hereof, the Owner-Trustee shall, at its own cost and expense, maintain and keep each unit of the Equipment in good operating order and repair, ordinary wear and tear excepted.

§ 7.2. Termination; Casualty Occurrences. In the event that the Lease is terminated in respect of any unit of Equipment pursuant to § 7.9 of the Lease (hereinafter called a Termination) or any unit of Equipment shall be or become worn out, lost, stolen, destroyed, or, in the reasonable opinion of the Lessee, irreparably damaged, from any cause whatsoever or the Purchase Price of any unit shall have been refunded by the Builder pursuant to the Builder's patent indemnities therefor if, and to the extent, as set forth in Item 4 of Annex A hereto or any unit shall be taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of the Lease or by any other governmental entity resulting in

loss of possession by the Lessee for a period of 180 consecutive days during the term of the Lease (such occurrences being herein called Casualty Occurrences), the Owner-Trustee shall, promptly after it shall have received notice from the Lessee or otherwise been informed that such unit is subject to a Termination or has suffered a Casualty Occurrence, cause the Vendor to be fully informed in regard thereto. On the next succeeding date for the payment of interest on the Indebtedness after such notice from the Lessee has been received or on the Termination Date (as defined in the Lease) in the case of a Termination (each such date being herein-after called a Settlement Date), the Owner-Trustee shall, except to the extent insurance proceeds have been previously received by the Vendor with respect to such Casualty Occurrence and not paid by the Vendor to the Owner-Trustee, subject to the limitations contained in § 4.8 hereof, pay to the Vendor a sum equal to the Casualty Value (as hereinafter defined in this Article 7) of such unit suffering a Casualty Occurrence or Termination as of such Settlement Date, together with an amount equal to accrued interest thereon (as herein-after provided) and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied on the date of such payment to prepay without penalty or premium, ratably in accordance with the unpaid balance of each installment, the Indebtedness, together with all interest accrued on the portion of the Indebtedness being prepaid. The Owner-Trustee shall promptly cause to be furnished to the Vendor and the Lessee a revised schedule of payments of principal and interest thereafter to be made calculated as provided in § 4.4 hereof.

§ 7.3. Obligations upon Payment of Casualty Value.

Upon payment to the Vendor of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence or a Termination, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Owner-Trustee, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by and at the expense of the Owner-Trustee, will execute and deliver to the Owner-Trustee an appropriate instrument confirming such passage to the Owner-Trustee of all the Vendor's right, title and interest, and the release of the Vendor's security interest, in such unit, in recordable form, in order that the Owner-Trustee may make clear upon the public records the title of the Owner-Trustee to such unit.

§ 7.4. Casualty Value. The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence or a Termination shall be deemed to be that portion of the original Purchase Price thereof referred to in § 4.3(b) hereof remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article with respect to any other unit). For the purpose of this paragraph, each payment of the Purchase Price made pursuant to Article 4 hereof shall be deemed to be a payment with respect to each unit of Equipment in like proportion as the original Purchase Price of such unit bears to the aggregate original Purchase Price of all the Equipment.

ARTICLE 8. INSURANCE PROCEEDS AND CONDEMNATION PAYMENTS

If the Vendor shall receive any insurance proceeds or condemnation payments in respect of any units of Equipment suffering a Casualty Occurrence or a Termination, the Vendor shall promptly pay such insurance proceeds or condemnation payments to the Owner-Trustee; provided, however, that no event of default shall have occurred and be continuing hereunder and the Owner-Trustee shall have made payment of the Casualty Value of such units, together with accrued interest thereon, to the Vendor. All insurance proceeds received by the Vendor in respect of any unit of Equipment not suffering a Casualty Occurrence or a Termination shall be paid to the Owner-Trustee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 9. REPORTS AND INSPECTIONS

On or before April 30 in each year, commencing with the year 1979, the Owner-Trustee shall, subject to the provisions of Article 23 hereof, cause to be furnished to the Vendor an accurate statement to the effect set forth in Article 8 of the Lease. The Vendor shall have the right, by its agents, to inspect the Equipment and the Owner-Trustee's and the Lessee's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 10. MARKING OF EQUIPMENT

The Owner-Trustee will cause each unit of the Equipment to be kept numbered and marked as provided in Article 5 of the Lease. The Owner-Trustee will not permit any such unit to be placed in operation or exercise any control over the same until such markings shall have been made thereon and will replace or will cause to be replaced promptly any such markings which may be removed, obliterated, defaced or destroyed. The Owner-Trustee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and filed and deposited by or on behalf of the Owner-Trustee in all public offices where this Agreement shall have been filed and deposited.

Except as hereinabove provided, the Owner-Trustee will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Equipment may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

The obligations of the Owner-Trustee under this Article are subject to the limitations contained in § 4.8 and Article 23 hereof.

ARTICLE 11. COMPLIANCE WITH LAWS AND RULES

During the term of this Agreement, the Owner-Trustee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws of the jurisdictions in which its or such lessee's or user's operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on

any unit of the Equipment, the Owner-Trustee will or will cause the Lessee to conform therewith at no expense to the Vendor; provided, however, that the Owner-Trustee or the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

The obligations of the Owner-Trustee under this Article are subject to the limitations contained in § 4.8 and Article 23 hereof.

ARTICLE 12. POSSESSION AND USE

§ 12.1. Possession and Use of Equipment. The Owner-Trustee, so long as an event of default shall not have occurred and be continuing under this Agreement, shall be entitled, from and after delivery of the Equipment by the Builders to the Owner-Trustee, to the possession of the Equipment and the quiet enjoyment and use thereof, but only upon and subject to all the terms and conditions of this Agreement.

§ 12.2. Lease Permitted; No Amendment or Termination. The Owner-Trustee simultaneously is leasing the Equipment to the Lessee as provided in the Lease. The Lease shall not be amended in any material respect or terminated (except in accordance with its terms) without the prior written consent of the Vendor.

ARTICLE 13. PROHIBITION AGAINST LIENS

§ 13.1. Owner-Trustee to Discharge Liens. The Owner-Trustee will pay or discharge any and all sums claimed by any party from, through or under the Owner-Trustee which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, equal or superior to the Vendor's security interest therein, and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the security interest of the Vendor in or to the

Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement. This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, either not due and delinquent or being contested in accordance with § 6.2 hereof or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, either not delinquent or which shall have been bonded or the enforcement of which shall have been suspended (but only for the duration of such suspension).

§ 13.2. Article 13 Subject to Article 23 Except in Certain Instances. The obligations of the Owner-Trustee under this Article 13 are subject to the limitations contained in § 4.8 and Article 23 hereof; provided, however, that the Owner-Trustee will pay or discharge any and all claims, liens, charges or security interests claimed by any party from, through or under the Owner-Trustee or the Owners not arising out of the transactions contemplated hereby or in other documents mentioned herein (but including tax liens arising out of the receipt of the income and proceeds from the Equipment), equal or superior to the Vendor's security interest therein, but the Owner-Trustee shall not be required to pay or discharge any such claim, lien, charge or security interest so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement.

ARTICLE 14. INDEMNITIES AND WARRANTIES

§ 14.1. Indemnification. The Owner-Trustee shall pay, and shall protect, indemnify and hold the Vendor and any agents and servants of the Vendor (hereinafter called Indemnified Persons), harmless from and against any and all causes of action, suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses [including without limitation reasonable attorneys' fees and expenses of any Indemnified Person] relating thereto) in any way relating to or arising, or alleged to arise out of this Agreement or the Equipment, including without limitation

those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any unit of Equipment or portion thereof, (ii) any latent and other defects whether or not discoverable by the Owner-Trustee or the Vendor, (iii) any claim for patent, trademark or copyright infringement, (iv) any claims based on strict liability in tort, (v) any injury to or the death of any person or any damage to or loss of property on or near the Equipment or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Equipment or of any other equipment in connection with the Equipment (whether owned or under the control of the Owner-Trustee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Agreement or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Equipment or the leasing, ownership, use, replacement, adaptation or maintenance thereof; or (vii) any claim arising out of the Vendor's retention of a security interest under this Agreement or the Lease Assignment; except that the Owner-Trustee shall not be liable to any Builder in respect of any of the foregoing matters to the extent liability in respect thereof arises from an act or omission of such Builder or is covered by such Builder's patent indemnification referred to in § 14.3 hereof. The Owner-Trustee shall be obligated under this Article 14, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Owner-Trustee under this Article 14 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Owner-Trustee may and, upon such Indemnified Person's request, will at the Owner-Trustee's expense resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Owner-Trustee and approved by such Indemnified Person and, in the event of any failure by the Owner-Trustee to do so, the Owner-Trustee shall pay all reasonable costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit

or proceeding. In the event the Owner-Trustee is required to make any payment under this Article 14, the Owner-Trustee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Vendor and the Owner-Trustee each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this Article 14 by the Owner-Trustee, and provided that no event of default set forth in § 16.1 hereof (or other event which with lapse of time or notice or both would constitute such an event of default) shall have occurred and be continuing, it shall be subrogated to any right of such Indemnified Person in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (other than the Owner-Trustee) as a result of any matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to the Lease shall be paid over to the Owner-Trustee to the extent necessary to reimburse the Owner-Trustee for indemnification payments previously made in respect of such matter.

§ 14.2. Survival; No Subrogation. The indemnities contained in this Article 14 shall survive the expiration or termination of this Agreement with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this Article 14 shall be deemed to create any rights of subrogation in any insurer or third party against the Owner-Trustee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise. The Owner-Trustee will bear the responsibility for, and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any unit of or all the Equipment.

§ 14.3. Warranties of Builders; Patent Indemnities.

The agreement of the parties relating to the Builders' warranties of material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Items 3 and 4 of Annex A hereto.

§ 14.4. Limitation of Liability. The obligations of the Owner-Trustee pursuant to this Article 14 are subject to the provisions of § 4.8 and Article 23 hereof.

ARTICLE 15. ASSIGNMENTS

§ 15.1. Assignment by Owner-Trustee. Except as provided in the Trust Agreement, the Owner-Trustee will not (a) except as provided in Article 12 hereof, transfer the right to possession of any unit of the Equipment or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement.

§ 15.2. Assignment by Vendor. All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Owner-Trustee, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve any Builder from, any of the obligations of such Builder to construct and deliver the Equipment in accordance herewith or to respond to its warranties and indemnities referred to in Article 14 hereof, or, subject to the provisions of Article 23 hereof, relieve the Owner-Trustee of its obligations to such Builder contained in Articles 2, 3, 4, 6 and 14 hereof, Annex A hereto and this Article 15, or any other obligation which, according to its terms or context, is intended to survive an assignment.

Upon any such assignment, either the assignor or the assignee shall give written notice to the Owner-Trustee, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Owner-Trustee of the notification of any such assignment, all payments thereafter to be made by the Owner-Trustee under this Agreement shall, to the extent so

assigned, be made to the assignee in such manner as it may direct.

§ 15.3. No Set-Off Against Indebtedness Upon Assignment. The Owner-Trustee recognizes that this Agreement will be assigned to the Assignee as provided in the Assignment. The Owner-Trustee expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the Assignee to the entire unpaid Indebtedness or such part thereof as may be assigned together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever by the Owner-Trustee arising out of any breach of any obligation of any Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Owner-Trustee by such Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Owner-Trustee against and only against such Builder.

ARTICLE 16. DEFAULTS

§ 16.1. Events of Default; Termination of Lease; Declaration of Default; Acceleration of Indebtedness. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Owner-Trustee shall fail to pay or cause to be paid in full any sum payable by the Owner-Trustee when payment thereof shall be due hereunder (irrespective of the provisions of Article 4 or 23 hereof or any other provision of this Agreement limiting the liability of the Owner-Trustee) and such default shall continue for 15 days after the date such payment is due and payable; or

(b) the Owner-Trustee or the Lessee shall, for more than 50 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of

this Agreement (irrespective of the provisions of Article 4 or 23 hereof or any other provision of this Agreement limiting the liability of the Owner-Trustee) or the Lease Assignment or any covenant, agreement, term or provision of the Participation Agreement made expressly for the benefit of the Vendor, on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(c) a petition for reorganization under the Bankruptcy Act, as now constituted or as hereafter amended, shall be filed by or against the Lessee or the Guarantor and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under the Lease or the Guarantor under the Guaranty, as the case may be, shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(d) any other proceeding shall be commenced by or against the Owner-Trustee or the Lessee or the Guarantor for any relief which includes, or might result in, any modification of the obligations of the Owner-Trustee hereunder or the Lessee under the Lease or the Guarantor under the Guaranty, as the case may be, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of such obligations of the Owner-Trustee, the Lessee or the Guarantor, as the case may be), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all such obligations of the Owner-Trustee, the Lessee or the Guarantor, as the case may be, shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court

order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Owner-Trustee or the Lessee or the Guarantor, as the case may be, or for their respective property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

then at any time during the continuance of such an event of default the Vendor may, upon five days' written notice to the Owner-Trustee and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) subject to the provisions of § 15.2 of the Lease, cause the term of the Lease immediately upon such notice to terminate (and the Owner-Trustee acknowledges the right of the Vendor to terminate the term of the Lease), provided, however, that such termination shall not be in derogation of or impair the rights of the Vendor to enforce any of its rights and remedies under Article 13 of the Lease, and/or (ii) declare (hereinafter called a Declaration of Default) the entire unpaid Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of the Indebtedness and interest shall bear interest from the date of such Declaration of Default at the Penalty Rate to the extent legally enforceable. Upon a Declaration of Default, subject to § 4.8 hereof, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Owner-Trustee, subject to the provisions of § 4.8 and Article 23 hereof, wherever situated. In the case of an event of default by the Lessee under subparagraph (b) above or an event of default under subparagraph (c) or (d) above, the Owner-Trustee shall have the option, for a period of 30 days after the commencement of such event of default, to prepay all, but not less than all, the then outstanding Indebtedness plus interest accrued to the date of such payment.

§ 16.2. Waiver of Defaults. The Vendor may, at its election, waive any such event of default and its consequences and rescind and annul any Declaration of Default or notice of termination of the Lease by notice to the Owner-

Trustee and the Lessee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default or notice of termination of the Lease had been made or given. It is agreed by the Owner-Trustee that time is of the essence to this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 17. REMEDIES

§ 17.1. Vendor May Take Possession of Equipment.

At any time during the continuance of a Declaration of Default, the Vendor may, subject to the provisions of § 15.2 of the Lease and upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Owner-Trustee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 17 expressly provided, and may remove the same from possession and use of the Owner-Trustee, the Lessee or any other person and for such purpose may enter upon the premises of the Owner-Trustee or the Lessee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Owner-Trustee or the Lessee, subject to all mandatory requirements of due process of law.

§ 17.2. Assembling of Equipment for Vendor. In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Equipment to the Vendor, the Owner-Trustee shall, subject to the provisions of Article 4 and Article 23 hereof, at its own expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any unit or units have been interchanged or which may have possession

thereof to return the unit or units) place such units upon such storage tracks as the Vendor reasonably may designate;

(b) permit the Vendor to store such units on such tracks without charge for insurance, rent or storage until all such units of Equipment have been sold, leased or otherwise disposed of by the Vendor; and

(c) cause the same to be transported to any reasonable place, as directed by the Vendor.

During any storage period, the Lessee has agreed pursuant to § 14.1 of the Lease, at its own cost and expense, to insure, maintain and keep each such unit in good order and repair and to permit the inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers and users. The Owner-Trustee hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

§ 17.3. Vendor May Dispose of or Retain Equipment.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 17 provided) may, at its election, retain the Equipment in satisfaction of the entire Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Owner-Trustee and the Lessee by telegram or registered mail and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Owner-Trustee's rights in the Equipment shall thereupon terminate and all payments made by the Owner-Trustee may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Owner-Trustee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Owner-Trustee;

provided, further, that if the Owner-Trustee, the Lessee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 17.

§ 17.4. Vendor May Sell Equipment; Owner-Trustee's Right of Redemption. At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Owner-Trustee, the Lessee and any other persons to whom the law may require notice of the time and place, may, subject to the rights of the Lessee under § 15.2 of the Lease, sell the Equipment, or one or more of the units thereof, free from any and all claims of the Owner-Trustee, the Lessee or any other party claiming from, through or under the Owner-Trustee or the Lessee, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Owner-Trustee should tender full payment of the total unpaid balance of the Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Owner-Trustee. The proceeds of such sale or other disposition, less the attorneys' fee and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

§ 17.5. Sale of Equipment by Vendor. Any sale hereunder may be held or conducted at New York, New York,

at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor, the Owner-Trustee or the Lessee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Owner-Trustee and the Lessee shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail. In addition, if such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Lessee and the Owner-Trustee to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Owner-Trustee (except to the extent of surplus money received as hereinafter provided in this Article 17), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

§ 17.6. Effect of Remedies and Powers. Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity not inconsistent herewith, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Owner-Trustee shall not otherwise alter or affect the Vendor's rights or the Owner-Trustee's obligations hereunder.

The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Owner-Trustee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

§ 17.7. Deficiencies. If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Owner-Trustee shall, subject to the limitations of § 4.8 and Article 23 hereof, pay the amount of such deficiency to the Vendor upon demand, together with interest thereon from the date of such demand to the date of payment at the Penalty Rate, and, if the Owner-Trustee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall, subject to the limitations of § 4.8 and Article 23 hereof, be entitled to recover a judgment therefor against the Owner-Trustee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Owner-Trustee.

§ 17.8. Expenses. The Owner-Trustee will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment. The foregoing provisions of this paragraph shall be subject to the limitations set forth in § 4.8 and Article 23 hereof.

§ 17.9. Remedies Subject to Mandatory Legal Requirements. The foregoing provisions of this Article 17 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 18. APPLICABLE STATE LAWS

§ 18.1. Conflict with State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where,

however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Owner-Trustee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

§ 18.2. Waiver of Notices. Except as otherwise provided in this Agreement, the Owner-Trustee, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any one or more units thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights and any and all rights of redemption.

ARTICLE 19. RECORDING

Subject to the provisions of Article 23 hereof, the Owner-Trustee will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed in accordance with Section 20c of the Interstate Commerce Act; and the Owner-Trustee will from time to time do and perform any other act and will execute, acknowledge, deliver, file and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its interest to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Owner-Trustee will promptly furnish to the Vendor evidence of such filing and recording satisfactory to the Vendor.

ARTICLE 20. REPRESENTATIONS AND WARRANTIES OF BUILDER

Each Builder hereby represents and warrants to the Owner-Trustee that this Agreement is duly authorized by it and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the Owner-Trustee, this Agreement is, insofar as such Builder is concerned, a legal, valid and existing agreement binding upon such Builder in accordance with its terms.

ARTICLE 21. HEADINGS; EFFECT AND MODIFICATION OF AGREEMENT

All article and section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement. Except for the Participation Agreement, this Agreement, including the Annexes hereto, exclusively and completely states the rights of the Vendor and the Owner-Trustee with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor and the Owner-Trustee.

ARTICLE 22. NOTICE

Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it by first class mail, postage prepaid, at its chief place of business at the following specified addresses:

(a) to the Owner-Trustee, at Box 30007, Salt Lake City, Utah 84125, Attention of Corporate Trust Division, with copies to the Owner at One Washington Mall, Boston, Massachusetts 02108,

(b) to the Builders, at their respective addresses specified in Item 1 of Annex A hereto,

(c) to any assignee of the Vendor, or of the Owner-Trustee, at such address as may have been furnished in writing to the Owner-Trustee, or the Vendor, as the case may be, by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 23. IMMUNITIES; SATISFACTION OF UNDERTAKINGS

§ 23.1. No Recourse Against Certain Persons. No recourse shall be had in respect of any obligation due under this Agreement against any incorporator, stockholder, director or officer, as such, past, present or future, of the

parties hereto or the Owners, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

§ 23.2. Satisfaction of Certain Covenants. The obligations of the Owner-Trustee under §§ 7.1, 17.2, 17.7 and 17.8 hereof, and under Articles 6, 9, 10, 11, 13, 14 and 19 hereof and any and all obligations at any time arising thereunder shall be deemed satisfied in full in all respects (except, in the case of Article 13 hereof, as set forth in § 13.2 thereof), and be of no further force or effect in so far as they involve personal liability for money or performance or otherwise of the Owner-Trustee, other than out of "income and proceeds from the Equipment" (as defined in § 4.8 hereof), upon the execution and delivery of the Lease (whether or not the Lease shall thereafter be amended, terminated or otherwise modified and irrespective of the genuineness, validity, regularity or enforceability of the Lease); provided, however, that such obligations shall be within the scope of clauses (a) and (b) of § 16.1 hereof (it being the intention of the parties hereto that neither the Owner-Trustee nor any of its properties shall be subject to any liability for any breach or alleged breach by it of any such obligation except out of the "income and proceeds from the Equipment", but that any such breach may be made the basis of an event of default under said Article 16). No waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor; provided, however, that the Vendor shall consent to any agreement in writing between the Lessee and the Owner-Trustee increasing or decreasing the rentals or casualty values payable pursuant to §§ 3 and 7 of the Lease so long as the amounts payable thereunder are not reduced below those necessary to satisfy the obligations of the Owner-Trustee hereunder, such consent to be given by the Vendor within 30 days of delivery of a copy of any such agreement to the Vendor.

§ 23.3. No Personal Liability of Owner-Trustee. It is expressly agreed by and between the parties that each and all of the representations, undertakings and agreements herein made on the part of the Owner-Trustee are each and

every one of them made and intended not as personal representations, undertakings and agreements by First Security State Bank, or for the purpose or with the intention of binding said institution personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Agreement is executed and delivered by said institution solely in the exercise of the powers expressly conferred upon said institution as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said institution or the Owner hereunder (except as provided in § 4.8 hereof and Section 1.04 of the Trust Agreement) on account of any representation, undertaking or agreement of the Owner-Trustee or the Owner hereunder (except as aforesaid), either expressed or implied, all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under any of them, making claim hereunder, may look to said Trust Estate for satisfaction of the same. Nothing contained in this Section 23.3 shall limit, restrict or impair the rights of the Vendor to take all actions to enforce the rights and remedies provided for herein and to bring suit and obtain a judgment against the Owner-Trustee (provided that the Vendor shall limit its execution of such judgment to the amounts payable pursuant to the limitations contained in this paragraph and § 4.8 hereof) or to foreclose the lien and security interest created by this Agreement or otherwise realize upon the Trust Estate, including the right to proceed against the Equipment or the Lessee under the Lease or the Guarantor under the Guaranty.

The Owner-Trustee agrees not to enter into any supplement or amendment of the Trust Agreement except as provided in Section 8.01 thereof as in effect on the date of execution and delivery hereof.

ARTICLE 24. LAW GOVERNING

The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Utah; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act, such additional rights, if any, arising out of the filing or deposit hereof and of any

assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed or deposited or in which any unit of Equipment shall be located, and such rights, if any, arising out of the marking of Equipment.

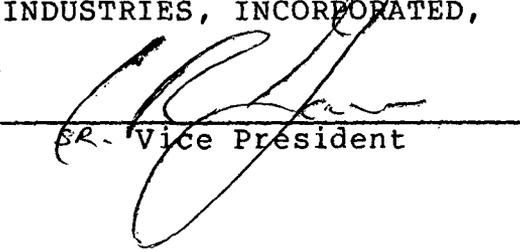
ARTICLE 25. EXECUTION

This Agreement may be executed in any number of counterparts, but the counterpart delivered to the Assignee pursuant to the Assignment shall be deemed the original and all other counterparts shall be deemed duplicates thereof. It shall not be necessary that any counterpart be signed by all the parties so long as any counterpart be signed by the Owner-Trustee and one or more Builders. Each Builder and the Owner-Trustee shall be bound hereunder notwithstanding the failure of any other Builder to execute and deliver this Agreement or to perform its obligations hereunder. Although for convenience this Agreement is dated as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed all as of the date first above written.

ACF INDUSTRIES, INCORPORATED,

by


SR. Vice President

[Corporate Seal]

Attest:


Assistant Secretary



UNION TANK CAR COMPANY,

by A. B. Browder
Vice President



[Corporate Seal]

Attest:

A. B. Hillman
Assistant Secretary

RICHMOND TANK CAR COMPANY,

by _____
Vice President

[Corporate Seal]

Attest:

Assistant Secretary

FIRST SECURITY STATE BANK,
as Trustee as aforesaid,

by Frederic D. Murphy
Authorized Officer

[Corporate Seal]

Attest:

Jay W. L...
~~Assistant Secretary~~
Authorized Officer

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

On this ^{23rd} day of February 1978, before me personally appeared **C. R. GARR**, to me personally known, who being by me duly sworn, says that he is a ^{SENIOR} Vice President of ACF INDUSTRIES, INCORPORATED, 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.

Edwin F. Meyer

Notary Public

My Commission expires

EDWIN F. MEYER
NOTARY PUBLIC, State of New York
No. 30-7917803
Qualified in Nassau County
Certificate filed in New York County
Commission Expires March 30, 1978



STATE OF ILLINOIS,)
) ss.:
COUNTY OF LAKE,)

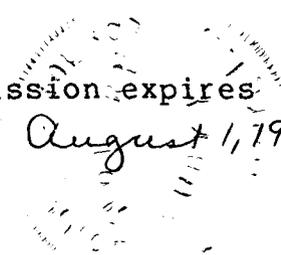
On this ^{22nd} day of February 1978, before me personally appeared *W. B. Browder*, to me personally known, who being by me duly sworn, says that he is a Vice President of UNION TANK CAR COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that 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.

Alouna S. Galson

Notary Public

My Commission expires

August 1, 1981



STATE OF TEXAS,)
) ss.:
COUNTY OF HARRIS,)

On this _____ day of February 1978, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he is a Vice President of RICHMOND TANK CAR COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said company, that said instrument was signed and sealed on behalf of said company 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 company.

Notary Public

My Commission expires

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this 21st day of February 1978, before me personally appeared Fred L. Murphy, to me personally known, who being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, 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.

Senna L. Quetawh
Notary Public

My Commission expires

My Commission Expires November 15, 1981

SCHEDULE I

Allocation Schedule of Each
\$1,000,000 of Indebtedness Payable
in (i) One Interim Payment of Interest Only
on July 15, 1978, and
(ii) 33 Semi-Annual Installments
Commencing January 15, 1979

Installment No.	Principal Balance (Before Payment)	Interest Payment	Principal Recovery	Payment
(7/15/78)	\$1,000,000.00	*		
1 (1/15/79)	988,411.50	\$43,500.00	\$11,588.50	\$55,088.50
2 (7/15/79)	976,318.90	42,995.90	12,092.60	55,088.50
3 (1/15/80)	963,700.27	42,469.87	12,618.63	55,088.50
4 (7/15/80)	950,532.73	41,920.96	13,167.54	55,088.50
5 (1/15/81)	936,792.40	41,348.17	13,740.33	55,088.50
6 (7/15/81)	922,454.37	40,750.47	14,338.03	55,088.50
7 (1/15/82)	907,492.64	40,126.77	14,961.73	55,088.50
8 (7/15/82)	891,880.07	39,475.93	15,612.57	55,088.50
9 (1/15/83)	875,588.35	38,796.78	16,291.72	55,088.50
10 (7/15/83)	858,587.94	38,088.09	17,000.41	55,088.50
11 (1/15/84)	840,848.02	37,348.58	17,739.92	55,088.50
12 (7/15/84)	822,336.41	36,576.89	18,511.61	55,088.50
13 (1/15/85)	803,019.54	35,771.63	19,316.87	55,088.50
14 (7/15/85)	782,862.39	34,931.35	20,157.15	55,088.50
15 (1/15/86)	761,828.40	34,054.51	21,033.99	55,088.50
16 (7/15/86)	739,879.44	33,139.54	21,948.96	55,088.50
17 (1/15/87)	716,975.70	32,184.76	22,903.74	55,088.50
18 (7/15/87)	693,075.64	31,188.44	23,900.06	55,088.50
19 (1/15/88)	668,135.93	30,148.79	24,939.71	55,088.50
20 (7/15/88)	642,111.34	29,063.91	26,024.59	55,088.50
21 (1/15/89)	602,717.67	27,931.84	39,393.67	67,325.51
22 (7/15/89)	561,610.38	26,218.22	41,107.29	67,325.51
23 (1/15/90)	518,714.92	24,430.05	42,895.46	67,325.51

* Interest only on the Indebtedness shall be paid to the extent accrued on July 15, 1978.

<u>Installment</u> <u>No.</u>	<u>Principal</u> <u>Balance</u> <u>(Before Payment)</u>	<u>Interest</u> <u>Payment</u>	<u>Principal</u> <u>Recovery</u>	<u>Payment</u>
24 (7/15/90)	\$ 473,953.51	\$22,564.10	\$44,761.41	\$67,325.51
25 (1/15/91)	427,244.98	20,616.98	46,708.53	67,325.51
26 (7/15/91)	378,504.63	18,585.16	48,740.35	67,325.51
27 (1/15/92)	327,644.07	16,464.95	50,860.56	67,325.51
28 (7/15/92)	274,571.08	14,252.52	53,072.99	67,325.51
29 (1/15/93)	219,189.41	11,943.84	55,381.67	67,325.51
30 (7/15/93)	161,398.64	9,534.74	57,790.77	67,325.51
31 (1/15/94)	101,093.97	7,020.84	60,304.67	67,325.51
32 (7/15/94)	38,166.05	4,397.59	62,927.92	67,325.51
33 (1/15/95)	.00	1,660.22	38,166.05	39,826.27

ANNEX A
to
Conditional Sale Agreement (No. 1)

- Item 1: (a) ACF Industries, Incorporated, 750 Third Avenue, New York, New York 10017.
- (b) Union Tank Car Company, 111 West Jackson Boulevard, Chicago, Illinois 60604.
- (c) Richmond Tank Car Company, 777 South Post Oak Road, Suite 777, Houston, Texas 77056.
- Item 2: The Equipment shall be settled for on or after March 15, 1978, and prior to the Termination Date specified in Annex B hereto, and in such number of Groups as may be agreed to by the Lessee and the Builders (not exceeding one Group in each calendar month).
- Item 3: Each Builder warrants that the Equipment built by it will be built in accordance with the requirements, specifications and standards set forth in Article 2 of the Conditional Sale Agreement (No. 1) to which this Annex A is attached (hereinafter called this Agreement) and warrants its Equipment will be free from defects in material (except as to specialties incorporated therein which were specified or supplied by the Lessee and not manufactured by such Builder) and workmanship under normal use and service. If any unit of the Equipment covered by the above warranty does not meet the above warranty, within one year after the date of the acceptance of such unit by the Owner-Trustee, such Builder shall thereupon correct such defect (including nonconformance with the requirements, Specifications and standards set forth in Article 2 of this Agreement), either by (1) repairing or replacing such defective part or parts of any unit of the Equipment, provided that the Vendor or the Lessee notifies such Builder in writing promptly after discovery of such defect, and at the expense of such Builder, makes such defective unit or units of the Equipment promptly available at such Builder's plant for any repair,

or by (2) making available at such Builder's plant the necessary repaired or replacement parts, as appropriate and agreed to by the parties. EXCEPT FOR THE OBLIGATIONS AND LIABILITIES OF EACH BUILDER UNDER ARTICLES 2, 3, 4 AND 13 OF THE AGREEMENT, THE FOREGOING WARRANTY OF EACH BUILDER IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, LIABILITY FOR LOST PROFIT OR FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL OR COMMERCIAL LOSSES, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES, AND NO BUILDER ASSUMES OR AUTHORIZES ANY PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE CONSTRUCTION AND DELIVERY OF THE EQUIPMENT EXCEPT AS AFORESAID. IT IS FURTHER UNDERSTOOD AND AGREED THAT IN NO EVENT SHALL ANY BUILDER BE LIABLE FOR INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND.

Each Builder further agrees that neither the inspection as provided in Article 3 of this Agreement nor any examination nor the acceptance of any units of the Equipment as provided in said Article 3 shall be deemed a waiver or a modification by the Owner-Trustee of any of its rights under this Item 3.

Item 4: Each Builder agrees to indemnify, protect and hold harmless the Owner-Trustee and the Lessee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Owner-Trustee or the Lessee because of the use in or about the construction or operation of any of its Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right, except any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Owner-Trustee or the Lessee because of the use in or about the construction or operation of any of its Equipment of any design, system, process, formula, combination specified by the Lessee and not developed or purported to be developed by such Builder or any article or material specified by the Lessee and not manufactured by such

Builder. Each Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Lessee every claim, right and cause of action which such Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the Lessee and purchased or otherwise acquired by such Builder for use in or about the construction or operation of any of the Equipment, on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, the satisfaction and discharge of this Agreement or the termination of this Agreement in any manner.

- Item 5: The Maximum Purchase Price referred to in Article 4 of this Agreement is \$4,206,969, plus $\frac{100}{57.0482}$ ths of the amount by which the Investment of the Investor named in the Participation Agreement is increased pursuant to Paragraph 2 of the Participation Agreement.
- Item 6: The Indebtedness referred to in Article 4 of this Agreement is \$2,400,000 plus the amount by which the Investment of the Investor named in the Participation Agreement is increased pursuant to Paragraph 2 of the Participation Agreement.

Annex B(*)(**)
to
Conditional Sale Agreement (No. 1)

<u>Builder</u>	<u>Type</u>	<u>Builder's Specifications</u>	<u>Quantity</u>	<u>Estimated Unit Base Price</u>	<u>Estimated Total Base Price</u>	<u>Serial Numbers (Inclusive)</u>	<u>Estimated Time and Place of Delivery</u>
ACF Industries, Incorporated	100 ton, roller bearing, DOT 105A500W 17,360 gallons non-coil insulated chlorine tank cars	77-OEO-214 Rev.E dated 11/3/77	85	\$ 42,000	\$ 3,570,000	HOKX 7815-7899	February-March 1978, at Milton, Pennsylvania
Union Tank Car Company	100 ton, roller bearing, DOT 105A500W, 17,300 gallons, non-insulated chlorine tank cars	BD-70-100-17 Appr. No. 3661	86	42,000	3,612,000	HOKX 7901-7909; 7911-7987	February-April 1978, at East Chicago, Indiana
Union Tank Car Company	100 ton, roller bearing, DOT 111A100W1, 16,327 gallons, exterior header heaters, caustic soda tank cars	BD-35-100-16 Appr. No. 3665	42	39,000	1,638,000	HOKX 8181, 8185, 8186, 8190, 8201, 8204, 8205, 8208, 8212, 8214, 8215,	February-March 1978, at East Chicago, Indiana

The footnotes to this Annex B appear on the next succeeding page.

<u>Builder</u>	<u>Type</u>	<u>Builder's Specifications</u>	<u>Quantity</u>	<u>Estimated Unit Base Price</u>	<u>Estimated Total Base Price</u>	<u>Serial Numbers (Inclusive)</u>	<u>Estimated Time and Place of Delivery</u>
Union Tank Car Company (cont'd)						8219, 8220, 8222, 8224- 8226, 8230, 8236, 8238- 8260	
Richmond Tank Car Company	16,000 gallon, roller bearing, DOT 111A100W1 caustic soda tank cars	2797-TS	180	38,500	6,930,000	HOKX 8000- 8179	February-April, 1978, at Sheldon, Texas
Totals			<u>393</u>		<u>\$15,750,000</u>		

* This Annex B sets forth a description of units of Equipment having an estimated total base price of \$15,750,000. It is understood, however, that certain of said units may be delivered to and accepted by the Lessee prior to the execution and delivery of this Agreement, in which case any unit of Equipment so delivered and accepted will be excluded from this Annex B by an appropriate supplement hereto. It is further understood and agreed, however, that Conditional Sale Agreement (No. 1) dated as of January 1, 1978, among First Security State Bank (not in its individual capacity, but solely as Owner-Trustee for New England Merchants Leasing Corporation B-6) and ACF Industries, Incorporated, Union Tank Car Company and Richmond Tank Car Company (hereinafter called the Builders) will cover all units of Equipment delivered by the Builders and accepted by said Owner-Trustee on or after March 1, 1978, and prior to the Termination Date having an aggregate Maximum Purchase Price not exceeding the amount stated in Item 5 of Annex A thereto, and that Conditional Sale Agreement (No. 2) dated as of January 1, 1978, among First Security State Bank (not in its individual capacity, but solely as Owner-Trustee for Republic National Leasing Corporation) and the Builders will cover (i) all units of Equipment delivered by the Builders and accepted by said Owner-Trustee in February 1978, and (ii) all the remaining units of Equipment not delivered and accepted under Conditional Sale Agreement (No. 1), having a Maximum Purchase Price not exceeding the amount stated in Item 5 of Annex A thereto. After delivery of all of the Equipment covered by both Conditional Sale Agreements or sooner once the delivery of Equipment commences, this Annex B will be appropriately amended to describe only those units of Equipment covered by this Conditional Sale Agreement. It is further understood and agreed that this Annex B may be amended by agreement between the Owner-Trustee and the Vendor (without the consent of any other party) to reflect the foregoing or to give effect to the understanding of the parties that Conditional Sale Agreement (No. 1) shall cover 30% of the aggregate Purchase Price of the Equipment to be acquired under both Conditional Sale Agreements and Conditional Sale Agreement (No. 2) shall cover 70% thereof.

** Termination Date: June 15, 1978, on Conditional Sale Agreement (No. 1) and June 15, 1978, on Conditional Sale Agreement (No. 2).

ANNEX C
to Conditional
Sale Agreement
(No. 1)

LEASE OF RAILROAD EQUIPMENT
(No. 1)

Dated as of January 1, 1978

Between

HOOKER CHEMICAL PROPERTIES CORPORATION,

as Lessee,

and

FIRST SECURITY STATE BANK,
not in its individual capacity but solely as
Trustee under a Trust Agreement (No. 1) dated as of January 1,
1978, with NEW ENGLAND MERCHANTS LEASING CORPORATION B-6,

as Lessor.

LEASE OF RAILROAD EQUIPMENT

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* This Table of Contents has been included in this document for convenience only and does not form a part of, or affect any construction or interpretation of this document.

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LEASE OF RAILROAD EQUIPMENT (No. 1) (hereinafter called the Lease or this Lease) dated as of January 1, 1978, between HOOKER CHEMICAL PROPERTIES CORPORATION, a California corporation (hereinafter called the Lessee), and FIRST SECURITY STATE BANK, a Utah corporation, acting not in its individual capacity but solely as Trustee (hereinafter called the Owner-Trustee) under a Trust Agreement (No. 1) dated as of the date hereof (hereinafter called the Trust Agreement) with NEW ENGLAND MERCHANTS LEASING CORPORATION B-6 (hereinafter called the Owner).

WHEREAS the Owner-Trustee is entering into a Conditional Sale Agreement (No. 1) dated as of the date hereof with ACF Industries, Incorporated, Union Tank Car Company and Richmond Tank Car Company (hereinafter individually called a Builder and collectively the Builders) (such agreement being hereinafter called the CSA), wherein the Builders have agreed to manufacture, sell and deliver to the Owner-Trustee the units of railroad equipment described in Appendix A hereto;

WHEREAS the Builders are assigning a portion of their interests in the CSA pursuant to an Agreement and Assignment (No. 1) dated the date hereof (hereinafter called the Assignment) to First Security Bank of Utah, N.A., acting as agent under a Participation Agreement (No. 1) dated as of the date hereof (hereinafter called the Participation Agreement) among said agent, the Lessee, Hooker Chemical Corporation, a California corporation (hereinafter called the Guarantor), the Owner-Trustee, the Owner and Bankers Life Company, an Iowa corporation (hereinafter, together with its successors and assigns, called the Investors) (said agent as so acting, being hereinafter, together with its successors and assigns, called the Vendor);

WHEREAS the Guarantor is executing a Guaranty (No. 1) dated as of the date hereof (hereinafter called the Guaranty) under which it guarantees the obligations of the Lessee hereunder and under certain other agreements of the Lessee;

WHEREAS the Lessee desires to lease such number of units of the railroad equipment as are delivered and accepted and settled for under the CSA (hereinafter together with the Linings as defined in Article 2 hereof called the Units) at the rentals and for the terms and upon the conditions hereinafter provided;

WHEREAS the Owner-Trustee will assign this Lease for security purposes to the Vendor pursuant to an Assignment of Lease and Agreement (No. 1) (hereinafter called the Lease Assignment) dated as of the date hereof;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Owner-Trustee hereby leases the Units to the Lessee upon the following terms and conditions:

ARTICLE 1. NET LEASE

This Lease is a net lease. The Lessee's obligation to pay all rentals and other amounts hereunder shall be absolute and unconditional and, except as herein specifically provided, the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Owner-Trustee or the Owner under this Lease or the CSA including the Lessee's rights by subrogation thereunder to the Builders or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Owner-Trustee or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at

any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Owner-Trustee, the Owner or the Vendor for any reason whatsoever.

ARTICLE 2. DELIVERY

The Owner-Trustee hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the CSA. Each delivery of a Unit to the Owner-Trustee under the CSA shall be deemed to be a delivery hereunder to the Lessee at the point or points at which such Unit is so delivered to the Owner-Trustee. Upon such delivery, the Lessee will cause an employee or other agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit on behalf of the Owner-Trustee under the CSA and on behalf of itself hereunder and execute and deliver to the Owner-Trustee a certificate of acceptance (hereinafter called the Certificate of Acceptance) in accordance with the provisions of Article 3 of the CSA, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Owner-Trustee on the date of such Certificate of Acceptance and is marked in accordance with Article 5 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

As promptly as possible after acceptance of each Unit, the Lessee shall, for the account of the Owner-Trustee, arrange for the linings (hereinafter called the Linings) described in Appendix A hereto to be incorporated in each caustic Unit at a cost of approximately \$1,400.00 per such Unit. The Owner-Trustee agrees, upon presentation of invoices therefor by the installer of the Linings, approved by the Lessee, to pay such invoices directly to such installer.

ARTICLE 3. RENTALS

§ 3.1. Amount and Date of Payment. (1) The Lessee agrees to pay to the Owner-Trustee, as rental for each Unit subject to this Lease, 42 consecutive semiannual payments payable, in arrears, on January 15 and July 15 in each year, commencing January 15, 1979, to and including July 15, 1999.

The first 20 rental payments shall each be in an amount equal to 3.1427% of the Purchase Price (as defined in this § 3.1(1)) of each such Unit, the next 20 rental payments shall be in an amount equal to 3.8408% of such Purchase Price and the last two rental payments shall be in an amount equal to 3.4917% of such Purchase Price (the term Purchase Price as used in this Lease shall mean the Purchase Price defined in the CSA plus the cost of the Linings).

(2) In addition to the foregoing rentals, the Lessee hereby agrees to pay, as additional rentals, to the Owner-Trustee amounts equal to the amounts required for the Owner-Trustee to make the payments provided for in the third paragraph of Paragraph 2 and the last sentence of the first paragraph and in the last paragraph of Paragraph 10 of the Participation Agreement at the times required for such payments therein (without regard to the limitation of the obligations of the Owner-Trustee set forth therein) and the Owner-Trustee agrees to apply such rentals for such purposes.

§ 3.2. Payments on Nonbusiness Days. If any of the semiannual rental payment dates referred to in § 3.1 is not a business day the payment otherwise payable on such date shall be payable on the next succeeding business day, and no interest shall be payable thereon for the period from and after the nominal date for payment thereof to such next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, or Salt Lake City, Utah, are authorized or obligated to remain closed.

§ 3.3. Instructions To Pay Vendor and Owner-Trustee. If the Lease Assignment is executed and delivered, until the Vendor shall have advised the Lessee in writing that all sums due from the Owner-Trustee under the CSA have been fully satisfied and discharged, the Owner-Trustee irrevocably instructs the Lessee to make all the payments provided for in this Lease to the Vendor, for the account of the Owner-Trustee, with instructions to the Vendor (a) first to apply such payments to satisfy the obligations of the Owner-Trustee under the CSA known to the Vendor to be due and payable on the date such payments are due and payable hereunder and (b) second, so long as no event of default under the CSA shall have occurred and be continuing, to pay any balance promptly to or upon the order of the Owner-Trustee in immediately available funds at such place as the Owner-Trustee shall specify in writing.

§ 3.4. Payment in Immediate Funds. The Lessee agrees to make each payment provided for herein as contemplated by § 3.1 in immediately available funds at or prior to 11:00 a.m. in the city where such payment is to be made.

ARTICLE 4. TERM OF LEASE

The term of this Lease as to each Unit shall begin on the date of delivery of such Unit under the CSA and, subject to the provisions of Articles 7, 13 and 16 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to § 3.1 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under Articles 6, 7, 10, 11, 12 and 17 hereof) shall survive the expiration of the term of this Lease.

ARTICLE 5. IDENTIFICATION MARKS

The Lessee will cause each Unit to be kept numbered with the identification number set forth in Appendix A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "Ownership subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c", or other appropriate words designated by the Owner-Trustee, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Owner-Trustee's and Vendor's title to and property in such Unit and the rights of the Owner-Trustee under this Lease and of the rights of the Vendor under the CSA. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change the identification number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Owner-Trustee and filed and deposited by the Lessee in all public offices where this Lease and the CSA shall have been filed and deposited and (ii) the Lessee shall have furnished the Vendor and the Owner-Trustee an opinion of counsel to the effect that such statement has been so filed and deposited, such filing and deposit will protect the Vendor's and

the Owner-Trustee's interests in such Units and no filing, deposit or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Owner-Trustee in such Units. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates. Except as provided, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

ARTICLE 6. TAXES

§ 6.1. Indemnification for Non-income Taxes. The Lessee agrees to pay, and to indemnify and hold the Owner-Trustee, the Owner, and the Vendor harmless from, all taxes, assessments, fees and charges of any nature whatsoever, together with any penalties, fines, additions to tax or interest thereon, howsoever imposed, whether levied or imposed upon the Owner-Trustee, the Owner, the Vendor, the Lessee, the trust estate created by the Trust Agreement or otherwise, by any Federal, state or local government or governmental subdivision in the United States or by any foreign country or subdivision thereof, upon or with respect to: any Unit or any part thereof; the purchase, ownership, delivery, leasing, possession, use, operation, transfer of title, return or other disposition thereof; the indebtedness with respect thereto; the rentals, receipts or earnings arising therefrom; or this Lease, the Trust Agreement, the Participation Agreement, the CSA, the Assignment, the Lease Assignment, the Guaranty, any payment made pursuant to any such agreement, or the property, the income or other proceeds received with respect to property held in trust by the Owner-Trustee under the Trust Agreement (all such taxes, assessments, fees, charges, penalties, fines, additions to tax and interest imposed as aforesaid being hereinafter called Taxes); excluding, however: (i) Taxes of the United States or of any state or political subdivision thereof and (if and to the extent that any person indemnified hereunder is entitled to a credit therefor against its United States Federal income taxes or is indemnified by the Lessee pursuant to the Participation Agreement) of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits of the Owner-Trustee (in its individual capacity), the Owner or the Vendor, other than Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Lease, provided

that Taxes of any foreign country or subdivision thereof incurred as a result of the indemnified party being taxed by such foreign country or subdivision on its world-wide income without regard to the transactions contemplated by this Lease shall be excluded in all cases, whether or not the indemnified party is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed as a direct result of a voluntary transfer or other voluntary disposition by the Owner or any transfer or disposition by the Owner resulting from bankruptcy or other proceedings for the relief of creditors in which the Owner is the debtor, whether voluntary or involuntary, of any interest in any Unit or interest in rentals under this Lease; and (iii) penalties, fines and additional interest resulting only from and payable only because of the negligent acts or omissions to act by the Owner-Trustee, the Owner or the Vendor; provided, however, that the Lessee shall not be required to pay any Taxes during the period it may be contesting the same in the manner provided in § 6.2 hereof. The Lessee further agrees to pay on or before the time or times prescribed by law any tax imposed on or measured solely by the net income of the Lessee under the laws of the United States or of any state or political subdivision thereof, or of any foreign country or subdivision thereof which, if unpaid, might result in a lien or other encumbrance upon any Unit; provided, however, that the Lessee shall not be required to pay any such tax during the period it may be contesting the same.

§ 6.2. Claims; Contests; Refunds. If claim is made against the Owner-Trustee, the Owner or the Vendor for any Taxes indemnified against under this Article 6, such party shall promptly notify the Lessee. If reasonably requested by the Lessee in writing, the Owner-Trustee or the Vendor, as the case may be, shall, upon receipt of a letter of indemnity from the Lessee reasonably satisfactory to it and to the Owner for all its reasonable charges for its services rendered in connection therewith and for all costs, expenses, losses, legal and accountants' fees and disbursements, penalties, fines, additions to tax and interest, and at the expense of the Lessee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Lessee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of the Owner-Trustee, the Owner or the Vendor; provided that, no proceeding or actions relating to such contest shall be

commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of the Owner-Trustee, the Owner or the Vendor in any such proceeding or action) if in the reasonable opinion of the Owner-Trustee and the Owner or the Vendor such contest or the nonpayment of the Taxes would adversely affect the title, property or rights of the Owner-Trustee hereunder or of the Vendor under the CSA. The Lessee agrees to give the Owner-Trustee notice of such contest within 30 days thereof. If the Owner-Trustee, the Owner or the Vendor shall obtain a refund of all or any part of such Taxes previously reimbursed by the Lessee in connection with any such contest or an amount representing interest thereon, the Owner-Trustee or the Vendor or the Owner, as the case may be, shall pay the Lessee the amount of such refund or interest net of reasonable expenses; provided, however, that no Event of Default and no event which with notice or lapse of time or both would constitute an Event of Default shall have occurred and be continuing.

§ 6.3. Reports or Returns. In case any report or return is required to be made with respect to any obligation of the Lessee under or arising out of this Article 6 (except obligations resulting from the second sentence of § 6.1), the Lessee will, where permitted to do so under applicable rules and regulations, make and timely file such reports and returns in such manner as to show the interest of the Owner-Trustee and the Vendor in the Units as shall be satisfactory to the Owner-Trustee and the Vendor or, where not so permitted, will notify the Owner-Trustee, the Vendor and the Owner of such requirement and will prepare and deliver such reports to the Owner-Trustee and the Vendor within a reasonable time prior to the time such reports are to be filed, or in such manner as shall be reasonably satisfactory to the Owner-Trustee, the Vendor and the Owner. All reasonable costs and expenses (including legal and accountants' fees) of preparing any such return or report shall be borne by the Lessee.

§ 6.4. Survival. All the obligations of the Lessee under this Article 6 shall survive and continue, but only with respect to periods included in the term of this Lease, notwithstanding payment in full of all amounts due under the CSA or the termination of this Lease. Payments due from the Lessee to the Owner-Trustee, the Owner or the Vendor under this Article 6 shall be made directly to the party indemnified.

ARTICLE 7. PAYMENT FOR CASUALTY OCCURRENCES; INSURANCE;
ECONOMIC OBSOLESCENCE; SURPLUS

§ 7.1. Definitions of Casualty Occurrence; Payments. In the event that any Unit shall be or become worn out, lost, stolen, destroyed, or, in the reasonable opinion of the Lessee, irreparably damaged, from any cause whatsoever during the term of this Lease or any renewal term hereof or until such Unit is returned pursuant to Articles 14 or 17 hereof, or the Purchase Price of any Unit shall have been refunded by any Builder of such Unit pursuant to the terms of its patent indemnity therefor or any Unit shall be taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of this Lease or by any other governmental entity resulting in loss of possession by the Lessee for a period of 180 consecutive days during the term of this Lease or during any renewal term hereof (such occurrences being hereinafter called Casualty Occurrences), the Lessee shall promptly and fully notify the Owner-Trustee and the Vendor with respect thereto. On the next succeeding January 15 or July 15, whichever is earlier (each such date being hereinafter called a Casualty Payment Date), the Lessee shall pay to the Owner-Trustee a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of such Casualty Payment Date, plus (if not previously paid) the semiannual rental in respect of such Unit accrued as of such rent payment date; provided, however, that in the event of a Casualty Occurrence during the period any Unit is being returned pursuant to Articles 14 and 17 hereof, the Lessee shall make such payment to the Owner-Trustee on a date 30 days after such Casualty Occurrence. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or return to the Builder of such Unit) the Owner-Trustee shall be entitled to recover possession of such Unit. It is understood that if a Unit is damaged the Lessee shall not be required to make a final determination as to whether it is irreparably damaged or can be repaired for a period of 180 days after such Unit is damaged but no later than the termination of this Lease or any renewal term hereof (but if the final determination is that it is irreparably damaged it shall, for the purposes of § 7.5 hereof, be deemed to have suffered a Casualty Occurrence on the date of the damage).

If any Unit shall have been taken or requisitioned by the United States Government or any other governmental

entity and such taking or requisition shall not theretofore constitute a Casualty Occurrence as aforesaid, such taking or requisition shall be deemed a Casualty Occurrence if the same shall be continuing at the end of the term of this Lease, in which event the Lessee shall promptly and fully notify the Owner-Trustee with respect thereto and pay the Owner-Trustee, as the Casualty Value therefor, an amount equal to 20% of the Purchase Price of such Unit. Following such payment, the Lessee shall be entitled to receive condemnation payments in respect of such Unit up to an amount equal to such Casualty Value and any balance of such payments shall be the property of the Owner-Trustee. In the event such Unit shall be returned by the governmental entity prior to the time the Lessee shall have been reimbursed by such application of condemnation payments in an amount equal to such Casualty Value, then the Lessee shall dispose of such Unit as agent for the Owner-Trustee, and shall retain the proceeds of such disposition to the extent that the aggregate of the amounts so retained and the condemnation payments theretofore received by the Lessee shall equal such Casualty Value, and the balance of such proceeds shall be promptly paid to the Owner-Trustee. In the event such Unit shall be returned by the governmental entity following the time the Lessee shall have been reimbursed by such application of condemnation payments in an amount equal to such Casualty Value, such Unit shall be returned by the Lessee to the Owner-Trustee in the manner provided in Article 17 hereof.

§ 7.2. Requisition by United States Government.

In the event of the requisition for use by the United States Government of any Unit for a period which does not exceed the term of this Lease or for an indefinite period (except where deemed a Casualty Occurrence pursuant to the last paragraph of § 7.1 hereof), all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred. All payments received by the Owner-Trustee or the Lessee from the United States Government for the use of such Unit during the term of this Lease shall be paid over to, or retained by, the Lessee provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing.

§ 7.3. Lessee Agent for Disposal. The Owner-Trustee hereby appoints the Lessee its agent to dispose of any Unit or any component thereof suffering a Casualty Occurrence before and after expiration of the Lease, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Owner-Trustee (i) the Lessee shall be entitled

to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Owner-Trustee and (ii) the Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit returned to any Builder pursuant to the patent indemnity provisions of the CSA an amount equal to any payment made by such Builder to the Owner-Trustee in respect thereof under the CSA.

§ 7.4. Payments After Expiration of Lease. If the date upon which the making of the payment by the Lessee in § 7.1 hereof in respect of any Unit is required as aforesaid shall be after the term of this Lease or any renewal term thereof in respect of such Unit has expired, no rental for such Unit shall accrue after the end of such term.

§ 7.5. Amount of Casualty Value of Units. The Casualty Value of each Unit as of the Casualty Payment Date on which payment is made shall be an amount equal to that percentage of the Purchase Price of such Unit as is set forth in Appendix B hereto opposite such Casualty Payment Date, plus, on any Casualty Payment Date with respect to a Casualty Occurrence occurring before the third, fifth or seventh anniversary of the date of the Certificate of Acceptance for such Unit, an amount equal to the percentage of the Purchase Price of such Unit suffering a Casualty Occurrence (such amount to be determined as of the actual date of the Casualty Occurrence) set forth below:

<u>Anniversary of the date of the Certificate of Acceptance</u>	<u>Percentage of Purchase Price to be added</u>
Third	21.2495%
Fifth	14.1663%
Seventh	7.0832%

§ 7.6. No Release. Except as hereinabove in this Article 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

§ 7.7. Insurance To Be Maintained. (1) The Lessee will, at all times prior to the return of the Units to the Owner-Trustee at its own expense, cause to be carried and maintained (i) property insurance in respect of the Units at the time subject hereto; provided, however, that, so long as the consolidated net worth of the Guarantor shall be at least \$350,000,000, the Lessee may self-insure such Units to the extent it self-insures equipment similar to the Units and to

the extent such self-insurance is consistent with prudent industry practice, and (ii) public liability insurance with respect to third party personal and property damage and the Lessee will continue to carry such insurance with such deductibles, in such amounts, for such risks and with such insurance companies as is consistent with prudent industry practice but in any event with no greater deductibles and at least comparable in amounts and against risks customarily insured against by the Lessee in respect of equipment owned or leased by it similar in nature to the Units, in each case reasonably satisfactory to the Owner. The proceeds thereof shall be payable to the Vendor, the Owner-Trustee and the Lessee, as their interests may appear, so long as the Indebtedness, if any, evidenced by the CSA shall not have been paid in full, and thereafter to the Owner-Trustee and the Lessee as their interests may appear. Any policies of insurance carried in accordance with this paragraph shall (i) require 30 days' prior notice of cancelation or material change in coverage to the Owner and the Vendor and (ii) name the Owner-Trustee and the Vendor as additional named insureds as their respective interests may appear and shall provide that, in respect of the interests of the Owner-Trustee and the Vendor in such policies, the insurance shall not be invalidated by any action or inaction of the Lessee or any other person (other than the Owner-Trustee and the Vendor) and shall insure the Owner-Trustee and the Vendor regardless of any breach or violation of any warranty, declaration or condition contained in such policies (or in the application therefor or in any other document submitted by the insurer in connection therewith) by the Lessee or by any other person (other than the Owner-Trustee or the Vendor). Prior to the first date of delivery of any Unit pursuant to the CSA, and thereafter not less than 5 days prior to the expiration dates of the expiring policies required pursuant to this Article 7, the Lessee shall deliver to the Owner and the Owner-Trustee certificates of insurance issued by the insurers thereunder evidencing the insurance maintained pursuant to this Article 7; provided, however, that if the delivery of a certificate is delayed, the Lessee shall deliver an executed binder with respect thereto and shall deliver the formal certificate upon receipt thereof.

(2) In the event that the Lessee shall fail to maintain insurance as herein provided, the Owner may at its option provide such insurance (giving the Lessee prompt written notice thereof) and, in such event, the Lessee shall, upon demand from time to time, reimburse the Owner for the cost thereof together with interest, on the amount of the

cost to the Owner of such insurance which the Lessee shall have failed to maintain, at the rate per annum specified in Article 19 hereof, computed from the date of the Owner's payment of such cost.

§ 7.8. Insurance Proceeds and Condemnation Payments. If the Owner-Trustee shall receive (directly or from the Vendor) any insurance proceeds or condemnation payments in respect of a Unit suffering a Casualty Occurrence, the Owner-Trustee shall pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Owner-Trustee; provided, however, that no Event of Default shall have occurred and be continuing and the Lessee shall have made payment of the Casualty Value thereof, and accrued rentals in respect of such Unit, to the Owner-Trustee. All insurance proceeds received by the Owner-Trustee (directly or from the Vendor) in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof reasonably satisfactory to the Owner-Trustee that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

§ 7.9. Economic Obsolescence; Surplus. In the event that the Lessee shall, in its reasonable judgment, determine that any Unit or Units become economically obsolete in, or surplus to, the Lessee's business, the Lessee shall have the right, at its option and on at least 90 days' prior written notice to the Owner-Trustee and the Vendor, to terminate (hereinafter called a Termination) this Lease as to such Unit (subject to the survival of the obligations described in Article 4 hereof) as of any succeeding rent payment date specified in such notice occurring after July 15, 1985 (the termination date specified in such notice being hereinafter called the Termination Date).

During the period from the 30th day after the giving of such notice until the fifth business day preceding the Termination Date, the Lessee shall use its best efforts to obtain bids for the purchase of such Unit or Units, and the Lessee shall at least five business days prior to such Termination Date certify to the Lessor the amount of each such bid and the name and address of the party (which shall not be a corporation or individual affiliated with the Lessee or any party from whom the Lessee or any such affiliate intends thereafter to lease such Unit) submitting such bid. On the Termination Date the Lessor shall sell such Unit or Units for

cash to the bidder who shall have submitted the highest bid prior to the Termination Date. The total sales price realized at such sale shall be paid to the Lessor in immediately available funds on the Termination Date and, in addition, on the Termination Date the Lessee shall pay to the Lessor the excess, if any, of the Termination Value as set forth in Appendix C hereto (hereinafter called the Termination Value) in respect of such Unit or Units over the net sales price of such Units after deducting from such sales price any and all out-of-pocket costs and expenses whatsoever incurred by the Lessor in connection with such sale. If no sale shall occur on the date scheduled therefor as above provided, this Lease shall continue in full force and effect without change unless and until the Lessee pays the Lessor an amount equal to the Termination Value; provided, however, that the Lessee, on behalf of the Lessor, may attempt to sell the Units for cash at some later date upon 30 days' prior written notice to the Lessor and the Vendor and following the procedure set forth above. In the event of any such sale for cash and the receipt by the Lessor of the amounts above described, the obligation of the Lessee to pay rent pursuant to Article 3 hereof in respect of such Units subject to a Termination on each rental payment date shall continue to and including the Termination Date but shall then terminate. The Lessor shall be under no duty to solicit bids, to inquire into the efforts of the Lessee to obtain bids or otherwise to take any action or incur any cost or expense in connection with any such sale pursuant to this § 7.9, other than to transfer or to cause to be transferred all of the Lessor's right, title and interest in and to such Units to the purchaser named in the highest bid certified by the Lessee to the Lessor as above provided. Any such sale pursuant to this § 7.9 shall be free and clear of all of the Lessee's rights to such Units, but otherwise shall be made without warranties other than against Lessor's acts.

ARTICLE 8. REPORTS

On or before April 30 in each year, commencing with the calendar year 1979, the Lessee will furnish to the Owner-Trustee and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the total number, description and identification numbers of all Units then leased hereunder and covered by the CSA, the total number, description and identification numbers of all Units that have suffered a Casualty Occurrence or Termination during

the preceding calendar year or then withdrawn from use pending repair (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Units as the Owner-Trustee or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and markings required by Article 5 hereof have been preserved or replaced. The Owner-Trustee, the Vendor and the Owner shall each have the right, by its agents, to inspect the Units and the Lessee's maintenance records with respect thereto at such reasonable times as the Owner-Trustee, the Vendor or the Owner may request during the continuance of this Lease.

ARTICLE 9. DISCLAIMER OF WARRANTIES

THE OWNER-TRUSTEE DOES NOT MAKE, HAS NOT MADE AND SHALL NOT BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE OWNER-TRUSTEE DOES NOT MAKE ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE OR OTHERWISE, it being agreed that all such risks, as between the Owner-Trustee and the Lessee, are to be borne by the Lessee; but the Owner-Trustee hereby irrevocably appoints the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Owner-Trustee and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Owner-Trustee may have against the Builders under the provisions of Items 3 and 4 of Annex A of the CSA; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Owner-Trustee may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Owner-Trustee shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance

of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Owner-Trustee that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Owner-Trustee or the Vendor based on any of the foregoing matters.

ARTICLE 10. LAWS AND RULES

§ 10.1. Compliance. The Lessee agrees, for the benefit of the Owner-Trustee and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the Interchange Rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that such laws or rules require any alteration, replacement or addition of or to any part on any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the reasonable opinion of the Owner-Trustee or the Vendor, adversely affect the property or rights of the Owner-Trustee or the Vendor under this Lease or under the CSA.

§ 10.2. Reports by Owner-Trustee. The Lessee agrees to prepare and deliver to the Owner-Trustee and the Vendor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Owner-Trustee and the Vendor) any and all reports (other than income tax returns) to be filed by the Owner-Trustee with any Federal, state or other regulatory authority by reason of the ownership by the Owner-Trustee or the Vendor of the Units or the leasing thereof to the Lessee.

ARTICLE 11. MAINTENANCE

§ 11.1. Units in Good Operating Order. The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit (including any parts installed on or replacements made to any Unit and considered an accession thereto as hereinbelow provided) which is subject to this Lease in good operating order, repair and condition, ordinary wear and tear excepted.

§ 11.2. Additions and Accessions. (1) The Lessee, at its own cost and expense, may from time to time make such other additions, modifications and improvements to the Units during the term of this Lease as are readily removable without causing material damage to the Units. The additions, modifications and improvements made by the Lessee under the preceding sentence shall (except to the extent required to be made pursuant to §§ 10.1 and 11.1 hereof or paragraph (2) of this § 11.2) be owned by the Lessee.

(2) Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit and were installed or were added to such Unit in contravention of its agreements contained in § 11.2(1) hereof, (ii) the cost of which is included in the Purchase Price of such Unit, (iii) in the course of ordinary maintenance of the Units or (iv) which are required for the operation or use of such Unit by the Interchange Rules of the Association of American Railroads or by the regulations of the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the CSA) shall immediately be vested in the Owner-Trustee and the Vendor as their respective interests may appear in the Unit itself.

ARTICLE 12. INDEMNIFICATION

§ 12.1. Indemnified Persons. The Lessee shall pay, and shall protect, indemnify and hold the Owner-Trustee (in both its individual and fiduciary capacities), the Owner, the Vendor, and their respective successors, assigns, agents and servants (hereinafter called Indemnified Persons), harmless from and against any and all causes of action,

suits, penalties, claims, demands or judgments, of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person (including any or all liabilities, obligations, damages, costs, disbursements, expenses (including without limitation reasonable attorneys' fees and expenses of any Indemnified Person) relating thereto) in any way relating to or arising, or alleged to arise out of this Lease, the CSA or the Units, including without limitation those in any way relating to or arising or alleged to arise out of (i) the manufacture, construction, purchase, acceptance, rejection, ownership, delivery, nondelivery, lease, possession, use, operation, condition, sale, return or other disposition of any Unit or portion thereof, (ii) any latent and other defects whether or not discoverable by the Owner-Trustee, the Vendor or the Lessee, (iii) any claim for patent, trademark or copyright infringement, (iv) any claims based on strict liability in tort, (v) any injury to or the death of any person or any damage to or loss of property on or near the Units or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Units or of any other equipment in connection with the Units (whether owned or under the control of the Owner-Trustee, the Lessee or any other person) or resulting or alleged to result from the condition of any thereof; (vi) any violation, or alleged violation, of any provision of this Lease (except by the Owner-Trustee) or of any agreement, law, rule, regulation, ordinance or restriction, affecting or applicable to the Units or the leasing, ownership, use, replacement, adaptation or maintenance thereof; or (vii) any claim arising out of any of the Owner-Trustee's obligations under the Lease Assignment or the Vendor's retention of a security interest under the CSA or the Lease Assignment or the Participation Agreement, except to the extent such claim arises from an act or omission of the Owner-Trustee. The Lessee shall be obligated under this § 12.1, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Lessee under this § 12.1 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Lessee may and, upon such Indemnified Person's request, will at the Lessee's expense resist and defend such action, suit or proceeding,

or cause the same to be resisted or defended by counsel selected by the Lessee and approved by such Indemnified Person and, in the event of any failure by the Lessee to do so, the Lessee shall pay all reasonable costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding. In the event the Lessee is required to make any payment under this § 12.1 the Lessee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Lessee and the Owner-Trustee each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this § 12.1 by the Lessee, and provided that no Event of Default (or other event which with lapse of time or notice or both would constitute an Event of Default) shall have occurred and be continuing, the Lessee shall be subrogated to any right of such Indemnified Person (except against another Indemnified Person) in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (except the Lessee) as a result of any matter with respect to which such Indemnified Person has been indemnified by the Lessee pursuant to this § 12.1 shall be paid over to the Lessee to the extent necessary to reimburse the Lessee for indemnification payments previously made. Nothing in this § 12.1 shall constitute a guaranty by the Lessee of the Indebtedness of the Owner-Trustee under the CSA or a guaranty of the residual value of any Unit.

§ 12.2. Indemnification of Builder. The Lessee further agrees to indemnify, protect and hold harmless each Builder as a third party beneficiary hereof from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against such Builder because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Lessee and not manufactured by such Builder or of any design,

system, process, formula or combination specified by the Lessee and not developed or purported to be developed by such Builder which infringes or is claimed to infringe on any patent or other right.

§ 12.3. Survival. The indemnities contained in this Article 12 shall survive the expiration or termination of this Lease with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this Article 12 shall be deemed to create any rights of subrogation in any insurer or third party against the Lessee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

ARTICLE 13. DEFAULT

§ 13.1. Events of Default; Remedies. If, during the continuance of this Lease or any extension or renewal thereof, one or more of the following events (each such event being herein sometimes called an Event of Default) shall occur:

A. default shall be made in payment of any amount provided for in Articles 3, 7, 12, 16 or 19 hereof or Paragraph 11 of the Participation Agreement, and such default shall continue for ten days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof;

C. the Lessee shall, for more than 35 days after the Vendor, the Owner or the Owner-Trustee shall have demanded in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Lease or of the Participation Agreement on its part to be complied with or performed;

D. any representation or warranty made by the Lessee or by the Guarantor herein or in the Participation Agreement or in any certificate or statement furnished to the Owner-Trustee or the Owner pursuant

to or in connection with any such agreements proves untrue in any material respect as of the date of issuance or making thereof;

E. a petition for reorganization under the Bankruptcy Act, as now constituted or as may hereafter be amended, shall be filed by or against the Lessee or the Guarantor and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease or the Guarantor under the Guaranty, as the case may be, shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier;

F. any other proceedings shall be commenced by or against the Lessee or the Guarantor for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder or the Guarantor under the Guaranty under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder or the Guarantor under the Guaranty, as the case may be), and, unless such proceedings shall be dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease or the Guarantor under the Guaranty, as the case may be, shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or the Guarantor, as the case may be, or for the property of the Lessee or the Guarantor, as the case may be, in connection with any such proceedings in such manner that such obligations shall have the

same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

G. an event of default set forth in Article 16 of the CSA shall have occurred arising out of any default by the Lessee in performing any of its obligations hereunder;

then, in any such case, the Owner-Trustee, 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; or

(b) upon 5 days' written notice to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Owner-Trustee may by its agents enter upon the premises of the Lessee or other premises, in so far as the Lessee may be lawfully authorized to so permit, where any of the Units may be located, without judicial process if this can be done without breach of the peace and in accordance with due process of law, and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee with respect to such action or inaction or for any proceeds arising therefrom; but the Owner-Trustee shall, nevertheless, have a right to recover forthwith 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 (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as

a penalty whichever of the following amounts that the Owner-Trustee in its sole discretion shall specify, (i) a sum, with respect to each Unit, which represents (x) the excess of the present values, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over the then present value of the rental which the Owner-Trustee reasonably estimates to be obtainable for each Unit during such period, such present value to be computed in each case on the basis of a 10% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated or, if such Unit is sold, the net proceeds of the sale plus (y) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Owner-Trustee shall have sustained by reason of the breach of any covenant, representation or warranty in this Lease other than for the payment of rental or (ii) an amount equal to the excess, if any, of the Casualty Value as of the Casualty Payment Date on or next preceding the date of termination over the amount the Owner-Trustee reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event the Owner-Trustee shall have sold any unit, the Owner-Trustee, in lieu of collecting any amounts payable by the Lessee pursuant to the preceding clause (ii) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Owner-Trustee and the Lessee shall pay to the Owner-Trustee on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the Casualty Payment Date on or next preceding the date of termination over the net proceeds of such sale.

In addition, Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Owner-Trustee's remedies with respect thereto.

§ 13.2. Remedies Not Exclusive; Waiver. The remedies in this Lease provided in favor of the Owner-Trustee

shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies 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 the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

§ 13.3. Failure To Exercise Rights Is Not Waiver. The failure of the Owner-Trustee to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

§ 13.4. Notice of Event of Default. The Lessee also agrees to furnish the Owner-Trustee, the Owner and the Vendor, promptly upon any responsible officer becoming aware of any condition which constituted or constitutes an Event of Default under this Lease or which, after notice or lapse of time, or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this § 13.4, a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

ARTICLE 14. RETURN OF UNITS UPON DEFAULT

§ 14.1. Return of Units. If this Lease shall terminate pursuant to § 13.1 hereof or pursuant to Article 16 of the CSA, the Lessee shall forthwith deliver possession of the Units to the Owner-Trustee. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, shall meet the standards then in effect under the Interchange Rules of the Association of American Railroads and/or the applicable rules of any governmental agency or

other organization with jurisdiction and shall have attached or affixed thereto any special device considered an accession thereto as provided in Article 11 and shall have removed therefrom at the Lessee's expense any addition, modification or improvement which, as provided in Article 11, is owned by the Lessee. For the purpose of delivering possession of any Unit or Units as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged or which may have possession thereof to return the Unit or Units) and at the usual speed place such Units upon such storage tracks as the Owner-Trustee reasonably may designate;

(b) permit the Owner-Trustee to store such Units on such tracks at the risk of the Lessee without charge for insurance, rent or storage until all such Units have been sold, leased or otherwise disposed of by the Owner-Trustee; and

(c) cause the same to be transported to any reasonable place as directed by the Owner-Trustee.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Owner-Trustee 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 Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair, continue to maintain property insurance in the limits and in the manner described in § 7.7(1) hereof, and will permit the Owner-Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Owner-Trustee and, if received by the Lessee, shall be promptly turned over to the Owner-Trustee. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall in addition, pay to the Owner-Trustee for each day thereafter

an amount equal to the amount, if any, by which that percentage of the Purchase Price of such Unit for each such day obtained by dividing the average of the basic lease rates for such Units as set forth in § 3.1 hereof for each semiannual payment for such Unit by 180 exceeds the actual earnings received by the Owner-Trustee on such Unit for each such day. Payment shall be made on the 15th day of each month for all moneys due in the preceding sentence.

§ 14.2. Owner-Trustee Appointed Agent of Lessee. Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 14.1 the Lessee hereby irrevocably appoints the Owner-Trustee 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 Unit to the Owner-Trustee, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

ARTICLE 15. ASSIGNMENT, POSSESSION AND USE

§ 15.1. Assignment; Consent. This Lease shall be assignable in whole or in part by the Owner-Trustee upon prior written consent of the Lessee, which consent shall not be unreasonably withheld. The Lessee hereby consents to the assignment of this Lease pursuant to the Lease Assignment.

§ 15.2. Lessee's Rights To Use the Units, To Permit Use Thereof by Others and To Sublease the Units. (1) Without the prior written consent of the Owner-Trustee and the Vendor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them except as provided in subparagraph (2) of this § 15.2; and the Lessee shall not, without the prior written consent of the Owner-Trustee and the Vendor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of said paragraph (2). The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, would become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Owner-Trustee, the Owner or the Vendor or resulting from claims against the Owner-Trustee, the Owner

or the Vendor not related to the ownership of the Units, other than any encumbrance on the leasehold estate of the Lessee or other than liens for taxes, assessments or governmental charges or levies, either not due and delinquent or being contested in accordance with § 6.2 hereof or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, either not delinquent or which shall have been bonded or the enforcement of which shall have been suspended (but only for the duration of such suspension)) upon or with respect to any Unit, including any accession thereto, or the interest of the Owner-Trustee, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises.

(2) So long as no Event of Default exists hereunder, the Lessee shall be entitled to the quiet enjoyment and possession of the Units and to the use of the Units by it or any affiliate (including, without limitation, any direct or indirect domestic subsidiary of Occidental Petroleum Corporation) upon lines of railroad owned or operated by it or any such affiliate or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract and shall be entitled to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic or pursuant to run-through agreements and to assign its rights to the Units or to sublease the Units to any such affiliate (or, with prior written notice to the Owner-Trustee, to any other solvent corporation in the United States for nonconsecutive periods of one year or less), but only upon and subject to all the terms and conditions of this Lease and the CSA; provided, however, that the Lessee shall not assign, sublease or permit the assignment, sublease or use of any Unit predominantly outside the United States of America within the meaning of Section 48(a) of the Internal Revenue Code of 1954, as amended to the date hereof, nor shall the Lessee assign or sublease to, or permit the sublease or use of the Units by, any person in whose hands such Units would not qualify as "section 38 property" within the meaning of said Code. The Lessee may receive and retain compensation for the use of any of the Units from other railroads so using such Units. Any sublease permitted by this paragraph may provide that the sublessee, so long as it shall not be in default under such sublease, shall be entitled to the possession of the

Units included in such sublease and the use thereof; provided, however, that every such sublease shall by its express provisions be subject to the rights and remedies of the Owner-Trustee under this Lease in respect of the Units covered by such sublease upon the occurrence of an Event of Default hereunder.

Lessee agrees that, if any proceeding shall be brought for the sale or foreclosure of the Lessor's interest under the CSA, and if the Lessor's interest in the Equipment shall be sold pursuant to the CSA, Lessee will, in the event that this Lease shall not, prior to such sale, have been terminated or have expired in accordance with its terms, attorn to the purchaser upon any such sale at foreclosure or otherwise, including the Vendor if it should be the purchaser thereof, and will recognize such purchaser as Lessor under this Lease, and this Lease shall continue in full force and effect as a direct lease between Lessee and such purchaser upon and subject to all the terms, covenants, conditions and agreements set forth in this Lease, if (i) such purchaser shall have assumed and agreed to perform all obligations required to be performed by the original Lessor under this Lease in respect of periods after such purchase, and (ii) such purchase shall have been made expressly subject to the rights of Lessee under this Lease. Lessee agrees that, upon compliance with clauses (i) and (ii) of the preceding sentence, it will execute and deliver, at any time and from time to time, upon the request of the Vendor or any such purchaser, any agreement, instrument or other document which, in the judgment of the party making such request, may be necessary or appropriate in any such foreclosure proceeding, or otherwise, to evidence such attornment.

§ 15.3. Transfers by Lessee Through Merger, Acquisition or Consolidation. Nothing in this Article 15 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) 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, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease.

ARTICLE 16. RENEWAL OPTION AND RIGHT OF FIRST REFUSAL

§ 16.1. Renewal for Successive Period. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Owner-Trustee not less than 180 days prior to the end of the original term of this Lease in respect of the Units still subject to this Lease, elect to extend such original term of this Lease in respect of all but not less than all the Units then covered by this Lease for a period of five years commencing on the scheduled expiration of such original term of this Lease, at a semiannual rental of 1.0255% of the Purchase Price of the Units payable, in arrears, on January 15 and July 15 of each year. If the Lessee shall exercise its right to extend this Lease pursuant to this § 16.1, the parties agree that Termination Values for the period of the renewal, including July 15, 1999, shall be determined in a manner consistent with the original calculations of the prior Termination Values.

§ 16.2. Right of First Refusal. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, in the event the Owner-Trustee elects to sell any Units to third parties at the expiration of the original or any extended term of this Lease, the Lessee shall be given written 60 days' notice of such intention prior to the expiration of such term. In the event that the Owner-Trustee shall receive a bona fide offer in writing from another party unrelated to the Lessee to purchase the Units and the Owner-Trustee elects to sell the Units pursuant to such offer, the Owner-Trustee shall give prompt written notice to the Lessee of such offer. Such notice shall include the price and the terms and conditions of payment offered by the other party in writing to the Owner-Trustee. The Lessee shall have the sole right and option to purchase the Units for cash at the price at which the Units are proposed to be sold or under the other terms and conditions of payment offered by the other party, as hereinafter provided. The Lessee shall exercise such purchase right by delivery to the Owner-Trustee of a written notice within 15 days of receipt of notice of the proposed sale from the Owner-Trustee specifying a date of purchase, which date shall not be later than 20 days after the date of delivery of such notice by the Lessee to the Owner-Trustee; provided, however, that the purchase price shall be the greater of Fair Market Value, as hereinafter determined, or the price offered by the other party. Not less than 180 days prior to the expiration of the original term or any renewal term of this Lease, the Lessee may notify the Owner-Trustee in writing that the Lessee desires a determination of the Fair Market Value of the Equipment as of the end of such term.

Upon receiving such notice, the Owner-Trustee shall consult with the Lessee for the purposes of determining such Fair Market Value of the Units, and any value agreed upon in writing shall constitute such Fair Market Value for the purposes of this Lease. If the Owner-Trustee and the Lessee fail to agree upon such values within 60 days after the Lessee's notice pursuant to the last sentence of the preceding paragraph, the Lessee may request that such values be determined by a qualified independent Appraiser. Such Fair Market Value shall be determined on the basis of, and shall be equal in amount to the value which would obtain in an arm's-length transaction between an informed and willing buyer-user or lessee (other than a lessee currently in possession or a used equipment or scrap dealer) and an informed and willing seller or lessor under no compulsion to sell, and in making such determination, cost of removal from the location of current use shall not be a deduction from such value.

The term Appraiser shall mean such independent appraiser as the Owner-Trustee and the Lessee may mutually agree upon, or failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Owner-Trustee, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Owner-Trustee and the Lessee. The determination so made shall be conclusively binding upon both Owner-Trustee and Lessee.

The Lessee's request for a determination of the Fair Market Value shall not obligate the Lessee to exercise any of the options provided in this Article 16. All costs and expenses of the Appraiser appointed pursuant hereto shall be borne by the Lessee.

ARTICLE 17. RETURN OF UNITS UPON EXPIRATION OF TERM

As soon as practicable after the expiration of the original or extended term of this Lease with respect to any Unit and in any event not later than 90 days thereafter, the Lessee will, at its own cost and expense, at the request of the Owner-Trustee, deliver possession of such Unit to the Owner-Trustee upon such storage tracks as the Lessee may reasonably designate, or, in the absence of such designation,

as the Owner-Trustee may select, and permit the Owner-Trustee to store such Unit on such tracks for a period not exceeding two months and transport the same upon disposition of the Units, at any time within such two-month period, to any connecting carrier for shipment, all as directed by the Owner-Trustee, the movement and storage of such Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Owner-Trustee or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Owner-Trustee or any prospective purchaser, the rights of inspection granted under this sentence. Each Unit returned to the Owner-Trustee pursuant to this Article 17 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads and/or the applicable rules of any governmental agency or other organization with jurisdiction and (iii) have attached or affixed thereto any special device considered an accession thereto as provided in Article 11 hereof and have removed therefrom any such device not so considered an accession. During any such storage period the Lessee shall (i) maintain the Units in such manner as the Lessee normally maintains similar units of railroad equipment owned or leased by it in similar storage circumstances, and (ii) continue to carry and maintain insurance as required pursuant to § 7.7 hereof. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Owner-Trustee 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 Units.

ARTICLE 18. RECORDING

The Lessee, at its own expense, will cause this Lease, the CSA, the Assignment and the Lease Assignment to be filed with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will undertake the filing, registering, deposit, and recording

required of the Owner-Trustee under the CSA. The Lessee in addition will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Owner-Trustee or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Owner-Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the CSA, the Assignment and the Lease Assignment; and the Lessee will promptly furnish to the Vendor and the Owner-Trustee evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto reasonably satisfactory to the Vendor and the Owner-Trustee. This Lease, the CSA, the Assignment and the Lease Assignment shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

ARTICLE 19. INTEREST ON OVERDUE RENTALS

Any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount equal to interest at 9.70% per annum of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

ARTICLE 20. OWNER-TRUSTEE'S RIGHT TO PERFORM FOR THE LESSEE

If the Lessee fails to perform or comply with any of its agreements contained herein, the Owner-Trustee may upon notice to the Lessee itself perform or comply with such agreement, and the amount of the reasonable out-of-pocket cost and expenses of the Owner-Trustee incurred in connection with such performance or compliance, together with interest on such amount at the rate per annum which Manufacturers Hanover Trust Company, New York, New York, charges for unsecured 90-day loans to large corporate borrowers at the time in effect shall be payable by the Lessee upon demand except as otherwise provided in this Lease. No such performance or compliance by the Owner-Trustee shall be deemed a waiver of the rights and remedies of the Owner-Trustee or

any assignee of the Owner-Trustee against the Lessee hereunder.

ARTICLE 21. NOTICES

Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when mailed, first class, postage prepaid, addressed as follows:

(a) if to the Owner-Trustee, at Box 30007, Salt Lake City, Utah 84125, Attention of Corporate Trust Division, with copies to ITEL Corporation, Leasing Division, One Embarcadero Center, San Francisco, California 94111, Attention of Contract Administration; and

(b) if to the Lessee, at the following: Hooker Chemical Properties Corporation, c/o Occidental Petroleum Corporation, 10889 Wilshire Boulevard, Suite 1500, Los Angeles, California 90024, to the attention of the Associate Director-Finance,

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

ARTICLE 22. SEVERABILITY

Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

ARTICLE 23. EFFECT AND MODIFICATION OF LEASE

Except for the Participation Agreement and the Guaranty, this Lease exclusively and completely states the rights of the Owner-Trustee and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its

provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for the Owner-Trustee and the Lessee.

ARTICLE 24. THIRD PARTY BENEFICIARIES

Nothing in this Lease shall be deemed to create any right in any person not a party hereto (other than the Owner, the Builders, the Vendor and the permitted successors and assigns of a party) and this instrument shall not be construed in any respect to be a contract in whole or in part for the benefit of a third party except as aforesaid.

ARTICLE 25. EXECUTION

This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor pursuant to the Lease Assignment shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

ARTICLE 26. LAW GOVERNING

The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Utah; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

ARTICLE 27. IMMUNITIES; NO RECOURSE

(1) No recourse shall be had in respect of any obligation due under this Lease against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto or the Owners, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity,

by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Lease.

(2) It is expressly agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Owner-Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements by First Security State Bank, including its successors and assigns, or for the purpose or with the intention of binding said institution personally, but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Lease is executed and delivered by the Owner-Trustee solely in the exercise of the powers expressly conferred upon the Owner-Trustee as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Owner-Trustee or the Owner on account of any representation, undertaking or agreement herein of the Owner-Trustee, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Lessee and by all persons claiming by, through or under the Lessee.

ARTICLE 28. AGREEMENTS FOR BENEFIT OF OWNER-TRUSTEE'S ASSIGNS

All rights and remedies of the Owner-Trustee hereunder (including, but not limited to, its rights under Articles 6, 7, 9, 12, 13, 14 and 17 and the right to receive the rentals payable under this Lease) shall inure to the benefit of the Owner-Trustee's assigns (including the Vendor).

ARTICLE 29. TERM OWNER-TRUSTEE

Whenever the term Owner-Trustee is used in this Lease it shall apply and refer to the Owner-Trustee and any assignee of the Owner-Trustee (including, so long as any Indebtedness under the CSA or interest thereon shall remain

unpaid or any other obligation thereunder be continuing, the Vendor).

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the date first above written.

HOOKER CHEMICAL PROPERTIES CORPORATION,

by

[Corporate Seal]

Vice President

Attest:

Assistant Secretary

FIRST SECURITY STATE BANK, not in its individual capacity, but solely as Owner-Trustee,

by

[Seal]

Authorized Officer

Attest:

Assistant Secretary

STATE OF CALIFORNIA,)
) ss.:
COUNTY OF LOS ANGELES,)

On this day of February 1978, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of HOOKER CHEMICAL PROPERTIES CORPORATION, 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 or its By-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of February 1978, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, 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.

Notary Public

[Notarial Seal]

My Commission expires

APPENDIX A TO LEASE (No. 1)*

<u>Builder</u>	<u>Type</u>	<u>Builder's Specifications</u>	<u>Quantity</u>	<u>Estimated Unit Base Price</u>	<u>Estimated Total Base Price</u>	<u>Serial Numbers (Inclusive)</u>	<u>Estimated Time and Place of Delivery</u>
ACF Industries Incorporated	100 ton, roller bearing, DOT 105A500W 17,360 gallons, non-coil insulated, chlorine tank cars	77-OEO-214 Rev.E dated 11/3/77	85	\$ 42,000	\$ 3,570,000	HOKX 7815-7899	February-March 1978, at Milton, Pennsylvania
Union Tank Car Company	100 ton, roller bearing, DOT 105A500W, 17,300 gallons, chlorine tank cars	BD-70-100-17 Appr. No. 3661	86	42,000	3,612,000	HOKX 7901-7909; 7911-7987	February-April 1978, at East Chicago, Indiana
Union Tank Car Company	100 ton, roller bearing, DOT 111A100W1, 16,327 gallons, exterior header heaters, caustic soda tank cars**	BD-35-100-16 Appr. No. 3665	42	39,000	1,638,000	HOKX 8181, 8185, 8186, 8190, 8201, 8204, 8205, 8208, 8212, 8214, 8215,	February-March 1978, at East Chicago, Indiana

*

**

The footnotes to this Appendix A appear on the next succeeding page.

<u>Builder</u>	<u>Type</u>	<u>Builder's Specifications</u>	<u>Quantity</u>	<u>Estimated Unit Base Price</u>	<u>Estimated Total Base Price</u>	<u>Serial Numbers (Inclusive)</u>	<u>Estimated Time and Place of Delivery</u>
Union Tank Car Company (cont'd)						8219, 8220, 8222, 8224- 8226, 8230, 8236, 8238- 8260	
Richmond Tank Car Company	16,000 gallon, roller bearing, DOT 111A100W1, caustic soda tank cars**	2797-TS	180	38,500	6,930,000	HOKX 8000- 8179	February-April 1978, at Sheldon, Texas
Totals			<u>393</u>		<u>\$15,750,000</u>		

* This Appendix A sets forth a description of Units having an estimated aggregate base price of \$15,750,000. It is understood, however, that certain of said Units may be delivered to and accepted by the Lessee by the appropriate builder prior to the execution and delivery of this Lease, in which case any Units so delivered and accepted will be excluded from this Appendix A by an appropriate supplement hereto. It is further understood and agreed, however, that Lease of Railroad Equipment (No. 1) dated as of January 1, 1978, between First Security State Bank, not in its individual capacity, but solely as Owner-Trustee (hereinafter called the Owner-Trustee) for New England Merchants Leasing Corporation B-6 will cover only the Units delivered and accepted under Conditional Sale Agreement (No. 1) dated as of January 1, 1978, among the Owner-Trustee and ACF Industries, Incorporated, Union Tank Car Company and Richmond Tank Car Company (hereinafter called the Builders) and that Lease of Railroad Equipment (No. 2) dated as of January 1, 1978, between the Owner-Trustee, not in its individual capacity, but solely as Owner-Trustee for Republic National Leasing Corporation will cover the Units delivered and accepted under Conditional Sale Agreement (No. 2) dated as of January 1, 1978, among the Owner-Trustee and the Builders. After delivery and acceptance of all Units covered by both Conditional Sale Agreements, this Appendix A will be appropriately amended to describe only those Units covered by this Lease of Railroad Equipment (No. 1).

** There will be installed in each caustic soda tank car Unit Glidden 301H linings.

APPENDIX B TO LEASE (No. 1)

Casualty Values

<u>Casualty Payment Dates</u>	<u>Percentage of Purchase Price*</u>
July 15, 1978	87.8517
January 15, 1979	89.0613
July 15, 1979	90.0506
January 15, 1980	90.8246
July 15, 1980	91.4253
January 15, 1981	91.8824
July 15, 1981	91.9035
January 15, 1982	91.8946
July 15, 1982	91.6378
January 15, 1983	91.4231
July 15, 1983	90.9700
January 15, 1984	90.3717
July 15, 1984	89.6452
January 15, 1985	88.7868
July 15, 1985	87.9115
January 15, 1986	86.9179
July 15, 1986	85.7191
January 15, 1987	85.3206
July 15, 1987	85.2777
January 15, 1988	84.5666
July 15, 1988	83.4750
January 15, 1989	81.3192
July 15, 1989	77.7841
January 15, 1990	74.1571
July 15, 1990	71.1821
January 15, 1991	68.7070
July 15, 1991	66.1882
January 15, 1992	63.6446
July 15, 1992	61.0659
January 15, 1993	58.4669
July 15, 1993	55.8348
January 15, 1994	53.1856
July 15, 1994	50.5056
January 15, 1995	47.8125
July 15, 1995	45.0804
January 15, 1996	42.2966
July 15, 1996	39.4219
January 15, 1997	36.4713
July 15, 1977	33.4262
January 15, 1998	30.3005
July 15, 1998	27.0753
January 15, 1999	24.1135
July 15, 1999 (and thereafter)	20.00

* As defined in the Lease.

APPENDIX C TO LEASE (No. 1)

Termination Values

<u>Termination Dates</u>	<u>Percentage of Purchase Price*</u>
July 15, 1978	
January 15, 1979	
July 15, 1979	
January 15, 1980	
July 15, 1980	
January 15, 1981	
July 15, 1981	
January 15, 1982	
July 15, 1982	
January 15, 1983	
July 15, 1983	
January 15, 1984	
July 15, 1984	
January 15, 1985	
July 15, 1985	
January 15, 1986	80.1448
July 15, 1986	78.9452
January 15, 1987	78.4445
July 15, 1987	78.2978
January 15, 1988	77.4813
July 15, 1988	76.2828
January 15, 1989	74.0185
July 15, 1989	70.3731
January 15, 1990	66.6343
July 15, 1990	63.5458
January 15, 1991	60.9553
July 15, 1991	58.3196
January 15, 1992	55.6571
July 15, 1992	52.9579
January 15, 1993	50.2365
July 15, 1993	47.4802
January 15, 1994	44.7049
July 15, 1994	41.8969
January 15, 1995	39.0739
July 15, 1995	36.2098
January 15, 1996	33.2922
July 15, 1996	30.2816
January 15, 1997	27.1930
July 15, 1977	24.0078
January 15, 1998	20.7400
July 15, 1998	17.3705
January 15, 1999	14.2622
July 15, 1999	0

* As defined in the Lease.

ANNEX D
to Conditional
Sale Agreement
(No. 1)

ASSIGNMENT OF LEASE AND AGREEMENT (No. 1) dated as of January 1, 1978 (hereinafter called this Assignment), by and between FIRST SECURITY STATE BANK, acting solely in its capacity as Trustee (hereinafter called the Owner-Trustee) under a Trust Agreement (No. 1) dated as of the date hereof with the party named therein (hereinafter called the Trust Agreement), and FIRST SECURITY BANK OF UTAH, N.A., as Agent (hereinafter called the Vendor) under a Participation Agreement (No. 1) dated as of the date hereof.

WHEREAS the Owner-Trustee is entering into a Conditional Sale Agreement (No. 1) dated as of the date hereof (hereinafter called the CSA) with ACF Industries, Incorporated, Union Tank Car Company and Richmond Tank Car Company (hereinafter individually called the Builder and collectively the Builders), providing for the sale to the Owner-Trustee of the units of railroad equipment (hereinafter called the Units) described therein as are delivered to and accepted by the Owner-Trustee thereunder;

WHEREAS the Owner-Trustee and Hooker Chemical Properties Corporation (hereinafter called the Lessee) have entered into a Lease of Railroad Equipment (No. 1) dated as of the date hereof (hereinafter called the Lease), providing for the leasing by the Owner-Trustee to the Lessee of the Units;

WHEREAS, in order to provide security for the obligations of the Owner-Trustee under the CSA and as an inducement to the Vendor to invest in the Indebtedness (as defined in the CSA), the Owner-Trustee agrees to assign for security purposes its rights in, to and under the Lease to the Vendor;

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. The Owner-Trustee hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Owner-Trustee under the CSA, all the Owner-Trustee's right, title and interest, powers, privileges, and other benefits under the Lease, including, without limitation, the immediate right to collect all rentals, profits and other sums payable to the Owner-Trustee from the Lessee under the Lease whether as rent, casualty payment, indemnity, liquidated damages, or otherwise (such moneys being hereinafter called the Payments), and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an Event of Default specified in the Lease, and to do any and all other things whatsoever which the Owner-Trustee is or may become entitled to do under the Lease; provided, however, that so long as no Event of Default specified in the CSA shall have occurred and be continuing, no such assignment, transfer or set over shall be effective with respect to either (a) the Owner-Trustee's right to collect any and all sums payable to it under Article 6 of the Lease unless and until the Vendor shall have notified the Owner-Trustee in writing in accordance with § 6.2 of the CSA of a claim made against the Vendor for any Taxes indemnified against under said Article 6, or (b) the Owner-Trustee's right to collect any and all sums payable to it under Article 12 of the Lease unless and until the Vendor shall have given the Owner-Trustee written notice in accordance with § 14.1 of the CSA of any claim or liability against it which is indemnified against under said § 14.1. In furtherance of the foregoing (but subject to the provided, however clause of the preceding sentence), the Owner-Trustee hereby irrevocably authorizes and empowers the Vendor in its own name, or in the name of its nominee, or in the name of the Owner-Trustee or as its attorney, to demand, sue for, collect and receive any and all Payments to which the Owner-Trustee is or may become entitled under the Lease and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Vendor agrees to accept any Payments made by the Lessee for the account of the Owner-Trustee pursuant to the Lease. To the extent received, the Vendor will apply such Payments to satisfy the obligations of the Owner-Trustee under the CSA, subject to the provisions of § 4.8 and Article 23 thereof, and, so long as no event of default or event which with the lapse of time and/or demand provided for in the CSA, could constitute an event of default thereunder, shall have occurred and be continuing, any balance shall be

paid to the Owner-Trustee on the same date such Payment is applied to satisfy such obligations of the Owner-Trustee, by check mailed to the Owner-Trustee on such date or, upon written request of the Owner-Trustee, by bank wire to the Owner-Trustee at such address as may be specified to the Vendor in writing, and such balance shall be retained by the Owner-Trustee. If the Vendor shall not receive any rental payment under § 3.1 of the Lease when due, the Vendor shall notify the Owner-Trustee at the address set forth in the Lease; provided, however, that the failure to so notify the Owner-Trustee shall not affect the obligations of the Owner-Trustee hereunder or under the CSA.

2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Vendor to, or transfer, or in any way affect the liability of the Owner-Trustee under the Lease, it being understood that notwithstanding this Assignment or any subsequent assignment, all obligations of the Owner-Trustee to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Owner-Trustee or persons other than the Vendor.

3. The Owner-Trustee will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Owner-Trustee; without the written consent of the Vendor, the Owner-Trustee will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessee thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessee, including, without limitation, the obligation to pay the rents in the manner and at the time and place specified therein or enter into any agreement amending or terminating the Lease and the Owner-Trustee agrees that any amendment or termination thereof without such consent shall be void.

4. The Owner-Trustee does hereby constitute the Vendor the Owner-Trustee's true and lawful attorney, irrevocably, with full power (in the name of the Owner-Trustee, or otherwise), to demand, receive and give acquittance for any and all Payments due and to become due under or arising out of the Lease to which the Owner-Trustee is or may become entitled, to enforce compliance by the Lessee with all the terms and provisions of the Lease, to endorse any checks or other instruments in connection therewith and to file any

claims or take any action or institute any proceedings which to the Vendor may seem to be necessary or advisable in the premises.

5. Upon the full discharge and satisfaction of all sums due from the Owner-Trustee under the CSA, this Assignment and all rights herein assigned to the Vendor shall terminate, and all estate, right, title and interest of the Vendor in and to the Lease shall revert to the Owner-Trustee.

6. The Owner-Trustee will, from time to time, execute and deliver any and all further instruments required by law or reasonably requested by the Vendor in order to further assure the interest of the Vendor hereunder.

7. The Vendor may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. In such event, any such subsequent or successive assignee shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Vendor hereunder.

8. This Assignment shall be governed by the laws of the State of Utah, but the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

9. The Owner-Trustee shall cause copies of all notices received in connection with the Lease to be promptly delivered to the Vendor.

10. The Vendor will not, so long as no event of default under the CSA has occurred and is continuing, exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits which are assigned and transferred by the Owner-Trustee to the Vendor by this Assignment and which are for the sole benefit of the Owner-Trustee, without the prior consent of the Owner-Trustee.

11. Anything in this Assignment to the contrary notwithstanding, each and all of the representations, undertakings and agreements in this Assignment made on the part of the Owner-Trustee are each and every one of them made and intended not as personal representations, undertakings and agreements by First Security State Bank, or for the purpose

or with the intention of binding the said institution personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Assignment is executed and delivered by the said institution solely in the exercise of the powers expressly conferred upon the said institution as trustee under the Trust Agreement; and that no personal liability is assumed by or shall at any time be asserted or enforceable against the said institution on account of any representation, undertaking or agreement herein of the Owner-Trustee or the Owner, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under the Vendor, making claim hereunder, may look to said Trust Estate for the satisfaction of the same.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

FIRST SECURITY STATE BANK,
as Trustee as aforesaid,

by

Authorized Officer

[Seal]

Attest:

Jay H. [Signature]
~~Assistant Secretary~~
Authorized Officer

FIRST SECURITY BANK OF UTAH,
N.A., as Agent,

by [Signature]
Authorized Officer

[Corporate Seal]

Attest:

Authorized Officer

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of February 1978, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY STATE BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Trustees and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires

STATE OF UTAH,)
) ss.:
COUNTY OF SALT LAKE,)

On this day of February 1978, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, N.A., that one of the seals affixed to the foregoing instrument is the seal of said national banking association and that said instrument was signed and sealed on behalf of said national banking association 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 national banking association.

Notary Public

[Notarial Seal]

My Commission expires

CONSENT AND AGREEMENT (NO. 1)

The undersigned, HOOKER CHEMICAL PROPERTIES CORPORATION (hereinafter called the Lessee), the lessee named in the Lease (hereinafter called the Lease) referred to in the foregoing Assignment of Lease and Agreement (No. 1) (hereinafter called the Lease Assignment), hereby acknowledges receipt of a copy of, and consents to all the terms and conditions of, the Lease Assignment, and agrees that:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease (which moneys are hereinafter called the Payments) due and to become due under the Lease directly to First Security Bank of Utah, N.A., as Agent (hereinafter called the Vendor), the assignee named in the Lease Assignment, at 79 South Main Street, Salt Lake City, Utah 84110, attention of Corporate Trust Division (or at such other address as may be furnished in writing to the Lessee by the Vendor); provided, however, that it will pay to the Owner-Trustee all sums payable by it pursuant to Article 6 and Article 12 of the Lease unless and until it shall have received written notice from the Vendor that the assignment, transfer or set over of the Owner-Trustee's right to collect such sums has become effective under the terms of the proviso to the first sentence of paragraph 1 of the Lease Assignment and that, as a consequence, all or a portion of such sums should be payable to the Vendor;

(2) the Vendor shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Lessee under the Lease as though the Vendor were named therein as the Owner-Trustee;

(3) the Vendor shall not, by virtue of the Lease Assignment, be or become subject to any liability or obligation under the Lease or otherwise; and

(4) the Lease shall not, without the prior written consent of the Vendor, be terminated or modified, nor shall any action be taken or omitted by the Lessee the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment

or this Consent and Agreement or of any of the rights
created by any thereof.

HOOKER CHEMICAL PROPERTIES
CORPORATION,

by

[Corporate Seal]

Vice President

Attest:

Assistant Secretary