

The Kansas City Southern Railway Company
Louisiana & Arkansas Railway Company

301 West 11th Street, Kansas City, Missouri 64105

RICHARD P. BRUENING
Vice President and General Counsel

14932

March 31, 1986

6-092A040

APR 2 1986 - 10 50 AM

INTERSTATE COMMERCE COMMISSION APR 2 1986

Hon. James H. Bayne
Secretary
Interstate Commerce Commission
Washington, DC 20423

Fee 1

RE: Interim User Agreement between Thrall
Car Manufacturing Company and The
Kansas City Southern Railway Company,
covering 110 100-Ton Rotary Pump
Hopper Cars.

Dear Sir:

I enclose five counterparts of the document described below, to be recorded pursuant to Section 11303 of Title 49, United States Code.

This document is a primary document and has not been previously recorded.

The document, the parties thereto and their respective names and addresses are as follows:

Interim User Agreement
dated as of March 20, 1986

Manufacturer: Thrall Car Manufacturing Company
P.O. Box 218
Chicago Heights, IL 60411

User: The Kansas City Southern Railway
Company
114 West 11th Street
Kansas City, MO 64113

A fee of \$~~50.00~~^{10.00} for the recordation of the enclosed document is included herewith.

A short summary of the document to appear in this index is as follows:

George Komins
[Signature]

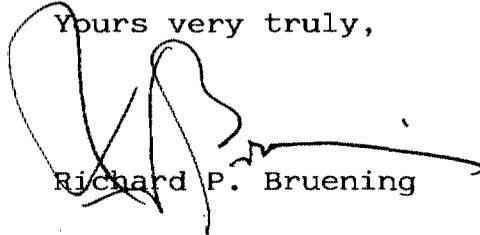
REC'D
APR 2 1986
COMM. DIV.
U.S. DEPT. OF COMMERCE

Hon. James H. Bayne
March 31, 1986
Sheet 2

Interim User Agreement

Dated as of March 20, 1986, between Thrall Manufacturing Company ("Thrall") and The Kansas City Southern Railway Company ("KCS") covering the use of 110 100-ton 4000 cu.ft. Rotary Pump Open Top Hopper Cars (as numbered therein) by KCS pending permanent financing of such cars.

Yours very truly,

A handwritten signature in black ink, appearing to be 'R. Bruening', with a long horizontal flourish extending to the right.

Richard P. Bruening

RPB:cm
Encl.

14932
APR 2 1986 - 10 50 AM

APR 2 1986 - 10 50 AM

INTERSTATE COMMERCE COMMISSION

INTERIM USER AGREEMENT

Dated as of March 20, 1986

between

**THRALL CAR
MANUFACTURING COMPANY**

and

THE KANSAS CITY SOUTHERN RAILWAY COMPANY

Covering

**110 100-Ton 4,000 Cu.Ft. Rotary Dump Open Top
Triple Hopper Cars**

THIS AGREEMENT, dated as of March 20, 1986, between THRALL CAR MANUFACTURING COMPANY, a Delaware corporation (Manufacturer), and THE KANSAS CITY SOUTHERN RAILWAY COMPANY, a Missouri corporation (KCS):

WITNESSETH:

Pursuant to a Purchase Order received from KCS dated November 22, 1985, which Purchase Order is made a part hereof by reference, the Manufacturer has agreed (among other things) to construct, at its Cartersville, Georgia plant, and to deliver to KCS at Bloomburg, Texas, and KCS has agreed to accept and pay for, 110 100-ton 4,000 cu.ft. rotary dump open top triple hopper cars (Hopper Cars), to bear car numbers as reflected in Exhibit A attached hereto.

KCS intends to finance the purchase of the Hopper Cars from the Manufacturer pursuant to some one or more permanent forms of financing, but deliveries of the Hopper Cars are scheduled to begin on or about March 31, 1986, and KCS will not have completed said financing arrangement(s) by that time. KCS represents that such financing arrangement(s) will be established, however, on or before May 15, 1986. KCS, in order that it may use (or may permit its subsidiary, LOUISIANA & ARKANSAS RAILWAY COMPANY (L&A) to use) the Hopper Cars pending establishment of such financing arrangement(s), desires

to have temporary custody and possession of the Hopper Cars upon their completion, solely as a bailee of the Hopper Cars, and the Manufacturer is willing to grant such temporary custody and possession to KCS upon the terms and conditions hereinafter stated.

In consideration of the premises, the Manufacturer hereby delivers to KCS and KCS hereby accepts from the Manufacturer the Hopper Cars as of the date each of them is delivered to KCS at Bloomburg, Texas, for the period ending on the earlier of May 15, 1986, or the date of establishment of said financing arrangement(s). On such termination date, this Agreement shall automatically be cancelled and superseded without further action by or notice to any party concerned.

Upon delivery of each Hopper Car, KCS's representative shall execute a certificate of acceptance acknowledging the receipt of delivery of each such Hopper Car under this Agreement. Title to the Hopper Cars shall remain in the Manufacturer and KCS's rights and interests therein are and shall be solely that of possession, custody and use as bailee under this Agreement. Transfer of title shall be effected only at the time of delivery of bills of sale. KCS shall, without expense to the Manufacturer, do such acts as may be required by law, or reasonably requested by the Manufacturer, for the protection of the Manufacturer's title to and interest in

the Hopper Cars.

KCS agrees to permit no liens of any kind to attach to the Hopper Cars; and that it shall:

(a) indemnify and save harmless the Manufacturer from any and all claims, expenses or liabilities of whatsoever kind; and

(b) pay any and all taxes, fines, charges and penalties that may accrue or be assessed or imposed upon the Hopper Cars or the Manufacturer, because of the Manufacturer's ownership or because of the use, operation, management or handling of the Hopper Cars by KCS (or L&A) during the term of this Agreement. KCS's obligations contained in this paragraph shall survive the termination of this Agreement.

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

Prior to the delivery of each Hopper Car to KCS under this Agreement, each such Hopper Car shall be numbered with a car number as hereinbefore indicated. KCS hereby agrees to indemnify the Manufacturer against any liability, loss or expense incurred by it as a result

of the placing of the aforementioned markings on the Hopper Cars. In case, during the continuance of this Agreement, such markings shall at any time be removed, defaced or destroyed on any Hopper Car, KCS shall immediately cause the same to be restored or replaced.

All or any of the rights, benefits or advantages of the Manufacturer, including the right to receive the purchase price of the Hopper Cars, may be assigned by the Manufacturer and reassigned by any assignee at any time or from time to time, provided however, that no such assignment shall subject any such assignee to any of the Manufacturer's warranties, indemnities or any other obligations contained in this Agreement or implied by the Purchase Order. In the event the Manufacturer shall assign its rights to receive the payments for the Hopper Cars, and KCS shall receive written notice thereof from the Manufacturer, together with a counterpart of such assignment stating the identity and the post office address of the assignee, all payments thereafter to be made by KCS for the Hopper Cars or in connection therewith shall, to the extent so assigned, be made to the assignee against proper receipt therefor in form satisfactory to KCS.

In the event of any such assignment by the Manufacturer of its rights to receive any such payments, the rights of such assignee to such payments as may be

assigned shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Manufacturer in respect to the Hopper Cars, nor subject to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to KCS by the Manufacturer. Any and all such obligations, howsoever arising, shall be and remain enforceable by KCS, its successors and assigns, only against the Manufacturer and its successors and assigns (other than assignees of such rights, benefits or advantages assigned pursuant to this Agreement).

KCS agrees with the Manufacturer that the execution by the Manufacturer of this Agreement or the delivery by the Manufacturer to KCS of the Hopper Cars, as contemplated by this Agreement, shall not relieve KCS of its obligations to accept, take and pay for the Hopper Cars in accordance with the terms of the Purchase Order.

This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

ATTEST:


Sherry K. Cooper
Assistant Secretary

THE KANSAS CITY SOUTHERN
RAILWAY COMPANY

By Robert E. Zimmerman
Sr. Vice President-Law

ATTEST:

P. L. Ledelmer
Assistant Secretary

THRALL CAR MANUFACTURING
COMPANY:

By Theodore H. Plauer
Vice President

EXHIBIT A

110 100-Ton 4,000 Cu.Ft. Rotary Dump
Open Top Triple Hopper Cars

RAILROAD CAR NUMBERS

KCS 222003	KCS 222372	KCS 222747
KCS 222011	KCS 222381	KCS 222755
KCS 222020	KCS 222399	KCS 222763
KCS 222038	KCS 222402	KCS 222771
KCS 222046	KCS 222411	KCS 222780
KCS 222054	KCS 222429	KCS 222798
KCS 222062	KCS 222437	KCS 222801
KCS 222071	KCS 222445	KCS 222810
KCS 222089	KCS 222453	KCS 222828
KCS 222097	KCS 222461	KCS 222836
KCS 222101	KCS 222470	KCS 222844
KCS 222119	KCS 222488	KCS 222852
KCS 222127	KCS 222496	KCS 222861
KCS 222135	KCS 222500	KCS 222879
KCS 222143	KCS 222518	KCS 222887
KCS 222151	KCS 222526	KCS 222895
KCS 222160	KCS 222534	KCS 222909
KCS 222178	KCS 222542	KCS 222917
KCS 222186	KCS 222551	KCS 222925
KCS 222194	KCS 222569	KCS 222933
KCS 222208	KCS 222577	KCS 222941
KCS 222216	KCS 222585	KCS 922950
KCS 222224	KCS 222593	KCS 222968
KCS 222232	KCS 222607	KCS 222976
KCS 222241	KCS 222615	KCS 222984
KCS 222259	KCS 222623	KCS 222992
KCS 222267	KCS 222631	KCS 223000
KCS 222275	KCS 222640	KCS 223018
KCS 222283	KCS 222658	KCS 223026
KCS 222291	KCS 222666	KCS 223034
KCS 222305	KCS 222674	KCS 223042
KCS 222313	KCS 222682	KCS 223051
KCS 222321	KCS 222691	KCS 223069
KCS 222330	KCS 222704	KCS 223077
KCS 222348	KCS 222712	KCS 223085
KCS 222356	KCS 222721	KCS 223093
KCS 222364	KCS 222739	