

RECORDATION NO. 13094  
FEB 1975

RECORDATION NO. 13094-A

MAY 13 1981 - 11 20 AM  
INTERSTATE COMMERCE COMMISSION

MAY 13 1981 - 11 20 AM  
INTERSTATE COMMERCE COMMISSION

No. 1-133A 053  
Date MAY 13 1981  
Fee \$ 2.00  
ICC Washington, D. C.

THE PAUL REVERE PROTECTIVE  
LIFE INSURANCE COMPANY  
THE PAUL REVERE VARIABLE  
ANNUITY INSURANCE COMPANY

RECORDATION NO. 13094-B  
FEB 1975

MAY 13 1981 - 11 20 AM  
INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 13094  
February 9, 1981

MAY 13 1981 - 11 20 AM  
INTERSTATE COMMERCE COMMISSION

Secretary of the Interstate  
Commerce Commission  
Washington, D. C. 20423

RECORDATION NO. 13094-C  
FEB 1975  
MAY 13 1981 - 11 22 AM  
INTERSTATE COMMERCE COMMISSION

Dear Sir:

In accordance with the provisions of 49 C.F.R. Part 1116, enclosed for recording with the Interstate Commerce Commission are three original copies of the following documents in connection with two related leveraged lease transactions:

First Transaction

1. Lease of Railroad Equipment, dated as January 1, 1981, between Martin Gas Sales, Inc. (the "Lessee") as lessee, address: P.O. Drawer 191, N. Kilgore, Kilgore, Texas 75662, Mercantile Texas Capital Corporation (the "Lessor") as lessor, address: P.O. Box 255415, 1704 Main Street, Dallas, Texas 75265, and Rubin S. Martin, Jr., (the "Guarantor") as guarantor, address: P.O. Drawer 191, N. Kilgore, Kilgore, Texas 75662.

2. Security Agreement, dated as of January 1, 1981, between Lessor as mortgagor (same address as above) and The Paul Revere Protective Life Insurance Company, The Paul Revere Variable Annuity Insurance Company, Account No. 1, and The Paul Revere Variable Annuity Insurance Company, Account No. 2 (collectively the "Lenders") as mortgagees, address: 1275 King Street, Greenwich, Connecticut 06830.

3. Assignment Agreement, assigning said Lease, dated as of January 1, 1981, between Lessor as assignor, (same address as above) and Lenders as assignees (same address as above).

RECEIVED  
MAY 13 11 18 AM '81  
FEE OPERATION BR.  
I.C.C. DIVISION BR.

RECORDATION NO. 13094-E  
FEB 1975  
MAY 13 1981 - 11 22 AM  
INTERSTATE COMMERCE COMMISSION

*Copy by post - Juana D. ...*

1948  
MA 1948  
RECEIVED

JAN 21 1948  
RECEIVED

1948  
MA 1948  
RECEIVED

Second Transaction

1. Restated Lease of Railroad Equipment, dated as of January 1, 1981, between Lessee as lessee (same address as above), Guarantor as guarantor (same address as above) and Mercantile National Bank at Dallas ("Lessor Parent") as lessor, address: P.O. Box 255415, 1704 Main Street, Dallas, Texas 75265.

2. Security Agreement, dated as of January 1, 1981, between Lessor Parent as mortgagor (same address as above) and Lenders as mortgagees (same address as above).

3. Assignment Agreement, assigning said Restated Lease, dated as of January 1, 1981, between Lessor Parent as assignor (same address as above) and Lenders as assignees (same address as above).

The first transaction covers 59 molten sulfur tank cars manufactured by Trinity Industries, Inc. in Dallas, Texas, specification 111A100W-3, serial numbers 434555 through 434613 and identification numbers MGSX 106 through MGSX 164, respectively. The second transaction covers 6 molten sulfur tank cars manufactured by Trinity Industries, Inc. in Dallas, Texas, specification 111A100W-3, serial numbers 434549 through 434554 and identification numbers MGSX 100 through MGSX 105, respectively.

Please return all original documents to Ian Shrank, Esq., Morgan, Lewis & Bockius, 9 West 57th Street, New York, New York 10019.

The Paul Revere Protective  
Life Insurance Company  
The Paul Revere Variable  
Annuity Insurance Company

By Alexander A. Mentz  
Vice President - Investment

13094-A

ok

MAY 13 1981 - 11 20 AM

INTERSTATE COMMERCE COMMISSION

SECURITY AGREEMENT

Dated as of January 1, 1981

among

MERCANTILE TEXAS CAPITAL CORPORATION,  
Vendee,

and

THE PAUL REVERE VARIABLE ANNUITY INSURANCE COMPANY,  
Account No. 1

THE PAUL REVERE VARIABLE ANNUITY INSURANCE COMPANY,  
Account No. 2

THE PAUL REVERE PROTECTIVE LIFE INSURANCE COMPANY,  
Lenders

Filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 on February 13, 1981 at 11:20 A.M., recordation number 13094-A U.C.C. Financing Statements with respect to the equipment described herein were filed with the Secretary of State of the State of Texas on February \_\_, 1981, recordation numbers \_\_\_ and \_\_\_.

SECURITY AGREEMENT

Table of Contents \*

	<u>Page</u>
ARTICLE I Indebtedness	
1.1	Indebtedness of Vendee to Lenders..... 2
1.2	Indebtedness; Payment Dates; Interest..... 2
1.3	Calculation of Interest; Method of Payment..... 3
1.4	Penalty Interest..... 3
1.5	Currency of Payment; Optional Prepayment..... 3
1.6	Transfer of Secured Notes..... 3
1.7	Mutilated, Destroyed, Lost or Stolen Secured Notes..... 4
1.8	Liability of Vendee Limited to "Income and Proceeds from Equipment"; Meaning Thereof; Limitation on Execution of Judgments..... 4
1.9	Prepayment of Secured Notes..... 6
ARTICLE II Security Interest	
2.1	Lenders' Security Interest..... 6
2.2	Obligation Upon Payment of Indebtedness..... 6
ARTICLE III Taxes [omitted] 9	
ARTICLE IV Maintenance; Casualty Occurrence	
4.1	Maintenance..... 9
4.2	Casualty Occurrence..... 9
4.3	Casualty Value..... 10
4.4	Obligations Upon Payment of Casualty Value... 10

---

\* 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.

ARTICLE V		
Insurance Proceeds and Condemnation Payments...		11
ARTICLE VI		
Reports and Inspections.....		11
ARTICLE VII		
Marking of Equipment		
7.1	Marking of Equipment.....	11
7.2	No Designation of Ownership.....	12
ARTICLE VIII		
Compliance with Laws and Rules		
8.1	Compliance with Laws and Rules.....	12
ARTICLE IX		
Possession and Use		
9.1	Possession and Use of Equipment by Vendee....	12
9.2	Lease Permitted; Lease Subordinate; No Amendment or Termination.....	13
ARTICLE X		
Prohibition Against Liens		
10.1	Vendee to Discharge Liens.....	13
10.2	No Breach for Certain Liens.....	13
10.3	Article X Subject to Article XIX Except in Certain Instances.....	13
ARTICLE XI		
Indemnities and Warranties		
	[omitted].....	14
ARTICLE XII		
Assignment		
12.1	Assignment by Vendee.....	14
12.2	Assignment by Lenders.....	14
12.3	Notice of Assignment by Lenders.....	14
12.4	Merger or Consolidation.....	15
ARTICLE XIII		
Defaults		
13.1	Events of Default; Termination of Lease; Declaration of Default; Acceleration of Indebtedness.....	16

13.2	Waiver of Defaults.....	18
13.3	Vendee's Right to Cure Defaults.....	19

ARTICLE XIV  
Remedies

14.1	Lender May Take Possession of Equipment.....	19
14.2	Assembling of Equipment for Lenders.....	20
14.3	Lenders May Dispose of or Retain Equipment...	20
14.4	Lenders May Sell Equipment; Vendee's Right of Redemption.....	21
14.5	Sale of Equipment by Lenders.....	22
14.6	Effect of Remedies and Powers and Exercise Thereof.....	22
14.7	Application of Moneys; Deficiencies.....	23
14.8	Expenses.....	23
14.9	Letter of Credit.....	23
14.10	Remedies Subject to Mandatory Legal Requirements.....	23

ARTICLE XV  
Applicable State Laws

15.1	Conflict with State Laws.....	24
15.2	Waiver of Notices.....	24

ARTICLE XVI  
Filing 24

ARTICLE XVII  
Article and Paragraph Headings;  
Effect and Modification of Agreement

17.1	Articles and Paragraph Headings for Convenience Only.....	25
17.2	Effect and Modification of Agreement.....	25

ARTICLE XVIII  
Notice 25

ARTICLE XIX  
Immunities; Satisfaction of Undertakings

19.1	No Recourse Against Certain Persons.....	26
19.2	Satisfaction of Certain Covenants.....	26

ARTICLE XX  
Law Governing 26

ARTICLE XXI  
Execution 27

SECURITY AGREEMENT, dated as of January 1, 1981, between THE PAUL REVERE PROTECTIVE LIFE INSURANCE COMPANY ("PRP"), THE PAUL REVERE VARIABLE ANNUITY INSURANCE COMPANY, Account No. 1 ("PR1"), and THE PAUL REVERE VARIABLE ANNUITY INSURANCE COMPANY, Account No. 2 ("PR2") (the "Lenders") and MERCANTILE TEXAS CAPITAL CORPORATION, a Texas corporation (the "Vendee").

WHEREAS Vendee has purchased 15 molten sulfur tank cars from Trinity Industries, Inc., a Texas corporation (the "Builder") and 44 molten sulfur tank cars (all 59 of said cars as more particularly described in Appendix A hereto being referred to as the "Equipment") from Mercantile National Bank at Dallas, a national banking association (the "Vendee Parent") pursuant to the Purchase Order dated April 4, 1980 and accepted April 8, 1980 (the "Purchase Agreement") between the Builder and Martin Gas Sales, Inc., a Texas corporation (the "Lessee") which Purchase Agreement has been assigned by the Lessee to the Vendee Parent pursuant to a Purchase Agreement Assignment, dated as of December 30, 1980 (the "Purchase Agreement Assignment"), which has in turn been assigned to the Vendee by the Vendee Parent insofar as the Purchase Agreement concerns the Equipment pursuant to the Purchase Agreement Reassignment, dated as of January 1, 1981 (the "Purchase Agreement Reassignment");

WHEREAS the Vendee has entered into a Lease of Railroad Equipment, dated as of January 1, 1981, with the Lessee (the "Lease") pursuant to which the Vendee has leased the Equipment to the Lessee;

WHEREAS as security for the loan to be made by the Lenders to the Vendee pursuant to the Participation Agreement, dated as of January 1, 1981, among the Vendee, the Vendee Parent, the Lenders, and the Lessee (the "Participation Agreement"), the Vendee desires to grant a security interest in the Equipment, the Purchase Agreement, the Purchase Agreement Assignment, the Purchase Agreement Reassignment and the Lease to the Lenders; and

WHEREAS as further security for said loan (a) the Vendee has assigned to the Lenders all of its rights in the Lease, the Purchase Agreement, the Purchase Agreement Assignment and the Purchase Agreement Reassignment pursuant to an Assignment Agreement, dated as of January 1, 1981 (the "Assignment"), (b) the Vendee Parent has issued a letter of

credit to the Lenders in the amount of one year's debt service on the Secured Notes (the "Letter of Credit"), (c) the Vendee Parent has granted the Lenders a security interest in certain other molten sulfur tank cars pursuant to a Security Agreement, dated the date hereof, between the Vendee Parent and the Lenders (the "Other Security Agreement") and (d) the Vendee Parent has assigned certain other rights to the Lenders pursuant to an Assignment Agreement, dated as of the date hereof, between the Vendee Parent and the Lenders (the "Other Assignment").

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE I  
INDEBTEDNESS

1.1 Indebtedness of Vendee to Lenders. Subject to the terms of this Agreement, the Vendee hereby acknowledges itself to be indebted to each Lender in the amount of, and hereby promises to pay in cash or immediately available funds to each Lender as hereinafter provided, the following sums:

PRP	\$ 445,439.22
PR1	\$1,059,398.64
PR2	\$1,059,398.64

(the "Indebtedness"), in 148 monthly installments, as hereinafter provided, which Indebtedness is evidenced by the Secured Notes referred to in the Participation Agreement.

1.2 Indebtedness; Payment Dates; Interest. (a) Interest only on the Secured Notes shall be payable on June 1, 1981. Principal and interest on the Secured Notes shall be payable in 148 consecutive monthly installments on the first day of each month commencing July 1, 1981, to and including October 1, 1993 (each such date being hereinafter called a "Payment Date"). The unpaid balance of the Indebtedness shall bear interest from the Closing Date (as defined in the Participation Agreement) at the rate of 15.75% per annum. Interest on the unpaid balance of the Indebtedness shall be payable to the extent accrued on each Payment Date. The amount of Indebtedness payable on each Payment Date shall be as set forth in the amortization schedule attached to the Secured Notes.

(b) If any of the dates for payment of principal or interest is not a business day, such payment shall be payable on the preceding business day. The term "business day" means a calendar day, excluding Saturdays, Sundays and any other day

on which banking institutions in Texas or New York are authorized or obligated to remain closed.

1.3 Calculation of Interest; Method of Payment.

Interest under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months. All sums owed to any Lender shall be paid by wire transfer of immediately available funds to it at Morgan Guaranty Trust Company of New York, Account No. 051-67-980 in the case of PR1, Account No. 051-67-991 in the case of PR2 and Account No. 051-67-804 in the case of PRP, 23 Wall Street, New York, New York 10015, Re: Martin Gas Sales Leveraged Lease No. 2.

1.4 Penalty Interest. The Vendee will pay interest at the rate of 17.75% per annum (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, anything herein to the contrary notwithstanding.

1.5 Currency of Payment; Optional Prepayment. 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 IV hereof, the Vendee shall not have the privilege of prepaying any portion of the Indebtedness prior to the date it becomes due.

1.6 Transfer of Secured Notes. A holder of a Secured Note intending to transfer any or all of the Secured Notes held by such holder to a new payee, or to exchange any or all of the Secured Notes held by it for Secured Notes of different denominations, shall surrender such Secured Note or Secured Notes to the Vendee, together with a written request from such holder for the issuance of a new Secured Note or Secured Notes, specifying the denomination or denominations of the same and, in the case of a surrender for transfer, the name and address of the new holder or holders. Promptly upon receipt of such documents the Vendee will issue a new Secured Note or Secured Notes in the same form, in the same aggregate original principal amount, dated the same date as the Secured Note or Secured Notes surrendered, and in such denomination or denominations and in such name or names as shall be specified in the written request from such holder. The Vendee shall make a notation on each new Secured Note of the aggregate amount of all payments or prepayments of principal previously made on the old Secured Note or Secured Notes with respect to which such new Secured Note is issued and the date to which interest to such old Secured Note or Secured Notes has been paid. The Vendee shall not be

required to exchange any surrendered Secured Notes as above provided during the ten day period preceding any Payment Date. For all purposes hereof, the Vendee may consider the named payee on a Secured Note to be the owner and holder thereof.

1.7 Mutilated, Destroyed, Lost or Stolen Secured Notes. If any Secured Note shall become mutilated, destroyed, lost or stolen, the Vendee shall, upon the written request of the payee of such Secured Note, execute and deliver in replacement thereof a new Secured Note, payable in the same original principal amount and dated the same date as the Secured Note so mutilated, destroyed, lost or stolen. If the Secured Note being replaced has become mutilated, such Secured Note shall be surrendered to the Vendee. If the Secured Note being replaced has been destroyed, lost or stolen, the holder of such Secured Note shall furnish to the Vendee such security or indemnity as may be required by the Vendee to save the Vendee harmless and evidence satisfactory to the Vendee of the destruction, loss or theft of such Secured Note and of the ownership thereof; provided, however, that if the holder of such Secured Note is PRP, PR1, PR2 or any affiliate thereof, the written undertaking of such Original Investor delivered to the Vendee and reasonably satisfactory to the Vendee shall be sufficient security and indemnity. Upon the issuance of a new Secured Note or Secured Notes pursuant to this paragraph 1.7 or paragraph 1.6, the Vendee may require from the party requesting such new Secured Note or Secured Notes payment of a sum to reimburse the Vendee for, or to provide funds for, the payment of any tax or other governmental charge in connection therewith or any charges and expenses connected with such tax or other governmental charge paid or payable by the Vendee.

1.8 Liability of Vendee Limited to "Income and Proceeds from Equipment"; Meaning Thereof; Limitation on Execution of Judgments. Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles XIII and XIV hereof, except as set forth in this paragraph 1.8), but not limiting the effect of Article XX hereof, it is understood and agreed by the Lenders that the liability of the Vendee or any assignee of the Vendee for all payments to be made by it under and pursuant to this Agreement, with the exception only of the proviso to paragraph 10.3 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 Vendee only to the extent that the Vendee or any assignee of the Vendee shall have actually received sufficient "income and proceeds from the Equipment" to make such payments. Except as provided in the preceding sentence, the Lender agrees that the Vendee 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 Vendee or any assignee of the Vendee.

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

(i) if one of the events of default specified in paragraph 13.1 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are received by the Vendee or any assignee of the Vendee 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 paragraph 4.2 hereof) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under § 7 or any other provision of the Lease (except any indemnity paid or payable to the Vendee pursuant to § 6.2 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 (c) any and all amounts received from the Builder with respect to the Equipment, and

(ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a), (b) and (c) as are received by the Vendee or any assignee of the Vendee 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.

Nothing contained herein limiting the liability of the Vendee shall derogate from the right of the Lenders to proceed against the Equipment or the Lessee or the Vendee Parent pursuant to the Letter of Credit in accordance with the terms thereof for the full unpaid Indebtedness and interest thereon and all other payments and obligations hereunder. Notwithstanding anything to the contrary contained in Article XIII or XIV hereof, each Lender agrees that in the event it shall obtain a judgment against the Vendee for an amount in excess of the amounts payable by the Vendee 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.

1.9 Prepayment of Secured Notes. The Secured Notes shall be subject to prepayment in the circumstances contemplated by Section 4.2 or Section 13.1 hereto and in accordance with the next sentence. In the event the Lessee terminates the Lease on or after June 1, 1986 in accordance with Section 7.9 thereof, the Secured Notes shall be paid in full on the Termination Date (as defined therein) by the Vendee at 100% of the principal amount thereof then outstanding plus accrued interest to the date of payment plus a prepayment penalty equal to the percentage of such principal amount set forth below opposite the time period during which such prepayment occurs:

<u>Date of Prepayment</u>	<u>Penalty</u>
June 1, 1986 - May 1, 1987	7%
June 1, 1987 - May 1, 1988	6%
June 1, 1988 - May 1, 1989	5%
June 1, 1989 - May 1, 1990	4%
June 1, 1990 - May 1, 1991	3%
June 1, 1991 - May 1, 1992	2%
June 1, 1992 - September 1, 1993	1%

ARTICLE II  
SECURITY INTEREST

2.1 Lenders' Security Interest. The Vendee in consideration of the premises and of the sum of Ten Dollars received by the Vendee from the Lenders and other good and valuable consideration, receipt whereof is hereby acknowledged, and in order to secure (i) the payment of the principal of and interest on the Secured Notes according to their tenor and effect, (ii) the payment of the Secured Notes referred to in the Other Security Agreement according to their tenor and effect, (iii) the payment of all other indebtedness hereby secured and the performance and observance of all of the Vendee's covenants and conditions in this Security Agreement and in the Participation Agreement contained, running in favor of the Lenders, and (iv) the payment of all other indebtedness secured by the Other Security Agreement and the performance and observance of all of the Vendee Parent's covenants and conditions therein and in the Participation Agreement referred to therein, does hereby convey, warrant, mortgage, assign, pledge and grant the Lenders, their successors and assigns, for their ratable benefit without priority of one over the other, a security interest in, all and singular of the Vendee's right, title and interest in and to the properties, rights, interests and

privileges in:

(a) the Equipment described in Appendix A attached hereto and made a part hereof together with all accessories, equipment, parts and appurtenances hereinabove described, whether now owned or hereafter acquired, except such thereof as remain the property of the Lessee under the Lease, and all substitutions, renewals or replacements of and additions, improvements, accessions and accumulations to any and all of said Equipment, except such thereof as remain the property of the Lessee under the Lease, together with all the rents, issues, income, profits and avails therefrom and all condemnation and insurance proceeds with respect thereto;

(b) all right, title, interest, claims and demands of the Vendee as lessor in, to and under the Lease, including all extensions of the term of the Lease, together with all rights, powers, privileges, options and other benefits of the Vendee as lessor under the Lease, including, without limitation:

(i) the immediate and continuing right to receive and collect all rental, indemnity, casualty value payments, insurance proceeds, condemnation awards and other payments, tenders and security now or hereafter payable or receivable by the Lessor under the Lease pursuant thereto;

(ii) the right to make all waivers, consents and agreements and to enter into any amendments relating to the Lease or any provision thereof except with regard to the right of the Vendee to receive those sums reserved in (i) above;

(iii) the right to take such action upon the occurrence of an Event of Default under the Lease or an event which, with the lapse of time or the giving of notice, or both, would constitute an Event of Default under the Lease, including the commencement, conduct and consummation of legal, administrative or other proceedings, as shall be permitted by the Lease or by law, and to do any and all other things whatsoever which the Vendee or any lessor is or may be entitled to do under the Lease;

(c) all right, title, interest, claims and demands of the Vendee as assignee of the Purchase Agreement or as the purchaser under the Purchase Agreement including the right to receive and collect all warranty and indemnity payments now or hereafter receivable by the Vendee thereunder, the right

to make all waivers, consents, agreements and amendments relating thereto and the right to commence any legal or other proceedings against the Builder for the enforcement thereof and to do any and all other things which the Vendee is or would be entitled to do thereunder;

(d) all proceeds of the foregoing;

it being the intent and purpose hereof that the assignment and transfer to the Lenders of said rights, powers, privileges, options and other benefits shall be effective and operative immediately and shall continue in full force and effect, and the Lenders shall have the right to collect and receive all rental, casualty value payments and termination value payments, if any, and other sums for application in accordance with the provisions hereof at all times during the period from and after the date of this Security Agreement until the indebtedness hereby secured has been fully paid and discharged.

Subject to the foregoing grants, ownership of the Equipment shall be and remain in the Vendee subject to such performance and all of the obligations of the Vendee under the Lease or the Purchase Agreement shall remain the obligations of the Vendee and are not assumed by the Lenders. 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 or (iii) which are required for the operation or use of such unit by the Association of American Railroads and/or the Interstate Commerce Commission, the United States 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.

2.2 Obligations Upon Payment of Indebtedness. Except as otherwise specifically provided in Article IV hereof, when and only when the Lenders shall have been paid the full Indebtedness, together with interest and all other payments as herein provided, and all other amounts owed to the Lenders pursuant to the Participation Agreement, the Assignment, and the Other Security Agreement, absolute right to the possession of, title to and property in the Equipment, the Lease, the Purchase Agreement Assignment, the Purchase Agreement Reassignment and the Purchase Agreement shall pass to and vest in the Vendee without further transfer or action on the part of the Lenders. However, each Lender, if so requested by the

Vendee at that time, will (a) execute an instrument releasing its security interest in the Equipment, the Lease, the Purchase Agreement Assignment, the Purchase Agreement Reassignment and the Purchase Agreement and transferring such interest to the Vendee or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such instrument to the Vendee at its address referred to in Article XVIII hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to the Equipment, the Lease, the Purchase Agreement Assignment, the Purchase Agreement Reassignment and the Purchase Agreement and (c) pay to the Vendee any money paid to said Lender pursuant to Article IV hereof and not theretofore applied as therein provided. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Vendee.

### ARTICLE III

#### TAXES

[omitted]

### ARTICLE IV

#### MAINTENANCE: CASUALTY OCCURRENCE

4.1 Maintenance. The Vendee 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.

4.2 Casualty Occurrence. In the event that any unit of Equipment shall suffer a Casualty Occurrence (as defined in § 7 of the Lease), the Vendee shall, promptly after it shall have received notice from the Lessee or shall have otherwise been informed that such unit has suffered a Casualty Occurrence, cause the Lenders to be fully informed in regard thereto. Except as provided in paragraph 4.3 hereof, on the next succeeding Casualty Payment Date (as defined in the Lease) the Vendee shall, subject to the limitations contained in paragraph 1.8 hereof, pay to each Lender its pro rata portion of a sum equal to the Casualty Value (as defined in paragraph 4.3 hereof) of such unit suffering a Casualty Occurrence as of such Casualty Payment Date, together with an amount equal to accrued interest thereon

at the rate of 15.75% per annum computed on such Casualty Value from the preceding Payment Date to the date of such payment. The Vendee shall file, or cause to be filed, with the Lenders a certificate setting forth the Casualty Value of such unit. Any money paid to the Lenders pursuant to this paragraph shall be applied on the date of such payment to prepay ratably in accordance with the unpaid balance of each installment, the Secured Notes, together with all interest accrued on the portion of the Secured Notes being prepaid. In the case of a Casualty Occurrence, the Vendee shall promptly cause to be furnished to the Lenders and the Lessee a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Lenders and the Lessee may request, calculated as provided in paragraph 1.2 hereof.

4.3 Casualty Value. The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Indebtedness remaining unpaid with respect to such unit 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 and paragraph 4.5 hereof; each payment of the Indebtedness made pursuant to Article I 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.

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

ARTICLE V  
INSURANCE PROCEEDS AND CONDEMNATION PAYMENTS

If a Lender shall receive any insurance proceeds or condemnation payments in respect of any unit of Equipment suffering a Casualty Occurrence the Lender shall promptly pay such insurance proceeds or condemnation payments to the Vendee; provided, however, that if an event of default (or an event which with the giving of notice or the passage of time or both would become an event of default) shall have occurred and be continuing hereunder or the Vendee shall not have theretofore made payment of the Casualty Value of such unit, together with accrued interest thereon, to the Lenders, then the Lenders shall retain any such proceeds or payments in satisfaction of amounts owed them. All insurance proceeds received by the Lenders in respect of any unit of Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon proof satisfactory to the Lenders that any damage to such unit in respect of which such proceeds were paid has been fully repaired. Otherwise, any such insurance proceeds and condemnation payments received by the Lenders shall be retained in satisfaction of amounts owed to the Lenders hereunder and the surplus, if any, shall be paid to Vendee.

ARTICLE VI  
REPORTS AND INSPECTIONS

On or before January 31 in each year, commencing with the year 1982, the Vendee shall cause to be furnished to the Lenders an accurate statement to the effect set forth in Section 8 of the Lease. Each Lender shall have the right, by its agents, to inspect the Equipment and the Vendee's and the Lessee's records with respect thereto at such reasonable times as the Lender may request during the term of this Agreement.

ARTICLE VII  
MARKING OF EQUIPMENT

7.1 Marking of Equipment. The Vendee will cause each unit of the Equipment to be kept numbered and marked as provided in Section 5 of the Lease. The Vendee 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 Lenders and filed, recorded and deposited by or on behalf of the Vendee in all public offices where this Agreement shall have been filed, recorded and deposited.

7.2 No Designations of Ownership. Except as provided in paragraph 7.1 of this Article VII, the Vendee 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.

#### ARTICLE VIII COMPLIANCE WITH LAWS AND RULES

8.1 Compliance with Laws and Rules. During the term of this Agreement, the Vendee 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 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 of any unit of the Equipment, the Vendee will, or will cause the Lessee to, conform therewith at no expense to the Lender; provided, however, that the Vendee or the Lessee may, in good faith and after written notice to the Lenders, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lenders, adversely affect the property or rights of the Lenders under this Agreement.

#### ARTICLE IX POSSESSION AND USE

9.1 Possession and Use of Equipment by Vendee. The Vendee, 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 Builder to the Vendee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement. The Vendee agrees that, so long as any amount of the Indebtedness or any interest thereon shall remain outstanding, the Equipment will be used solely within the United States of America except as otherwise permitted in the Participation Agreement.

9.2 Lease Permitted; Lease Subordinate; No Amendment or Termination. The Vendee has leased the Equipment to the Lessee as provided in the Lease, and the rights of the Lessee and its permitted assigns under the Lease shall be subordinated and junior in rank to the rights, and shall be subject to the remedies, of the Lenders under this Agreement; provided, however, that so long as (i) no Event of Default (as defined in the Lease) exists under the Lease, and (ii) the Lessee is complying with the provisions of the Consent (referred to in the Assignment), the Lease may not be terminated by the Lenders and the Lessee shall be entitled to the rights of possession, use and assignment provided under the Lease. The Lease shall not be amended or terminated without the prior written consent of the Lenders.

ARTICLE X  
PROHIBITION AGAINST LIENS

10.1 Vendee to Discharge Liens. The Vendee will pay or discharge any and all sums claimed by any party from, through or under the Vendee or its successors or assigns which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, or the Lease or any payments made thereunder, 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, after written notice thereof to Lenders, in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Lenders, adversely affect the security interest of the Lenders in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Lenders in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement and due and owing from the Vendee to the Lenders.

10.2 No Breach for Certain Liens. This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, 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, not delinquent.

10.3 Article X Subject to Article XIX Except in Certain Instances. The obligations of the Vendee under this Article X are subject to the limitations contained in Article XIX hereof; provided, however, that the Vendee will pay or discharge any and all taxes, claims, liens, charges or security interests claimed by any party from, through or under the Vendee

or its successors or assigns, not arising out of the transactions contemplated hereby or in other documents mentioned herein (but including taxes arising out of the receipt of rentals and other payments under the Lease and any other proceeds from the Equipment), which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment or the Vendee's interest in the Lease and the payments to be made thereunder or result in the bankruptcy or reorganization of the Vendee, but the Vendee shall not be required to pay or discharge any such tax, claim, lien, charge or security interest so long as the validity thereof shall be contested, after written notice thereof to the Lenders, in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not in the opinion of the Lenders adversely affect the security interest of the Lenders in or to the Equipment or otherwise under this Agreement.

ARTICLE XI  
INDEMNITIES AND WARRANTIES  
[omitted]

ARTICLE XII  
ASSIGNMENTS

12.1 Assignment by Vendee. The Vendee will not transfer the right to possession of any unit of the Equipment (except to Lessee pursuant to the Lease) or sell, assign, transfer or otherwise dispose of its rights under this Agreement, the Lease or the Purchase Agreement without the prior written consent of the Lenders; provided, however, that in the event the Vendee desires to so transfer to the Vendee Parent, such consent shall not be unreasonably withheld.

12.2 Assignment by Lenders. All or any of the rights, benefits and advantages of the Lenders under this Agreement, including the right to receive the payments herein provided to be made by the Vendee, may be assigned by the Lenders or any of them and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve any Lender from, any of its obligations to respond to its warranties and indemnities referred to in Article XI hereof, or relieve the Vendee of its obligations to such Lender contained in Articles I, III and XI hereof and this Article XII, or any other obligation which, according to its terms or context, is intended to survive an assignment.

12.3 Notice of Assignment by Lenders. Upon any such assignment pursuant to paragraphs 12.1 and 12.2 hereof, either

the assignor or the assignee shall give written notice to the Vendee or the Lenders, as the case may be, 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, the Lease and the Purchase 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 Vendee of the notification of any such assignment, all payments thereafter to be made by the Vendee under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

12.4 Merger or Consolidation. The Vendee shall at all times maintain its corporate existence and shall not merge into or consolidate with or sell, lease or otherwise transfer substantially all of its assets to any other corporation or entity without the written consent of the Lenders unless

(a) the corporation or entity formed by such merger or consolidation or to which such assets are transferred is a solvent corporation or entity organized under the laws of and has its principal place of business in the United States or any State thereof;

(b) such successor or transferee shall expressly assume in writing by instrument or instruments satisfactory in scope, substance, form and legal effect to the Lenders the due and punctual payment and performance and observance of all obligations of the Vendee hereunder and under the other Vendee Documents (as defined in the Participation Agreement);

(c) immediately after giving effect to any such action, no event of default (or event which after lapse of time or notice or both would constitute an event of default) would exist; and

(d) Vendee shall have delivered to the Lenders a certificate of a responsible officer of the Vendee in scope and substance satisfactory to the Lenders stating that such consolidation, merger, sale, lease, transfer or other disposition, as the case may be, and any assumption agreement delivered pursuant to the foregoing clause (b), comply with this paragraph 12.4.

ARTICLE XIII  
DEFAULTS

13.1 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 (whatever the reason for such event of default and whether it shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court, or any order, rule or regulation of any governmental body), to wit:

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

(b) the Vendee shall fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement (irrespective of the provisions of Articles I and XIX hereof or any other provision of this Agreement limiting the liability of the Vendee), the Assignment or any covenant, agreement, term or provision of the Participation Agreement made for the benefit of the Lenders, on its part to be kept and performed or to make provision satisfactory to the Lenders for such compliance, and such default shall continue for 30 days after the earlier of (i) written notice from any Lender specifying the default and demanding that the same be remedied and (ii) the date on which such default shall first become known to a responsible officer of the Vendee; or

(c) the Vendee or the Vendee Parent shall

(i) be generally not paying its debts as they become due,

(ii) file, or consent by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or to take advantage of any bankruptcy or insolvency act or law of any jurisdiction,

(iii) make an assignment for the benefit of its creditors,

(iv) consent to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any substantial part of its property,

(v) be adjudicated a bankrupt or insolvent;  
or

(vi) take action for the purpose of effectuating any of the foregoing; or

(d) a court or governmental authority of competent jurisdiction shall enter an order appointing, without the consent of the Vendee or the Vendee Parent, as the case may be, a custodian, receiver, trustee or other officer with similar powers with respect to the Vendee or the Vendee Parent, as the case may be, or any substantial part of its property, or constituting an order for relief under any bankruptcy or insolvency law, or approving a petition for the relief, reorganization or arrangement of the Vendee or the Vendee Parent, as the case may be, or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction or ordering the dissolution, winding up or the liquidation of the Vendee or the Vendee Parent, as the case may be, or if any such petition shall be filed against the Vendee or the Vendee Parent, as the case may be, and such petition shall not be dismissed within 60 days.

(e) any Event of Default (as defined in the Lease) shall have occurred and be continuing under the Lease unless the Vendee shall have cured the corresponding event of default pursuant to Section 13.3 hereof; or

(f) any representation of the Vendee or the Vendee Parent herein or in the Participation Agreement or in any certificate delivered in connection herewith shall have been materially false when made; or

(g) the Letter of Credit shall cease to be in full force and effect otherwise than because it has been paid in full to the Lenders; or

(h) an event of default shall occur under the Other Security Agreement;

then at any time after the occurrence of such an event of default Lenders holding Secured Notes representing 51% of the outstanding Indebtedness (a "Majority of Lenders") may, upon written notice to the Vendee and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by

the Lenders, (i) declare (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 such Indebtedness and interest shall bear interest from the date of such Declaration of Default at the Penalty Rate to the extent legally enforceable, and/or (ii) subject to the Lessee's right of possession, use and assignment under Section 15.2 of the Lease, cause the term of the Lease to terminate (and the Vendee acknowledges the right of a Majority of Lenders to terminate the term of the Lease), provided, however, that such termination shall not be in derogation of or impair the rights of the Vendee or a Majority of Lenders (under the assignment thereof), as the case may be, to enforce compliance by the Lessee with any of its covenants and agreements under the Lease or to enforce any of the Lenders' rights and remedies under Section 13 of the Lease (subject to the Lenders' rights to repossess and sell the Equipment as provided in this Agreement), including the rights of the Vendee or the Lenders (under the assignment thereof), as the case may be, to sue for and recover damages provided for in Section 14 of the Lease upon the occurrence of an event of default under the Lease. Upon a Declaration of Default, subject to Article I hereof, a Majority of Lenders shall be entitled to recover a judgment for the entire unpaid balance of the Indebtedness so payable, with interest as aforesaid, and to collect all sums owed to the Lenders pursuant to the Other Security Agreement and the Secured Notes issued thereunder, and to collect such judgment out of any property of the Vendee, subject to the provisions of Articles I and XIX hereof, wherever situated. The Vendee shall promptly notify the Lenders of any event of which it has knowledge which constituted, constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

13.2 Waiver of Defaults. A Majority of Lenders 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 after written notice to the Vendee and Lessee 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. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Vendee that time is of the essence of 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.

13.3 Vendee's Right to Cure Defaults. Anything in this Agreement to the contrary notwithstanding, in the case of any event of default occurring hereunder by virtue of paragraph 13.1(e), the Lenders shall not, without the prior written consent of the Vendee, exercise any remedy or remedies herein or in the Lease in respect thereof during a period of 15 days following the occurrence of said event of default. During such period the Vendee shall have the right to cure such event of default. The Vendee shall not obtain any lien, charge, or encumbrance of any kind upon the Equipment or any rentals or other amounts payable under the Lease or the Purchase Agreement in respect of any sums paid in connection with the exercise of any rights hereunder, nor shall any claim of the Vendee against the Lessee for the repayment of any sums so paid impair the prior right of the Lenders to the sums payable by the Lessee under the Lease; provided, however, that if no event of default hereunder shall then have occurred and be continuing and if all payments of Indebtedness and interest thereon then due and owing shall have been made at the time of receipt by the Lenders from the Lessee of an overdue installment of rental or other sum under the Lease in respect of which the Vendee shall have made payment to the Lenders pursuant to this paragraph and/or any interest payable by the Lessee in respect of the late payment thereof, such installment or other sum and interest thereon shall be released to or at the written direction of the Vendee.

#### ARTICLE XIV REMEDIES

14.1 Lender May Take Possession of Equipment. Subject to the Lessee's rights of possession, use and assignment under Section 15.2 of the Lease, at any time during the continuance of a Declaration of Default, 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 Lenders, a Majority of Lenders may 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 Vendee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article XIV expressly provided, and may remove the same from possession and use of the Vendee, the Lessee or any other person and for such purpose may enter upon the premises of the Vendee 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 Vendee or the

Lessee, subject to all mandatory requirements of due process of law.

14.2 Assembling of Equipment for Lenders. In case a Majority of Lenders 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 Lenders, the Vendee shall, subject to the provisions of Article I and Article XIX 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 a Majority of Lenders reasonably may designate;

(b) cause such units to be stored 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 Lenders; and

(c) cause the same to be transported to any reasonable place, as directed by a Majority of Lenders.

During any storage period, the Lessee has agreed pursuant to Section 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 Lenders, the Lenders' representatives and prospective purchasers and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence to the agreement between the parties, and the Vendee acknowledges that upon application to any court of equity having jurisdiction in the premises, the Lenders shall be entitled under the Lease as assignee of the rights of the Vendee thereunder to a decree against the Lessee requiring specific performance hereof. The Vendee hereby expressly waives any and all claims against the Lenders and their agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

14.3 Lenders May Dispose of or Retain Equipment. At any time during the continuance of a Declaration of Default, a Majority of Lenders (after retaking possession of the Equipment as provided in Paragraph 14.1 hereof) may, at its election, and upon such notice as hereinafter set forth, retain the Equipment in satisfaction of the entire Indebtedness and make

such disposition thereof as a Majority of Lenders shall deem fit. Written notice of the Lenders' election to retain the Equipment shall be given to the Vendee and the Lessee by telegram or registered mail, addressed as provided in Article XVIII hereof, and to any other persons to whom the law may require notice, within 90 days after such Declaration of Default. In the event that a Majority of Lenders 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 Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee may be retained by the Lenders as compensation for the use of the Equipment; provided, however, that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Lenders the total unpaid balance of the Indebtedness, together with interest accrued and unpaid and all other payments due under this Agreement and the Other Security 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 Vendee; provided further that if the Vendee, the Lessee or any other persons notified under the terms of this paragraph object in writing to the Lenders within 30 days from the receipt of notice of the Lenders' election to retain the Equipment, then the Lenders 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 a Majority of Lenders shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article XIV.

14.4 Lenders May Sell Equipment; Vendee's Right of Redemption. Subject to the Lessee's rights of possession, use and assignment under Section 15.2 of the Lease, at any time during the continuance of a Declaration of Default, a Majority of Lenders, with or without retaking possession thereof, at its election and upon reasonable written notice to the Vendee, the Lessee and any other persons to whom the law may require notice of the time and place, may sell the Equipment, or one or more of the units thereof, free from any and all claims of the Vendee, the Lessee or any other party claiming from, through or under the Vendee or the Lessee, at law or in equity, at public or private sale and with or without advertisement as a Majority of Lenders may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Vendee 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 and the Other Security Agreement as well as expenses of the Lenders in retaking possession of, removing, maintaining, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, such payment shall be credited on the amount due to the Lenders under the provisions of this Agreement and the Other Security Agreement, as the case may be.

14.5 Sale of Equipment by Lenders. Any sale hereunder may be held or conducted at such time or times as a Majority of Lenders may specify and at such place or places as a Majority of Lenders 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 a Majority of Lenders may determine, so long as such sale shall be in a commercially reasonable manner. Any Lender, the Vendee or the Lessee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Vendee and the Lessee shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed as provided in Article XVIII hereof. In the event that a Lender shall be the purchaser of the Equipment, it shall not be accountable to the Vendee (except to the extent of surplus money received as provided in paragraph 14.7 hereof), and in payment of the purchase price therefor the Lender shall be entitled to have credited on account thereof all or any part of sums due to the Lender hereunder or under the Other Security Agreement.

14.6 Effect of Remedies and Powers and Exercise Thereof. Each and every power and remedy hereby specifically given to the Lenders 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 Lenders. 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 Lenders 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 Vendee shall not otherwise alter or affect the Lenders' rights or the Vendee's obligations hereunder. The Lenders' acceptance of any payment after they shall have become due hereunder shall not be deemed to alter or affect the Vendee's obligations or the Lenders' rights

hereunder with respect to any subsequent payments or default therein.

14.7 Application of Moneys; Deficiencies. Moneys or other property collected by a Lender by means of the exercise of any of the remedies set forth in this Article XIV may be applied by such Lender against any sums owed such Lender hereunder or under the Other Security Agreement or under the Participation Agreement in such order as said Lender in its sole discretion may decide. If, after applying all sums of money realized by the Lenders under the remedies herein provided against amounts owed to the Lenders hereunder and under the Other Security Agreement, there shall remain any amount due to them under the provisions of this Agreement, the Vendee shall, subject to the limitations of paragraph 1.8 hereof and Article XIX hereof, pay the amount of such deficiency to the Lenders upon demand, together with interest thereon from the date of such demand to the date of payment at the Penalty Rate, and, if the Vendee shall fail to pay such deficiency, any Lender may bring suit therefor and shall, subject to the limitations of paragraph 1.8 hereof and Article XIX hereof, be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Lenders, there shall remain a surplus in the possession of the Lenders, such surplus shall be paid to the Vendee.

14.8 Expenses. The Vendee will pay all fees, costs and expenses, including attorneys' fees, incurred by the Lenders in enforcing its remedies under the terms of this Agreement. In the event that the Lenders shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Lenders may recover expenses, including 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 Paragraph 1.8 hereof and Article XIX hereof.

14.9 Letter of Credit. Any Lender may at any time draw on the Letter of Credit pursuant to the terms thereof after a Declaration of Default in an amount not greater than the amount owed to Lenders hereunder and under the Other Security Agreement and may do so before, after or during the exercise of any other remedies available to the Lenders hereunder, under the Other Security Agreement or otherwise.

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

ARTICLE XV  
APPLICABLE STATE LAWS

15.1 Conflict with State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction 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 Vendee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a security agreement and enforced as such.

15.2 Waiver of Notices. Except as otherwise provided in this Agreement, the Vendee, 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 Lender's rights and any and all rights of redemption.

ARTICLE XVI  
FILING

The Vendee will (a) cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303; (b) promptly cause all necessary filings and recordings, and, when required, refilings and rerecordings of this Agreement, the Lease, the Assignment, any assignments hereof or thereof, and any amendments or supplements hereto or thereto and/or appropriate financing statements or continuation statements to be made, and from time to time when refiled and rerecorded in accordance with the applicable provisions of the Uniform Commercial Code as in effect in the State of Texas (and if the Vendee or Lessee changes its chief place of business to a different state, in such other state) and in any other state of the United States of America or the District of Columbia where filing is requested by the Lenders for the purpose of proper protection, to the satisfaction of counsel for the Lenders, of its security interest in the Equipment and its rights under this Agreement and the Assignment or for the purpose of carrying out the intention of this Agreement and the Assignment; (c) from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further

instruments required by law or reasonably requested by a Majority of Lenders for the purpose of proper protection, to the satisfaction of counsel for the Lenders, of their security interest in the Equipment and their rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and (d) promptly furnish to the Lenders certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Lenders.

ARTICLE XVII  
ARTICLE AND PARAGRAPH HEADINGS;  
EFFECT AND MODIFICATION OF AGREEMENT

17.1 Article and Paragraph Headings for Convenience Only. All article and paragraph headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

17.2 Effect and Modification of Agreement. Except for the Participation Agreement and the Assignment, this Agreement, including the Annex hereto, exclusively and completely states the rights of the Lenders and the Vendee 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 Lenders and the Vendee.

ARTICLE XVIII  
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 Vendee, at P.O. Box 255415, 1704 Main Street, Dallas, Texas 76265, Attention President;

(b) the Lenders, at 1275 King Street, Greenwich, Connecticut 06830, Attention: Vice President-General Counsel,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement. Notice shall be deemed given when delivered in person or three days after being mailed as aforesaid.

ARTICLE XIX  
IMMUNITIES; SATISFACTION OF UNDERTAKINGS

19.1 No Recourse Against Certain Persons. No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director, officer, or employee, as such, past, present or future, of the parties hereto, 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, officers, or employees, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

19.2 Satisfaction of Certain Covenants. The obligations of the Vendee under Paragraphs 4.1, 9.1, 14.2, 14.7 and 14.8 hereof, and under Articles VI, VII, VIII, X and XVI hereof and any and all obligations at any time arising thereunder shall be deemed satisfied in full in all respects (except as set forth in Paragraph 10.3 thereof) by the Lessee's execution, delivery and performance of the Lease. The Vendee shall not have any responsibility for the Lessee's failure to perform such obligations; but if the same shall not be performed, they shall constitute the basis for an event of default hereunder pursuant to Article XIII hereof. No waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Lender.

ARTICLE XX  
LAW GOVERNING

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303, such additional rights, if any, arising out of the filing, recording 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, recorded 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 XXI  
EXECUTION

This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated, for convenience, 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.

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



[Corporate Seal]  
Attest:

Suzanne Bauchman  
Title V. PRESIDENT

MERCANTILE TEXAS CAPITAL CORPORATION  
By [Signature]  
President

THE PAUL REVERE PROTECTIVE LIFE  
INSURANCE COMPANY

[Corporate Seal]  
Attest:

By \_\_\_\_\_  
Vice President - Investment

\_\_\_\_\_  
Title

ARTICLE XXI  
EXECUTION

This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated, for convenience, 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.

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

MERCANTILE TEXAS CAPITAL CORPORATION

[Corporate Seal]  
Attest:

By \_\_\_\_\_  
President

\_\_\_\_\_  
Title

THE PAUL REVERE PROTECTIVE LIFE  
INSURANCE COMPANY

[Corporate Seal]  
Attest:

By Alexander A. Mentis  
Vice President - Investment

M. Crooks  
\_\_\_\_\_  
Title: Assistant Secretary

THE PAUL REVERE VARIABLE ANNUITY  
INSURANCE COMPANY, Account No. 1

[Corporate Seal]  
Attest:

By Alexander C. Mendes  
Vice President - Investment

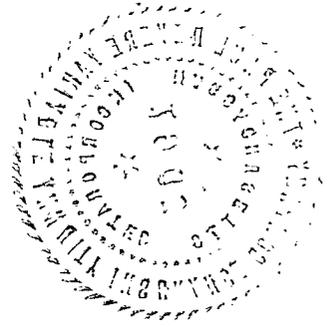
W. Cooks  
Title Assistant Secretary

THE PAUL REVERE VARIABLE ANNUITY  
INSURANCE COMPANY, Account No. 2

[Corporate Seal]  
Attest:

By Alexander C. Mendes  
Vice President - Investment

W. Cooks  
Title Assistant Secretary



STATE OF TEXAS )  
COUNTY OF *Dallas* ) ss.:

On this *17th* day of February, 1981, before me personally appeared *Carroll M. Bennett*, to me personally known, who, being by me duly sworn, says that he is President of MERCANTILE TEXAS CAPITAL CORPORATION, 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 Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

*Nora Johnson*  
\_\_\_\_\_  
Notary Public  
NORA JOHNSON, Notary Public  
in and for Dallas County, Texas  
My commission expires June 25, 1981

[Notarial Seal]  
My Commission expires  
*June 25, 1981*

STATE OF CONNECTICUT )  
COUNTY OF FAIRFIELD ) ss.:

On this \_\_\_\_ day of February, 1981, before me personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, says that he is a Vice President - Investment of THE PAUL REVERE PROTECTIVE LIFE INSURANCE 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.

\_\_\_\_\_  
Notary Public

[Notarial Seal]  
My Commission expires

STATE OF TEXAS                    )  
  ) ss.:  
COUNTY OF                        )

On this \_\_\_\_\_ day of February, 1981, before me personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, says that he is President of MERCANTILE TEXAS CAPITAL CORPORATION, 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 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

STATE OF CONNECTICUT            )  
  )ss.:  
COUNTY OF FAIRFIELD            )

On this 18<sup>th</sup> day of February, 1981, before me personally appeared Alfred A. Wentz, to me personally known, who, being by me duly sworn, says that he is a Vice President - Investment of THE PAUL REVERE PROTECTIVE LIFE INSURANCE 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.

Alfred A. Wentz  
Notary Public

[Notarial Seal]

My Commission expires April 1, 1982

STATE OF CONNECTICUT        )  
  )ss.:  
COUNTY OF FAIRFIELD        )

On this 18<sup>th</sup> day of February, 1981, before me personally appeared Alvan A. Wente, to me personally known, who, being by me duly sworn, says that he is a Vice President - Investment of THE PAUL REVERE VARIABLE ANNUITY INSURANCE COMPANY, Account No. 1, 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.

Alvan A. Wente  
Notary Public

[Notarial Seal]

My Commission expires April 1, 1982

STATE OF CONNECTICUT        )  
  )ss.:  
COUNTY OF FAIRFIELD        )

On this 18<sup>th</sup> day of February, 1981, before me personally appeared Alvan A. Wente, to me personally known, who, being by me duly sworn, says that he is a Vice President - Investment of THE PAUL REVERE VARIABLE ANNUITY INSURANCE COMPANY, Account No. 2, 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.

Alvan A. Wente  
Notary Public

[Notarial Seal]

My Commission expires April 1, 1982

APPENDIX A

<u>Type</u>	<u>Serial Numbers</u>	<u>Builder's Specification</u>	<u>Builder's Plant</u>	<u>Quantity</u>
Molten Sulfur Tank Car	434549 434554 through 434558 434560 434562 through 434613	111A100W-3	Dallas, Texas	59

<u>Lessee's Identification Numbers</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>	<u>Time of Delivery</u>
MGSX 100 MGSX 105 through MGSX 107 MGSX 109 MGSX 111 through MGSX 164	\$52,500	\$3,097,500	January 1981- February 1981