



Inman Service Company Inc.

Diesel-Electric
LOCOMOTIVES

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REGISTRATION NO. Filed 1425

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LOCOMOTIVE LEASE

INTERSTATE COMMERCE COMMISSION

Lease No. 146

JUNE 5, 1984
Date

LESSOR: INMAN SERVICE CO., INC.
115 North Main
Baytown, Texas 77520
(713) 427-6677

LESSEE: PHILLIPS CHEMICAL
P.O. Box 792
Pasadena, TX 77501
(713) 475-3666

LOCOMOTIVE DESCRIPTION: One (1) EMD SW-9, 1200 horsepower

SERIAL NUMBER: 6182-13

LEASED EQUIPMENT LOCATION: PHILLIPS OFF 225

TERM OF LEASE: One (1) year - Rates commencing upon locomotive arrival at Phillips Chemical plant.

RENTAL CHARGES: \$ 4,850.00 per month each. The rent will be invoiced monthly and such invoice will be due upon receipt.

1. LEASE. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the above described Locomotive(s) (all locomotives are hereinafter referred to as "Leased Equipment"), pursuant to the terms contained herein for the consideration set out above. All payments to Lessor shall be made at the above address.

2. OPERATORS. Lessee shall supply its own operators for the Leased Equipment and Lessee agrees all operators using such Leased Equipment shall be competent and qualified.

3. DELIVERY AND ACCEPTANCE. All Leased Equipment shall be delivered to the Leased Equipment Location as set out above. Such Leased Equipment shall not be removed from such location except with written consent from Lessor. By accepting delivery of the Leased Equipment, Lessee acknowledges that said Leased Equipment is in good condition.

4. LESSOR'S MAINTENANCE DUTIES. Lessor agrees to provide maintenance service and keep the Leased Equipment in good working condition. Additionally, Lessor shall provide a monthly or Bi-Monthly Maintenance Inspection at periods deemed most appropriate by Lessor and Lessee.

5. SAFE OPERATION. Lessee is solely responsible for determining the time, manner, and location of the locomotive operations. Lessee acknowledges and fully understands that there is severe danger of fire or explosion if the locomotive is operated in any area or building in which a spark or flame could cause an explosion or fire, and Lessee assumes all

risk of loss in any way resulting from or connected with the operation of the locomotive while in Lessee's possession, unless due to the sole negligence of Lessor.

6. LESSEE'S DUTIES OF CARE AND MAINTENANCE. Lessee shall be obligated to exercise a reasonable degree of care in its use of the Leased Equipment and to perform the daily fluid and maintenance checklist pursuant to the guidelines that may be established from time-to-time by Lessor. Lessee shall not allow the vehicle to be used in an unlawful manner, nor in any manner that would result in or cause the suspension or cancellation of insurance coverage on the Leased Equipment. The Lessee shall be responsible for all physical damage to the locomotive from any cause, other than normal wear, or the negligence or other fault of Lessor while locomotive is in the possession of Lessee. This shall include, but not necessarily be limited to damages resulting from collisions, accidents, derailments, vandalism and from the negligence of the Lessee or Lessee's employees, agents or subcontractors, or from the acts of omissions of the Lessee or its employees, agents or subcontractors.

7. LESSOR'S INSURANCE COVERAGE. *Lessor agrees to provide the insurance coverages shown in Exhibit "A" attached hereto and incorporated herein.

8. LESSEE'S INDEMNITY. The Lessee further agrees, as part consideration of this lease, to forever indemnify and save harmless Lessor, and its agents, employees, successors and assigns, from and against any and all arising directly or indirectly in connection with the use or handling of said Locomotive by the Lessee and its employees except that damage or loss resulting solely from Lessor's negligence. This indemnity shall survive the termination of this Agreement.

9. INSPECTION. Lessor shall have the right to inspect said Locomotive at any time on reasonable notice to Lessee.

10. FUELS, FLUIDS AND OTHER ITEMS. This lease carries no obligation on the part of Lessor to furnish any fuel, water, sand, filters and/or lubricants necessary for the continued operation of said Locomotive. Further, Lessee agrees to provide all such items.

11. ACCIDENTS AND DAMAGE. The Lessee shall notify the Lessor of each accident or other occurrence which causes damage to each vehicle within 72 hours thereafter, give all information and cooperation which the Lessor may reasonably request in connection therewith, promptly advise the Lessor of all claims and demands relating to any vehicle or the use, operation, or possession thereof, and aid in the investigation and defense of all such claims arising out of each accident or occurrence.

12. TITLE TO LEASED EQUIPMENT. Title to all Leased Equipment shall be and remain in the Lessors fleet and the Lessee shall acquire no right, title or interest except the leasehold interest created herein. Lessee agrees to execute a UCC-1 Financing Statement evidencing this is a lease agreement not a purchase package.

13. RISK OF LOSS. Lessee shall bear all risk of loss, damage, theft and destruction. At the end of the lease term, possession of the Leased Equipment shall be returned to Lessor at the Leased Location in good condition, normal wear and tear excepted.

14. TAXES AND LICENSES. The Lessee shall pay all license fees, sales taxes, use taxes, excise taxes, personal property taxes, assessments, ad valorem taxes, stamp and documentary taxes, and all other government charges, fees, fines or penalties whatsoever, whether payable by the Lessor or the Lessee or others, on or relating to the locomotive or the use, registration, or operation thereof, other than federal or state income and franchise taxes of the Lessor, and shall file all returns required therefor and furnish copies thereof to the Lessor. Upon demand, the Lessee shall reimburse the Lessor for any such taxes, assessments, charges, fines or penalties which the Lessor may be compelled to pay in connection with the equipment. The Lessor will cooperate with the Lessee and furnish the Lessee with any information available to the Lessor in connection with the Lessee's obligations under this paragraph.

15. ALTERATIONS AND REPAIRS. Without the prior written consent of Lessor, the Lessee shall not make any alterations, additions or improvements to the Leased Equipment. All approved additions and improvements shall belong to and become the property of Lessor on termination of this lease. Lessee, except for the daily maintenance and fuel checks set out above, shall not allow the Leased Equipment to be serviced, maintained or repaired by any other company other than Lessor.

16. BREAKDOWN. The Lessee has selected the Leased Equipment for its own operation. The Lessor shall not be responsible for any loss of time or any other loss resulting from any breakdown or other failure of the Leased Equipment. The Lessor will repair any inoperative Leased Equipment within a reasonable time of being notified of the breakdown. Lessee shall be entitled to a prorated abatement of rent for any downtime as a result of breakdown. Lessor will use Lessor's best efforts to supply an alternative Locomotive for use in the event the breakdown cannot be promptly repaired. The abatement or rentals shall cease upon arrival of alternate Locomotive at Lessee's plant or repair of the down locomotive whichever shall first occur.

17. NO WARRANTY. THE PARTIES HERETO ACKNOWLEDGE THAT LESSOR IS NOT A MANUFACTURER. FURTHER, THE LESSOR MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY, OR ITS FITNESS FOR ANY PARTICULAR PURPOSE.

18. TERMINATION UPON DEFAULT (LESSEE). The Lease may be terminated by the Lessor prior to the expiration date set forth herein on ninety (90) days written notice delivered or mailed to the Lessee at its address as set forth above in the event that the Lessee:

- (a) Fails to pay the rental charges within the time specified herein;
- (b) Makes any breach or default under this Agreement;
- (c) Discontinue operation, abandons, or permits Leased Equipment to be subjected to unreasonable hazards or risks.

Such termination of the Lease by the Lessor or the taking or recovery of the Leased Equipment shall not deprive the Lessor of any of its rights, remedies, or actions against the Lessee for rents or damages or affect the

Lessee's obligation to make payments provided hereunder. On termination of this Lease for whatever reason, the Lessee agrees that the Lessor may immediately take possession of the Leased Equipment covered hereby and remove it from the Lessee's premises without the necessity of resorting to any legal process, or, at the Lessor's option.

19. TERMINATION OF DEFAULT (LESSOR). This lease may be terminated by the Lessor prior to the expiration date set forth herein on ninety (90) days written notice delivered or mailed to the Lessee at its address as set forth above in the event that the Lessor:

- (a) Fails to maintain said locomotive as per contractual agreement herein stated:
- (b) Makes any breach or default under this Agreement;

20. USE OF MAINTENANCE FACILITIES. Lessee hereby consents to Lessor's use of Lessee's Locomotive maintenance facilities and fluid containers for Lessor's performance of its maintenance duties. Lessor and its employees shall, during its use, keep all of Lessee's maintenance facilities free of debris and fluids.

21. RADIO INSTALLATION. Lessor hereby consents to the installation of two way radios on the Leased Equipment and such radios shall remain the Lessee's property and shall be returned to Lessee upon termination of this Lease. Lessee shall not damage the Leased Equipment in the installation or removal of the radios.

22. MISCELLANEOUS.

- (a) Time is of the essence in this Agreement.
- (b) The Lessee shall not, in whole or in part, assign or sublet this lease, or any of said Locomotive, or any rights hereunder, without the written consent of Lessor. No rights of Lessee under this lease shall pass to any successor or assignee of Lessee by operation of Law without the written consent of Lessor.
- (c) This Lease constitutes the entire and final Agreement between the parties and may not be amended except by agreement in writing.
- (d) The laws of the State of Texas shall govern interpretation of this Lease.

* Page 2, as per item 8; Lessee is self insured.

LESSOR:

INMAN SERVICE COMPANY, INC.

By: W. D. [Signature]

LESSEE:

PHILLIPS CHEMICAL

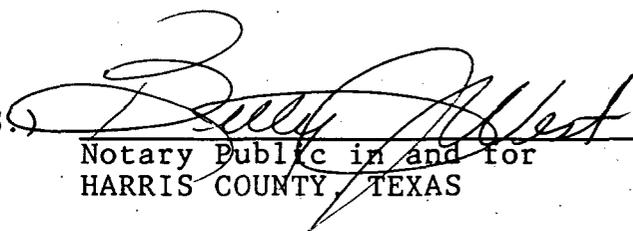
By: F. N. [Signature]

THE STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Weldon Inman and K.N. Mone known to me to be the persons whose name subscribed to the foregoing instrument and acknowledged to me that executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 5th day of June, A.D. 1985.

(L.S.)


Notary Public in and for
HARRIS COUNTY, TEXAS

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

CERTIFICATION OF TRUE COPY

I, Thomas E. Schulze, a member of the Bar of the State of Illinois, do hereby certify that I have compared the attached copy of the document entitled "Locomotive Lease" with an executed original counterpart thereof and find the said attached copy to be in all respects a true, correct and complete copy of the aforesaid executed original counterpart.

IN WITNESS WHEREOF, the undersigned has hereto affixed his signature this 13th day of November, 1985.



Thomas E. Schulze

Subscribed and sworn to before me
this 13th day of November, 1985.



Notary Public

My commission expires:
10-28-88