

CRAVATH, SWAINE & MOORE

ONE CHASE MANHATTAN PLAZA

NEW YORK, N. Y. 10005

1-013A095

212 HANOVER 2-3000

TELEX

RCA 233663  
WUD 125547  
WUI 620976

CABLE ADDRESSES  
CRAVATH, N. Y.  
CRAVATH, PARIS  
CRAVATH, LONDON E. C. 2

RALPH L. McAFEE  
HENRY W. OSKOSMIAN  
ALLEN F. MAULSBY  
STEWART R. BROSS, JR.  
HENRY P. RIORDAN  
JOHN R. HUPPER  
SAMUEL C. BUTLER  
WILLIAM J. SCHRENK, JR.  
BENJAMIN F. CRANE  
FRANCIS P. RANDOLPH, JR.  
JOHN F. HUNT  
GEORGE J. GILLESPIE, III  
RICHARD S. SIMMONS  
WAYNE E. CHAPMAN  
THOMAS D. BARR  
MELVIN L. BERRICK  
GEORGE T. LOWY  
ROBERT ROSENMAN  
JAMES H. DUFFY  
ALAN J. HRUSKA  
JOHN E. YOUNG  
JAMES M. EDWARDS  
DAVID G. ORMSBY  
DAVID L. SCHWARTZ  
RICHARD J. HIEGEL

FREDERICK A. O. SCHWARZ, JR.  
CHRISTINE BESHAR  
ROBERT S. RIFKIND  
DAVID BOIES  
DAVID O. BROWNWOOD  
PAUL M. DODYK  
RICHARD M. ALLEN  
THOMAS R. BROME  
ROBERT D. JOFFE  
ROBERT F. MULLEN  
ALLEN FINKELSON  
RONALD S. ROLFE  
JOSEPH R. SAHID  
PAUL C. SAUNDERS  
MARTIN L. SENZEL  
DOUGLAS D. BROADWATER  
ALAN C. STEPHENSON  
RICHARD L. HOFFMAN  
JOSEPH A. MULLINS  
MAX R. SHULMAN  
WILLIAM P. DICKEY  
STUART W. GOLD  
JOHN W. WHITE  
JOHN E. BEERBOWER

COUNSEL  
MAURICE T. MOORE  
CARLYLE E. MAW

ROSWELL L. GILPATRICK  
ALBERT R. CONNELLY  
L. R. BRESLIN, JR.  
GEORGE B. TURNER  
FRANK H. DETWEILER  
GEORGE G. TYLER  
JOHN H. MORSE  
HAROLD R. MEDINA, JR.  
CHARLES R. LINTON  
WILLIAM B. MARSHALL  
ROYALL VICTOR  
ALLEN H. MERRILL

4, PLACE DE LA CONCORDE  
75008 PARIS, FRANCE  
TELEPHONE: 265-81-54  
TELEX: 290530

33 THROGMORTON STREET  
LONDON, EC2N 2BR, ENGLAND  
TELEPHONE 1-606-1421  
TELEX: 8814901

No. \_\_\_\_\_  
Date... JAN 12 1981  
Fee \$... 100.00  
Washington, D. C.

RECORDATION NO. 12762  
Filed 1981

JAN 13 1981 - 12 00 PM

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 12762  
January 9, 1981  
JAN 13 1981 - 12 00 PM

INTERSTATE COMMERCE COMMISSION

Beker Industries Corp.  
Lease Financing Dated as of October 15, 1980

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. § 11303 and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Beker Industries Corp., for filing and recordation counterparts of the following documents:

*Now Number*  
*A*

- (1) Purchase Order Assignment dated as of October 15, 1980, among Beker Industries Corp., as Assignor, C.I.T. Corporation, as Assignee, and Trinity Industries, Inc., as Builder.
- (2) Lease of Railroad Equipment dated as of October 15, 1980, between C.I.T. Corporation, as Lessor, and Beker Industries Corp., as Lessee.

The names and addresses of the parties to the aforementioned documents are as follows:

- (1) Assignor-Lessee:

Beker Industries Corp.,  
124 West Putnam Avenue  
Greenwich, Connecticut 06830.

RECEIVED  
JAN 13 11 55 AM '81  
I.C.C.  
FEE OPERATION BR.

*Carver Stewart*  
*Frank McAllister*

(2) Assignee-Lessor:

C.I.T. Corporation,  
650 Madison Avenue  
New York, N. Y. 10022.

(3) Builder:

Trinity Industries, Inc.,  
4001 Irving Blvd.  
Box 10587  
Dallas, Texas 75207.

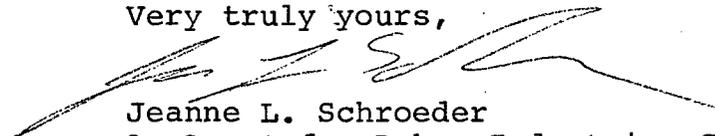
Please file and record the documents referred to in this letter and index them under the names of the Assignor-Lessee, the Assignee-Lessor and the Builder.

The equipment covered by the aforementioned documents consists of 50 13,500 Molten Sulfur Cars bearing Lessee's road numbers BICX 101-150 and also bears the legend "Owned by C.I.T. Corporation."

There is also enclosed a check for \$100 payable to the Interstate Commerce Commission, representing the fee for recording the Purchase Order Assignment and the Lease of Railroad Equipment.

Please stamp all counterparts of the enclosed documents with your official recording stamp. You will wish to retain one copy of the instruments for your files. It is requested that the remaining counterparts be delivered to the bearer of this letter.

Very truly yours,



Jeanne L. Schroeder  
As Agent for Beker Industries Corp.

Agatha Mergenovich, Secretary,  
Interstate Commerce Commission,  
Washington, D. C. 20423

Encls.

**Interstate Commerce Commission**  
Washington, D.C. 20423

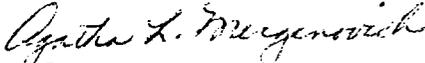
OFFICE OF THE SECRETARY

Jeanne L. Schroeder  
Cravath, Swaine & Moore  
One Chase Manhattan Plaza  
New York, N. Y. 10005

Dear **Madam:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 1/13/81 at 12:00PM, and assigned re-  
recording number(s) 12762, & 12762-A

Sincerely yours,

  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

JAN 13 1981 - 12 00 PM

INTERSTATE COMMERCE COMMISSION

---

[CS&M Ref.: 1240-136]

PURCHASE ORDER ASSIGNMENT

Among

BEKER INDUSTRIES CORP.,  
Assignor,

C.I.T. CORPORATION,  
Assignee,

and

TRINITY INDUSTRIES, INC.,  
Builder.

---

Dated as of October 15, 1980

---

PURCHASE ORDER ASSIGNMENT dated as of October 15, 1980, among BEKER INDUSTRIES CORP., a Delaware corporation (the "Assignor"); C.I.T. CORPORATION, a New York corporation (the "Assignee"), and TRINITY INDUSTRIES, INC., a Texas corporation (the "Builder").

WHEREAS the Assignor and the Builder have entered into a purchase agreement consisting of letters dated April 18, 1980, May 7, 1980, and May 21 1980 (the "Purchase Agreement"), attached hereto as Exhibit A, pursuant to which the Builder has agreed to construct and deliver to the Assignor, and the Assignor has agreed to purchase and take delivery of, the units of railroad equipment described in Schedule A hereto (the "Units");

WHEREAS the Assignee desires to purchase and take delivery of those Units as are delivered and accepted pursuant to the terms hereof on or prior to March 15, 1981 (such Units being hereinafter called the "Assigned Units" and such date being hereinafter called the "Cutoff Date"), and the Assignor desires to assign its rights to purchase and take delivery of the Assigned Units to the Assignee; and

WHEREAS the Assignor has entered into a Lease of Railroad Equipment dated as of the date hereof (the "Lease") with the Assignee covering the Assigned Units;

WHEREAS the Builder proposes, subject to the terms and conditions hereof, to transfer title to the Units to the Assignee pursuant to a bill or bills of sale as provided in Paragraph 5(ii) hereof to enable the Assignee to satisfy the Assignee's obligations under the Lease;

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

1. The Assignor hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) all the right, title and interest of the Assignor in and to the Assigned Units; and

(b) all the right, title and interest of the Assignor in and to the Purchase Agreement, insofar as the Purchase Agreement relates to the Assigned Units.

2. The Assignee accepts the assignments herein contained, and assumes the obligations of the Assignor under the Purchase Agreement to purchase the Assigned Units and agrees to pay the Purchase Price (as hereinafter defined) of the Assigned Units, but the Assignee assumes no other duties or obligations of the Assignor under the Purchase Agreement whatsoever; provided, however, that the Assignor shall remain liable to the Builder in respect of its duties and obligations (except as herein assumed and performed by the Assignee) in accordance with the Purchase Agreement; provided further, however, that the Builder shall not deliver hereunder any Unit unless on or prior to the date of delivery of the first such Unit hereunder the documents required to be delivered pursuant to § 15 of the Lease have been delivered, and the Assignee shall have no obligation to purchase and pay for any of the Assigned Units delivered prior to delivery of such documents; provided further, however, that the Builder shall not deliver hereunder any Unit subsequent to, and the Assignee shall have no obligation to purchase and pay for any of the Assigned Units delivered subsequent to, receipt by the Builder of a written notice from the Assignor, or the Assignee, notifying the Builder of (i) the occurrence of any Event of Default as described in § 10 of the Lease, or any event which with lapse of time and/or demand, could constitute any such Event of Default; (ii) the commencement of a proceeding described in § 10(f) or 10(g) of the Lease; or (iii) a material adverse change in the assets, liabilities, business or condition (financial or otherwise) of the Assignor since the date of the last audited financial statements furnished to the Assignee pursuant to § 19(a)(J) of the Lease. In addition, the Builder shall not invoice the Assignee, and the Assignee shall have no obligation to purchase and pay for, any of the Assigned Units delivered subsequent to the Cutoff Date. The Assignor affirms hereunder that it shall be solely obligated to purchase and pay for pursuant to the Purchase Agreement any Unit which is excluded from this Assignment because (A) it is delivered before the documents required to be delivered pursuant to § 15 of the Lease have been delivered, (B) it is delivered after the Builder shall have received any notice described in the third proviso to the first sentence of

this Paragraph 2 or (C) such Unit is delivered after the Cutoff Date, but the Assignor shall have no obligation to the Builder to purchase, or make payment under the Purchase Agreement in respect of, any of the Assigned Units which the Assignee is obligated to purchase hereunder. The Builder hereby consents to the terms of this Assignment and accepts all its duties hereunder, including, without limitation, its duties as to termination of deliveries. The Builder also agrees to the limitation of the obligations of the Assignee to purchase and pay for the Assigned Units as set forth in this Assignment.

The term "Purchase Price" as used herein means with respect to each unit of the Assigned Units the Sales Price for such unit as determined in accordance with the Purchase Agreement and as set forth in the invoice of the Builder for such Unit.

3. The Assignor represents, warrants and agrees that:

(a) the Purchase Agreement is in full force and effect and is enforceable against the Assignor in accordance with its terms, and neither the Assignor nor to its best knowledge the Builder is in default thereunder;

(b) insofar as it relates to the Units, the Assignor is the lawful owner of its rights under the Purchase Agreement, free from all claims, liens, security interests and encumbrances, and the Assignor has the right to sell and assign the Purchase Agreement as set forth herein and the Assignor will warrant and defend this Assignment against the lawful claims and demands of all persons; and

(c) none of the Units has been delivered by the Builder and no payment has been made in respect thereof to the Builder.

The Builder represents and warrants that:

(a) the Purchase Agreement is in full force and effect and is enforceable against the Builder in accordance with its terms and neither the Builder nor to its knowledge the Assignor is in default thereunder; and

(b) none of the Units has been delivered by the Builder and no payment has been received in respect thereof by the Builder.

4. The Assigned Units shall be settled for pursuant to the terms hereof on the closing date on or prior to March 31, 1981, as shall be agreed to by the Builder and the Assignee, but in any event not later than 15 days after the Builder has delivered an invoice with respect to the last Assigned Unit delivered pursuant to the Purchase Agreement to the Assignee (the "Closing Date").

5. With respect to Units settled for as Assigned Units pursuant to the terms hereof, on the Closing Date, the Assignee shall pay to the Builder the Purchase Price of such Assigned Units being settled for, provided that there shall have been delivered to the Assignee, on or prior to such Closing Date, the following documents in such number of counterparts or copies as may reasonably be requested in form and substance satisfactory to the Assignee:

(i) a certificate of an officer of the Builder dated such Closing Date representing and warranting on behalf of the Builder that (A) the Assigned Units described and specified therein by numbers have been delivered on or prior to such Closing Date and have been marked with the following legend:

"OWNED BY C.I.T. CORPORATION"

or such other words as shall be approved by the Assignee and (B) such Assigned Units are new standard-gauge railroad equipment first put into service no earlier than the date of delivery and acceptance thereof by or on behalf of the Assignee;

(ii) a bill or bills of sale from the Builder transferring all right, title and interest of the Builder in and to such Assigned Units to the Assignee, warranting to the Assignee that at the time of delivery of such Assigned Units to the Assignee, the Builder had legal title to the Assigned Units described therein and good and lawful right to sell such Assigned Units and that title to such Assigned Units is free from all claims, liens, security interests and other encumbrances of any nature arising from, through or under the Builder and cove-

nanting to defend such title to such Assigned Units against the demands of all persons whomsoever based on claims arising from, through or under the Builder or originating prior to the delivery of such Assigned Units by the Builder under this Assignment;

(iii) an opinion of counsel for the Builder, addressed to the Assignee, in form and substance satisfactory to the Assignee and its counsel, to the effect that (A) the Assigned Units being settled for are free of all claims, liens, security interests and other encumbrances of any nature arising from, through or under the Builder, and (B) such bill or bills of sale have been duly authorized, executed and delivered by the Builder and are valid and effective to transfer all right, title and interest of the Builder in and to such Assigned Units, free of all claims, liens, security interests or other encumbrances of any nature arising from, through or under the Builder, to the Assignee;

(iv) an invoice or invoices with respect to such Assigned Units from the Builder to the Assignee describing such Assigned Units having endorsed thereon the certification of the Assignor as to the correctness of the prices stated therein; and

(v) Certificates of Acceptance (as defined in the Lease) covering such Assigned Units.

6. No variation or modification of the Purchase Agreement, except as herein provided, and no waiver of any of its provisions or conditions shall be valid with respect to any of the Assigned Units unless in writing and signed by a duly authorized signatory for the Assignee.

7. The Builder represents that it is not entering into this Assignment, or into any other transaction contemplated hereby, directly or indirectly in connection with any arrangement or understanding in any way involving any employee benefit plan (other than a governmental plan) with respect to which it or, to its knowledge, the Assignor or the Assignee, is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974.

8. This Assignment shall be governed by and

construed in accordance with the laws of the State of New York.

9. This Assignment may be executed in any number of counterparts, each of which 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. It shall not be necessary that any counterpart be signed by all the parties so long as each party hereto shall have executed and delivered one counterpart hereof. Although this Assignment is dated for convenience as of the date specified in the introductory paragraph of this Assignment, 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 caused this Assignment to be executed by their respective duly authorized officers, all as of the date first above written.

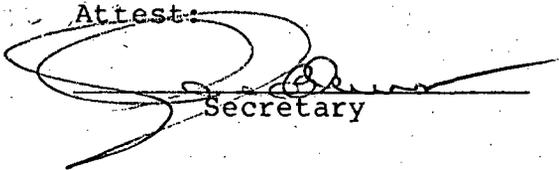
BEKER INDUSTRIES CORP.,

by 

SENIOR VICE PRESIDENT

[Corporate Seal]

Attest:

  
Secretary

C.I.T. CORPORATION,

by

\_\_\_\_\_  
Authorized Officer

[Seal]

Attest:

nanting to defend such title to such Assigned Units against the demands of all persons whomsoever based on claims arising from, through or under the Builder or originating prior to the delivery of such Assigned Units by the Builder under this Assignment;

(iii) an opinion of counsel for the Builder, addressed to the Assignee, in form and substance satisfactory to the Assignee and its counsel, to the effect that (A) the Assigned Units being settled for are free of all claims, liens, security interests and other encumbrances of any nature arising from, through or under the Builder, and (B) such bill or bills of sale have been duly authorized, executed and delivered by the Builder and are valid and effective to transfer all right, title and interest of the Builder in and to such Assigned Units, free of all claims, liens, security interests or other encumbrances of any nature arising from, through or under the Builder, to the Assignee;

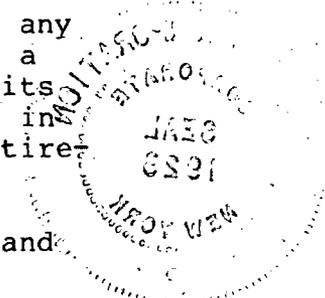
(iv) an invoice or invoices with respect to such Assigned Units from the Builder to the Assignee describing such Assigned Units having endorsed thereon the certification of the Assignor as to the correctness of the prices stated therein; and

(v) Certificates of Acceptance (as defined in the Lease) covering such Assigned Units.

6. No variation or modification of the Purchase Agreement, except as herein provided, and no waiver of any of its provisions or conditions shall be valid with respect to any of the Assigned Units unless in writing and signed by a duly authorized signatory for the Assignee.

7. The Builder represents that it is not entering into this Assignment, or into any other transaction contemplated hereby, directly or indirectly in connection with any arrangement or understanding in any way involving any employee benefit plan (other than a governmental plan) with respect to which it or, to its knowledge, the Assignor or the Assignee, is a party in interest, all within the meaning of the Employee Retirement Income Security Act of 1974.

8. This Assignment shall be governed by and



construed in accordance with the laws of the State of New York.

9. This Assignment may be executed in any number of counterparts, each of which 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. It shall not be necessary that any counterpart be signed by all the parties so long as each party hereto shall have executed and delivered one counterpart hereof. Although this Assignment is dated for convenience as of the date specified in the introductory paragraph of this Assignment, 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 caused this Assignment to be executed by their respective duly authorized officers, all as of the date first above written.

BEKER INDUSTRIES CORP.,

by \_\_\_\_\_

[Corporate Seal]

Attest:

\_\_\_\_\_  
Secretary

C.I.T. CORPORATION,

by

Keith L. Fitch U.P.  
Authorized Officer

[Seal]

Attest:

[Signature]  
Assistant Secretary

TRINITY INDUSTRIES, INC.,

by

[Corporate Seal]

Attest:

\_\_\_\_\_  
Assistant Secretary

TRINITY INDUSTRIES, INC.



STATE OF CONNECTICUT, )  
COUNTY OF *Fairfield*, ) ss.:

On this *12<sup>th</sup>* day of January 1981, before me personally appeared *John J. Fitterson*, to me personally known, who, being by me duly sworn, says that he is a **SENIOR VICE PRESIDENT** BEKER INDUSTRIES CORP., that the seal 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.

[Notarial Seal]

*Doris L. Moore*  
Notary Public  
**DORIS L. MOORE**  
NOTARY PUBLIC  
MY COMMISSION EXPIRES MARCH 31, 1982

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

On this \_\_\_\_\_ day of January 1981, before me personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, says that he is a \_\_\_\_\_ of C.I.T. CORPORATION, that one of the seals affixed to the foregoing instrument is the 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.

[Notarial Seal]

Notary Public

TRINITY INDUSTRIES, INC.,

by

Richard A. Martin

[Corporate Seal]

Attest:

J. J. Gardner  
Assistant Secretary



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

On this            day of January 1981, before me personally appeared            , to me personally known, who, being by me duly sworn, says that he is a            of BEKER INDUSTRIES CORP., that the seal 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]

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

On this            day of January 1981, before me personally appeared            , to me personally known, who, being by me duly sworn, says that he is a            of C.I.T. CORPORATION, that one of the seals affixed to the foregoing instrument is the 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]

TRINITY INDUSTRIES, INC.,

by \_\_\_\_\_

[Corporate Seal]

Attest:

\_\_\_\_\_  
Assistant Secretary

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

On this            day of January 1981, before me personally appeared            , to me personally known, who, being by me duly sworn, says that he is a            of BEKER INDUSTRIES CORP., that the seal 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]

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

On this 9<sup>th</sup> day of January 1981, before me personally appeared Keith L. Fitch, to me personally known, who, being by me duly sworn, says that he is a V.P. of C.I.T. CORPORATION, that one of the seals affixed to the foregoing instrument is the 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.

Michael T. Concannon  
Notary Public

[Notarial Seal]

MICHAEL T. CONCANNON  
Notary Public, State of New York  
No. 41-4711290  
Qualified in Queens County  
Commission Expires March 30, 1982

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

On this <sup>12</sup> day of January 1981, before me personally appeared Richard A. Marten, to me personally known, who, being by me duly sworn, says that he is a Vice President of TRINITY INDUSTRIES, INC., 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.

Anne Grossman  
Notary Public

[Notarial Seal]

SCHEDULE A  
to Purchase Order Assignment

<u>Type</u>	<u>Place of Delivery</u>	<u>Quantity</u>	<u>Lessee's Road Numbers (inclusive)</u>
Molten Sulfur Tank Cars AAR Mechanical Designation: T-104	Trinity Industries, Inc. Highway 80 East Longview, Texas 75607	50	BICX 101-150

## TRINITY INDUSTRIES, INC.



April 18, 1980

Mr. B. E. Sullivan  
 Director Supply & Distribution  
 Beker Industries Corporation  
 124 W. Putnam Avenue  
 Greenwich, Connecticut 06830

Subject: Order for 13,500 Gallon Molten Sulfur Cars

Dear Brian:

This letter will confirm your verbal order for fifty newly constructed 111A100W3 13,500 gallon tank cars for sulfur service. Our proposal is subject to prior commitment of space, subject to credit approval and subject to the attached General Conditions and specifications:

Number of Cars	- 50
Specifications	- DOT 111A100W3
Capacity	- 13,500 Gallons Shell Full
Design	- 6" Fiberglass Insulation, 20 Runs 6" Half Oval Heater Coils, Steam Jacketed 4" Carbon Steel Bottom Ball Valve with Stainless Ball and Sten, Sloping Bottom to Center Line, Bottom Valve Protected by Skid.
Sales Price*	- \$53,054 each, F.O.B. Trinity Plant
Delivery	- September, October 1980

\*Escalation - The sales price is subject to escalation as determined by the percentage change in the Producers Price Index for Code 101 - Iron and Steel. The final sales price will be determined by multiplying the quoted sales price by a percentage arrived at by dividing the average index for the three months prior to the month of delivery by the average index for the three months of December, 1979, January and February, 1980. In any case the total price of each car shall not exceed \$54854.00 USD at time of delivery.

Mr. B. E. Sullivan  
Baker Industries Corporation

INC.  
April 18, 1980  
Page 2



Options:

1. Install 2" carbon steel top unloading -  
Add \$741 per car.
2. Substitute stainless steel manway nozzle, cover  
and I bolts for carbon steel - Add \$1,405 per car.

Terms - Wire bank transfer of funds for cars completed  
each week to Republic National Bank, Dallas, Texas.  
Trinity Account #210-785-6, notify John Hardin, Trinity  
Industries, Inc. Other terms and conditions in accordance  
with Form 4, General Conditions attached.

Will you please sign and return to my attention one copy of  
this letter indicating your acceptance of this proposal. We  
appreciate this opportunity to construct tank cars for Baker  
Industries and hope that this equipment will serve as a  
catalyst for a long and mutually beneficial relationship.

Sincerely,

*Richard G. Brown*  
Richard G. Brown  
Vice President

RGB/sb

Enclosures

ACCEPTED:

Number of Cars 50  
Option 1 delete  
Option 2 delete  
Total Sales Price \$53054.00

Company Baker Industries Corp.

By *K. A. Pedersen*

Title Vice President-Distribution

Date May 6, 1980

TRINITY INDUSTRIES, INC.

CUSTOMER: Beker Industries Corporation DATE 4/18/80

COMMODITY: Molten Sulfur WEIGHT/GAL. 15.0#

DOT 111A100W-3 SHELL CAPACITY 13,500 GALLONS

LIGHT WEIGHT 63,500 POUNDS, LENGTH OVER STRIKER 39'-0 1/8"

LENGTH OVER TRUCK CENTERS 28' -8 1/8" HEIGHT 15'-1" WIDTH 10'-1"

MATERIAL SPECIFICATION A515-70 DIAMETER 102" ID  
96" ID x

THICKNESS, HEADS 7/16 Min. SHELL 7/16 LENGTH SEAM TO SEAM 30'-11"

INTERIOR PREPARATION Sweep Clean  
Half 20 -

COILS, TYPE Exterior SIZE 6" Oval LINES Simplex INLET/OUTLET 2"-2"  
Stub

TYPE CAR Sill RUNNING BOARDS None

END PLATFORM AAR Approved SAFETY PLATFORM 2 Board, 2 Way

BRAKES Conventional HAND BRAKE Vertical

TRUCKS, TYPE Barber CAPACITY 100 Ton BEARINGS Roller

WHEELS, SIZE 36" WEAR 1 CLASS "U"  
6" Fiberglass 11 Guage w/F&D Heads &

INSULATION, TYPE (3/4# Density) JACKET 8 Guage Center Section  
Flanged 4" Cap

FITTINGS, BOTTOM UNLOADING 4" VALVE Ball Type PIPE SIZE 1" Plug

OVERHEAD UNLOADING None VALVE - PIPE SIZE -

AIR None SIZE & TYPE -

WASHOUT NOZZLE None VACUUM RELIEF None

SAFETY RELIEF VALVE Vent 100 PSI MANWAY COVER 20" Hinged, C.S.

TELL TALE None THERMOMETER None

SAMPLE LINE None GAUGING DEVICE Visual Bar S.S.

MULTI-HOUSE None

GASKET MATERIAL Chemical Asbestos MANWAY 20" C.S.

PAINT, FINISH Black Alkyd w/Epoxy STENCILLING AAR-DOT  
Centerband

ADVERTISING None

LINING None

FEATURES Bottom Outlet to be C.S. with SS ball and stem.  
Bottom Outlet and Manway to be steam Jacketed. Bottom Outlet  
to be protected by skid.

Form 4 - General Conditions

In the case of cars to be purchased by Baker Industries Corporation ("Customer") from Trinity Industries, Inc. ("TRI"), the Proposal and the Purchase Order (or Contract) shall be subject to the following General Conditions and, in the case of cars to be leased by Customer from Trinity Industries Leasing Company ("TIL"), the Proposal and the Lease shall be subject to paragraphs 1 and 3 of the following General Conditions:

1. SPECIFICATIONS AND CHANGES

requirements

which were not reasonably foreseeable as of the date of this contract

In the event that it shall become impossible for TRI to secure materials required for the building of these cars in exact accordance with specification requirements, by reason of Government regulations, or by reason of priorities given to defense orders, or for any other reason beyond the control of TRI, TRI (TIL) may make changes in the specifications not materially affecting the strength or efficiency of the cars for railroad use and interchange and the Customer agrees that it will not unreasonably withhold its consent to each change. Any changes in the specification desired by Customer must be requested in writing, and TRI (TIL) shall attempt to comply with requests but only upon condition that a written agreement is entered into with Customer specifying the precise changes desired and the cost to be paid by the Customer for such changes or the amount of any adjustment in the quoted purchase price or lease rate, as the case may be, and TRI agrees that it will not unreasonably withhold its consent to any such change.

2. INSPECTION:

In the case of purchased cars, TRI will give Customer full opportunity to inspect cars during construction at TRI's plant. On completion of each car, Customer may arrange for final inspection thereof at TRI's plant. If requested by TRI, Customer shall execute a certificate of inspection covering all cars found to be completed in accordance with the specifications and shall deliver the executed certificates to TRI. Each inspection certificate, with respect to cars covered thereby, shall be final and conclusive evidence that such cars conform in workmanship, material and construction, and in all other respects to the requirements and provisions of the Proposal and/or Purchase Order. In the case of leased cars, the provisions of the Lease shall govern inspection of the cars.

provided however, that nothing in this section shall be deemed to abrogate the warranty provisions of section of hereof.

3. DELIVERY:

The time of delivery of the cars is conditioned upon date of acceptance of the Proposal, TRI's ability to secure steel and other material to enable TRI to meet production requirements for these cars, cars on order which precede these cars in TRI's production schedule, and delays due to strikes, fires, accidents or any other causes or contingencies beyond TRI's control. Delay in delivery of any of the cars not due to TRI's (TIL's) willful act shall not constitute a

default under the Proposal and/or Purchase Order (Lease) nor will TRI (TIL) be under any obligation to arrange for shipment and acceptance of any required materials in advance of TRI's actual needs.

4. ACCEPTANCE AND TERMS OF PAYMENT:

TRI agrees to make, and unless otherwise agreed in writing, Customer agrees to accept delivery of all or any number of the cars as they are completed and delivered to Customer. In the case of purchased cars, Customer will pay the full amount of the purchase price upon delivery upon presentation by TRI of an invoice for any cars covered by the Proposal and/or Purchase Order, accompanied by inspection certificate (if any), and/or bill of lading showing shipments of the cars. In the case of leased cars, Customer will pay the rental charges as set forth in the Lease. TRI warrants that each, upon delivery, shall (i) be free of all liens, claims and encumbrances and (ii) be subject to no claims charges or demands of any kind or nature.

and a clean bill of sale for each car delivered.

Risk of LOSS TO CARS to remain with TRI until delivery

5. TAXES:

In the case of purchased cars, the quoted purchase price does not include any State or local sales use, or related taxes however designated or imposed, and any such sales or use tax or similar tax arising out of this transaction shall be for Customer's account. In the case of leased cars, the provisions of the Lease shall govern liability for taxes.

6. PATENTS:

In the case of purchased cars, TRI shall defend any suit or proceeding brought against Customer based on a claim that the cars, or any part thereof, furnished under the Proposal and/or Purchase Order, constitutes an infringement of any patent of the United States, if TRI is notified promptly in writing and given authority, information and assistance (at TRI's expense) for the defense of same, and TRI shall pay all damages and costs awarded therein against Customer. In case said cars, or any part thereof, are in such suit held to constitute infringement and the use of said cars or part is enjoined, TRI shall, at its own expense, and at its option, either procure for Customer the right to continue using said cars, replace same with non-infringing equipment, modify it so it becomes non-infringing or refund the purchase price. The foregoing states the entire liability of TRI for patent infringement by said cars or any part thereof; provided, however, the foregoing agreement of TRI shall not apply to cars, and any part thereof, manufactured or supplied to Customer's design or specification and, as to such cars, or any part thereof, TRI assumes no liability whatsoever for patent infringement.

7. WARRANTY:

In the case of purchased cars, TRI agrees to build the cars in accordance with the applicable specifications (except as to items manufactured or supplied to the Customer's design and specifications) and that the cars will be free of defects in material and workmanship; provided, however, that TRI's obligation

hereunder shall not cover or apply to any product, accessory, part or attachment which is not manufactured by TRI, except to the extent the manufacturer of any such item provides a similar warranty to TRI; provided further, that TRI's obligation under this warranty shall be limited to repairing or replacing at TRI's car repair shop or at a shop selected by TRI, any part or parts of any of the cars which shall, within one year or 25,000 miles (whichever occurs first) after delivery of any such car, be returned to TRI with transportation charges prepaid and which TRI's examination shall disclose to its satisfaction to have been thus defective. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR THAT THE CARS ARE FIT FOR ANY PARTICULAR PURPOSE OR USE, AND SPECIFICALLY IN LIEU OF ALL INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES. In the case of leased cars, the provisions of the Lease shall govern TIL's obligations regarding warranty.

8. APPLICABLE LAW:

~~If is specifically agreed by the parties~~ that the Proposal, the Purchase Order (or Contract), the Lease and the General Conditions set forth herein shall be governed by and construed according to the laws of the State of Texas.

9. BINDING EFFECT:

The proposal, the Purchase Order (or Contract) and the General Conditions incorporate and supersede all other negotiations, orders, confirmations and memorandum of every kind and nature between the parties relating to the cars, and the terms thereof and the rights and obligations of the parties hereto may not be changed, added to, modified or terminated orally except by written agreement of the parties.

*RPB*

10. ASSIGNMENT:

The Proposal, the Purchase Order (or Contract) and the General Terms and Conditions may not be assigned by TRI without the consent of Customer which consent shall not be unreasonably withheld and they shall be binding upon and insure to the benefit of the parties and their respective successors and origins of the parties hereto.

*RPB*

5239A

**Baker Industries Corp.**

24 West Putnam Avenue, Greenwich, Connecticut 06830  
Telephone: 203/622-5700, TWX 710-579-2918  
Telex 96-58-62 Cable: FERTILIZER

May 7, 1980

Mr. Wayne Marley  
TRINITY INDUSTRIES INC.  
P. O. Box 10587  
Dallas, TX 75207

Wayne:

Attached are two signed copies of our agreement to purchase 50-13500 gallon molten sulfur tank cars.

We have made several changes which we do not think will be any problem. As we discussed on page one of the April 18 letter, I have added the last sentence to the escalation clause.

Form 4 General Conditions

We have made several changes in paragraphs 1, 2 and 4.

We have added paragraph 9 and 10 which are self-explanatory.

If you would initial changes and return one copy we would appreciate it.

We at Baker hope this will be the start of a long and profitable relationship between our two companies.

Thank you,

BEKER INDUSTRIES CORPORATION

*Brian E. Sullivan*

Brian E. Sullivan  
Director-Supply & Distribution

BES/eab

cc; K. A. Pedersen



# TRINITY INDUSTRIES LEASING COMPANY

*A Subsidiary of Trinity Industries, Inc.*



May 21, 1980

Mr. B. E. Sullivan  
Director - Supply & Distribution  
Baker Industries Corporation  
124 W. Putnam Avenue  
Greenwich, Connecticut 06830

Subject: Your Order for (50) New 13,500 Gallon Sulfur Cars

Dear Brian:

Thank you for your letter dated May 7, 1980, confirming an order for the subject cars. We appreciate your business.

Your changes to our quotation letter, dated April 18, 1980, and General Conditions have been approved with only minor, grammatical adjustments.

Our Executive Vice President, Mr. Richard G. Brown, has initialed all changes and one of the copies is enclosed for your records.

This order is now considered firm and has been established in our production schedule to meet the delivery estimated in our original quote.

Once again, Brian, thank you for this order.

Sincerely,

*Wayne R. Marley*  
Wayne R. Marley  
General Sales Manager

WRM/sb

Enclosure