

The CIT Group/
Capital Financing, Inc

270 Park Avenue
New York, NY 10017
212 286-4324



1-5225

Filed & Recorded

RECORDATION NO. MAY 12 1987 2:46 PM 7-132A085

Elizabeth F. Reilly
District Sales Manager

INTERSTATE COMMERCE COMMISSION

MAY 12 1987

April 27, 1987

Due \$ 10.00

ICC Washington, D. C.

REGISTERED MAIL

Honorable Noretta R. McGee
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

MAY 12 2 31 PM '87
MOTOR OPERATING UNIT
100 OFFICE OF
THE STORE

Dear Ms. McGee:

On behalf of The CIT Group/Equipment Financing, Inc., I submit for filing and recording under 49 U.S.C. Section 11303 (a) and the regulations promulgated thereunder, three executed originals of a Railcar Lease Agreement entered into October 30, 1986 which is a primary document not previously recorded.

The parties to the said enclosed document are:

The CIT Group/Equipment Financing, Inc. - Lessor
270 Park Avenue, 29th Floor
New York, New York 10017

Texasgulf, Inc. - Lessee
P.O. Box 30321
Glenwood at Glen Eden
Raleigh, North Carolina 27622

The said document covers the lease from CIT to Texasgulf of the cars described in the attached Equipment Schedule.

Enclosed is our firm check in the amount of ten dollars (\$10) in payment of the filing fee.

Once this filing has been made, please return to me the stamped counterparts of the document not needed

for your files, together with the fee receipt,
the letter from the ICC acknowledging the filing,
and the two extra copies of this letter of transmittal.

Very truly yours,

Elizabeth F. Reilly

Elizabeth F. Reilly
District Sales Manager

EFR:mb

Enc.

Interstate Commerce Commission
Washington, D.C. 20423

5/13/87

OFFICE OF THE SECRETARY

Elizabeth F. Reilly
District Sale Manager
The CIT Group
Capital Financing, Inc.
270 Park Ave.
New York, N.Y. 10017

Dear Ms. Reilly.

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 5/12/87 at 2:45pm, and assigned re-
recording number(s) -15225

Sincerely yours,

Norita R. McGee
Secretary

Enclosure(s)

SE-30
(7/79)

RAILCAR LEASE AGREEMENT

THIS LEASE made and entered into as of this 30th day of October, 1986, by and between The CIT Group/Equipment Financing, Inc., hereinafter called "Lessor", and Texasgulf Incorporated, hereinafter called "Lessee".

RECORDATION NO. 1.5225 Filed & Recorded

MAY 12 1987 2:45 PM

LESSOR AND LESSEE HEREBY AGREE AS FOLLOWS:

1. Lease: Lessee agrees to lease from Lessor the Cars in Equipment Schedule attached hereto, for the purpose of transporting molten sulfur, together with all replacement parts, additions, repairs and accessories incorporated therein and/or affixed thereto (the "Cars"), upon the terms and conditions herein set forth. This Lease shall be binding only on Cars described in an Equipment Schedule duly signed by both Lessor and Lessee.

2. Rent; Term: Rent will commence on the date Lessee places each Car in service, which date is herein called the "Rent Commencement Date". Lessee shall use its best efforts to place all Cars in service as soon as possible. The daily rent and the term of this Lease are described in Exhibit 1.

Lessee shall not be entitled to any abatement of rent, reduction thereof or set-off, counterclaim, recoupment or defense against rent or any other amount payable hereunder for any reason whatsoever, including, but not limited to, abatements, reductions, set-offs, counterclaims, recoupments or defenses due or alleged to be due by reason of any past, present or future claims of Lessee against Lessor or any other person for any reason whatsoever, except as otherwise provided herein. Lessee acknowledges that: (i) Lessor is in no way connected to the Car manufacturer; (ii) Lessor has no knowledge or information as to the condition or suitability for Lessee's purpose of the Cars; and (iii) Lessor's decision to enter into this Lease is made in reliance on Lessee's undertakings herein, including Lessee's express agreement not to assert against Lessor any claims, defenses, set-offs or counterclaims it may now or hereafter have against the Car manufacturer.

3. Warranties and Representations: LESSOR MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND RESPECTING THE CARS, WHETHER STATUTORY, WRITTEN, ORAL OR IMPLIED, AND LESSOR HAS NOT MADE AND DOES NOT HEREBY MAKE, NOR SHALL IT BE DEEMED BY VIRTUE OF HAVING LEASED THE CARS, PURSUANT TO THIS AGREEMENT TO HAVE MADE ANY REPRESENTATION OR WARRANTY AS TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE WORKMANSHIP IN, THE CARS, ALL OF WHICH ARE EXPRESSLY DISCLAIMED AS BETWEEN THE PARTIES HERETO AND LESSOR SHALL NOT BE LIABLE, IN CONTRACT, TORT OR OTHERWISE, ON ACCOUNT OF ANY DEFECT, WHETHER HIDDEN, LATENT OR OTHERWISE DISCOVERABLE OR NONDISCOVERABLE RESPECTING ANY CARS. Lessee accordingly agrees not to assert any claim whatsoever against Lessor based thereon. Lessee further agrees, regardless of cause, not to assert any claim whatsoever against Lessor for loss of anticipatory profits or consequential damages.

4. Place of Payment of Rent: Lessee shall direct payment of the monthly rent to the following address:

The CIT Group/Equipment Financing, Inc.
270 Park Avenue, 29th Floor
New York, New York 10017
Attention: Mr. Stephen O'Neill

5. Recordkeeping; Inspection: Lessee agrees to keep and maintain and make available to Lessor such record of Lessee's use, operation, inspection, repairs and maintenance of each Car while in its possession as shall be reasonably required by Lessor. Lessor, by such agent or agents as it may designate, shall have the right at all reasonable times to go upon the property of Lessee to inspect any Car while in the possession of Lessee.

6. Responsibility for Damage or Destruction of Cars: Lessee agrees that, as between itself and Lessor, Lessee will be responsible for any loss, damage or destruction of any Car leased to it by Lessor and for injuries to persons or damages to property caused by any Car, unless caused by negligence of Lessor, after it is placed in service and while it is subject to this Lease.

7. Insurance: (a) Subject to the limitations set forth in Section 6, all risk of loss of, damage to or destruction of the Cars shall at all times be on Lessee.

(b) Lessee shall provide insurance against loss, theft, and destruction or damage of the Cars, and against liability imposed by law for injury to, or death of persons or damage to or destruction of property arising out of the use and operation of the Cars, in no event less comprehensive in amounts and against risk customarily insured against by Lessee in respect of similar equipment owned or leased by, it provided that liability insurance coverage shall be at least \$1,000,000 per occurrence. Lessee shall pay applicable premiums for insurance. Lessor shall have the right to insure the Cars for its own account, for the amount by which its fair market value exceeds the coverage required hereunder.

(c) All insurance policies required hereunder shall (i) be issued by insurance carriers of recognized responsibility, (ii) cover the interests of Lessee and Lessor and protect Lessee and Lessor in respect of risks arising out of the condition, maintenance, use, ownership and operation of the Cars, (iii) provide that the insurance carrier give at least 30 days' prior notice in the event of cancellation or material alteration in coverage, (iv) provide, as to such physical damage insurance, that the losses, if any, shall be payable to the Lessor under a standard long form loss payable clause, and that, as to liability insurance, Lessor shall be an additional insured, (v) provide that in respect of the interest of the Lessor in such policies, the insurance shall not be invalidated by any action or inaction of Lessee and shall insure Lessor's interest as it appears regardless of any breach or violation by Lessee of any warranty, declaration or condition contained in such policies, and (vi) not require co-insurance.

(d) The proceeds of any physical damage insurance received by Lessor shall be paid to Lessee: (i) in the case of a Casualty Occurrence with respect to any Car upon payment by Lessee of the Casualty Value of such Car, or (ii) upon the loss, damage or destruction of any Car which does not constitute a Casualty Occurrence, upon the receipt from Lessee of a certificate to the effect that such Car has been repaired, restored or replaced, as the case may be (which certificate shall be accompanied by satisfactory evidence of such repair, restoration or replacement), provided that so long as any default by Lessee or event of default shall be continuing hereunder, Lessor shall be entitled to apply such proceeds against Lessee's obligations hereunder or under any other obligation of Lessee to Lessor. Lessee shall furnish Lessor with certificates or other evidence of compliance with this Section 7 as may reasonably be requested.

8. Indemnity: Subject to the limitations set forth in this Agreement, Lessee agrees that Lessor shall not be liable to Lessee for, and Lessee shall indemnify and save Lessor harmless from and against any and all liability, loss, damage, expense, causes of action, suits, claims or judgments arising from or caused directly or indirectly by: (a) Lessee's failure to promptly perform any of its obligations under the provisions of Sections 2, 6, and 7 of this Lease, or (b) injury to person or property resulting from or based upon the actual or alleged use, operation, delivery or transportation of any or all of the Cars or their location or condition, or (c) except as provided in the second paragraph of Section 12 below, inadequacy of the Cars, or any part thereof, for any purpose or any deficiency or defect therein or the use or maintenance thereof or any repairs, servicing or adjustments thereto or any delay in providing or failure to provide any thereof or any interruption or loss of service or use thereof or any loss of business; and shall, at its own cost and expense, defend any and all suits which may be brought against Lessor, either alone or in conjunction with others upon any such liability or claim or claims and shall satisfy, pay and discharge any and all judgments and fines that may be recovered against Lessor in any such action or actions, provided, however, that Lessor shall give Lessee written notice of any such claim or demand. Lessee shall have no obligation to indemnify Lessor or to hold Lessor harmless to the extent that any liability, loss, damage, expense, cause of action, suits, claims or judgment has been caused by the negligence or intentional malfeasance of Lessor or Lessor's agents, employees or representatives. This indemnity shall survive the expiration or termination of this Lease.

9. Return of Cars upon Termination of Term: Upon expiration or termination of the Lease, the Lessee will, upon written notice by Lessee or Lessor as set forth in Exhibit 1, return each of the Cars to Lessor in the same condition as received, less normal wear and tear, fit for loading and transportation of molten sulfur and suitable for interchange in accordance with AAR Rules of Interchange, and free of liens arising by, through, or under Lessee, at a point on the Union Pacific Railroad or such other point mutually agreed upon by Lessor and Lessee. Lessee shall pay rent on each Car until each Car is returned in the above condition to the point referenced above, or is placed in storage at the request of Lessor as provided below. The return of each Car shall be at the expense and risk of Lessee.

At the expiration or termination of this Lease, Lessee agrees to provide storage for up to sixty (60) days at no expense to Lessor. Lessee will not be liable for any damages, destruction, or casualty to any of the Cars while in storage, except to the extent that such is caused by the negligence or willful misconduct of Lessee, its agents or employees.

10. Assignment: Lessee shall not assign or sublet its interest, or any part thereof, under this Lease, or permit the use or operation of any Car subject to this Lease by any other person, firm or corporation, other than wholly-owned subsidiaries, without the prior written consent of Lessor. Lessor may at any time assign all or any portion of the rents due or to become due, and/or the Cars without notice to Lessee and in such event Lessor's transferee as assignee shall have all the rights, powers, privileges and remedies of the Lessor hereunder. Lessee shall have no obligation to pay any assignee, and shall continue to pay Lessor, until such time as notice of such assignment is given to Lessee in accordance with Section 11.

11. Notice: Unless otherwise specifically provided, any notices to be given under this Lease or any other communications between the parties shall be given by registered or certified mail, postage prepaid, in the following manner:

(a) Notices from Lessor to Lessee shall be sent to:

Texasgulf Incorporated
P.O. Box 30321
Glenwood at Glen Eden
Raleigh, North Carolina 27622

or to such other address as Lessee may from time to time indicate by written notice to Lessor.

(b) Notices from Lessee to Lessor shall be sent to:

The CIT Group/Equipment Financing, Inc.
270 Park Avenue, 29th Floor
New York, New York 10017
Attention: Mr. Stephen O'Neill

or to such other address as Lessor may from time to time indicate by written notice to Lessee.

12. Compliance with Law; Repair and Maintenance: Lessor and Lessee shall comply with FRA and all other applicable governmental laws, regulations, and requirements and other binding regulations with respect to use, maintenance, and operation of the Cars during the Lease term.

The Lessee shall use the Cars only in the manner for which designed and intended and subject them only to ordinary wear and tear. Lessor agrees to maintain at its own expense each of the Cars in good condition and repair for Molten Sulfur Service, in conformity with all applicable laws and regulations including the A.A.R. Code of Rules and FRA Railroad Freight Car Safety Standards and shall allow an abatement for Rent from the time a Car or the Cars are determined to be in need of repair and until said Car or Cars are delivered back to Lessee, except for the following:

(a) Repairs or maintenance required as a result of damage caused by the Lessee, its agents, representatives, or customers; or

(b) Repairs or maintenance required because of damage caused to the Cars by any corrosive or abrasive substance loaded therein or used in connection therewith other than the product for which the Cars were leased; or

(c) Repairs or maintenance required because of damage caused to the Cars by open flames, vibrators, sledges or other similar devices during loading or unloading operations.

Lessee will make the Cars available to Lessor or its contractors at any facility specified by Lessor at any reasonable time on request for the purpose of inspection and to ensure regular maintenance or repairs. Lessor shall pay all transportation charges for moving any Car to the repair or inspection facility so designated by Lessor.

In the case of damage caused to any of the Cars which is the responsibility under AAR Rules of a railroad and not repaired by such railroad, Lessor will perform the necessary repairs and will prepare and submit such documents as are necessary to recover the cost of such repairs in accordance with AAR Rules and will perform all necessary administrative tasks in connection with such counterbilling. Lessor will be solely entitled to any sum so recovered.

Lessee will, at Lessor's request, take such reasonable action as Lessor may specify to modify operating conditions within Lessee's control which in Lessor's reasonable opinion are causing undue and avoidable wear or damage to the Cars, and to cooperate with Lessor in pursuing claims against a railroad under the preceding paragraph.

Neither party to this Agreement will alter materially the physical structure or allow any third party to alter materially the physical structure of any of the Cars without the other party's written consent.

Lessor reserves the right to retire any Car that in its sole opinion it deems uneconomical to repair. Lessee's obligation to pay rent shall abate for any Car retired by Lessor as of the date on which it is returned.

Any parts, replacement parts, additions, repairs or accessories made or installed on the Cars by Lessee shall be considered accessions to the Cars and title thereto shall immediately vest in Lessor, without cost or expense to Lessor.

13. Quiet Enjoyment: So long as Lessee makes its aforesaid rental payments and otherwise complies with the terms and provisions hereof, Lessee shall be entitled to the use and possession of the Cars according to the terms hereof without interference by the Lessor or by any party lawfully claiming by or through the Lessor.

14. Authority: The undersigned signatories herewith represent and warrant that they are fully authorized to execute this Lease and bind the respective parties to the terms and provisions hereof. Lessor will pay all commissions and fees to Helm Financial Corporation, who has been retained in connection with this transaction, and will hold Lessee harmless for any such fees or commissions.

15. Late Charges: Delinquent instalments of rent shall bear interest at an annual rate of 18% per annum calculated and compounded monthly, or if such rate is prohibited by law, at the highest lawful rate of interest per annum for commercial transactions.

16. Default: If (i) the Lessee fails to make any payment of Rent due and owing hereunder on its due date, or (ii) fails to carry out or perform any of the other obligations of the Lessee to be performed by it under this Lease, and such failure continues for a period of five (5) business days after notice has been given by Lessor to Lessee of such failure, or (iii) a Termination Event shall occur, then, and in any of said events, Lessor shall have all rights available to it at law or in equity, including without limitation the right immediately to repossess the Cars, to remove the Cars from Lessee's service, to terminate this Agreement, and recover any and all damages sustained as a result of Lessee's default. If Lessor shall terminate this Agreement pursuant to this Section, Lessee shall remain liable for all unpaid rent and other amounts due hereunder. The rights and remedies herein given to Lessor shall in no way limit its other rights and remedies given or provided by law or in equity.

Should any proceedings be instituted by Lessor for monies due to Lessor hereunder and/or for possession of any or all of the Cars or for any other relief, Lessee shall pay Lessor a reasonable sum as attorney's fees.

As used herein, "Termination Event" means (a) Lessee ceases to operate as a going concern, or (b) a petition under the Bankruptcy Code is filed by or against Lessee, or (c) Lessee makes an assignment for the benefit of creditors or admits in writing its inability to pay its debts as they become due, or (d) Lessee breaches any warranty or covenant herein or in any other agreement between Lessee and Lessor.

17. Miscellaneous: If any part hereof is contrary to, prohibited by or deemed invalid under applicable laws or regulations of any jurisdiction, such provision shall be inapplicable and deemed omitted but shall not invalidate the remaining provisions hereof. Lessee admits the receipt of a true copy of this Railcar Lease Agreement.

18. Choice of Law: This Lease shall be governed in all respects by the law of the State of New York.

19. Lettering of Cars: Upon acceptance of the Cars, Lessee shall, at its sole cost and expense, cause the Cars to be lettered with the railroad markings of Helm Financial Corporation ("HLMX"). Upon termination of this Lease, Lessee shall not be required to change the reporting marks on the Cars or to bear the cost of performance of any such change.

ATTEST:

[Signature]
Assistant Secretary

THE CIT GROUP/EQUIPMENT FINANCING, INC.

By

[Signature]
Title Senior Vice President

ATTEST:

[Signature]
~~President~~
SECRETARY

TEXASGULF INCORPORATED

By

[Signature]
Title PRESIDENT

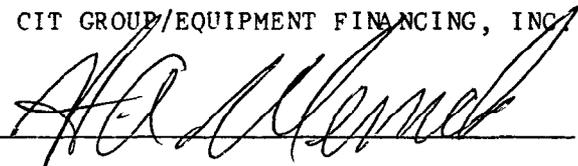
EQUIPMENT SCHEDULE

Molten Sulfur Tank Cars Manufactured
by Trinity Industries

<u>UNIT NO.</u>	<u>UNIT NO.</u>	<u>UNIT NO.</u>	<u>UNIT NO.</u>
HLMX 101	HLMX 115	HLMX 129	HLMX 143
HLMX 102	HLMX 116	HLMX 130	HLMX 144
HLMX 103	HLMX 117	HLMX 131	HLMX 145
HLMX 104	HLMX 118	HLMX 132	HLMX 146
HLMX 105	HLMX 119	HLMX 133	HLMX 147
HLMX 106	HLMX 120	HLMX 134	HLMX 148
HLMX 107	HLMX 121	HLMX 135	HLMX 149
HLMX 108	HLMX 122	HLMX 136	HLMX 150
HLMX 109	HLMX 123	HLMX 137	
HLMX 110	HLMX 124	HLMX 138	
HLMX 111	HLMX 125	HLMX 139	
HLMX 112	HLMX 126	HLMX 140	
HLMX 113	HLMX 127	HLMX 141	
HLMX 114	HLMX 128	HLMX 142	

THE CIT GROUP/EQUIPMENT FINANCING, INC

By:



Title: Senior Vice President

TEXAS GULF INCORPORATED

By:



Title: PRESIDENT

EXHIBIT 1

The rent shall be \$250.00 per Car per month, pro rated for the number of days each Car is in service. Payment of rent shall be made to Lessor at the address specified in Section 4, or to such other place as Lessor may direct. Lessor shall submit a monthly invoice for rental following the end of each month, which invoice shall be paid by Lessee within ten days of receipt.

The initial term of this lease is from October 30, 1986 through March 31, 1987. Such rent shall continue on a monthly basis until terminated by Lessee or Lessor, and termination shall be accomplished for any or all Cars as follows:

(1) Either Lessee or Lessor may terminate upon 30 days prior notice, and upon the effective date of termination the Car or Cars shall be placed in storage under and pursuant to Section 9 of the Lease.

(2) Notification hereunder shall be via telex or telephone and confirmed as set forth in Section 11.

If during any period when Lessee has possession of the Cars, Lessor decides to terminate this Lease, and no event of default shall have occurred or be occurring, Lessor shall offer the Cars to Lessee for lease or sale upon terms no less favorable to Lessee than Lessor's most favorable proposed lease or purchase offer. Within one working day of Lessee's receipt of Lessor's notice of the complete terms and conditions of such proposed lease or purchase offer, Lessee shall notify Lessor whether Lessee accepts or rejects the proposed lease or purchase offer. If no notice is given by Lessee, the proposed lease or purchase offer shall be deemed rejected, and Lessor will give notice of termination as provided herein.

STATE OF Connecticut)S
COUNTY OF Fairfield)S

I, Mary A. Hansen, a Notary Public in and for the State and County aforesaid, do hereby certify that Gene Gusti and Charles W. Wilder of Texasgulf Incorporated, a Delaware corporation, whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such President (title) and Secretary (title) respectively, they signed, sealed and delivered the aforesaid instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority of its Board of Directors, as their free and voluntary act and as the free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal this 26th day of March, 1987.

Mary A. Hansen
Notary Public

MARY A. HANSEN
Notary Public
My Commission Expires March 31, 1992

