

Interstate Commerce Commission
Washington, D.C. 20423

1/4/83

OFFICE OF THE SECRETARY

Pamela B. Loewenstein
Evans Products Company
The East Tower
2550 Golf Road
Rolling Meadows, Illinois 60008

Dear **Sir:**

The enclosed document (s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **2/4/83** at **10:35am**, and assigned re-
recording number (s).

8913-A, 13933, 13934, 13935, 13936, 13937, 13938
Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure (s)

13933

FEB 4 1983 10 35 AM

SHORT-TERM RAILROAD CAR LEASE AGREEMENT

INTERSTATE COMMERCE COMMISSION

AGREEMENT made and entered into this 8th day of October, 1982, between EVANS RAILCAR LEASING COMPANY, an Illinois corporation (hereinafter called "Evans") and CAROLINA BY-PRODUCTS, INC. a(n) North Carolina corporation, with its principal place of business at 2410 Randolph Avenue, Greensboro, North Carolina (hereinafter called "Lessee").

RECITALS

Lessee desires to lease from Evans as Lessor certain railroad cars, hereinafter specifically designated, all upon the rentals, terms and conditions set forth in this Railroad Car Lease Agreement and the Schedules from time to time made a part hereof (together hereinafter referred to as the "Lease").

AGREEMENT

It is agreed:

1. Lease of Cars. Evans agrees to lease to Lessee and Lessee agrees to and does hereby lease from Evans, railroad cars of the number of units, model, type, construction and such other description (hereinafter referred to as the "Cars"), as is set forth in any Schedule hereto. All Schedules shall be in the form of Schedule 1 hereto, shall contain such other terms and provisions as Evans and Lessee may agree upon and shall, if requested by either party, have the signatures thereto acknowledged by a notary public. The terms and provisions of the Schedule shall control over any inconsistent or contrary terms and provisions in the body of this Lease.

2. Delivery and Acceptance of Cars. Evans shall deliver the Cars as promptly as is reasonably possible. Delivery shall be F.O.T. the point specified in the applicable Schedule. From and after acceptance of a Car, Lessee shall be liable for, and shall pay or reimburse Evans for the payment of all costs, charges and expenses of any kind whatsoever on account of or relating to any legitimate railroad transportation charges such as freight expense, demurrage, storage, switching charges, or roadhaul freight charge.

All Cars delivered under this Lease shall be in satisfactory condition for movement in the normal interchange of rail traffic and shall otherwise comply with the description and specifications contained in the applicable Schedule; but Lessee shall be solely responsible for determining that Cars are in proper condition for shipment and use. At Evans' request, Lessee shall deliver to Evans an executed Certificate of Acceptance in the form of Exhibit A with respect to all Cars.

3. Use and Possession. Throughout the continuance of this Lease so long as Lessee is not in default hereunder, Lessee shall be entitled to possession of each Car from and after delivery of such Car and shall use such Car on its own property or lines or in the usual interchange of traffic; provided, however, that Lessee agrees that Cars shall at all times be used (i) in conformity with all Interchange Rules; (ii) only within the continental limits of the United States of America or in temporary or incidental use in Canada; and (iii) in such service as will not constitute a train hauling predominantly a single commodity, such as coal or grain, between the same points on a regular basis, commonly referred to as a "unit train."

4. Rental. Rental shall include but not be limited to all mileage, straight car hire, and incentive car hire earnings payable to Lessee or Evans on account of such car. Mileage credits shall be at the rate established by the applicable mileage rate allowances published in PHJ tariff 6007 series (ICC PHJ 6007, Item 195 and/or 621) supplements thereto or successive issues thereof. All such earnings as previously defined shall be for the account of Evans.

5. Mileage Credits. Since the Cars bear Evans' reporting marks and numbers, any time and mileage payments paid or allowed by railroads on the Cars shall be the property of Evans. Upon notice from any railroad, whether received prior to or after termination of this Lease, Lessee agrees to pay Evans all sums due on account of all excess empty mileage incurred on Cars during the term of this Lease.

6. Title. Lessee shall not by reason of this Lease or any action taken hereunder acquire or have any right or title in the Cars except the rights herein expressly granted to it as Lessee.

7. Repairs.

(a) Evans. Except as may otherwise be provided in this paragraph 7(a) and (b), Evans shall be responsible for all Repair Work and maintenance of the Cars. Lessee shall promptly notify Evans of any Repair Work of which it has knowledge. Evans shall have no responsibility hereunder until and unless notified of the need for Repair Work. Evans may require Lessee to deliver Cars to such place as Evans designates for all Repair Work, and Evans may terminate this Lease with respect to any Car as to which it deems Repair Work to be unsuitable or uneconomical.

(b) Lessee. Except where a railroad or railroads have assumed full responsibility, Lessee shall be responsible for and shall pay all costs and expenses of all Repair Work or other work or materials required (i) by reason of damage or other condition caused by negligence of Lessee or anyone other than Evans; (ii) by reason of damage or other condition

caused by loading, unloading or use other than as permitted under this Lease, (iii) by reason of loss or damage resulting from any commodity or other material loaded in or on any Car. Lessee shall also be responsible for and bear the cost of regularly cleaning the interior of all Cars leased hereunder.

8. Substitution of Cars. Evans may, at any time and from time to time, replace any Casualty Cars with Replacement Cars which shall be deemed to be subject to all terms and conditions of this Lease.

9. Abatement of Rent. Rental payments on any Car out of service for Repair Work which is Evans' responsibility, shall abate from the day after such Car has been placed in a repair shop for service until such Car or a replacement Car is delivered to Lessee, to a railroad for the account of Lessee, or is otherwise ready for or is returned to service by Lessee. In the event rental is abated, if Evans elects, the original term of this Lease with respect to the Schedule covering such Car shall be extended for a period of time determined by dividing the sum of the number of days per Car with respect to which rental was so abated by the number of Cars subject to such Schedule on what would otherwise have been the last day of the original term.

10. Taxes. Lessee shall be liable for all Sales, use, or gross receipts taxes imposed upon the equipment during the term of this lease.

11. Liens. Lessee shall keep the Cars free from any and all encumbrances or liens.

12. Indemnities - Patent Covenants. Lessee agrees to indemnify Evans and hold it harmless from any loss, expense or liability which Evans may suffer or incur from any charge, claim, proceeding, suit or other event which in any manner or from any cause arises in connection with the use, possession or operation of a Car while subject to this Lease, excepting only any such loss, expense or liability which arises solely from Evans' negligence. Lessee's indemnity shall not eliminate the rights given Lessee under any manufacturer's warranty assigned to it pursuant to Paragraph 20. The indemnities and assumptions of liability herein contained shall survive the termination of this Lease. Each party shall, upon learning of same, give the other prompt notice of any claim or liability hereby indemnified against.

13. Lettering - Inventory. Lettering on the Cars shall be at Evans' discretion and only with its consent. Evans shall at all reasonable times be allowed to inspect the Cars.

14. Loss, Theft or Destruction of Cars. In the event any Car is lost, stolen, destroyed or damaged beyond economic repair while on track owned or leased by the Lessee or agents of the Lessee, or any of their customers, Lessee shall, within five days of its knowledge thereof, by written notice, fully advise Evans of such occurrence.

Until Evans is notified this Lease shall continue in full force and effect with respect to such Casualty Car irrespective of the cause, place or extent of any casualty occurrence, the risk of which shall be borne by Lessee, but thereafter Lessee shall have no further liability to Evans under this Lease with respect thereto excepting accrued rent and liabilities arising or existing under Paragraphs 10, 11, and 12 hereof.

15. Return of Cars. Upon the expiration or termination of this Lease with respect to any Car (other than pursuant to Paragraph 14 hereof), Lessee shall at its sole cost and expense forthwith surrender possession of such Car to Evans by delivering same to Evans at such repair shop, storage or terminal facility as Evans may designate by notice to Lessee. Each Car so surrendered shall be in the same or as good condition, order and repair as when delivered to Lessee, wear and tear from ordinary use and the passage of time excepted, shall be in need of no repairs, other than repairs necessitated by normal wear and tear, and shall be free from all accumulations or deposits from commodities transported in or on the Cars while in the service of Lessee. If any of the Cars do not bear Evans' reporting marks and numbers, Lessee shall place such reporting marks and numbers on any or all of the Cars as Evans shall designate in writing to Lessee prior to the end of the lease term. Until the delivery of possession to Evans pursuant to this Paragraph 15, Lessee shall continue to be liable for and shall pay rental at the rate being paid immediately prior to termination or expiration, and Lessee shall in addition make all other payments and keep all obligations and undertakings required of Lessee under any and all provisions of this Lease as though such termination or expiration had not occurred. If Lessee is a railroad, Lessee agrees to provide storage at its expense, upon the request of Evans, for any or all of the Cars for a period of ninety (90) days from the date of expiration or termination of this Lease. Nothing in this Paragraph 15 shall give Lessee the right to retain possession of any Car after expiration or termination of this Lease with respect to such Car.

16. Default. If Lessee shall fail to make any payment required under this Lease within 20 days after same shall have become due or shall default or fail for a period of 20 days in the due observance or performance of any covenant, condition or agreement required to be observed or performed on its part under this Lease, or if a proceeding shall have been commenced by or against Lessee under any bankruptcy laws, Federal or State, or for the appointment of a receiver, assignee or trustee of Lessee or its property, or if Lessee shall make a general assignment for the benefit of creditors, then and in any of said events Evans may at its election take any and all action available to it at law and equity; including, without limitation, the right to

repossess the Cars (and to do so without terminating this Lease).

17. Sublease and Assignment. The right to assign this Lease by either party and the Lessee's right to sublease shall exist only as follow:

(a) Lessee shall have no right to assign or sublease or loan any of the Cars without the prior written consent of Evans.

(b) all rights of Evans under this Lease may be assigned, pledged, mortgaged, transferred or otherwise disposed of either in whole or in part without notice to or consent of Lessee and Lessee's rights hereunder are and shall be subject and subordinate thereto.

The making of an assignment or sublease by Lessee or an assignment by Evans shall not serve to relieve such party of any liability or undertaking under this Lease nor to impose any liability or undertaking under this Lease upon any such assignee or sublessee except as otherwise provided herein or unless expressly assumed in writing by such sublessee or assignee.

18. Notice. Any notice required or permitted to be given pursuant to the terms of this Lease shall be properly given when made in writing, deposited in the United States mail, registered or certified, postage prepaid, addressed to:

Evans at: 2550 Golf Road
Rolling Meadows, Illinois 60008

or at such other addresses as Evans may from time to time designate by such notice in writing and Lessee at the address first above written or any such other address as Lessee may from time to time designate by notice in writing.

19. Warranty. Evans agrees to assign to Lessee such rights as it may have under warranties, if any, which it may have received from the manufacturer of any Cars or parts therefor and shall at Lessee's expense cooperate with Lessee and take such action as may be reasonably requested to enable Lessee to enforce such rights. EVANS MAKES NO WARRANTY OR REPRESENTATION OF ANY KIND, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING SPECIFICALLY BUT NOT EXCLUSIVELY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE EXTENDING BEYOND THE DESCRIPTION IN THE APPLICABLE SCHEDULE, OR THE DESIGN, WORKMANSHIP, CONDITION OR QUALITY OF THE CARS OR PARTS THEREOF WHICH CARS HAVE BEEN ACCEPTED BY LESSEE HEREUNDER; AND EVANS SHALL HAVE NO LIABILITY HEREUNDER FOR DAMAGES OF ANY KIND, INCLUDING SPECIFICALLY BUT NOT EXCLUSIVELY, SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ON ACCOUNT OF ANY MATTER WHICH MIGHT OTHERWISE CONSTITUTE A BREACH OF WARRANTY OR REPRESENTATION.

20. Governing Law - Writing. The terms of this Lease and all rights and obligations under this Lease shall be governed by the laws of the State of Illinois, and may may not be changed or terminated other than by agreement in writing.

21. Definitions. For all purposes of this Lease the following terms shall have the following meaning:

(a) "Interchange Rules" - all codes, rules, interpretations, laws or orders governing hire, use, condition, repair and all other matters pertaining to the interchange of freight traffic reasonably interpreted as being applicable to the Cars, adopted and in effect from time to time by the Association of American Railroads and any other organization, association, agency, or governmental authority, including the Interstate Commerce Commission and the United States Department of Transportation, which may from time to time be responsible for or have authority to impose such codes, rules, interpretations, laws or orders.

(b) "Accounting Period" - each consecutive period of 12 months commencing with the date of the applicable Schedule and any period of less than 12 months during which period this Lease with respect to such Schedule shall expire or terminate.

(c) "Repair Work" - all repairs, maintenance, modifications, additions or replacements required to keep and maintain the Cars in good working order and repair in accordance with and on the effective date of the requirements of all Interchange Rules and preventive maintenance as determined by Evans to keep and maintain the Cars in good working order and repair.

(d) "Prevailing Labor Rate" - the per hour general labor rate established by the Association of American Railroads.

22. Benefit. Except as otherwise provided in this Lease the covenants, conditions, indemnities and agreements contained in this Lease shall bind and inure to the benefit of the parties and (to the extent permitted in Paragraph 19 hereof) their successors and assigns.

IN WITNESS WHEREOF, Evans and Lessee have duly executed this Railroad Car Lease Agreement as of the day and year first above written.

CAROLINA BY-PRODUCTS, INC. a North Carolina Corporation
Lessee)

By Leonard W. Anderson
President



(CORPORATE SEAL)

Attest:

By [Signature]
Asst. Secretary

EVANS RAILCAR LEASING COMPANY
an Illinois Corporation

By Ralph E. Seep
Vice President

(CORPORATE SEAL)

Attest:

By [Signature]
ASST. Secretary

STATE OF ILLINOIS
COUNTY OF COOK

On this 12th day of January, 1983, before me personally appeared Rueck E. Bell, to me personally known, who being by me duly sworn, says that he is Vice President of EVANS RAILCAR LEASING COMPANY, and Laurence P. Prange personally known to me to be the Asst. Secretary of said corporation, that the seal 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 they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Janette C. Bennett
Notary Public

My Commission Expires July 25, 1983

STATE OF North Carolina
COUNTY OF Suiford

On this 11th day of January, 1983, before me personally appeared Leonard W. Anderson, to me personally known, who being by me duly sworn, says that he is President of Carolina By-Products Co., Inc., and Larry F. Jewell personally known to me to be the Asst. Secretary of said corporation, that the seal 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 they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Angeline M. Stanlock
Notary Public

My Commission Expires 1-30-87

SCHEDULE 1

Page 1 of Schedule 1 dated October 8, 1982 to Lease dated October 8, 1982 by and between EVANS RAILCAR LEASING COMPANY ("Evans") and CAROLINA BY-PRODUCTS, INC. ("Lessee").

TYPE AND DESCRIPTION OF CAR:

Used 23,500 gallon exterior coiled and insulated tank car with an Umler value of \$57,001

NUMBER OF CARS:

4

INTERIOR EQUIPMENT:

None

SPECIAL LININGS:

None

PERMITTED LADING USE:

Inedible animal grease and vegetable oil soapstock

REPORTING MARKS AND NUMBERS:

USLX 21919; 21921; 21922; 21924

SPECIFICATIONS DESIGNATED BY LESSEE:

None

INITIAL F.O.T. POINT:

(3) Cars - Savannah, Georgia
(1) Car - Knoxville, Tennessee

Page 2 of Schedule 1 dated October 8, 1982 to Lease dated October 8, 1982 by and between EVANS RAILCAR LEASING COMPANY ("Evans") and CAROLINA BY-PRODUCTS, INC. ("Lessee").

LEASE TERM: 1 year

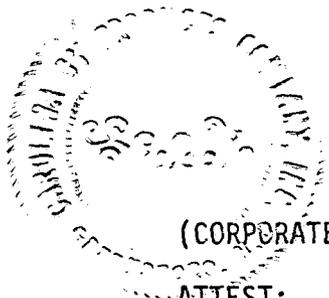
MONTHLY RENTAL: Mileage earnings as described in Paragraph 4 of Lease dated October 8, 1982.

MINIMUM RENTAL: Lessee guarantees mileage earnings calculated on an average of 372 loaded miles per month.

SPECIAL TERMS: Lease will extend for an additional year per car per month at the end of the 1 year term unless cancelled upon 30 days written notice by either party. Evans may, at any time, replace any car with a replacement car as long as such replacement car has the same general specifications and its Umler value is not less than \$52,001 nor more than \$57,001. Lessee will only be responsible for cleaning the four (4) cars in service when the lease is terminated.

CAROLINA BY-PRODUCTS, INC.

By: Leonard W. Anderson
President



(CORPORATE SEAL)

ATTEST:

27 Fowler
Asst. Secretary

EVANS RAILCAR LEASING COMPANY

By: Ralph E. Bell
Vice President

(CORPORATE SEAL)

ATTEST:

[Signature]
ASST. Secretary

EVANS ST/6/82