

UNION CARBIDE CORPORATION

270 PARK AVENUE

NEW YORK, N. Y. 10017

217 551 4831  
yft 6435

J. S. FREEMAN  
VICE PRESIDENT

13252/A  
RECORDATION NO. Filed 1425

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OCT 2 - 1981 - 11 05 AM

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INTERSTATE COMMERCE COMMISSION

September 28, 1981

INTERSTATE COMMERCE COMMISSION

Hon. Agatha L. Mergenovich  
Secretary  
Interstate Commerce Commission  
12th Street and Constitution Avenue, N.W.  
Washington, D. C. 20423

No. 1-2751021

Date OCT - 2 - 1981

Fee \$ 100.00

ICC Washington, D. C.

Dear Mrs. Mergenovich:

I enclose herewith by registered mail for recording and filing with your office, pursuant to 49 U.S.C. §11303, and the rules and regulations promulgated thereunder, an original and two executed and acknowledged counterparts of the following document:

Lease made the 28th day of August, 1981:

Lessor: Lombard Discount Limited  
Lombard House  
Curzon Street  
London W1A 1EU, England

Lessee: Union Carbide Corporation  
270 Park Avenue  
New York, New York 10017

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The equipment to which the above-referred-to Lease relates is described as follows:

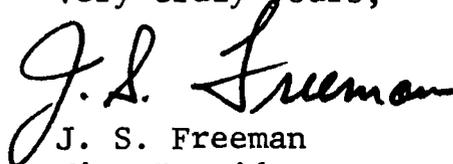
492 5700 cubic foot covered hopper cars, with A.A.R. mechanical designation "LO", and with reporting marks and numbers CCBX 57758 through 58249 marked thereon.

Also enclosed for filing and recording in connection with the above-referred-to Lease are three (3) copies of a Purchase Order made the 28th day of August, 1981 between ACF Sales Corporation and Lombard Discount Limited. Said Purchase Order is referred to in Clause 1 of the above-referred-to Lease and contains a description of the equipment covered by said Lease.

I enclose herewith a check of Union Carbide Corporation to the order of the Interstate Commerce Commission in the amount of one hundred dollars (\$100.00) as the fee for filing and recording the above documents.

All communications concerning this filing should be directed to the undersigned at 270 Park Avenue, New York, New York 10017.

Very truly yours,

  
J. S. Freeman  
Vice President

JSF/rc  
Enc.

RECORDATION NO. 13252/A Filed 1225

DATED 28<sup>th</sup> AUGUST 1981

OCT 2 - 1981 - 11 05 AM  
INTERSTATE COMMERCE COMMISSION

ACF SALES CORPORATION

- and -

LOMBARD DISCOUNT LIMITED

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PURCHASE ORDER

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WILDE SAPTE,  
Queensbridge House,  
60 Upper Thames St,  
London EC4V 3BD

Ref : SW/878/UC  
Draft: 27.8.1981.

## PURCHASE ORDER

A Purchase Order made August 28, 1981 BETWEEN ACF SALES CORPORATION of 750 Third Avenue, New York, New York 10017 (hereinafter called "Seller") and LOMBARD DISCOUNT LIMITED of Lombard House, Curzon Street, London (hereinafter called "Buyer").

### 1. Cars To Be Purchased

Subject as provided in Sections 4 and 5 of this Purchase Order, Buyer agrees to purchase from Seller and Seller agrees to sell to Buyer 492 (four hundred and ninety two) 5700 Cubic Foot Covered Hopper Cars (hereinafter called the "Cars") built in accordance with Association of American Railroads (hereinafter called "AAR") requirements for design, fabrication, and construction of freight cars, Union Carbide Corporation SPECIFICATION FOR COVERED HOPPER RAIL CARS, Revision 5 dated May 8, 1981 and Seller's Specification Nos. 306-12-31612 and 186-12-31624.

In case of conflict, the order of precedence to be used in resolving such conflict shall be as follows: AAR requirements, Union Carbide Specification, Seller's Specification.

### 2. Cost of the Cars

The delivered price of 186 of the Cars shall be £27,218.53 per Car plus lining and freight. The delivered price of 306 of the Cars shall be £27,738.54 per Car plus lining and freight.

### 3. Delivery

Delivery of the Cars shall be made on railroad tracks at or near such point or points as Buyer shall designate following advance notification to Buyer that each Car is ready for delivery hereunder; Provided, however, that title to and risk of loss of each Car shall remain with Seller until acceptance of delivery by Buyer. Upon completion of manufacture of each Car, Buyer's representative shall inspect such Car, and provided that said Car meets the applicable specifications provided for herein, such representative shall accept said Car. Seller shall use its best efforts to make delivery of all Cars subject to this Purchase Order in accordance with the following schedule:

390 Cars starting on the date of this Purchase Order at the rate of 20 Cars per day.

102 Cars starting November 5, 1981 at the rate of 20 Cars per day.

4. Terms of Payment

Payment of the purchase price for such of the Cars as are delivered by Seller to Buyer

- (a) on or before October 8, 1981 shall be made by Buyer to Seller on October 15, 1981;
- (b) on or before December 1, 1981 shall be made by Buyer to Seller on December 8, 1981 ("the Second Payment Date").

It is agreed that the Second Payment Date may be postponed by agreement between Seller and Buyer to any date down to December 30, 1981 in which event payment will be made on the date so agreed for Cars delivered at least 7 business days prior to the date so agreed. Buyer shall not be obliged to make any payment for Cars after December 30, 1981. It is agreed that Union Carbide Corporation shall be regarded as "Buyer" for the purposes of this Purchase Order with respect to such Cars as are not delivered at least 7 days prior to December 30, 1981 and agrees to purchase such Cars.

Payment shall be made in Pounds Sterling on the relevant payment date against receipt of and for the amount set out in an invoice expressed in Pounds Sterling furnished by Seller to Buyer's representative at least 7 days before such payment date.

All payments shall be made in immediately available funds and within normal banking hours in New York by telegraphic transfer to the account of Seller at Morgan Guaranty Trust Company Account No. 200-01-260, or to such other bank account as Seller may from time to time by not less than 10 business days prior notification to Buyer designate.

5. Substitute Buyer

It is agreed that Buyer may by written notice or telex delivered or received by Seller instruct Seller that Union Carbide Corporation

shall be regarded as "Buyer" for the purposes of this Purchase Order in respect of the Cars specified in such notice and agrees to purchase such Cars specified in such notice.

6. Title

Seller agrees that title to the Cars will pass to Buyer on delivery to and acceptance by Buyer's representative free and clear of all liens, charges and encumbrances.

7. Reporting Marks and Other Indicia of Ownership

The reporting marks on Cars purchased hereunder shall be as follows:

Each Car shall have a single reporting mark starting with CCBX 57758 through 58250. ~~58249~~. *912. 7 AB*

Each Car purchased by Buyer (as opposed to Union Carbide Corporation) hereunder shall have the following legend:  
"Ownership subject to a security agreement filed with the Interstate Commerce Commission."

8. Force Majeure

Seller's obligations with respect to delivery are made expressly subject to reasonable rescheduling of shop space which is made necessary as a result of causes beyond Seller's control and also made expressly subject to delays due to strikes, differences with workmen, labour troubles, acts of God, governmental acts and regulations, war or war conditions, riots or civil commotion, sabotage, fires, floods, explosions or other accidents, or to delays of carriers or of subcontractors or in receipt of materials, or to delays occasioned by or arising in connection with the construction of other cars or products for Seller's other customers which are to be constructed at the same plant under contracts entered into prior to the date of this Purchase Order and whose delivery dates specified in said contract are prior to the delivery date hereunder to which such delay relates or to any other cause or causes (whether or not of the same general character as those herein specifically enumerated) beyond Seller's reasonable control.

9. Patents

Seller shall assume all responsibility for and save Buyer harmless from any and all damages, costs, royalties and claims arising out of charges or infringement of United States patents which is alleged to cover said Cars, or parts thereof, excepting infringements of United States patent claims covering designs, devices, parts, arrangements, specialties and equipment furnished or specified by Buyer to Seller in writing for use in the manufacture of Cars covered by this Purchase Order, which infringement arises in manufacturing said designs, devices, parts, arrangements, specialties and equipment for use in making the Cars covered by this Purchase Order or arises in using same in the manufacture of said Cars, and as to such excepted infringement Buyer shall in like manner assume responsibility and save Seller harmless. Prompt notice in writing shall be given by each party to the other of any claim of patent infringement which is presented to such party and for which such other party has the responsibility hereunder, and the party responsible for such claim as above provided, shall promptly undertake and assume the defence thereof. Neither party shall settle or compromise any suit for which the other party is responsible hereunder, without the party's consent. In the event that Buyer should be enjoined in any suit for which Seller is responsible hereunder from using any Car delivered hereunder, or part thereof, Seller at its option, shall promptly either (i) secure termination of the injunction and procure for Buyer the right to use such Car or part without any obligation or liability; (ii) replace said Car or part with a noninfringing Car or part or modify same to become noninfringing, all at Seller's expense and to Buyer's satisfaction; or (iii) remove said Car at Seller's expense and refund to Buyer the amount paid to Seller therefor. The provision of this Section, however, shall not apply to the use of any Car delivered hereunder in combination with other articles or in the practice of any process, or to infringement by reason of such use.

10. Warranty

Seller hereby warrants that each Car delivered hereunder will conform to the description and specifications contained in or referred to in this Purchase Order and will be free from (i) all defects in workmanship and material (except as to articles or materials incorporated therein which have been furnished by Buyer or by a supplier or suppliers specified in writing by Buyer, provided, however, that Seller shall repair or replace in the manner hereinafter provided in this Section any such article or material which has become defective after delivery to Seller as a result of Seller's negligence), and (ii) all defects in design (other than designs furnished by Buyer). Upon Buyer's request, Seller shall promptly repair or replace at Seller's facility, or elsewhere with Buyer's prior consent, all or any part of such car which fails to

meet the aforementioned warranty at any time within one (1) year after acceptance of delivery. Buyer will return such Car to the place designated for such repair or replacement in accordance with the foregoing sentence with transportation charges prepaid, in the event Buyer requests Seller to repair or replace as above provided. In the event Seller does not repair or replace as above provided, Buyer shall have the right, after notifying Seller of its intent to do so, to effect such repair or replacement, and after such repair or replacement has been made, Seller shall pay Buyer the reasonable cost thereof. This warranty is expressly in lieu of all other warranties expressed or implied and Seller shall not be liable for indirect or consequential damages resulting from any failure to meet the aforementioned warranty.

11. Drawings, Etc.

Seller will furnish to Buyer, at the expense of Seller, upon completion of deliveries under this Purchase Order, such number of copies of drawings and print reproductions of each lot of Cars purchased hereunder as are specified in this Purchase Order, or if such number of copies are not specified in this Purchase Order, then a reasonable number of such copies. The aforesaid drawings and print reproductions shall be and remain the property of Seller, but Buyer shall have the irrevocable right to retain possession of same for information purposes only. Buyer agrees to exercise all reasonable efforts to keep the contents of such documents confidential and to refrain from disclosing such contents except to its lessees, and Buyer further agrees to refrain from using or reproducing such contents; provided however, that said obligations of Buyer shall not apply when, after and to the extent such contents were known to Buyer prior to its receipt of same from Seller or are generally available to the public or are received by Buyer in good faith from a third party.

12. Buyer's Rights to Transfer

It is agreed that the rights and obligations of Buyer hereunder including but not limited to those arising under Sections 9, 10 and 11 are freely transferrable or assignable by Buyer.

13. Fair Labor Standards Act

Seller hereby agrees that the Cars will be produced in compliance with the Fair Labor Standards Act, as amended and agreed to so certify on its invoices.

14. Assignment by Seller

Any assignment of this Purchase Order by Seller without the prior written consent of Buyer shall be void.

15. Non-Waiver

No waiver by either party of any breach of any of the terms or conditions herein contained to be performed by the other party shall be construed as a waiver of any subsequent breach, whether of the same or of any other term or condition hereof.

16. Remedies

The rights and remedies of Buyer set forth in this Purchase Order are not exclusive and are in addition to all other rights and remedies of Buyer.

17. Miscellaneous

Seller's acceptance of this Purchase Order is hereby expressly limited to the terms of this Purchase Order. This Purchase Order constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof, and there are no oral understandings, representations or warranties affecting it. This Purchase Order shall not be amended except in writing signed by the parties hereto.

Buyer acknowledges that it is purchasing the Cars for the purpose of leasing to Union Carbide Corporation. Except as expressly set out in this Purchase Order, nothing herein shall subject Seller to any liability to which it would not otherwise be subject if this Purchase Order had been entered into with Union Carbide Corporation.

SIGNATURES

SELLER:  
ACF SALES CORPORATION

By

Title

*[Signature]*  
Vice President

BUYER:  
LOMBARD DISCOUNT LIMITED  
~~OF LOMBARD HOUSE~~

By

Title

*[Signature]*  
Divisional Manager

ACKNOWLEDGED AND AGREED:

UNION CARBIDE CORPORATION

By

Title

*[Signature]*  
James S. Freeman  
Vice-President