

RECORDATION NO 16499 FILED 1425

AUG 31 1989 -10 50 AM

INTERSTATE COMMERCE COMMISSION

TELEPHONE
(415) 362-2375

MANWELL & WES

ATTORNEYS AT LAW
CITICORP CENTER

ONE SANSOME STREET
14TH FLOOR

SAN FRANCISCO, CALIFORNIA 94104

39

NEW NO.

-A
-B

TELECOPY
(415) 362-1010

RECORDATION NO 16499 FILED 1425

AUG 31 1989 -10 50 AM

INTERSTATE COMMERCE COMMISSION

9-243A008

August 31, 1989

RECORDATION NO 16499 FILED 1425

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

AUG 31 1989 -10 50 AM

INTERSTATE COMMERCE COMMISSION

AUG 31 10 45 AM '89

Counterparts - J. Karpman

Dear Ms. McGee:

On behalf of Helm Financial Corporation, I submit for filing and recording under 49 U.S.C. Section 11303(a) and the regulations promulgated thereunder, five (5) executed counterparts of a primary document, not previously recorded, entitled Memorandum of Security Agreement, executed as of August 31, 1989, five (5) executed counterparts of a related secondary document, not previously recorded, entitled Memorandum of Lease of Railroad Equipment, executed as of January 23, 1989 and five (5) executed counterparts of a related secondary document, not previously recorded, entitled Assignment of Lease, executed as of August 31, 1989.

The executing parties to the enclosed Memorandum of Security Agreement ("Security Agreement") are:

Helm Financial Corporation - Debtor
One Embarcadero Center, Suite 3500
San Francisco, CA 94111

Heleasco Thirty-Five, Inc.
400 Bellevue Parkway
Suite 340
Wilmington, Delaware 19809

The Security Agreement, among other things, covers the granting of a security interest by the Debtor to the Secured Party in the refrigerated boxcars listed in Annex A to the Security Agreement and all rights of the Debtor in the leasing thereof, to secure the payment of a loan.

The equipment covered is the refrigerated boxcars listed in Annex A to the Security Agreement.

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Honorable Noretta R. McGee
August 31, 1989
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A short summary of the Security Agreement to appear in the ICC Index is as follows:

"Covers 89 refrigerated boxcars, Road Numbers UPFE 461401-461418, 461420-461490."

The executing parties to the Memorandum of Lease of Railroad Equipment ("Lease") are:

Helm Financial Corporation - Lessor
One Embarcadero Center, Suite 3500
San Francisco, CA 94111

Heleasco Thirty-Five, Inc. - Lessee
400 Bellevue Parkway
Suite 340
Wilmington, Delaware 19809

The Lease covers the lease of the refrigerated boxcars listed on Annex A to the Lease by Lessor to Lessee.

The equipment covered is the refrigerated boxcars listed on Annex A to the Lease.

The Lease should be filed as a secondary document to the above-referenced Security Agreement. A short summary of the Lease to appear in the ICC Index is as follows:

"Covers 89 refrigerated boxcars, Road Numbers UPFE, 461401-461418, 461420-461490."

The executing party to the enclosed Assignment of Lease ("Assignment") is:

Helm Financial Corporation - Assignor
One Embarcadero Center, Suite 3500
San Francisco, CA 94111

and is executed in favor of:

Heleasco Thirty-Five, Inc. - Assignee
400 Bellevue Parkway
Suite 340
Wilmington, Delaware 19809

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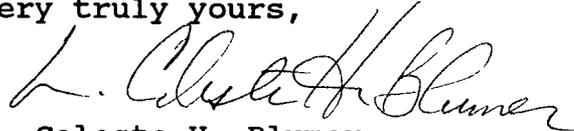
The Assignment covers the assignment of the Lease to the Assignee.

The Assignment should be filed as a secondary document to the above-referenced Security Agreement. A short summary of the Assignment to appear in the ICC Index is as follows:

"Assignment of Lease relating to 89 refrigerated box-cars, Road Numbers UPFE 461410-461418, 461420-461490."

Enclosed are three checks in the amount of thirteen dollars (\$13.00) each in payment of the filing fee. Once the filing has been made, please return to bearer the stamped counterparts of the Security Agreement 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 transmittal letter.

Very truly yours,



L. Celeste H. Blumer

Enclosures
LCHB:its

MEMORANDUM OF SECURITY AGREEMENT

AUG 31 1989 -10 50 AM

INTERSTATE COMMERCE COMMISSION

THIS MEMORANDUM OF SECURITY AGREEMENT is intended to evidence the Security Agreement, dated as of August 31, 1989 (the "Security Agreement") between Helm Financial Corporation, a California corporation (the "Debtor") and Heleasco Thirty-Five, Inc., a Delaware corporation, (the "Secured Party"), for the purposes of satisfying the requirements of recordation with the Interstate Commerce Commission ("ICC") under Section 49 U.S.C. 11303. The Debtor is the owner of eighty-nine (89) refrigerated boxcars more fully described in Annex A hereto (the "Equipment"). The Secured Party has a security interest in all the Equipment and in a Lease of Railroad Equipment between Debtor and Union Pacific Railroad Company, a Utah corporation (the "Lessee"), dated January 23, 1989 a net master lease known as Lessee's C.D. No. 54792-28 upon the terms and conditions provided in the Security Agreement attached hereto as Annex B.

IN WITNESS WHEREOF, the Debtor and the Secured Party, each pursuant to due authority, have executed this Memorandum of Security Agreement as of this 31st day of August, 1989.

"Debtor"

HELM FINANCIAL CORPORATION

Attest:

[Signature]
Title: Executive Vice Pres.

By: [Signature]
Title: President

"Secured Party"

HELEASCO THIRTY-FIVE, INC.

Attest:

[Signature]
Title: Asst. Secretary

By: [Signature]
Title: President

ANNEX A
to
Memorandum of
Security Agreement
Dated as of August 31, 1989

<u>Equipment Description</u>	<u>Number of Units</u>	<u>Equipment Numbers</u>
50' 70 Ton Mechanically Refrigerated Boxcars (RPL's)	89	UPFE 461401-461490*

* UPFE Car 461419 was destroyed June 17, 1989 at Pocatello, Idaho.

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN FRANCISCO)

I, LYNDA A. HETZSKOVITZ, a Notary Public in and for the state and county aforesaid, do hereby certify that RICHARD C. KIRCHNER, of HELM FINANCIAL CORPORATION, a California corporation, whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he is President, he 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 his 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 notarial seal this 24th day of AUGUST, 1989.



Lynda A. Herskovitz
Notary Public

My commission expires
JULY 16, 1993

STATE OF Delaware,
COUNTY OF New Castle) ss.

I, Quinn Hear, a Notary Public in and for the state and county aforesaid, do hereby certify that Philip Law of HELEASCO THIRTY-FIVE, INC., a California corporation, whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he is present, he 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 his 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 notarial seal this 29th day of August, 1989.

Quinn Hear
Notary Public

My commission expires 4-24-91



EXHIBIT B

RECORDATION NO _____ FILED 1425

AUG 31 1989 -10 50 AM

INTERSTATE COMMERCE COMMISSION

SECURITY AGREEMENT

BETWEEN

HELM FINANCIAL CORPORATION

AND

HELEASCO THIRTY-FIVE, INC.

SECURITY AGREEMENT

THIS SECURITY AGREEMENT, dated as of August 31, 1989 between **HELM FINANCIAL CORPORATION**, a California corporation, (the "Debtor"), with an address at One Embarcadero Center, San Francisco, CA 94111 and **HELEASCO THIRTY-FIVE, INC.**, a Delaware corporation (the "Secured Party").

To secure the due and punctual payment of the principal and interest payable under the Debtor's Promissory Note, dated as of August 31, 1989 (the "Note"), payable to the order of Secured Party, in the principal amount of [REDACTED] and any and all other promissory notes hereafter at any time issued in replacement or extension thereof by Debtor, and to secure Debtor's obligations hereunder, Debtor hereby transfers, mortgages and pledges to the Secured Party and grants to the Secured Party a security interest in the following described collateral and in all proceeds thereof (the "Collateral"):

1. All of the Debtor's right, title and interest in that certain Lease of Railroad Equipment covering eighty-nine (89) refrigerated boxcars dated as of January 23, 1989 (the "Lease"), and between Union Pacific Railroad Company, a Utah corporation, as lessee (the "Lessee") and the Debtor is lessor and all rentals and other moneys payable thereunder, including proceeds from Casualty Occurrences as defined in Section 8(b) of the Lease, all the Debtor's rights, power and remedies therein and thereunder (but none of its duties or obligations) including, without limitation, all the Debtor's rights to give and receive any notice, consent, waiver, demand or approval under or in respect of such Lease, to exercise any election or option thereunder or in respect thereof, to accept any surrender of the property subject to the Lease, to execute and deliver any bill of sale for any such property, and to do all other things which the Debtor is entitled to do under such Lease, and all renewals, substitutions and extensions of the Lease until the Note and all obligations hereunder are paid in full;
2. All the equipment as defined in and as listed on Annex A of the Lease and Schedule 1 hereto (the "Equipment"), which Equipment is leased to the Lessee pursuant to the Lease, and all the Debtor's right, title and interest in the Equipment and all rights Debtor may have in any cause of action which may accrue against any prior owner of the Equipment with respect to the good and marketable title to the Equipment, free and clear of all liens, claims and encumbrances;

Confirmatory of its grant of the Lease, Debtor hereby irrevocably assigns to the Secured Party, subject to the provisions of this Agreement, as security for the payment of all amounts payable under or in respect of the Note and the Agreement, and as security for the compliance of the provisions hereof and thereof, all moneys payable under the Lease, including without limitation, all rental payments (commencing with the rental payment due October 1, 1989) damages and settlement value payments made pursuant to Section 8(b) of the Lease. After the date hereof Secured Party shall be entitled to exercise all the rights and remedies of the lessor under the Lease (to the exclusion of Debtor), including the right to receive all proceeds of the Lease directly from Lessee, but Secured Party shall have none of the obligation of the lessor under the Lease.

The Debtor hereby irrevocably constitutes and appoints Secured Party as the Debtor's attorney-in-fact, with full power of substitution and revocation, in the name of the Debtor or otherwise, to demand, enforce, collect, receive and receipt and give releases for any payment or indemnity becoming due or arising under the Lease or any policy of insurance relating to the Equipment or any Collateral (including any return of insurance premiums), to endorse and collect any checks, drafts or other instruments payable to the Debtor therefor, and to do and take all such other actions as are referred to above relating to the Lease, the Equipment or other Collateral and with the written consent of Debtor unless and until a default shall have occurred in the Note or hereunder, to file any claims or institute any proceedings for the foregoing which Secured Party deems necessary, and to compromise any such demand, claim or action; provided however, that Secured Party hereby agrees with Debtor that Secured Party shall not as long as no Event of Default (as hereinafter defined) or other event which with the giving of notice or the lapse of time or both could become an Event of Default under the Lease or this Agreement shall have occurred and be continuing without the written consent of the Debtor, seek to enforce any of the rights, powers or remedies of Secured Party under the Lease, except that nothing herein shall prevent Secured Party from seeking to enforce any payment or indemnity at or after the time it is due under the Lease or any policy of insurance relating to the Equipment or the Collateral before the failure to make said payment becomes an Event of Default hereunder or under the Lease. Debtor hereby ratifies all that said attorneys shall do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest, shall be irrevocable and shall terminate only upon payment in full of the obligations secured hereby and termination of this Note and Security Agreement. The powers conferred on Secured Party hereunder are solely to protect the Secured Party interest in the Collateral and shall not impose any duty upon it to exercise any such powers. Secured Party shall be accountable only for amounts that it actually receives as a result of the exercise of such

powers, and neither it nor any of its officers, directors, employees or agents shall be responsible to the Debtor for any action taken or omitted to be taken in good faith pursuant to the powers, except for its gross negligence.

A. REPRESENTATIONS, WARRANTIES AND AGREEMENTS - Debtor represents, warrants and agrees that:

1. the original principal amount of the Note is [REDACTED] The Lease provides for the payment, on or before the Installment Payment dates of the Note, of rentals in amounts at least equal to the amounts of such installments of principal and interest under the Note;
2. the Debtor will obtain with the proceeds of the Note good and marketable title to the Equipment listed on Schedule 1 hereto, free and clear of all liens, claims and encumbrances, subject only to the interests therein of the Lessee under the Lease, and the Secured Party hereunder;
3. the Debtor has filed all tax returns, federal, state, municipal or otherwise, required of the Debtor and is not in default in respect of the due and punctual payment of any taxes payable by Debtor; and no liens for nonpayment of taxes by Debtor exist upon any property, including the Equipment, or other assets of Debtor other than property taxes, assessments or similar charges incurred in the ordinary course of business that are not yet due and payable;
4. the Debtor has all requisite power and authority to enter into and perform the Lease, this Agreement, and the Note; such documents have been duly executed and delivered by Debtor, and constitute the legal, valid and binding obligations of the Debtor, enforceable against the Debtor in accordance with their terms (except insofar as enforcement thereof may be limited by any applicable bankruptcy, reorganization, insolvency, moratorium, or other similar laws or judicial decisions affecting the rights of creditors generally or by the application of usual equitable principles when equitable remedies are sought); the Debtor's right to receive any payments under the Lease and the Debtor's right, title and interest in and to the Equipment, the Lease and the other Collateral are, and will continue to be, free and clear of any and all liens, agreements or encumbrances except this

Agreement and the rights of the Lessee under the Lease and of persons claiming under or through the Lessee which Lessee is obligated to discharge under the Lease provided however, that a property tax lien may remain on the Collateral so long as the Debtor or the Lessee discharges the lien on or before the date a penalty attaches for nonpayment of the tax, provided further that the following liens, mortgages, pledges, charges, security interests and other encumbrances may remain on the Collateral:

- a) liens of mechanics, materialmen, warehousemen, carriers, or other like liens, securing obligations incurred in the ordinary course of business that are not yet due and payable;
- b) liens existing as of the date hereof or which the Secured Party has knowledge and has consented to in writing;
- c) the following if the validity or amount thereof is being contested in good faith by appropriate and lawful proceedings, so long as levy and execution thereon have been stayed and continue to be stayed and they do not in the aggregate materially detract from the value of the Collateral, or materially impair the use thereof in the operation of Debtor's or Lessee's business or violate the lessor's obligation to Lessee under the Lease, and provided that lessor shall maintain such reserve or other appropriate provision therefor as is required by generally accepted accounting principles:
 - 1) claims or liens for taxes, assessments or charges due and payable and subject to interest or penalty;
 - 2) claims, liens or encumbrances upon the Collateral including any attachment of the Collateral or other legal process prior to adjudication of a dispute on the merits;
 - 3) claims or liens of merchants, materialmen, warehousemen, carriers, or other like liens; and

- 4) adverse judgments on appeal;
5. the Debtor has received no advance rental or other payments under the Lease and the Debtor will not accept any payments under the Lease (except for the rental payments due August 1, and September 1, 1989 and the proceeds for one Casualty Occurrence which occurred prior to September 1, 1989) for the Debtor's own account except as permitted in this Agreement; the Debtor has performed all obligations on the Debtor's part to be performed under the Lease on or prior to the date hereof and will perform any such obligations during the term of the Lease; and there has not occurred on the date hereof any Event of Default under the Lease or any Event of Default this Agreement;
6. the making and performance by the Debtor of this Agreement, the Note, the Lease, and the borrowing and execution and delivery of the Note will not violate any provision of law, or constitute a default under or result in the creation of any lien, charge or encumbrance upon any property or assets of the Debtor pursuant to any agreement, indenture or other instrument to which the Debtor is a party or by which the Debtor may be bound;
7. there are no actions, suits or proceedings pending or, to the knowledge of the Debtor, threatened against or affecting the Debtor in any court or by or before any government department, agency or instrumentality in which any adverse decision might materially affect the ability of the Debtor to perform the Debtor's obligations under the Note, this Agreement, and the Lease;
8. without Secured Party's prior written consent so long as the Note remains unpaid, Debtor will not (i) grant any consent under the Lease (ii) give any notice thereunder or otherwise exercise any rights, powers or remedies of the lessor thereunder, or (iii) agree to any release of any obligation of the Lessee thereunder or to any modification or any termination thereof;
9. the Debtor will defend the Collateral and the interest of Secured Party therein against the claims and demands of all persons;
10. the Debtor is duly qualified to do business in each jurisdiction where failure to so qualify

would adversely affect Debtor's rights in the Equipment or the enforceability of the Lease;

11. Debtor has obtained and will maintain all consents, approvals, authorizations of or by any court, administrative or other governmental authority required in connection with the execution, delivery and performance by Debtor of the Lease and by Debtor as owner and lessor of the Equipment;
12. all units of Equipment have been delivered and accepted by the Lessee at the time of execution hereof and are in place and operating to the satisfaction of the Lessee and Debtor knows of no claim or dispute with respect hereto;
13. an original executed Lease which has been delivered to Secured Party constitute the entire agreement between Debtor and Lessee with respect to the lease of the Equipment;
14. Debtor will execute and deliver any and all papers or documents which Secured Party may reasonably request from time to time in order to carry out the purpose hereof, or to facilitate the collection of monies due to or become due from the Lessee;
15. Debtor will duly fulfill or cause to be fulfilled all of the obligations if any to be performed and assumed by it under the Lease including, but not limited to, its warranty of quiet enjoyment, and shall remain liable thereunder;
16. Debtor will keep or cause the Lessee to keep the Equipment in good repair and operating condition without any cost or liability to Secured Party;
17. Debtor will cause all accessions which are or become attached to or part of the Equipment to become subject to the terms of this Note and Security Agreement, to the extent permitted in the Lease;
18. Debtor will promptly notify Secured Party upon its knowledge of any Lessee defaults in the payment or performance of any of its obligations under the Lease;
19. Debtor will not sell, assign, transfer, mortgage or in any way encumber the Collateral without

Secured Party's prior written consent, nor secrete or abandon the Equipment;

20. Debtor will allow Secured Party and its representatives free access and right of inspection of the Equipment at all reasonable times, provided however, that Secured Party shall not interfere with Lessee's quiet enjoyment of the Equipment, and in the event of a Casualty Occurrence agrees to send written notice thereof to the Secured Party within fifteen (15) days of receipt of such notice from the Lessee. The Debtor will execute and deliver to Secured Party such documents identifying the Equipment as Secured Party may from time to time reasonably request;
21. Debtor will not remove its records concerning the Lease except to jurisdiction where the Uniform Commercial Code shall be in effect, and upon [REDACTED] prior written notice to the Secured Party, and will permit Secured Party and its representatives to examine Debtor's books and records with respect to the Collateral and make extracts therefrom and copies thereof at any reasonable time from time to time;
22. Debtor will keep or cause the Lessee to keep the Equipment insured against public liability and loss by fire, theft and casualty, by self-insurance or by insurers and in form, amount and coverage customary for such Equipment in businesses similar to Lessee's business;
23. Debtor will indemnify and save harmless Secured Party against any charges or claims made against Secured Party, and against any expense, loss or liability which the Lessee would be obligated to indemnify or save Secured Party harmless from pursuant to Section 10 of the Lease but for Debtor's sole or joint negligence. The indemnities contained in this paragraph shall survive the payment or performance of all other obligations under this Agreement or the termination of this Agreement. Debtor will indemnify Secured party against any and all losses incurred as a result of a defect in title to the Equipment; provided however that such indemnification shall not exceed the outstanding balance under the Note plus all reasonable costs and expenses;

24. simultaneously with the disbursement of the proceeds of the Note, Debtor will cause this Agreement to be duly filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. 11303 and will file or cause to be filed with the Secretary of State of the State of California a UCC-1 statement. Debtor represents and warrants that no other filing or recording or deposit (or giving of notice) with any federal state or local government or agency thereof is necessary in order to perfect a first priority secured interest in favor of the Secured Party under this Agreement in the Collateral. Debtor agrees to pay the cost of filing and depositing this Security Agreement. Debtor agrees, at its own cost and expense, to make supplemental filing as may from time to time become necessary or desirable to protect the rights of the Secured Party. Debtor agrees, at its own cost and expense, to make the filings described herein for any substitutions or replacement Units of Equipment. Debtor will at its own cost and expense cause legal opinions as to the first priority security interest of the Secured Party in the Collateral and whether the Collateral is free and clear of all other liens, except for permitted liens, to be issued to Secured Party prior to the disbursement under the Note. Debtor hereby irrevocably constitutes and appoints Secured Party the Debtor's attorney-in-fact for such purposes, with full power of substitution. The Debtor also will execute and deliver such instruments and take all such other action as Secured Party may reasonably request to effectuate the purposes of this Agreement and to secure the rights and remedies conferred upon the Secured Party hereunder.

25. Debtor will cause to be enforced all provisions of Section 6 of the Lease "Identification Marks".

B. **DEFAULT** - Each of the following will constitute an event of default hereunder ("Event of Default"):

1. the failure by Debtor to pay any amount of principal of or interest on the Note when due, whether at the maturity thereof or by reason of any requirement for the prepayment thereof, by acceleration or otherwise, and such failure shall continue for [REDACTED] after written notice to Debtor;

2. the failure by Debtor to pay any other amount when due hereunder or perform any other obligation required by this Agreement or the Note, and such failure shall continue for [REDACTED] after the Debtor shall have written notice thereof;
 3. the occurrence and continuance of an Event of Default under the Lease (as defined therein);
 4. any proceeding shall be commenced by or against the Debtor for any relief which includes any modification of the obligations of the Debtor hereunder or under the Note, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments or indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of such obligations), and (unless such proceeding shall have been dismissed, nullified, stayed or otherwise rendered ineffective, but then only so long as such stay shall continue in force or such ineffectiveness shall continue) all the obligations of the Debtor under this Security Agreement and the Note shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Debtor or for the property of the Debtor in connection with any such proceeding in such manner that such obligations shall have the same status as expenses of administration and obligations incurred by such trustee or trustees or receiver or receivers, within [REDACTED] after such proceeding shall have been commenced;
 5. the occurrence of a breach of any of the Representations, Warranties and Agreements under Paragraph A hereof and such breach is not cured within [REDACTED] after Debtor shall have written notice thereof; or
 6. any report, certificate, financial statement or other instrument furnished by Debtor in connection with the Note and this Agreement shall prove to be materially false or misleading prior to giving such information.
- C. **REMEDIES** - At any time after the occurrence of an Event of Default Secured Party may declare, by written notice to the Debtor, the entire unpaid balance of the principal of the defaulting Debtor's Note and interest accrued thereon and the prepayment penalty, if any, to be immediately due and payable, and, in addition, Secured Party shall have and may exercise all the rights and remedies of a secured party

under the Uniform Commercial Code or other applicable law, including the right to take possession of any Equipment or other Collateral not then in Secured Party's possession and to dispose of it, or the Debtor's interest therein (to the extent permitted by and in accordance with the terms and conditions of the Lease), at public or private sale, at which Secured Party, subject to the provisions of applicable law, may be the purchaser.

Any notice of any such sale required by law shall be deemed reasonably and sufficiently given to the Debtor if given at least [REDACTED] prior to the date thereof at the address and in the manner herein provided for notices. The proceeds realized by the Secured Party upon the exercise of any of its remedies shall be applied to the obligations secured by this Agreement in accordance with the provisions of Paragraph G and Debtor will be entitled to any surpluses thereafter. No delay or omission on Secured Party's part to exercise any right hereunder will impair any such right or be construed as a waiver of any default or any acquiescence therein.

No waiver of any default hereunder will affect any later default or impair any of Secured Party's rights hereunder. No single, partial or full exercise of any rights by Secured Party will preclude further or other exercise thereof. The remedies provided for herein shall not be deemed exclusive, but are cumulative and in addition to all other remedies available under applicable law.

- D. PREPAYMENT OF NOTE UPON CASUALTY OCCURRENCE - If any amount shall become due and payable to the Debtor or the Secured Party as assignee pursuant to the Lease because of a Casualty Occurrence (as defined in the Lease) with respect to any units of Equipment ("Casualty Value"), then, thereupon, an amount, computed as hereinafter set forth, will be due and payable on account of the principal of and interest accrued on the Note on the date the Casualty Value is due and payable under the Lease. The Secured Party will accept all sums paid to it pursuant to the Lease with respect to Casualty Occurrences and, unless an Event of Default or event which with the lapse of time or the giving of notice or both would become an Event of Default under this Agreement or under the Lease, shall have occurred (in which event all such amounts shall be held by Secured Party to satisfy the obligations of the Debtor as provided in Paragraph G), shall apply those portions of such sums hereinafter stated for the account of the Debtor and, immediately following application of rentals to the payment of principal and interest accrued on such date, to the prepayment of principal of the Note. The portion of such sums to be so applied to prepayment of the principal of the

Note in respect of any Casualty Occurrence shall be an amount which will reduce the principal of the Note so that said principal, after prepayment, bearing interest at the rate set forth in the Note will be amortized by the remaining rental payments due under the Lease, after any reduction due to the Casualty Occurrence, which have been assigned to Secured Party by Debtor as security for the Note. The remainder of such sums shall be paid to Debtor. In the event of any partial prepayment of the principal of the Note pursuant to the preceding sentences of this Paragraph D, the amount of each such installment payment thereafter coming due will be reduced by an amount which bears the same proportion to the amount of such installment which would have been due in the absence of such prepayment as the amount of such principal prepayment bears to the unpaid principal balance outstanding immediately prior to such prepayment.

- E. COLLECTION EXPENSES - In addition to all other amounts payable hereunder and under the Note, the Debtor will pay all Secured Party's reasonable expenses, including attorneys' fees, incurred from time to time in enforcing its rights and remedies hereunder, under the Note, or under the Lease and in repossessing, storing and disposing of the Equipment including the cost of discharging all liens, taxes and assessments on the Collateral. If Secured Party brings suit (or files any claim or petition in any bankruptcy, reorganization insolvency or other proceeding) to enforce any of its rights (or other recovery or relief), Secured Party may recover in such action (or other proceeding), in addition to all other amounts payable hereunder and thereunder, its reasonable expenses, including attorneys' fees, in connection therewith, and the same shall be included in such judgment (or other form of award).
- F. COLLECTION OF RENTALS - Secured Party will, on behalf of Debtor, collect and receive from the Lessee all rentals and other money payable pursuant to the Lease, and the Secured Party, except as otherwise provided in this Agreement, may take all such action as may be necessary or desirable to demand, enforce compliance by Lessee with all terms and provisions of the Lease. To the extent indefeasibly received, the Secured Party will apply such payments first, in the manner specified in Paragraph G hereof, and second, so long as no Event of Default or event which with the lapse of time or the giving of notice or both provided for in the Lease or hereunder could constitute an Event of Default thereunder or hereunder shall have occurred any balance shall be paid to the Debtor. All payments received by Secured Party at such time as an Event of Default shall have occurred which otherwise, in whole or in part, would be remitted to Debtor as aforesaid shall be retained by Secured

Party and applied to satisfy Debtor's obligations under the Note and this Agreement. All payments received by Secured Party at such time as there shall have occurred an event which with the lapse of time or the giving of notice or both could constitute an Event of Default under the Lease or hereunder, which otherwise, in whole or in part, would be remitted to Debtor as aforesaid shall be retained by Secured Party until such event shall either become an Event of Default (in which case such monies in the Lease or hereunder, shall be applied as aforesaid), or be cured or otherwise not be capable of maturing into an Event of Default (in which case such monies shall be remitted to Debtor as aforesaid). The Debtor agrees that any payments received by the Debtor from the Lessee which are payable to the Secured Party pursuant to this Agreement shall be held in trust for the Secured Party and shall be immediately paid to the Secured Party.

- G. APPLICATION OF PAYMENTS - All payments indefeasibly received by the Secured Party which are to be applied in satisfaction of the Debtor's obligations under the Note and this Agreement shall be applied, first, to the payment of costs and expenses due to the Secured Party pursuant to Paragraph E, if any, second to the payment of accrued interest on the Note, and, third, to the payment of principal and all other amounts payable thereunder and hereunder. Payments indefeasibly received by Secured Party in excess of the amounts necessary to satisfy Debtor's obligations as aforesaid shall be remitted to Debtor and/or, upon receipt of written proof thereof, any other party legally entitled thereto.
- H. NOTICES - All notices, declarations, requests, consents and other communications given hereunder or in connection herewith or with the Note shall be in writing and shall be deemed to have been given when delivered or deposited in the United States mail, registered or certified, postage prepaid, or by overnight courier addressed to Debtor at its address stated above, and to the Secured Party at its address stated below, or to such other address as any such party may hereafter specify by written notice to the other.
- I. APPLICABLE LAW - This Agreement and the Note shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the Commonwealth of Pennsylvania; provided however that the parties shall be entitled to all rights conferred by 49 U.S.C. Section 11303 and such additional rights arising out of the filing or depositing hereof.
- J. SEVERABILITY - Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall be, as

to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

- K. **SUCCESSORS AND ASSIGNS** - This Agreement will bind and inure to the benefit of the respective successors and assignees of the parties hereto, including any holder, as such, of the Note, by acceptance of an assignment hereof or of the Note. Each of the Secured Party's successors or assigns (including any holder, as such, of the Note) will be deemed to have agreed to be bound by the provisions hereof, and of the Note and Secured Party's undertakings hereunder and thereunder.
- L. **TRANSFER OF DEBTOR'S AND SECURED PARTY'S INTEREST** - The Debtor shall not assign, convey or otherwise transfer any of its right, title or interest in, to or under any of the Collateral without the prior written consent of the Secured Party in its discretion and subject to such terms and conditions as the Secured Party may then specify. This Agreement and the Note related hereto may be sold, transferred and assigned by Secured Party without notice to or consent of Debtor; provided however that Debtor will have no obligation to such successor in interest except upon written notice of such sale, transfer and assignment by Secured Party. All rights and benefits of the Secured Party shall inure to the benefit of Secured Party's transferee and Debtor agrees to provide any reasonable documentation requested by Secured Party in connection with any such transfer.
- M. **TERMINATION OF SECURITY INTEREST, ETC.** - Upon payment in full of the principal of and interest on the Note and all other sums payable to the Secured Party under the Note and this Agreement, the Secured Party shall execute and deliver to the Debtor, at the expense of the Debtor, such documents as the Debtor shall reasonably request to evidence the termination of this Agreement and all interests of the Secured Party in the Collateral.

IN WITNESS WHEREOF, this Security Agreement has been duly executed and delivered as of the date first above written.

[Corporate Seal]

Attest:

HELM FINANCIAL CORPORATION

By: *Donald R. Ellis*

By: *Richard C. [unclear]*

Title: *Executive Vice Pres*

Title: *President*

HELEASCO THIRTY-FIVE, INC.

By: *[Signature]*

Title: *President*

Address for notices:

Heleasco Thirty-Five, Inc.
400 Bellevue Parkway
Suite 340
Wilmington, Delaware 19809

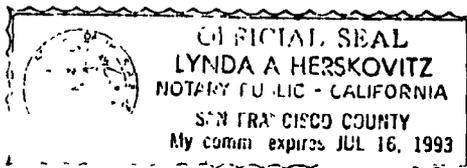
STATE OF CALIFORNIA)
) §
COUNTY OF SAN FRANCISCO)

On this 24th day of AUGUST, 1989, before me personally appeared RICHARD C. KIRCHNETZ, to me personally known, who, being by me duly sworn, says that he is PRESIDENT of HELM FINANCIAL CORPORATION, that said instrument was signed and sealed on behalf of said corporation and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Lynda A. Herskovitz
Notary Public

My Commission Expires: JULY 16, 1993

[Notarial Seal]



STATE OF _____)
) §
COUNTY OF _____)

On this ___ day of _____, 1989, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is _____ of _____, that said instrument was signed and sealed on behalf of said corporation by authority of its President and Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

My Commission Expires: _____

[Notarial Seal]

SCHEDULE 1

to
a Security Agreement dated August 31, 1989
between Helm Financial Corporation as Debtor and The
Heleasco Thirty-Five, Inc. as Secured Party.

<u>Equipment Description</u>	<u>Number of Units</u>	<u>Equipment Numbers</u>
50' 70 Ton Mechanically Refrigerated Boxcars (RPL's)	89	UPFE 461401-461490*

* UPFE Car 461419 was destroyed June 17, 1989 at Pocattelo,
Idaho.