

REGISTRATION NO. 25026 FILED

JUN 30 '04 2-12 PM

SURFACE TRANSPORTATION BOARD

Nathan  
Sommers  
+ Jacobs  
Gorman

June 25, 2004



Surface Transportation Board  
1925 K Street, N.W.  
Suite 700  
Washington, D.C. 20423

Re: Documents for Recordation

To whom it may concern:

I have enclosed two (2) originals of the document described below to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

The document is a security agreement dated as of April 22, 2004 (the "Security Agreement"), and is a primary document.

The names and addresses of the parties to the Security Agreement are as follows:

Secured Party:

Southwest Bank of Texas, N.A.  
Five Post Oak Park  
4400 Post Oak Parkway  
Houston, Texas 77027

Debtor:

International Commodities Export Corporation  
10001 Woodloch Forest Drive, Suite 400  
The Woodlands, Texas 77380

A description of the equipment covered by the Security Agreement is as follows:

- (a) General purpose rail cars, specifically described on Exhibit "A" attached hereto;

**A Professional Corporation**  
ATTORNEYS AND COUNSELLORS  
Surface Transportation Board.wpd  
2800 POST OAK BOULEVARD, SUITE 1100  
HOUSTON, TEXAS 77056-6102  
MAIN: 713.960.0303

(b) all Debtor's right title and interest to all tangible personal property incorporated into the Railcars or acquired for incorporation into the Railcars, including all machinery, equipment, fixtures and other personalty of every nature and description incorporated into the Railcars or acquired for incorporation into the Railcars, whether now owned or hereafter acquired, and all appurtenances, accessions and additions thereto and substitutions and replacements therefor, wheresoever located, including all tools, parts and accessories used in connection therewith;

(c) all of Debtors right, title and interest in and to (i) any and all leases covering the Railcars (the "Leases");

(d) all rights, remedies and privileges of Debtor to enforce the Leases;

(e) all other general intangibles of Debtor arising from or relating to the Leases; and

(f) all products and proceeds thereof (including insurance proceeds).

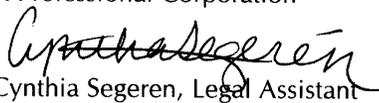
A short summary of the Security Agreement to appear in the index is as follows:

Security Agreement dated as of April 22, 2004, between Southwest Bank of Texas, N.A., Five Post Oak Park, 4400 Post Oak Parkway, Houston, Texas 77027 ("Secured Party") and International Commodities Export Corporation, 10001 Woodloch Forest Drive, Suite 400, Woodlands, Texas 77380 ("Debtor"), and covering the railroad cars listed on Exhibit "A" attached hereto; and all appurtenances and additions thereto and substitutions and replacements therefor, wheresoever located, including all tools, parts and accessories used in connection therewith, and all products and proceeds thereof (including insurance proceeds).

A fee of \$30.00 is enclosed. Please return one (1) original to the undersigned after recording.

Very truly yours,

NATHAN SOMMERS LIPPMAN JACOBS & GORMAN,  
A Professional Corporation

  
Cynthia Segeren, Legal Assistant

:CJS  
Enclosure

**EXHIBIT "A"**

**RAILCARS**

**DVLX CARS**

1	DVLX	1002
2	DVLX	1004
3	DVLX	1005
4	DVLX	1006
5	DVLX	1007
6	DVLX	1008
7	DVLX	1009
8	DVLX	1012
9	DVLX	1013
10	DVLX	1015
11	DVLX	1016
12	DVLX	1017
13	DVLX	1018
14	DVLX	1019
15	DVLX	1021
16	DVLX	1023
17	DVLX	1024
18	DVLX	1025
19	DVLX	1026
20	DVLX	1027
21	DVLX	1030
22	DVLX	1031
23	DVLX	1032
24	DVLX	1033
25	DVLX	1034
26	DVLX	1035
27	DVLX	1036
28	DVLX	1037
29	DVLX	1038
30	DVLX	1039
31	DVLX	1040
32	DVLX	1041
33	DVLX	1042
34	DVLX	1043
35	DVLX	1044
36	DVLX	1045
37	DVLX	1046
38	DVLX	1047
39	DVLX	1048
40	DVLX	1049
41	DVLX	1050
42	DVLX	1051
43	DVLX	1052
44	DVLX	1053
45	DVLX	1054

**EXHIBIT "A"**

<b>RAILCARS</b>		
46	DVLX	1055
47	DVLX	1056
48	DVLX	1057
49	DVLX	1058
50	DVLX	1059
51	DVLX	1060
52	DVLX	1061
53	DVLX	1062
54	DVLX	1063
55	DVLX	1064
56	DVLX	1066
57	DVLX	1067
58	DVLX	1068
59	DVLX	1069
60	DVLX	1070
61	DVLX	1071
62	DVLX	1072
63	DVLX	1073
64	DVLX	1074
65	DVLX	1075
66	DVLX	1076
67	DVLX	1077
68	DVLX	1078
69	DVLX	1080
70	DVLX	1081
71	DVLX	1082
72	DVLX	1083
73	DVLX	1084
74	DVLX	1085
75	DVLX	1086
76	DVLX	1087
77	DVLX	1088
78	DVLX	1089
79	DVLX	1090
80	DVLX	1091
81	DVLX	1092
82	DVLX	1094
83	DVLX	1095
84	DVLX	1096
85	DVLX	1097
86	DVLX	1098
87	DVLX	1099
88	DVLX	1100
89	DVLX	2001
90	DVLX	2002
91	DVLX	2003
92	DVLX	2004
93	DVLX	2005

**EXHIBIT "A"**

<b>RAILCARS</b>		
94	DVLX	2006
95	DVLX	2007
96	DVLX	2008
97	DVLX	2009
98	DVLX	2010
99	DVLX	2011
100	DVLX	2012
101	DVLX	2013
102	DVLX	2014
103	DVLX	2015
104	DVLX	2016
105	DVLX	2017
106	DVLX	2018
107	DVLX	2019
108	DVLX	2020
109	DVLX	2022
110	DVLX	2023
111	DVLX	2024
112	DVLX	2028
113	DVLX	2029
114	DVLX	2030
115	DVLX	2031
116	DVLX	2032
117	DVLX	2033
118	DVLX	2034
119	DVLX	2035
120	DVLX	2036
121	DVLX	2037
122	DVLX	2038
123	DVLX	2039
124	DVLX	2040
125	DVLX	2041
126	DVLX	2043
127	DVLX	2044
128	DVLX	2045
129	DVLX	2049
130	DVLX	2050
131	DVLX	2051
132	DVLX	2052
133	DVLX	2053
134	DVLX	2056
135	DVLX	2059
136	DVLX	2060
137	DVLX	2061
138	DVLX	2062
139	DVLX	2063
140	DVLX	2064
141	DVLX	2066

**EXHIBIT "A"**

<b>RAILCARS</b>		
142	DVLX	2067
143	DVLX	2068
144	DVLX	2069
145	DVLX	2070
146	DVLX	2072
147	DVLX	2073
148	DVLX	2074
149	DVLX	2075
150	DVLX	2077
151	DVLX	2078
152	DVLX	2079
153	DVLX	2150
154	DVLX	2151
155	DVLX	2152
156	DVLX	2153
157	DVLX	2154
158	DVLX	2155
159	DVLX	2156
160	DVLX	2157
161	DVLX	2158
162	DVLX	2160
163	DVLX	2161
164	DVLX	2162
165	DVLX	2163
166	DVLX	2164
167	DVLX	2165
168	DVLX	2166
169	DVLX	2167
170	DVLX	2168
171	DVLX	2169
172	DVLX	2171
173	DVLX	2172
174	DVLX	2173
175	DVLX	2174
176	DVLX	3001
177	DVLX	3002
178	DVLX	3003
179	DVLX	3004
180	DVLX	3005
181	DVLX	3006
182	DVLX	3008
183	DVLX	3009
184	DVLX	3010
185	DVLX	3011
186	DVLX	3012
187	DVLX	3013
188	DVLX	3014
189	DVLX	3015

**EXHIBIT "A"**

<b>RAILCARS</b>		
190	DVLX	3016
191	DVLX	3017
192	DVLX	3018
193	DVLX	3019
194	DVLX	3021
195	DVLX	3023
196	DVLX	3024
197	DVLX	3025
198	DVLX	3026
199	DVLX	3027
200	DVLX	3028
201	DVLX	3029
202	DVLX	3030
203	DVLX	3031
204	DVLX	3033
205	DVLX	3034
206	DVLX	3035
207	DVLX	3036
208	DVLX	3037
209	DVLX	3038
210	DVLX	3039
211	DVLX	3040
212	DVLX	3041
213	DVLX	3042
214	DVLX	3043
215	DVLX	3044
216	DVLX	3045
217	DVLX	3046
218	DVLX	3047
219	DVLX	3048
220	DVLX	3049
221	DVLX	3050
222	DVLX	3052
223	DVLX	3053
224	DVLX	3054
225	DVLX	3055
226	DVLX	3056
227	DVLX	3057
228	DVLX	3059
229	DVLX	3062
230	DVLX	3063
231	DVLX	3064
232	DVLX	3065
233	DVLX	3066
234	DVLX	3067
235	DVLX	3068
236	DVLX	3069
237	DVLX	3070

**EXHIBIT "A"****RAILCARS**

238	DVLX	5000
239	DVLX	5001
240	DVLX	5002
241	DVLX	5003
242	DVLX	5004
243	DVLX	5005
244	DVLX	5006
245	DVLX	5007
246	DVLX	5008
247	DVLX	5009
248	DVLX	5010
249	DVLX	5011

**DVTX CARS**

1	DVTX	4001
2	DVTX	4002
3	DVTX	4003
4	DVTX	4004
5	DVTX	4005
6	DVTX	4006
7	DVTX	4007
8	DVTX	4010
9	DVTX	4013
10	DVTX	4014
11	DVTX	4016
12	DVTX	4017
13	DVTX	4018
14	DVTX	4019
15	DVTX	4020
16	DVTX	4021
17	DVTX	4022
18	DVTX	4023
19	DVTX	4025
20	DVTX	4026
21	DVTX	4027
22	DVTX	4030
23	DVTX	4031
24	DVTX	4032
25	DVTX	4033
26	DVTX	4035
27	DVTX	4036
28	DVTX	4037
29	DVTX	4039
30	DVTX	4041
31	DVTX	4042
32	DVTX	4043
33	DVTX	4044

**EXHIBIT "A"**

<b>RAILCARS</b>		
34	DVTX	4045
35	DVTX	4046
36	DVTX	4047
37	DVTX	4048
38	DVTX	4049
39	DVTX	4050
40	DVTX	4051
41	DVTX	4052
42	DVTX	4053
43	DVTX	4054
44	DVTX	4055
45	DVTX	4056
46	DVTX	4058
47	DVTX	4059
48	DVTX	4060
49	DVTX	4061
50	DVTX	4062
51	DVTX	4063
52	DVTX	4064
53	DVTX	4066
54	DVTX	4068
55	DVTX	4069
56	DVTX	4070
57	DVTX	4071
58	DVTX	4072
59	DVTX	4073
60	DVTX	4074
61	DVTX	4075
62	DVTX	4077
63	DVTX	4078
64	DVTX	4080
65	DVTX	4081
66	DVTX	4082
67	DVTX	4083
68	DVTX	4084
69	DVTX	4085
70	DVTX	4086
71	DVTX	4087
72	DVTX	4089
73	DVTX	4090
74	DVTX	4091
75	DVTX	4092
76	DVTX	4093
77	DVTX	4094
78	DVTX	4095
79	DVTX	4096
80	DVTX	4097
81	DVTX	4098

**EXHIBIT "A"**

<b>RAILCARS</b>		
82	DVTX	4099
83	DVTX	4100
84	DVTX	4101
85	DVTX	4103
86	DVTX	4105
87	DVTX	4107
88	DVTX	4108
89	DVTX	4109
90	DVTX	4110
91	DVTX	4111
92	DVTX	4112
93	DVTX	4114
94	DVTX	4115
95	DVTX	4116
96	DVTX	4117
97	DVTX	4118
98	DVTX	4120
99	DVTX	4121
100	DVTX	4122
101	DVTX	4123
102	DVTX	4124
103	DVTX	4125
104	DVTX	4127
105	DVTX	4128
106	DVTX	4129
107	DVTX	4130
108	DVTX	4131
109	DVTX	4132
110	DVTX	4133
111	DVTX	4134
112	DVTX	4135
113	DVTX	4139
114	DVTX	4140
115	DVTX	4141
116	DVTX	4142
117	DVTX	4143
118	DVTX	4144
119	DVTX	4145
120	DVTX	4146
121	DVTX	4147
122	DVTX	4148
123	DVTX	4150
124	DVTX	4151
125	DVTX	4152
126	DVTX	4153
127	DVTX	4154
128	DVTX	4155
129	DVTX	4156

RECORDATION NO. 25026 FILED

JUN 30 '04 2-12 PM [Railcars]  
SECURITY AGREEMENT

**SURFACE TRANSPORTATION BOARD**

THIS SECURITY AGREEMENT dated as of April 22, 2004 (this "Agreement"), is by and between INTERNATIONAL COMMODITIES EXPORT CORPORATION, a Delaware corporation (the "Debtor"), and SOUTHWEST BANK OF TEXAS, N.A., a national banking association ("Secured Party").

RECITALS:

A. Debtor and Secured Party have entered into that certain Loan Agreement dated as of September 10, 2003, as amended by First Amendment to Loan Agreement dated as of even date herewith (such Loan Agreement, as the same may be further amended or modified from time to time, is referred to herein as the "Loan Agreement").

B. Debtor and Lessees (hereinafter defined) have entered into those certain Lease Agreements (hereinafter defined).

C. Secured Party has conditioned its obligations under the Loan Agreement upon, among other things, the execution and delivery of this Agreement by Debtor.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I.

Security Interest

Section 1.1. Security Interest. Debtor hereby grants to Secured Party a security interest in the following property, whether now owned or existing or hereafter arising or acquired and wherever arising or located (such property being hereinafter sometimes called the "Collateral"):

(a) the general purpose tank railcars (the "Railcars"), more specifically described in Exhibit "A" attached hereto;

(b) all Debtor's right title and interest to all tangible personal property incorporated into the Railcars or acquired for incorporation into the Railcars, including all machinery, equipment, fixtures and other personalty of every nature and description incorporated into the Railcars or acquired for incorporation into the Railcars, whether now owned or hereafter acquired, and all appurtenances, accessions and additions

thereto and substitutions and replacements therefor, wheresoever located, including all tools, parts and accessories used in connection therewith;

- (c) all of Debtors right, title and interest in and to (i) any and all leases covering the Railcars (the "Leases");
- (d) all rights, remedies and privileges of Debtor to enforce the Leases;
- (e) all other general intangibles of Debtor arising from or relating to the Leases; and
- (f) all products and proceeds thereof (including insurance proceeds).

All terms used herein that are defined in the Uniform Commercial Code as adopted in the State of Texas shall have the meanings specified in the Uniform Commercial Code as adopted by the State of Texas as in effect from time to time (the "UCC").

Section 1.2. Obligations. The Collateral shall secure the following obligations, indebtedness, and liabilities (all such obligations, indebtedness, and liabilities being hereinafter sometimes called the "Obligations"):

- (a) the obligations and indebtedness of Debtor to Secured Party evidenced by (i) that certain promissory note in the original principal amount of \$3,000,000.00 dated as of even date herewith, executed by Debtor and payable to the order of Secured Party and (ii) that certain promissory note in the original principal amount of \$10,000,000.00 dated as of September 10, 2003, executed by Debtor and payable to the order of Secured Party;
- (b) the obligations and indebtedness of Debtor to Secured Party under the Loan Agreement;
- (c) all future advances by Secured Party to Debtor;
- (d) all costs and expenses, including, without limitation, all attorneys' fees and legal expenses, incurred by Secured Party to preserve and maintain the Collateral, collect the obligations herein described, and enforce this Agreement;
- (e) all other obligations, indebtedness, and liabilities of Debtor to Secured Party, now existing or hereafter arising, regardless of whether such obligations, indebtedness, and liabilities are similar, dissimilar, related, unrelated, direct, indirect, fixed, contingent, primary, secondary, joint, several, or joint and several; and

(f) all extensions, renewals, and modifications of any of the foregoing and all promissory notes given in extension, renewal or modification of any of the foregoing.

## ARTICLE II.

### Representations and Warranties

To induce Secured Party to enter into this Agreement and the Loan Agreement, Debtor represents and warrants to Secured Party that:

Section 2.1. Title. Except for the security interest granted herein, Debtor owns, and with respect to Collateral acquired after the date hereof Debtor will own, the Collateral free and clear of any lien, security interest, or other encumbrance.

Section 2.2. Financing Statements. No financing statement, security agreement, or other lien instrument covering all or any part of the Collateral is on file in any public office, except as may have been filed in favor of Secured Party.

Section 2.3. No Consent. The approval and authorization of the Surface Transportation Board of the Department of Transportation, the Association of American Railroads, the Interstate Commerce Commission or any other entity is not needed for the execution, delivery, and performance of this Agreement and the other Loan Documents to which Debtor is a party.

Section 2.4. Jurisdiction of Organization; Legal Name. Debtor is a Delaware corporation. Debtor's legal name set forth in its Articles of Incorporation filed with the Delaware Secretary of State, as amended to date is: International Commodities Export Corporation. Debtor's organizational ID is 2041098.

Section 2.5. Principal Place of Business. The principal place of business and chief executive office of Debtor, and the office where Debtor keeps its books and records, is located at the address of Debtor listed in the Loan Agreement.

Section 2.6. Business Purpose. The Collateral is used, acquired and held exclusively for business purposes and no portion of the Collateral is consumer goods. The Obligations were incurred solely for business purposes and not as a consumer-goods transaction or a consumer transaction.

## ARTICLE III.

### Covenants

Debtor covenants and agrees with Secured Party that until the Obligations are paid and performed in full:

Section 3.1. Maintenance. Debtor shall maintain the Collateral in good condition and repair and shall not permit any waste or destruction of the Collateral or any part thereof. Debtor shall not use or permit the Collateral to be used in violation of any law or inconsistently with the terms of any policy of insurance. Debtor shall not use or permit the Collateral to be used in any manner or for any purpose that would impair the value of the Collateral or expose the Collateral to unusual risk.

Section 3.2. Encumbrances. Debtor shall not create, permit, or suffer to exist, and shall defend the Collateral, against any lien, security interest, or other encumbrance on the Collateral except the security interest of Secured Party hereunder, and shall defend Debtor's rights in the Collateral and Secured Party's security interest in the Collateral against the claims of all persons and entities.

Section 3.3. Modification of Collateral; Leases. Debtor shall do nothing to impair the rights of Secured Party in the Collateral. Debtor shall not modify the Collateral. Without the prior written consent of Secured Party, Debtor shall not grant any extension of time for any payment with respect to the Collateral, or compromise, compound, or settle any of the Collateral, or release in whole or in part any person or entity liable for payment with respect to the Collateral, or allow any credit or discount for payment with respect to the Collateral other than normal trade discounts granted in the ordinary course of business, or release any lien, security interest, or assignment securing the Collateral, or otherwise amend or modify any of the Collateral. Debtor shall maintain the Leases in full force and effect. Debtor shall perform its obligations under the Leases and shall use its best and diligent efforts to enforce performance of the lessees under the Leases.

Section 3.4. Disposition of Collateral. Debtor shall not sell, lease, or otherwise dispose of the Collateral or any part thereof without the prior written consent of Secured Party, except as provided in Section 8.3 of the Loan Agreement.

Section 3.5. Further Assurances. At any time and from time to time, upon the request of Secured Party, and at the sole expense of Debtor, Debtor shall promptly execute and deliver all such further instruments and documents and take such further action as Secured Party may deem necessary or desirable to preserve and perfect its security interest in the Collateral and carry out the provisions and purposes of this Agreement.

Section 3.6. Risk of Loss; Insurance. Debtor shall be responsible for any loss of or damage to the Collateral. Debtor shall maintain insurance on the Collateral as provided in the Loan Agreement.

Section 3.7. Notification. Debtor shall promptly notify Secured Party of (a) any lien, security interest, encumbrance, or claim made or threatened against the Collateral, (b) any material change in the Collateral, including, without limitation, any material damage to or loss of the Collateral and (c) any investigation, action or complaint filed by or with the Surface Transportation Board of the Department of Transportation, the Interstate Commerce Commission, or the Association of American Railroads.

Section 3.8. Organizational Changes. Debtor shall not, without the prior written consent of Secured Party, change its name, identity, organizational structure or state of organization (including, without limitation, through any merger or reorganization). Debtor shall not do business under any trade name, unless such trade name has been disclosed to Secured Party. Debtor shall not change its principal place of business, chief executive office, or the place where it keeps its books and records unless it shall have given Secured Party thirty (30) days prior written notice thereof and shall have taken all action deemed necessary or desirable by Secured Party to cause its security interest in the Collateral to be perfected with the priority required by this Agreement.

Section 3.9. Books and Records; Information. Debtor shall keep accurate and complete books and records of the Collateral and Debtor's business and financial condition in accordance with generally accepted accounting principles consistently applied. Debtor shall from time to time at the request of Secured Party deliver to Secured Party such information regarding the Collateral and Debtor as Secured Party may request, including, without limitation, lists and descriptions of the Collateral and evidence of the identity and existence of the Collateral. Debtor shall mark its books and records to reflect the security interest of Secured Party under this Agreement.

Section 3.10. Compliance with Laws. Debtor shall comply with 49 USCS §§ 10101 et seq., and all applicable laws, rules, regulations, and orders of any court or governmental authority, including but not limited to the Surface Transportation Board of the Department of Transportation, the Interstate Commerce Commission and the Association of American Railroads.

#### ARTICLE IV.

##### Rights of Secured Party

Section 4.1. Power of Attorney. Debtor hereby irrevocably constitutes and appoints Secured Party and any officer or agent thereof, with full power of substitution, as its true and

lawful attorney-in-fact with full irrevocable power and authority in the name of Debtor or in its own name, upon the occurrence of an Event of Default, to take any and all action and to execute any and all documents and instruments which Secured Party at any time and from time to time deems necessary or desirable to accomplish the purposes of this Agreement and, without limiting the generality of the foregoing, Debtor hereby gives Secured Party the power and right on behalf of Debtor and in its own name to do any of the following, without notice to or the consent of Debtor:

(a) to demand, sue for, collect, or receive in the name of Debtor or in its own name, any money or property at any time payable or receivable on account of or in exchange for any of the Collateral and, in connection therewith, endorse checks, notes, drafts, acceptances, money orders, documents of title, or any other instruments for the payment of money under the Collateral or any policy of insurance;

(b) to pay or discharge taxes, liens, security interests, or other encumbrances levied or placed on or threatened against the Collateral;

(c) to send requests for verification to account debtors and other obligors;

(d) (i) to direct lessees and any other parties liable for any payment under any of the Collateral to make payment of any and all monies due and to become due thereunder directly to Secured Party or as Secured Party shall direct; (ii) to receive payment of and receipt for any and all monies, claims, and other amounts due and to become due at any time in respect of or arising out of any Collateral; (iii) to sign and endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, proxies, stock powers, verifications, and notices in connection with accounts and other documents relating to the Collateral; (iv) to insure, and to make, settle, compromise, or adjust claims under any insurance policy covering any of the Collateral; and (v) to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though Secured Party were the absolute owner thereof for all purposes, and to do, at Secured Party's option and Debtor's expense, at any time, or from time to time, all acts and things which Secured Party deems necessary to protect, preserve, or realize upon the Collateral and Secured Party's security interest therein.

This power of attorney is a power coupled with an interest and shall be irrevocable. Secured Party shall be under no duty to exercise or withhold the exercise of any of the rights, powers, privileges, and options expressly or implicitly granted to Secured Party in this Agreement, and shall not be liable for any failure to do so or any delay in doing so. Secured Party shall not be liable for any act or omission or for any error of judgment or any mistake of fact or law in its individual capacity or in its capacity as attorney-in-fact except acts or omissions resulting from its willful misconduct. This power of attorney is conferred on Secured Party to protect, preserve, and realize upon its security interest in the Collateral.

Secured Party shall not be responsible for any decline in the value of the Collateral and shall not be required to take any steps to preserve rights against prior parties or to protect, preserve, or maintain any security interest or lien given to secure the Collateral.

Section 4.2. Performance by Secured Party. If Debtor fails to perform or comply with any of its agreements contained herein, Secured Party itself may, at its sole discretion, cause or attempt to cause performance or compliance with such agreement and the expenses of Secured Party, together with interest thereon at the Default Rate (as defined in the Loan Agreement), shall be payable by Debtor to Secured Party on demand and shall constitute Obligations secured by this Agreement. Notwithstanding the foregoing, it is expressly agreed that Secured Party shall not have any liability or responsibility for the performance of any obligation of Debtor under this Agreement.

Section 4.3. Assignment by Secured Party. Secured Party may from time to time assign the Obligations and any portion thereof and the Collateral and any portion thereof, and the assignee shall be entitled to all of the rights and remedies of Secured Party under this Agreement in relation thereto.

Section 4.4. Financing Statements. Debtor expressly authorizes Secured Party to file financing statements showing Debtor as debtor covering all or any portion of the Collateral in such filing locations as selected by Secured Party and authorizes, ratifies and confirms any financing statement filed prior to the date hereof by Secured Party in any jurisdiction showing Debtor as debtor covering all or any portion of the Collateral.

## ARTICLE V.

### Default

Section 5.1. Events of Default. The term "Event of Default" shall mean an Event of Default as defined in the Loan Agreement.

Section 5.2. Rights and Remedies. Upon the occurrence of an Event of Default, Secured Party shall have the following rights and remedies:

- (a) Secured Party may declare the Obligations or any part thereof immediately due and payable, without notice, demand, presentment, notice of dishonor, notice of acceleration, notice of intent to accelerate, notice of intent to demand, protest, or other formalities of any kind, all of which are hereby expressly waived by Debtor; provided, however, that upon the occurrence of an Event of Default under Section 11.1(d) or Section 11.1(e) of the Loan Agreement, the Obligations shall become immediately due and payable without notice, demand, presentment, notice of dishonor, notice of acceleration, notice of intent to accelerate, notice of intent to

demand, protest, or other formalities of any kind, all of which are hereby expressly waived by Debtor.

(b) In addition to all other rights and remedies granted to Secured Party in this Agreement and in any other instrument or agreement securing, evidencing, or relating to the Obligations or any part thereof, Secured Party shall have all of the rights and remedies of a secured party under the UCC. Without limiting the generality of the foregoing, Secured Party may (i) without demand or notice to Debtor, collect, receive, or take possession of the Collateral or any part thereof and for that purpose Secured Party may enter upon any premises on which the Collateral is located and remove the Collateral therefrom or render it inoperable, and/or (ii) sell, lease, or otherwise dispose of the Collateral, or any part thereof, in one or more parcels at public or private sale or sales, at Secured Party's offices or elsewhere, for cash, on credit, or for future delivery. Upon the request of Secured Party, Debtor shall assemble the Collateral and make it available to Secured Party at any place designated by Secured Party that is reasonably convenient to Debtor and Secured Party. Debtor agrees that Secured Party shall not be obligated to give more than ten (10) days written notice of the time and place of any public sale or of the time after which any private sale may take place and that such notice shall constitute reasonable notice of such matters. Debtor shall be liable for all expenses of retaking, holding, preparing for sale, or the like, and all attorneys' fees, legal expenses, and all other costs and expenses incurred by Secured Party in connection with the collection of the Obligations and the enforcement of Secured Party's rights under this Agreement. Secured Party may apply the Collateral against the Obligations in such order and manner as Secured Party may elect in its sole discretion. Debtor shall remain liable for any deficiency if the proceeds of any sale or disposition of the Collateral are insufficient to pay the Obligations in full. Debtor waives all rights of marshalling in respect of the Collateral.

(c) Secured Party may cause any or all of the Collateral held by it to be transferred into the name of Secured Party or the name or names of Secured Party's nominee or nominees.

(d) Secured Party reserves all rights and remedies available to Secured Party under 49 USCS §§ 10101 et seq, and all other rights and remedies available to Secured Party through the Surface Transportation Board of the Department of Commerce, the Association of American Railroads, the Interstate Commerce Commission and any other governmental authority having jurisdiction over the Collateral.

(e) On any sale of the Collateral, Secured Party is authorized (i) to disclaim any warranty, express or implied, and (ii) to sell any of the Collateral without any refurbishment or reconditioning thereof. Debtor acknowledges and agrees that the foregoing actions by Secured Party may reduce the sales proceeds from any such sale of Collateral.

ARTICLE VI.

Miscellaneous

Section 6.1. No Waiver; Cumulative Remedies. No failure on the part of Secured Party to exercise and no delay in exercising, and no course of dealing with respect to, any right, power, or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other right, power, or privilege. The rights and remedies provided for in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.

**Section 6.2. Amendment. The provisions of this Agreement may be amended or waived only by an instrument in writing signed by the parties hereto.**

Section 6.3 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Debtor and Secured Party and their respective heirs, successors, and assigns, except that Debtor may not assign any of its rights or obligations under this Agreement without the prior written consent of Secured Party.

Section 6.4. Notices. All notices and other communications provided for in this Agreement shall be given as provided in the Loan Agreement; provided, however, that notwithstanding the foregoing, all notices under UCC Sections 9.208 (relating to the release of deposit accounts, electronic chattel paper, investment property and letter of credit rights), 9.209 (relating to account debtors that have been notified of the assignment to Secured Party), 9.210 (relating to a request for accounting), 9.513 (relating to requests for termination statements) and 9.616 (explanation of calculation of surplus or deficiency) shall be effective only if sent to the following address:

Southwest Bank of Texas, N.A.  
5 Post Oak Park  
4400 Post Oak Parkway  
Houston, Texas 77027  
Attention: Dennis Baker

Section 6.5. Applicable Law; Venue; Service of Process. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and the applicable laws of the United States of America. This Agreement has been entered into in Harris County, Texas, and it shall be performable for all purposes in Harris County, Texas. Except as provided in the Arbitration Agreement (as defined in the Loan Agreement), any action or proceeding against Debtor under or in connection with this Agreement or any other Loan Document (as defined in the Loan Agreement), including the Guaranty Agreement, may

be brought in any state or federal court in Harris County, Texas, and Debtor hereby irrevocably submits to the nonexclusive jurisdiction of such courts and waives any objection it may now or hereafter have as to the venue of any such action or proceeding brought in such court or that such court in an inconvenient forum. Except as provided in the Arbitration Agreement, nothing in this Agreement or any other Loan Document shall affect the right of Secured Party to serve process in any other manner permitted by law or shall limit the right of Secured Party to bring any action or proceeding against Debtor or with respect to any of the Collateral in any state or federal court in any other jurisdiction. Except as provided in the Arbitration Agreement, any action or proceeding by Debtor against Secured Party shall be brought only in a court located in Harris County, Texas.

Section 6.6. Headings. The headings, captions, and arrangements used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

Section 6.7 Survival of Representations and Warranties. All representations and warranties made in this Agreement or in any certificate delivered pursuant hereto shall survive the execution and delivery of this Agreement, and no investigation by Secured Party shall affect the representations and warranties or the right of Secured Party to rely upon them.

Section 6.8 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 6.9 Waiver of Bond. In the event Secured Party seeks to take possession of any or all of the Collateral by judicial process, Debtor hereby irrevocably waives any bonds and any surety or security relating thereto that may be required by applicable law as an incident to such possession, and waives any demand for possession prior to the commencement of any such suit or action.

Section 6.10 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 6.11 Obligations Absolute. The obligations of Debtor under this Agreement shall be absolute and unconditional and, except upon payment and performance of the Obligations in full, shall not be released, discharged, reduced, or in any way impaired by any circumstance whatsoever, including, without limitation, any amendment, modification, extension, or renewal of this Agreement, the Obligations, or any document or instrument evidencing, securing, or otherwise relating to the Obligations, or any release or subordination of collateral, or any waiver, consent, extension, indulgence, compromise, settlement, or other action or inaction in respect of this Agreement, the Obligations, or any document or

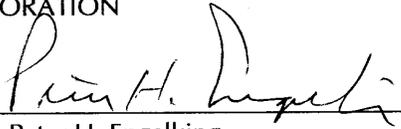
instrument evidencing, securing, or otherwise relating to the Obligations, or any exercise or failure to exercise any right, remedy, power, or privilege in respect of the Obligations. Secured Party shall not have any liability or responsibility for the performance of any obligation of Debtor under this Agreement.

Section 6.13 **NO ORAL AGREEMENTS. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS EMBODY THE FINAL, ENTIRE AGREEMENT AMONG THE PARTIES HERETO AND SUPERSEDE ANY AND ALL PRIOR COMMITMENTS, AGREEMENTS, REPRESENTATIONS, AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF THE PARTIES HERETO. THERE ARE NO ORAL AGREEMENTS AMONG THE PARTIES HERETO.**

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first written above.

DEBTOR:

INTERNATIONAL COMMODITIES EXPORT CORPORATION

By:   
Peter H. Engelking  
Senior Vice President

By:   
Jeremy Sheppe  
Vice President

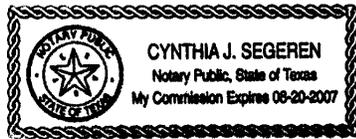
SECURED PARTY:

SOUTHWEST BANK OF TEXAS, N.A.

By:   
Fred Richmond  
Vice President

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

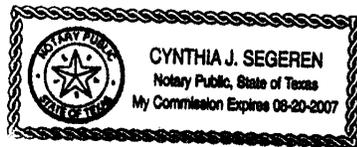
On this 22 day of April, 2004, this instrument was acknowledged before me by Peter H. Engelking, Senior Vice President of International Commodities Export Corporation, a Delaware corporation, on behalf of such corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



*Cynthia Segeren*  
Notary Public, State of Texas

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

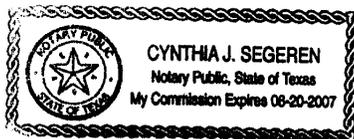
On this 22 day of April, 2004, this instrument was acknowledged before me by Jeremy Sheppe, Vice President of International Commodities Export Corporation, a Delaware corporation, on behalf of such corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



*Cynthia Segeren*  
Notary Public, State of Texas

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

On this 22 day of April, 2004, this instrument was acknowledged before me by Fred Richmond as Vice President of Southwest Bank of Texas, N.A., a national banking association, on behalf of such association by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association.



*Cynthia Segeren*  
Notary Public, State of Texas

**EXHIBIT "A"**

**RAILCARS**

**DVLX CARS**

1	DVLX	1002
2	DVLX	1004
3	DVLX	1005
4	DVLX	1006
5	DVLX	1007
6	DVLX	1008
7	DVLX	1009
8	DVLX	1012
9	DVLX	1013
10	DVLX	1015
11	DVLX	1016
12	DVLX	1017
13	DVLX	1018
14	DVLX	1019
15	DVLX	1021
16	DVLX	1023
17	DVLX	1024
18	DVLX	1025
19	DVLX	1026
20	DVLX	1027
21	DVLX	1030
22	DVLX	1031
23	DVLX	1032
24	DVLX	1033
25	DVLX	1034
26	DVLX	1035
27	DVLX	1036
28	DVLX	1037
29	DVLX	1038
30	DVLX	1039
31	DVLX	1040
32	DVLX	1041
33	DVLX	1042
34	DVLX	1043
35	DVLX	1044
36	DVLX	1045
37	DVLX	1046
38	DVLX	1047
39	DVLX	1048
40	DVLX	1049
41	DVLX	1050
42	DVLX	1051
43	DVLX	1052
44	DVLX	1053
45	DVLX	1054

**EXHIBIT "A"**

<b>RAILCARS</b>		
46	DVLX	1055
47	DVLX	1056
48	DVLX	1057
49	DVLX	1058
50	DVLX	1059
51	DVLX	1060
52	DVLX	1061
53	DVLX	1062
54	DVLX	1063
55	DVLX	1064
56	DVLX	1066
57	DVLX	1067
58	DVLX	1068
59	DVLX	1069
60	DVLX	1070
61	DVLX	1071
62	DVLX	1072
63	DVLX	1073
64	DVLX	1074
65	DVLX	1075
66	DVLX	1076
67	DVLX	1077
68	DVLX	1078
69	DVLX	1080
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73	DVLX	1084
74	DVLX	1085
75	DVLX	1086
76	DVLX	1087
77	DVLX	1088
78	DVLX	1089
79	DVLX	1090
80	DVLX	1091
81	DVLX	1092
82	DVLX	1094
83	DVLX	1095
84	DVLX	1096
85	DVLX	1097
86	DVLX	1098
87	DVLX	1099
88	DVLX	1100
89	DVLX	2001
90	DVLX	2002
91	DVLX	2003
92	DVLX	2004
93	DVLX	2005

**EXHIBIT "A"**

<b>RAILCARS</b>		
94	DVLX	2006
95	DVLX	2007
96	DVLX	2008
97	DVLX	2009
98	DVLX	2010
99	DVLX	2011
100	DVLX	2012
101	DVLX	2013
102	DVLX	2014
103	DVLX	2015
104	DVLX	2016
105	DVLX	2017
106	DVLX	2018
107	DVLX	2019
108	DVLX	2020
109	DVLX	2022
110	DVLX	2023
111	DVLX	2024
112	DVLX	2028
113	DVLX	2029
114	DVLX	2030
115	DVLX	2031
116	DVLX	2032
117	DVLX	2033
118	DVLX	2034
119	DVLX	2035
120	DVLX	2036
121	DVLX	2037
122	DVLX	2038
123	DVLX	2039
124	DVLX	2040
125	DVLX	2041
126	DVLX	2043
127	DVLX	2044
128	DVLX	2045
129	DVLX	2049
130	DVLX	2050
131	DVLX	2051
132	DVLX	2052
133	DVLX	2053
134	DVLX	2056
135	DVLX	2059
136	DVLX	2060
137	DVLX	2061
138	DVLX	2062
139	DVLX	2063
140	DVLX	2064
141	DVLX	2066

**EXHIBIT "A"**

<b>RAILCARS</b>		
142	DVLX	2067
143	DVLX	2068
144	DVLX	2069
145	DVLX	2070
146	DVLX	2072
147	DVLX	2073
148	DVLX	2074
149	DVLX	2075
150	DVLX	2077
151	DVLX	2078
152	DVLX	2079
153	DVLX	2150
154	DVLX	2151
155	DVLX	2152
156	DVLX	2153
157	DVLX	2154
158	DVLX	2155
159	DVLX	2156
160	DVLX	2157
161	DVLX	2158
162	DVLX	2160
163	DVLX	2161
164	DVLX	2162
165	DVLX	2163
166	DVLX	2164
167	DVLX	2165
168	DVLX	2166
169	DVLX	2167
170	DVLX	2168
171	DVLX	2169
172	DVLX	2171
173	DVLX	2172
174	DVLX	2173
175	DVLX	2174
176	DVLX	3001
177	DVLX	3002
178	DVLX	3003
179	DVLX	3004
180	DVLX	3005
181	DVLX	3006
182	DVLX	3008
183	DVLX	3009
184	DVLX	3010
185	DVLX	3011
186	DVLX	3012
187	DVLX	3013
188	DVLX	3014
189	DVLX	3015

**EXHIBIT "A"**

**RAILCARS**

190	DVLX	3016
191	DVLX	3017
192	DVLX	3018
193	DVLX	3019
194	DVLX	3021
195	DVLX	3023
196	DVLX	3024
197	DVLX	3025
198	DVLX	3026
199	DVLX	3027
200	DVLX	3028
201	DVLX	3029
202	DVLX	3030
203	DVLX	3031
204	DVLX	3033
205	DVLX	3034
206	DVLX	3035
207	DVLX	3036
208	DVLX	3037
209	DVLX	3038
210	DVLX	3039
211	DVLX	3040
212	DVLX	3041
213	DVLX	3042
214	DVLX	3043
215	DVLX	3044
216	DVLX	3045
217	DVLX	3046
218	DVLX	3047
219	DVLX	3048
220	DVLX	3049
221	DVLX	3050
222	DVLX	3052
223	DVLX	3053
224	DVLX	3054
225	DVLX	3055
226	DVLX	3056
227	DVLX	3057
228	DVLX	3059
229	DVLX	3062
230	DVLX	3063
231	DVLX	3064
232	DVLX	3065
233	DVLX	3066
234	DVLX	3067
235	DVLX	3068
236	DVLX	3069
237	DVLX	3070

**EXHIBIT "A"**

**RAILCARS**

238	DVLX	5000
239	DVLX	5001
240	DVLX	5002
241	DVLX	5003
242	DVLX	5004
243	DVLX	5005
244	DVLX	5006
245	DVLX	5007
246	DVLX	5008
247	DVLX	5009
248	DVLX	5010
249	DVLX	5011

**DVTX CARS**

1	DVTX	4001
2	DVTX	4002
3	DVTX	4003
4	DVTX	4004
5	DVTX	4005
6	DVTX	4006
7	DVTX	4007
8	DVTX	4010
9	DVTX	4013
10	DVTX	4014
11	DVTX	4016
12	DVTX	4017
13	DVTX	4018
14	DVTX	4019
15	DVTX	4020
16	DVTX	4021
17	DVTX	4022
18	DVTX	4023
19	DVTX	4025
20	DVTX	4026
21	DVTX	4027
22	DVTX	4030
23	DVTX	4031
24	DVTX	4032
25	DVTX	4033
26	DVTX	4035
27	DVTX	4036
28	DVTX	4037
29	DVTX	4039
30	DVTX	4041
31	DVTX	4042
32	DVTX	4043
33	DVTX	4044

**EXHIBIT "A"**

**RAILCARS**

34	DVTX	4045
35	DVTX	4046
36	DVTX	4047
37	DVTX	4048
38	DVTX	4049
39	DVTX	4050
40	DVTX	4051
41	DVTX	4052
42	DVTX	4053
43	DVTX	4054
44	DVTX	4055
45	DVTX	4056
46	DVTX	4058
47	DVTX	4059
48	DVTX	4060
49	DVTX	4061
50	DVTX	4062
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52	DVTX	4064
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56	DVTX	4070
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66	DVTX	4082
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69	DVTX	4085
70	DVTX	4086
71	DVTX	4087
72	DVTX	4089
73	DVTX	4090
74	DVTX	4091
75	DVTX	4092
76	DVTX	4093
77	DVTX	4094
78	DVTX	4095
79	DVTX	4096
80	DVTX	4097
81	DVTX	4098

**EXHIBIT "A"**

**RAILCARS**

82	DVTX	4099
83	DVTX	4100
84	DVTX	4101
85	DVTX	4103
86	DVTX	4105
87	DVTX	4107
88	DVTX	4108
89	DVTX	4109
90	DVTX	4110
91	DVTX	4111
92	DVTX	4112
93	DVTX	4114
94	DVTX	4115
95	DVTX	4116
96	DVTX	4117
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101	DVTX	4123
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119	DVTX	4145
120	DVTX	4146
121	DVTX	4147
122	DVTX	4148
123	DVTX	4150
124	DVTX	4151
125	DVTX	4152
126	DVTX	4153
127	DVTX	4154
128	DVTX	4155
129	DVTX	4156

**EXHIBIT "A"**

**RAILCARS**

130	DVTX	4158
131	DVTX	4159
132	DVTX	4160
133	DVTX	4161
134	DVTX	4162
135	DVTX	4163
136	DVTX	4165
137	DVTX	4166
138	DVTX	4167
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