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INTERSTATE COMMERCE COMMISSION

BAREBOAT CHARTER PARTY

M/V SCAUP

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This CHARTER PARTY (CHARTER PARTY) made this 5th
 day of November, 19 69, by and between
CROPWELL LEASING COMPANY, a Limited
 Partnership composed of the individuals listed on Exhibit
 A which is hereto attached and made a part hereof, whose
 principal place of business is 1309 Highland Avenue
Abington, Pennsylvania 19001 (PARTNERSHIP),
 and SOUTHERN INDUSTRIES CORPORATION, an Alabama Corporation
 having its principal place of business at Mobile, Alabama
 (SOUTHERN),

WITNESSETH:

1. DEFINITIONS

The following terms shall have the following meanings for all purposes of this Charter Party:

- (a) ACCEPTANCE DATE shall mean the date when the Vessel is delivered to, and accepted by, SOUTHERN under the Charter Party.
- (b) BASIC CHARTER HIRE shall mean the charter hire payable pursuant to Section 4 hereof.

- (c) BUILDER shall mean BENDER WELDING AND MACHINE COMPANY, INC., a Corporation.
- (d) CHARTER HIRE shall mean Basic Charter Hire and Supplemental Charter Hire collectively.
- (e) CHARTER PERIOD shall mean the Interim Period and the Term.
- (f) CLOSING DATE shall mean the date agreed to by SOUTHERN and PARTNERSHIP, which shall not be later than 120 days after Acceptance Date.
- (g) CONSTRUCTION COST shall be the sum of \$438,667.
- (h) EVENT OF DEFAULT shall mean any of the events referred to in Section 14 hereof.
- (i) INTERIM PERIOD shall mean the period between the Acceptance Date and the Closing Date.
- (j) MORTGAGE shall mean the First Preferred Ship Mortgage which it is contemplated will be placed on the Vessel by PARTNERSHIP in favor of the MORTGAGEES or BUILDER.
- (k) MORTGAGEES shall mean TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA and GIRARD TRUST BANK.
- (l) QUARTER shall mean a three month period counted

consecutively from the month in which the Closing Date occurs whether or not said three months constitute a calendar quarter.

- (m) SECURED INDEBTEDNESS shall mean any indebtedness from time to time secured by the Mortgage and the assignment of the Charter Party.
- (n) SUPPLEMENTAL CHARTER HIRE shall mean any and all amounts, liabilities and obligations which SOUTHERN agrees to pay, or causes to be paid, to PARTNERSHIP or PARTNERSHIP'S assignees hereunder, excluding Basic Charter Hire.
- (o) SYSTEMS shall mean SYSTEMS CAPITAL CORPORATION, a Delaware Corporation.
- (p) TERM shall mean the period of fifteen years from the Closing Date.
- (q) VESSEL shall mean a certain steel towboat, named SCAUP, Official No. 523032, together with all of the masts, boilers, cables, engines, boats, anchors, bits, rigging, tackle, apparel, furniture, fittings, tools, pumps, equipment and all other appurtenances and necessities thereunto appertaining and belonging.

2. SUBJECT MATTER AND TERM

PARTNERSHIP agrees to let, demise and charter to SOUTHERN and SOUTHERN agrees to hire:

- (a) for the Interim Period; and
- (b) for the Term,

the Vessel. The duration of this Charter Party shall extend through the Interim Period and the Term.

3. THE MORTGAGE

- (a) The Vessel will be subject to the lien of the Mortgage in favor of the MORTGAGEES. This Charter Party shall always be subject and subordinated to the Mortgage and SOUTHERN shall take no action which shall be inconsistent therewith. SOUTHERN shall be entitled, to the extent PARTNERSHIP shall be entitled, to take all action and make all payments and expenditures necessary to cure any default of PARTNERSHIP under the Mortgage.
- (b) Neither PARTNERSHIP, SOUTHERN, the Master of the Vessel or any other person has or shall have any right, power or authority to create, incur or permit to be placed or imposed on the Vessel or her freights, profits or

hire any lien, charge or encumbrance whatsoever other than liens for Masters' and crews' wages or salvage and the lien of the Mortgage.

4. BASIC CHARTER HIRE

No charter hire shall be payable for the Interim Period.

SOUTHERN agrees to pay PARTNERSHIP the following Basic Charter Hire for the Vessel for the Term, viz.:

For each of the first four quarters - An amount equal to 2.037% of Construction Cost.

For each of the next four quarters - An amount equal to 2.705% of Construction Cost.

For each of the next 40 quarters - An amount equal to 3.375% of Construction Cost.

For each of the next twelve quarters - An amount equal to 0.282% of Construction Cost.

The first payment of Basic Charter Hire shall be made on the Closing Date and one on the same day of each quarter thereafter for the next 59 quarters, but if there is no such day in any successive quarter, the Basic Charter Hire for that quarter shall be payable on the last day of

the last month of any such quarter. Should any date for the payment of Basic Charter Hire fall on Saturday, Sunday or legal holiday in the City of New York, New York, the payment then due shall be made on a weekday not a holiday next preceding such payment date.

Interest at the rate of 10% per annum shall be due and payable on any installment of Basic Charter Hire that is more than 10 days past due.

5. SUPPLEMENTAL CHARTER HIRE

SOUTHERN agrees to pay to PARTNERSHIP any and all items included in Supplemental Charter Hire, net of all applicable taxes, promptly as the same shall become due and owing, together with interest at the rate of 10% per annum on any past due item.

6. PURCHASE AT END OF TERM

SOUTHERN shall have the option to purchase the Vessel upon the expiration of the Term by giving PARTNERSHIP at least 180 days' notice prior to the expiration of the Term.

Should the option be exercised, the purchase price of the Vessel shall be its fair market value as agreed upon by SOUTHERN and PARTNERSHIP. Should said parties fail to agree prior to 120 days of the expiration of the

Term, fair market value shall be determined by three marine surveyors, one appointed by PARTNERSHIP, one by SOUTHERN and the third by the two first chosen. Should either party fail to appoint a marine surveyor at least 90 days prior to the expiration of the Term, then the marine surveyor named by the other party shall determine fair market value and the finding of such surveyor shall be binding and conclusive on both parties. Should the two surveyors appointed by SOUTHERN and PARTNERSHIP fail to agree upon a third marine surveyor at least 60 days prior to the expiration of the Term, then the third marine surveyor shall be named by The Merchants National Bank of Mobile, Mobile, Alabama.

The fees and expenses of such marine surveyors shall be paid by SOUTHERN.

The closing of the purchase shall be consummated within 10 days after the expiration of the Term hereof.

7. RIGHT TO RENEW

Should SOUTHERN not be in default with respect to any of the terms and provisions hereof and should it fail to exercise the option to purchase granted it in the preceding Section, it shall have the right to renew this Charter Party by giving notice to PARTNERSHIP not less than 150, nor more than 180, days prior to the expiration

of the Term. If such notice be given, the Charter Party shall forthwith stand renewed for a period of 90 days and shall stand renewed for each succeeding 90 day period unless SOUTHERN shall have given PARTNERSHIP at least 30 days' notice of its desire not to renew the Charter Party prior to the expiration of any such 90 day period.

If the renewal option is exercised, then Basic Charter Hire for the 90 day terms herein provided for shall be computed by dividing the fair market value of the Vessel at the end of the original Term by the remaining economic life of the Vessel, expressed in months, and the quotient obtained therefrom shall be multiplied by three and the result shall be the quarterly Basic Charter Hire payable by SOUTHERN for each quarter of any renewal term.

The parties shall attempt to agree on fair market value and on the remaining economic life of the Vessel and should the parties fail to so agree at least 120 days prior to the expiration of the Term, then fair market value and remaining economic life of the Vessel shall be determined by three marine surveyors appointed and acting in the fashion hereinabove provided for in the preceding Section with respect to the option to purchase.

8. DEMISE, DELIVERY OF VESSEL, CONDITION

(a) The Vessel covered hereby shall be delivered by

PARTNERSHIP to, and accepted by, SOUTHERN at Mobile, Alabama, simultaneously with the execution of this Charter Party.

(b) Throughout the Term, SOUTHERN shall have full use and exclusive possession and control of the Vessel and shall man, victual, supply, equip, navigate and operate the Vessel at its expense and by its own procurement. The master, officers and crew of the Vessel shall be engaged and employed by SOUTHERN and shall remain SOUTHERN'S servants and shall be under SOUTHERN'S direct control and direction.

(c) This Charter Party is a bareboat charter party and there shall be no duty on PARTNERSHIP to furnish, equip, man, navigate, operate, furnish supplies, fuel or food to, the Vessel; nor shall PARTNERSHIP have any duty or responsibility throughout the Term to see to the Vessel's location or condition or SOUTHERN'S arrangements therefor, all these being the exclusive responsibility of SOUTHERN notwithstanding the rights which may be reserved to PARTNERSHIP herein or to the MORTGAGEES in the Mortgage. Nevertheless, SOUTHERN agrees to respond to MORTGAGEES' inquiries, if any, and respect MORTGAGEES' rights of inspection and any other rights granted by the Mortgage.

(d) PARTNERSHIP MAKES NO EXPRESS OR IMPLIED WARRANTIES AS TO ANY MATTER, INCLUDING BUT NOT LIMITED TO THE CONDITION, USE, INSTALLATION, MERCHANTABILITY OR FITNESS FOR PURPOSE OF THE VESSEL. PARTNERSHIP makes no representations or warranties, express or implied, as to the title, seaworthiness, condition, design, operation, adequacy of construction or fitness for the intended use of the Vessel, or any other representation or warranty whatsoever, express or implied, with respect to the Vessel except that SOUTHERN shall be entitled to the benefits of the warranty made by BUILDER in the Towboat Construction Contract. The delivery to and the acceptance of said Vessel by SOUTHERN constitutes a full and complete performance by PARTNERSHIP of all obligations imposed on it by the terms of this Section and shall be conclusive proof as to the Vessel's compliance with any requirements of this Charter Party; and the fact of full and complete performance by PARTNERSHIP shall not thereafter be questioned and SOUTHERN will not be permitted to make or assert any claim against PARTNERSHIP on account of any representations or warranties, express or implied, with respect to said Vessel.

9. PARTNERSHIP DEBTS AND SECURED INDEBTEDNESS

(a) Any damages or other debts due to SOUTHERN from

PARTNERSHIP hereunder or otherwise shall constitute a debt payable on demand by PARTNERSHIP.

- (b) Until payment of all Secured Indebtedness, SOUTHERN shall make each Charter Hire payment and each other payment provided for in this Charter Party in full without interruption, abatement, set off or deduction whatsoever for any reason whatsoever even though (1) PARTNERSHIP shall be in default, whether or not willfully, under this Charter Party, or (2) SOUTHERN shall be deprived of, or limited in the use of the Vessel, regardless of the nature or duration of such deprivation or limitation and regardless of whether such deprivation or limitation is caused by PARTNERSHIP or any holder of any Secured Indebtedness. Moreover, SOUTHERN (1) shall have no right of set off, counterclaim or defense against any such payments, and (2) shall not be released, relieved or discharged from the obligation or liability to make all such payments for any reason whatsoever, including, without limitation, any breach of any representation, warranty or covenant of, or any act or omission of PARTNERSHIP under, or any failure of PARTNERSHIP to perform, this Charter Party; the unseaworthiness of the Vessel, or any willful misconduct or gross or criminal negligence or criminal

act of PARTNERSHIP or any of its agents in respect of the Vessel, performance of this Charter Party, or otherwise; any reorganization, arrangement, readjustment of debt, bankruptcy, dissolution or liquidation proceeding involving PARTNERSHIP or any holder of any Secured Indebtedness, any change, alteration, modification, extension, indulgence or other action or omission in respect of Secured Indebtedness or any security therefor or any agreement relating to such indebtedness, obligation or security, or any sale, exchange, release or surrender of, or other dealing in, any security for any such indebtedness or obligation, whether or not SOUTHERN shall have any notice or knowledge thereof; any right, claim or defense based on or arising out of (i) the fact that at the time any such payment is to be made, PARTNERSHIP is or may be insolvent, or (ii) any other business dealings by PARTNERSHIP or otherwise.

10. PARTNERSHIP'S REPRESENTATIONS

PARTNERSHIP warrants:

- (a) that the Vessel shall be and shall continue during the Term of the Charter Party to be free of liens and encumbrances which may result from any and all

claims against PARTNERSHIP not related to operation or possession of the Vessel;

- (b) that it will not place any ship mortgage other than the Mortgage on the Vessel or encumbrance which, by its terms, is not expressly subordinated to the rights of SOUTHERN under this Charter Party so long as no Event of Default has occurred and is continuing hereunder;
- (c) that both now and at all times hereafter during the Interim Period and the Term, PARTNERSHIP will continue to be a citizen of the United States as defined in the Shipping Act, 1916, and for purposes of qualifying the Vessel for coastwise trading under Section 27 of the Merchant Marine Act, 1920; and
- (d) that, conditioned upon SOUTHERN performing all of its obligations hereunder promptly in accordance with their terms, SOUTHERN shall peaceably and quietly hold, possess and use the Vessel without interference of any sort or kind by PARTNERSHIP.

11. REDELIVERY OF THE VESSEL

At the end of the Term or of any renewal Term, SOUTHERN will, at its own expense, redeliver the Vessel to

PARTNERSHIP at any reasonable port location chosen by PARTNERSHIP on the United States Gulf Coast. At the time of such redelivery, the Vessel shall be

- (a) free and clear of all liens, encumbrances and rights of others, except such liens other than the Mortgage as may result from claims against PARTNERSHIP not related to the possession or operation of the Vessel; and
- (b) be in as good order and operating condition as when delivered to SOUTHERN hereunder, ordinary wear and tear excepted.

12. PARTICULAR COVENANTS OF SOUTHERN

SOUTHERN represents, covenants and agrees that:

- (a) SOUTHERN is a corporation duly organized and in good standing under the laws of the State of Alabama and is duly qualified to do business wherever necessary to carry on its present and proposed business and operations;
- (b) this Charter Party has been duly authorized by all necessary corporate action on the part of SOUTHERN, does not contravene the Articles of Incorporation, by-laws or any indenture, credit agreement or other contractual obligation to which SOUTHERN is a party

or by which it is bound and does not contravene any law binding on SOUTHERN;

- (c) it is and will continue to be a citizen of the United States for the purpose of operation of the Vessel within the meaning of the requirements of the Shipping Act, 1916, and the Merchant Marine Act, 1920;
- (d) this Charter Party constitutes the legal, valid and binding obligation of SOUTHERN enforceable in accordance with its terms;
- (e) there are no pending or threatened actions or proceedings before any court or administrative agency which would materially adversely affect SOUTHERN'S condition or operations;
- (f) the Vessel has been accepted by SOUTHERN from PARTNERSHIP and on the Closing Date will be free and clear of all liens, obligations and encumbrances whatsoever which may arise or be incurred between the Acceptance Date and the Closing Date resulting from the use and operation of the Vessel by SOUTHERN;
- (g) there are no sales taxes or other imposts or like charges due under that certain Agreement of Assignment and Acceptance between SOUTHERN and PARTNERSHIP transferring and assigning that certain Towboat

Construction Contract between BUILDER and SOUTHERN dated February 14, 1969 (TOWBOAT CONSTRUCTION CONTRACT), relating to the construction of the Vessel, or on this Charter Party or on the Engine Purchase Agreement;

- (h) SOUTHERN will not cause or permit the Vessel to be operated in any manner contrary to applicable law and will not do, or suffer or permit to be done, anything which can or may injuriously affect the registration or enrollment of the Vessel under the laws and regulations of the United States of America; SOUTHERN will not engage in any unlawful trade or carry any cargo that will expose the Vessel to penalty, forfeiture or capture, and will not do any act or thing which will prevent the Vessel from maintaining itself as a duly documented vessel of the United States of America;
- (i) except for the lien of the Mortgage and liens, charges and encumbrances, if any, permitted thereby, and any lien, charge or encumbrance created by PARTNERSHIP, SOUTHERN will not create, assume, permit or suffer to be incurred or continued, any lien, charge or encumbrance on the Vessel and in due course and in any event within 30 days after the same become due and payable and will pay or cause to be discharged or

make adequate provision for the satisfaction or discharge of all claims or demands other than the Mortgage which might result in any claim of lien or will cause the Vessel to be released or discharged from any lien, charge or encumbrance therefor, provided, however, that without diminishing SOUTHERN'S obligations under the provisions of Section 11 (j) below, SOUTHERN may contest any claims for liens, for taxes, assessments and Governmental charges not then due and delinquent and any claim of lien for taxes, assessments and Governmental charges already due by appropriate proceedings brought and continued in good faith and with respect to which adequate reserves have been set aside on the books of SOUTHERN;

- (j) if the Vessel shall at any time be libeled, attached, detained, seized or levied upon or taken into custody under process or color of any authority for any acts whatsoever other than an act or failure to act by PARTNERSHIP not connected with the possession or operation of the Vessel, SOUTHERN will immediately notify PARTNERSHIP and MORTGAGEES by telegram, to be promptly confirmed by letter, of such proceeding and within 15 days thereof cause the Vessel to be released of any such lien and to be discharged by

filing an undertaking or stipulation or otherwise as may be lawfully permitted. If any such proceeding is not released within 15 days, PARTNERSHIP or MORTGAGEES may appear in the proceeding in the name of SOUTHERN or otherwise and obtain the release of the Vessel and all reasonable expenses so incurred by PARTNERSHIP or MORTGAGEES shall be repaid to them by SOUTHERN, but nothing herein contained shall be construed so as to deny to SOUTHERN the right to contest in good faith any such action and to proceed with such litigation as may be necessary so to do;

(k) it will pay all license and registration fees, all ad valorem taxes, sales and use taxes imposed against PARTNERSHIP, SOUTHERN or the Vessel by any governmental authority with respect to the Vessel or upon the Charter Hire arising from this Charter Party, but SOUTHERN shall have the right, in the name of PARTNERSHIP but at SOUTHERN'S expense, to appeal from any ad valorem assessment against said Vessel or to take such other steps in the name of PARTNERSHIP as may be proper in order to contest the validity of any of the taxes and assessments hereinabove described;

(l) it will not sub-charter the Vessel or assign any of its rights hereunder to anyone unless SOUTHERN by the terms of such assignment or sub-charter agrees

to remain fully liable for the performance of all the duties and obligations of SOUTHERN under this Charter Party;

(m) SOUTHERN, at its expense, shall protect, save harmless and indemnify PARTNERSHIP and MORTGAGEES from and against

(i) any lien of any nature on the Vessel (other than the Mortgage),

(ii) any claim of any nature, founded or unfounded, by any third party (including, without limitation, any claim for any tax, assessment, excise, levy, duty, fee or other governmental charge), and

(iii) any fine or penalty arising from any violation of any law, treaty, convention, rule or regulation,

if such lien, claim, fine or penalty arises from the construction, use, operation or maintenance of the Vessel prior to or during the Charter Period;

(n) SOUTHERN will at all times and without cost or expense to PARTNERSHIP maintain and preserve, or cause to be maintained and preserved, the Vessel and all necessary equipment therefor in good condition, working order and repair, and either (i) will keep the Vessel or cause it to be kept, in such condition as to meet the requirements for Class A-1 River Towing Service of the American Bureau of Shipping and will annually submit to PARTNERSHIP and MORTGAGEES a certificate of the American

Bureau of Shipping to that effect, or (ii) annually will cause the Vessel to be surveyed by the United States Salvage Association and to cause a report of condition and value to be submitted to PARTNERSHIP and MORTGAGEES; the Vessel shall, and SOUTHERN covenants that it will, at all times comply with all applicable laws, treaties and conventions of the United States of America, and rules and regulations issued thereunder, and shall have on board, when required thereby, valid certificates showing compliance therewith; SOUTHERN will not make, or permit to be made, any substantial change in the structure, type or speed of the Vessel or change in its rig, without first receiving the written approval thereof by PARTNERSHIP and MORTGAGEES;

- (o) at all times more than 10 days after the date hereof
- (i) SOUTHERN will carry or cause to be carried a properly certified copy of the Mortgage on board the Vessel with its papers and will cause such certified copy and the Vessel's marine document to be exhibited to any and all persons having business with the Vessel which might give rise to a maritime lien thereon or to any sale, conveyance, mortgage or lease thereof, and to any representative of the MORTGAGEES; and (ii) will cause to be placed and kept prominently displayed in the chart room and in the Master's cabin of the

Vessel a framed, written notice in plain type of such size that the paragraph of reading matter shall cover a space not less than six inches wide and nine inches long, reading as follows:

"NOTICE OF MORTGAGE AND CHARTER

This Vessel is covered by a First Preferred Mortgage to GIRARD TRUST BANK and TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, as Mortgagees, under authority of the Ship Mortgage Act, 1920, as amended and a Bareboat Charter Party to Southern Industries Corporation. Under the terms of said Mortgage and said Bareboat Charter Party, neither the Owner, any charterer, the Master of this Vessel, nor any other person has any right, power or authority to create, incur or permit to be placed or imposed upon this Vessel any lien whatsoever other than said Mortgage and liens for crew's wages or salvage." ;

- (p) MORTGAGEES shall have the right at any time on reasonable notice, to inspect or survey the Vessel to ascertain its condition and to satisfy themselves that the Vessel is being properly repaired and maintained, and SOUTHERN shall cause to be made all such repairs, without expense to MORTGAGEES, as such inspection or survey may reasonably show to be required.

SOUTHERN shall also permit PARTNERSHIP and MORTGAGEES to inspect the Vessel's logs, whenever requested, on reasonable notice, and shall furnish PARTNERSHIP and MORTGAGEES with full information regarding any casualties or other accidents or damage to the Vessel involving an amount in excess of \$25,000.

- (q) SOUTHERN will at all reasonable times afford PARTNERSHIP and MORTGAGEES or their authorized representatives full and complete access to the Vessel for the purpose of inspecting the Vessel and its cargo and papers and, at the request of PARTNERSHIP and MORTGAGEES, will deliver for inspection copies of any and all contracts and documents relating to the Vessel, whether on board or not.

13. INSURANCE

- (a) SOUTHERN shall, at its own expense, maintain in force and effect in respect of the Vessel insurance (payable in lawful money of the United States) in such amounts, against such risks (including, without limitation, war risks), generally insured against by prudent shipowners in such form, including, without limitation, the form of the loss payable clause and

the designation of named assured, and with such insurance companies, underwriters, funds, mutual insurance associations or clubs, as shall be declared from time to time by a firm or firms of independent marine insurance brokers, appointed by SOUTHERN and satisfactory to PARTNERSHIP and MORTGAGEES, to be necessary or advisable for the protection of the interest of PARTNERSHIP and MORTGAGEES and in accordance with the provisions of this item; provided that PARTNERSHIP or MORTGAGEES in their discretion may require (but shall be under no duty with respect thereto) other or additional insurance in other amounts, against other risks, in other forms, including, without limitation, the form of the loss payable clause and the designation of named assured, and with other insurance companies, underwriters, clubs, or funds. SOUTHERN shall furnish to PARTNERSHIP and MORTGAGEES annually, during the month of October and at the time of execution of the Mortgage, a detailed report or reports, in form and substance satisfactory to PARTNERSHIP and MORTGAGEES (which shall set forth, without limitation, with respect to each type of insurance coverage, each policy, its form, its number, its amount, the insurer or insurers, the type of risk covered and the expiration date), signed by such firm or firms with respect to the insurance and

maintained in respect of the Vessel, together with their opinion or opinions as to the adequacy thereof and as to the compliance thereof with the provisions of this item. SOUTHERN will cause such firm or firms to agree to advise PARTNERSHIP and MORTGAGEES promptly of any lapse of any such insurance by expiration, termination, failure to renew or otherwise and of any default in payment of any premium and of any other act or omission on the part of SOUTHERN of which they have knowledge and which might invalidate or render unenforceable, in whole or in part, any insurance on the Vessel. PARTNERSHIP and MORTGAGEES shall not be deemed to have knowledge of any such lapse of insurance in the absence of receipt of notice from such firm or firms. SOUTHERN will also cause such firm or firms to agree to mark their records and to use their best efforts to advise PARTNERSHIP and MORTGAGEES, at least 5 business days prior to the expiration date of any insurance carried pursuant to this Charter Party, that such insurance has been renewed with new insurance which complies with the provisions of this item, and such advice shall be in the same detail in respect of such renewal or replacement insurance as is required in respect of insurance described in the aforesaid reports. All insurance shall include PARTNERSHIP

and MORTGAGEES as assureds and shall by its terms be payable to MORTGAGEES for distribution, first, to MORTGAGEES and thereafter to PARTNERSHIP as PARTNERSHIP'S interest may appear. If requested by PARTNERSHIP or MORTGAGEES, SOUTHERN shall deliver to PARTNERSHIP and MORTGAGEES an agreement of each such insurance company, underwriter, club or fund, or of an authorized agent thereof, to the effect that the policy or policies issued by such insurance company, underwriter, club or fund (other than with respect to war risk insurance) shall not lapse, expire, terminate or be canceled for any reason whatsoever without at least 5 days' prior written or telegraphic notice to PARTNERSHIP and MORTGAGEES.

- (b) For the purposes of insurance against total loss, the Vessel, its equipment, appurtenances, etc., shall be insured for and valued at an amount at least equal to the greater of the full commercial value thereof or that percentage of the aggregate outstanding principal amount secured by the Mortgage which results from dividing 120 by the number of vessels similarly mortgaged to the MORTGAGEES as security for the indebtedness secured by the Mortgage at the time of such division. Insurance covering protection and indemnity risk in respect

of the Vessel shall be in an amount equal to the full commercial value of the Vessel or \$60 per gross ton (or such higher amount as may be specified from time to time as the limit of liability for shipowners under any statute of the United States or convention or treaty to which the United States is a party), whichever is greater; provided, however, that this provision shall not prohibit SOUTHERN from entering the Vessel with any mutual insurance association or club acceptable to PARTNERSHIP and MORTGAGEES for full coverage against protection and indemnity risks in accordance with the rules of such association or club.

- (c) All losses and other payments under insurance on the Vessel shall be payable to MORTGAGEES as provided in (a) except that unless otherwise required by MORTGAGEES by notice to the underwriters, (i) any loss under any insurance on the Vessel with respect to protection and indemnity risks may be paid directly to SOUTHERN to reimburse it for any loss, damage or expense incurred by SOUTHERN and covered by such insurance or directly to the person to whom any liability covered by such insurance has been incurred, and (ii) in the case of any loss (other than

a loss covered by clause (i) of this paragraph or by the next paragraph of this item) under any insurance with respect to the Vessel involving any damage to the Vessel, the underwriters may pay direct for the repair, salvage or other charges involved or, if SOUTHERN shall have first fully repaired the damage or paid all of the salvage or other charges, may pay SOUTHERN as reimbursement therefor; provided that if such damage involves a loss in excess of \$25,000, the underwriters shall not make such payment without first obtaining the written consent thereto of MORTGAGEES. Any loss covered by this paragraph which is paid to MORTGAGEES but which might have been paid in accordance with the provisions of this paragraph direct to SOUTHERN or others, shall be paid by MORTGAGEES to, or as directed by, SOUTHERN and all other payments to MORTGAGEES of losses covered by this paragraph shall be applied by the MORTGAGEES as they, in their sole discretion, see fit.

(d) In the event of an actual or constructive total loss or a compromised constructive total loss or requisition, all insurance payments therefor shall be paid to the MORTGAGEES and applied as provided in the Mortgage.

(e) In the event that any claim or lien is asserted

against the Vessel for loss, damage or expense which is covered by insurance required hereunder, and it is necessary for SOUTHERN to obtain a bond or supply other security to prevent arrest of the Vessel or to release the Vessel from arrest on account of such claim or lien, PARTNERSHIP and MORTGAGEES, on request of SOUTHERN or its agent, may, in the sole discretion of both PARTNERSHIP and MORTGAGEES, assign to any person, firm or corporation executing a surety or guarantee bond or other agreement to save or release the Vessel from such arrest, all right, title and interest of PARTNERSHIP and MORTGAGEES in and to said insurance covering said loss, damage or expense, as collateral security to indemnify against liability under said bond or other agreement.

(f) SOUTHERN shall deliver to PARTNERSHIP and MORTGAGEES copies, and upon request of MORTGAGEES the originals, of all cover notes, binders, policies and certificates of entry in protection and indemnity associations, and all endorsements and riders amendatory thereof, in respect of insurance maintained under this Charter Party.

(g) SOUTHERN agrees that it will not do any act, or voluntarily suffer or permit any act to be done,

whereby any insurance required hereunder shall or may be suspended, impaired or defeated and will not suffer or permit the Vessel to engage in any voyage, or to carry any cargo or undertake any tow, not permitted under the policies of insurance in effect, without first covering the Vessel with insurance satisfactory in all respects, including the amount thereof, to PARTNERSHIP and MORTGAGEES for such voyage.

- (h) SOUTHERN, at its own expense, shall make all proofs of loss or cause to be taken all other actions necessary or appropriate to effect collections from insurers of insurance required by this item. PARTNERSHIP agrees that it will, and it will cause the MORTGAGEES to, at the expense of SOUTHERN, sign such claim papers and other documents, take such action and furnish such information as SOUTHERN may reasonably request, including tendering abandonment of the Vessel to insurers or others.
- (i) Anything herein to the contrary notwithstanding, prior to the time that the Vessel is mortgaged to MORTGAGEES, the MORTGAGEES shall have no rights under the provisions of this item and all references to the MORTGAGEES shall, during the Interim Period of this Charter Party, apply to BUILDER and SOUTHERN, as their

interests may appear; and after the Mortgage has been paid in full and discharged of record, the MORTGAGEES shall have no rights under the provisions of this item, and all references to the MORTGAGEES shall apply to PARTNERSHIP.

14. DEFAULT

The happening of any one or more of the following things shall constitute default hereunder, viz.:

- (a) Default in the payment, when due, of the Basic Charter Hire and of the Supplemental Charter Hire and of any interest that may be due on either;
- (b) Failure by SOUTHERN to perform and comply with all of the duties and obligations imposed on SOUTHERN by Sections 12(c), 12(d), 12(h), 12(i), 12(j), the first sentence of Section 13(a) or Section 13(g) hereof;
- (c) Failure of SOUTHERN to perform and comply with all of the duties and obligations imposed on SOUTHERN under any other provision of this Charter, provided such default shall have existed for a period of ten days after written notice from PARTNERSHIP or MORTGAGEES;
- (d) SOUTHERN shall make an assignment for the benefit of

creditors or shall admit in writing its inability to pay its debts as they become due, or shall file a voluntary petition in bankruptcy, or shall be adjudicated a bankrupt or insolvent or shall file any petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, or shall file any answer admitting the material allegations of a petition filed against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of SOUTHERN or of the Vessel or all or any substantial part of the properties of SOUTHERN;

- (e) Within 45 days after the commencement of any proceeding against SOUTHERN seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, SOUTHERN shall not have had such proceeding dismissed, or, within 45 days after the appointment, without the consent or acquiescence or against the objection of SOUTHERN, of any trustee, receiver or liquidator of SOUTHERN or of all or any substantial part of its properties, SOUTHERN shall not have had such appointment vacated.

15. REMEDIES ON DEFAULT

In the event of any default, PARTNERSHIP may, at its option, do any one or more of the following acts or things:

- (a) Declare all unpaid Basic Charter Hire to the end of the Term, together with the interest thereon, if any, to be immediately due and payable, and proceed by attachment, suit or otherwise to collect the whole of said amount, together with any Supplemental Charter Hire and the interest thereon, and upon the payment of all such amounts by SOUTHERN to PARTNERSHIP, SOUTHERN shall be entitled to use the Vessel subject to the terms and provisions hereof for the remainder of the Term without payment of Basic Charter Hire, but in the event the option to renew herein granted be exercised, Charter Hire in the amount herein provided for the renewal term shall be paid by SOUTHERN to PARTNERSHIP; or
- (b) Cancel and annul this Charter Party and immediately repossess the Vessel chartered hereby; or
- (c) Demand immediate possession of the Vessel without annulling this Charter Party, and in the event of such demand, SOUTHERN shall immediately surrender possession of said Vessel and PARTNERSHIP may, at

its option, (i) for the balance of the Term, charter said Vessel and SOUTHERN shall pay PARTNERSHIP the difference between the Basic Charter Hire and any lesser amount of charter hire which PARTNERSHIP may procure by chartering said Vessel to others; or (ii) sell or otherwise dispose of the Vessel and apply the proceeds of such sale or other disposition against SOUTHERN'S obligations hereunder. Any subsequent sale or loss of the Vessel shall be without prejudice to PARTNERSHIP'S claim for damages for such default.

Each and every power or remedy herein given to PARTNERSHIP shall be cumulative and in addition to all powers or remedies now or hereafter existing in admiralty, in equity, at law or by statute, and may be exercised as often as may be deemed proper by PARTNERSHIP. No delay or omission by PARTNERSHIP shall impair any such right, power or remedy, and no waiver of any default shall be construed to be a waiver of any other default.

No right, title or interest of PARTNERSHIP in and to the Vessel and no right or interest of PARTNERSHIP or any secured party to take possession of the Vessel in accordance with the provisions of this Bareboat Charter Party shall be affected by the provisions of the Federal Bankruptcy Act as

amended, including specifically Chapter X thereof.

16. RIGHT OF PARTNERSHIP TO PERFORM FOR SOUTHERN

Should SOUTHERN fail to make any payment of Supplemental Charter Hire when due or fail to perform or comply with any of the duties and obligations herein imposed on it, PARTNERSHIP may make such payment or perform such duties and obligations and the amount of such payment and the amount of the reasonable expenses of PARTNERSHIP incurred in connection with such payment or in the performance of such duties and obligations, as the case may be, together with interest at the rate of 10% per annum, shall be deemed Supplemental Charter Hire payable by SOUTHERN upon demand to PARTNERSHIP.

17. NOTICES

All notices required under the terms and provisions hereof shall be in writing, addressed to the party for whom said notice is intended at its then place of business, either by hand or by U. S. registered mail, postage prepaid, return receipt requested, addressed:

- (a) if to SOUTHERN, to P. O. Box 1685, Mobile, Alabama 36601, or to such other address as SOUTHERN shall from time to time designate in writing to PARTNERSHIP and MORTGAGEES; and

(b) if to PARTNERSHIP, to 1309 Highland Avenue, Abington, Pennsylvania 19001, or to such other address as PARTNERSHIP shall from time to time designate in writing to SOUTHERN and MORTGAGEES; and

(c) if to MORTGAGEES, to

TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, 730 Third Avenue, New York, New York 10017 Attention: Securities Division

and

GIRARD TRUST BANK, Broad and Chestnut Streets, Philadelphia, Pennsylvania 19102 Attention: Commercial Installment Loan Department

or to such other address as MORTGAGEES shall from time to time designate in writing to SOUTHERN and PARTNERSHIP.

Whenever notice is herein required to be given to PARTNERSHIP by SOUTHERN, then SOUTHERN agrees to simultaneously send a copy of said notice to SYSTEMS, in the same manner as provided for with respect to the parties hereto, to Suite 1214, 1700 Market Street, Philadelphia, Pennsylvania 19103, or to such other address as SYSTEMS shall from time to time designate in writing to SOUTHERN.

18. NO SET-OFF, COUNTERCLAIM, ETC.

SOUTHERN'S obligation to pay all Charter Hire payable hereunder shall be absolute and unconditional and shall not be affected by any circumstance, including, without limitation:

- (a) any set-off, counterclaim, recoupment, defense or other right which SOUTHERN may have against PARTNERSHIP;
- (b) any defect in the title, seaworthiness, condition, design, operation or fitness for use of, or any damage to or loss or destruction of, the Vessel, or any interruption or cessation in the use or possession thereof by SOUTHERN for any reason whatsoever; or
- (c) any insolvency, reorganization or similar proceedings by or against SOUTHERN.

SOUTHERN hereby waives, to the extent permitted by applicable law, any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Charter Party except in accordance with the express terms hereof. If for any reason whatsoever this Charter Party shall be terminated in whole or in part by operation of law or otherwise, except as specifically provided herein, SOUTHERN nonetheless agrees to pay to PARTNERSHIP an amount equal to each Basic Charter Hire payment at the time such payment would have become due and payable in accordance with the terms hereof had this Charter Party not been terminated in whole or in part. Each Basic Charter Hire pay-

ment made by SOUTHERN shall be final and SOUTHERN will not seek to recover all or any part of such payment from PARTNERSHIP for any reason whatsoever.

19. ATTORNEY'S FEES

In the event of the employment of an attorney for the collection of any amount due or becoming due hereunder, or for the institution of any suit for possession of the Vessel chartered hereby, or for the advice or services incident to the breach of any condition or covenant of this Charter Party by SOUTHERN, or on account of bankruptcy proceedings by or against SOUTHERN, or on account of legal process being issued against SOUTHERN, SOUTHERN agrees to pay, and shall be taxed with, a reasonable attorney's fee, which shall be a part of the debt evidenced and secured by this Charter Party.

20. CHARTER PARTY NON-CANCELLABLE

This Charter Party may not be canceled by either party hereto, nor may any provision hereof be changed, waived, discharged or terminated except by the written consent of the MORTGAGEES and the parties hereto.

21. MISCELLANEOUS

(a) Any provision of this Charter Party which is pro-

hibited 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 hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, SOUTHERN hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect.

- (b) This Charter Party shall constitute an agreement of charter and nothing herein shall be construed as conveying to SOUTHERN any right, title or interest in the Vessel except as a charterer only.
- (c) PARTNERSHIP has elected to treat SOUTHERN as having acquired the Vessel for purposes of the Investment Credit allowed by Section 38 of the Internal Revenue Code of 1954, as amended, or any successor section to said Section, and PARTNERSHIP shall execute and deliver to SOUTHERN, simultaneously with the execution hereof, a form of "Election to Treat Lessee as Purchaser".
- (d) The captions in this Charter Party are for convenience of reference only and shall not define or

limit any of the terms or provisions hereof.

- (e) This Charter Party shall in all respects be governed by, and construed in accordance with, maritime law, but to the extent not so governed, then by the laws of the State of Alabama, including all matters of construction, validity and performance.
- (f) This Charter Party may be executed in any number of counterparts, each of which shall be an original, but such counterparts together shall constitute one and the same instrument.

22. SUCCESSIVE INTERESTS

This Charter Party shall enure to the benefit of and shall be binding upon the respective heirs, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, PARTNERSHIP has caused its name to be signed hereto by *J. A. J. Reid*, a General Partner, and SOUTHERN has caused its name to be signed hereto by KENNETH J. REID, its Vice President, and this instrument to be attested and its corporate seal to be hereto affixed by S. A. Davis, Jr., its Secretary,

on the dates appearing in their respective acknowledgments hereto but as of the day and year first above written.

CROPWELL LEASING COMPANY

By *John J. Dech*
General Partner

SOUTHERN INDUSTRIES CORPORATION

By *Kenneth J. Reid*
Its Vice President

ATTEST:

By *[Signature]*
Its Secretary

COMMONWEALTH OF PENNSYLVANIA,
COUNTY OF *Philadelphia*.

I, the undersigned Notary Public in and for said County in said Commonwealth, hereby certify that *John J. Dech*, whose name as a General Partner of CROPWELL LEASING COMPANY, a Limited Partnership, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, he, as such General Partner and with full authority,

executed the same voluntarily for and as the act of said Partnership.

Given under my hand and seal this the 19th day of December, 1969.

Joseph J. Corliss
Notary Public, Philadelphia
County, Pennsylvania
NOTARY PUBLIC
My Commission Expires April 26, 1971

STATE OF ALABAMA,
COUNTY OF MOBILE.

I, the undersigned Notary Public in and for said County in said State, hereby certify that KENNETH J. REID and S. A. DAVIS, JR., whose names as Vice President and Secretary, respectively, of SOUTHERN INDUSTRIES CORPORATION, a Corporation, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said Corporation.

Given under my hand and seal this the 5th day of November, 1969.

Geraldine Corroby
Notary Public, Mobile County, Alabama

EXHIBIT A

CROPWELL LEASING COMPANY

JOHN DIAK

General Partner

O. DeG. VANDERBILT

General Partner