

MIDLAND ENTERPRISES INC.,
Owner

W-11-B

AND

RECORDATION NO. _____ Filed & Recorded

DEC 10 1973 - 8 30 AM

THE OHIO RIVER COMPANY

Charterer INTERSTATE COMMERCE COMMISSION

FIRST SUPPLEMENT
Dated as of December 5, 1973

to

CHARTER AGREEMENT
Dated as of August 1, 1973.

Certain moneys due and to become due under the Charter Agreement as supplemented hereby have been assigned to Bankers Trust Company, as Trustee under an Indenture of First Preferred Ship Mortgage dated as of August 1, 1973.

Recordation No. W-11-B

(Filed pursuant to the
Provisions of Section 323
Interstate Commerce Act

First Supplement dated as of December 5, 1973 to Charter Agreement dated as of August 1, 1973 between Midland Enterprises Inc., a corporation duly organized and existing under and by virtue of the laws of the State of Delaware (hereinafter called "Owner"), and The Ohio River Company, a corporation duly organized and existing under and by virtue of the laws of the State of West Virginia (hereinafter called "Charterer").

W I T N E S S E T H:

WHEREAS, Owner and Charterer have heretofore entered into a Charter Agreement dated as of August 1, 1973 (herein called the "Charter") providing for the charter by the Charterer of the vessels specified in Exhibit A to the Charter; and

WHEREAS, the following vessels have heretofore been delivered under the Charter, to wit:

River Barges OR3220 and OR3301
through OR3331, inclusive; and

WHEREAS, Charterer desires to charter the river towboat hereinafter described; and

WHEREAS, Charterer advertised a request for bids for such river towboat; and

WHEREAS, Owner's bid with respect to such river towboat was accepted by Charterer; and

WHEREAS, Owner and Charterer wish to supplement the Charter in the manner hereinafter provided;

NOW, THEREFORE, THIS SUPPLEMENT WITNESSETH, that in consideration of the premises:

1. (a) Owner agrees to let and demise, and Charterer agrees to charter, under the Charter, the following additional vessel, to wit:

River Towboat M/V Miss Nancy

(b) Section 8 of the Charter is hereby supplemented by adding at the end of such Section 8 a paragraph reading as follows:

"Charterer will place and keep prominently displayed in the Master's cabin and the wheel-house of each Vessel which is a towboat a notice in durable form as follows:

'Notice of Preferred Mortgage and Charter

'This vessel is owned by Midland Enterprises Inc., is covered by an Indenture of First Preferred Ship Mortgage to Bankers Trust Company, Trustee, under the Ship Mortgage Act, 1920, and is under charter to The Ohio River Company. Under said mortgage and charter, neither owner, charterer, master nor any other person has any right, power or authority to create, incur or permit to be imposed upon this vessel, its hire, freights, earnings, revenues, profits and income, any lien other than for wages of the master and crew or salvage.'"

(c) Subsection (b) of Section 12 of the Charter is hereby supplemented by adding at the end of such subsection (b) a paragraph reading as follows:

"In no event shall tower's liability insurance on any Vessel which is a towboat be in an amount less than the amount of hull insurance on said Vessel."

In all other respects, the Charter shall remain in full force and effect and all of the obligations of the parties thereto, including but not limited to the amount of charter hire payable by Charterer, shall remain the same.

2. All covenants and agreements and all rights, powers and remedies on the part of Charterer and Owner which are provided for in the Charter, as supplemented hereby, are incorporated herein and shall apply with the same force and effect as though set forth at length herein, and this instrument shall be construed as supplemental to the Charter and shall form a part thereof.

3. This Supplement shall be executed in three counterparts for the parties and each such counterpart shall for all purposes be deemed an original. Two of said counterparts shall be endorsed "This is one of Owner's two original copies" and shall be delivered to the Owner, and the remaining one counterpart shall be endorsed "This is Charterer's original copy" and shall be delivered to Charterer. Two additional counterparts

shall be executed and filed with the Interstate Commerce Commission. Under no circumstances shall there be executed, at any time, any copies hereof in addition to such five counterparts.

IN WITNESS WHEREOF, the parties hereto have caused this First Supplement to be duly executed as of the day and year first above written.

[Corporate Seal]

ATTEST:

B. J. Willis
Secretary

MIDLAND ENTERPRISES INC., Owner

By

R. N. Slant
Vice President

[Corporate Seal]

ATTEST:

B. J. Willis
Secretary

THE OHIO RIVER COMPANY, Charterer

By

Paul J. McKenzie
Vice President

STATE OF OHIO)
 : ss.:
COUNTY OF HAMILTON)

Before me, a notary public in and for said county, personally appeared R. N. Stout and B. J. Willis, known to me to be the persons who, as Vice President and Secretary, respectively, of MIDLAND ENTERPRISES INC., one of the corporations which executed the foregoing instrument, signed the same and acknowledged to me that they did so sign said instrument in the name and upon behalf of said corporation as such officers, respectively; that the same is their true act and deed as such officers, respectively, and the free and corporate act and deed of said corporation; that they were duly authorized thereunto by its Board of Directors; and that the seal affixed to said instrument is the corporate seal of said corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal at Cincinnati, Ohio this *4th* day of December, 1973.

Robert M. McClure

ROBERT M. Mc CLURE, Notary Public
My Commission Expires June 8, 1977

(Seal)

STATE OF OHIO)
 : SS.:
COUNTY OF HAMILTON)

Before me, a notary public in and for said county, personally appeared Paul J. McKenzie and B. J. Willis, known to me to be the persons who, as Vice President and Secretary, respectively, of THE OHIO RIVER COMPANY, one of the corporations which executed the foregoing instrument, signed the same and acknowledged to me that they did so sign said instrument in the name and upon behalf of said corporation as such officers, respectively; that the same is their true act and deed as such officers, respectively, and the free and corporate act and deed of said corporation; that they were duly authorized thereunto by its Board of Directors; and that the seal affixed to said instrument is the corporate seal of said corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal at Cincinnati, Ohio this *14th* day of December, 1973.

Robert M. Mc Clure

ROBERT M. Mc CLURE, Notary Public
My Commission Expires June 8, 1977

(Seal)