

RECORDATION NO. *W-25*  
Filed 1925

JUN 28 1983 12 05 PM

INTERSTATE COMMERCE COMMISSION

LETTER OF TRANSMITTAL

*W-25*  
*850*

RECEIVED  
JUN 28 11 58 AM '83  
I.C.C. OPERATION BR.  
FEE OPERATION BR.

Ms. Agatha L. Mergenovich,  
Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

No. *3-179A060*  
Date JUN 28 1983  
Fee \$ *50.00*

Dear Ms. Mergenovich:

ICC Washington, D. C.

We have enclosed three original executed counterparts of the document described below to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is a Charter Agreement dated as of June 1, 1983, a primary document.

The names and addresses of the parties to this document are as follows:

Charterer: Ingram Barge Company, a division  
of Ingram Industries Inc.  
4304 Harding Road  
Nashville, Tennessee 37202

Owner: The Minnesota Mutual Life  
Insurance Company  
Minnesota Mutual Life Center  
400 North Robert Street  
St. Paul, Minnesota 55101

A description of the equipment covered by this document is listed in Schedule 1 hereto.

A fee of \$50 is enclosed. Please return the counterparts not needed by the Commission for recordation to Eduardo R. Vidal, Esq., Chapman and Cutler, 111 West Monroe Street, Chicago, Illinois 60603.

A short summary of this document to appear in the index follows:

Charter Agreement dated as of June 1, 1983 between Ingram Barge Company, a division of Ingram Industries Inc., 4304 Harding Road, Nashville, Tennessee 37202, as charterer, and The Minnesota Mutual Life Insurance Company, Minnesota Mutual Life Center, 400 North Robert Street, St. Paul, Minnesota 55101, as

*Counterparts for 2-0-83 E.R. Kopylov*

owner, covering 15 jumbo hopper barges designated MML 101 to MML 115, official nos. 621222 to 621236, respectively.

Dated: *June 28, 1983*

Very truly yours,

INGRAM BARGE COMPANY, A DIVISION  
OF INGRAM INDUSTRIES INC.

By

*P. J. Kopsal*  
Its *Executive Vice-President*

DESCRIPTION OF VESSELS

Fifteen (15) 195' x 35' x 12' semi-integrated, double skin, dry cargo, jumbo hopper barges, built by HBC Barge, Inc. and bearing the names, hull numbers and official numbers set forth below:

<u>Name</u>	<u>Hull No.</u>	<u>Official No.</u>
MML 101	8143	641222
MML 102	8144	641223
MML 103	8145	641224
MML 104	8146	641225
MML 105	8147	641226
MML 106	8148	641227
MML 107	8149	641228
MML 108	8150	641229
MML 109	8151	641230
MML 110	8152	641231
MML 111	8153	641232
MML 112	8154	641233
MML 113	8155	641234
MML 114	8156	641235
MML 115	8157	641236

**Interstate Commerce Commission**  
**Washington, D.C. 20423**

OFFICE OF THE SECRETARY

Eduardo R. Vidal, Esq.  
Chapman and Cutler  
111 West Monroe Street  
Chicago, Illinois 60603

June 28, 1983

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 6/28/83 at 12:05PM, and assigned re-  
recording number(s). W-25, & W-25-A

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

REGISTRATION NO. *W-25* Filed 1983

JUN 28 1983 1 03 PM

INTERSTATE COMMERCE COMMISSION

---

---

CHARTER AGREEMENT

Dated as of June 1, 1983

BETWEEN

THE MINNESOTA MUTUAL LIFE INSURANCE COMPANY

OWNER

AND

INGRAM BARGE COMPANY,  
A DIVISION OF INGRAM INDUSTRIES INC.

CHARTERER

---

---

TABLE OF CONTENTS

<u>Section</u>	<u>Heading</u>	<u>Page</u>
	Parties .....	1
1.	Delivery of Vessels.....	1
1.1.	Intent to Charter.....	1
1.2.	Inspection and Acceptance.....	1
1.3.	Certificate of Acceptance.....	1
2.	Term of Charter.....	1
3.	Charter Hire.....	2
3.1.	Charter Hire.....	2
3.2.	Place of Charter Hire Payment.....	2
3.3.	Bareboat Charter.....	2
4.	Ownership; Liens; Marking of the Vessels.....	3
4.1.	Retention of Title; Documentation of the Vessels	3
4.2.	Creation of Liens; Liens to be Discharged by Charterer.....	3
4.3.	Liens to be Discharged by Owner.....	3
4.4.	Notices and Duty to Mark Vessels.....	4
4.5.	Prohibition Against Certain Designations.....	4
4.6.	Indemnification for Improper Marking.....	4
4.7.	Right of Owner to Assign.....	4
5.	Disclaimer of Warranties.....	5
6.	Charterer's Indemnity.....	5
6.1.	Indemnified Persons.....	5
6.2.	Continuation of Indemnities and Assumptions.....	7
7.	Insurance.....	7
7.1.	Duty to Obtain Insurance.....	7
7.2.	Payment of Proceeds.....	8
7.3.	Prohibited Acts.....	9
7.4.	Notices.....	9
8.	Use and Maintenance of Vessels.....	10
9.	Filing and Taxes.....	12
9.1.	Filing.....	12
9.2.	Taxes.....	12

<u>Section</u>	<u>Heading</u>	<u>Page</u>
10.	Payment upon Casualty Occurrence.....	12
10.1.	Notification by Charterer of Casualty Occurrence.....	12
10.2.	Payment upon Casualty Occurrence.....	13
10.3.	Charter Hire Termination.....	13
10.4.	Casualty Value.....	13
10.5.	Requisition of Vessels.....	13
10.6.	Recovery of and Prosecution of Claims.....	13
11.	Reports; Inspection.....	14
11.1.	Certificate of No Default and Report.....	14
11.2.	Owner's Inspection Rights.....	14
12.	Return of Vessels Upon Expiration of Term.....	14
13.	Default.....	15
13.1.	Events of Default.....	15
13.2.	Cumulative Remedies.....	18
13.3.	Owner's Failure to Exercise Rights.....	18
14.	Return of Vessels Upon Default.....	18
14.1.	Charterer's Duty to Return.....	18
14.2.	Intention of Parties.....	18
14.3.	Owner Appointed Charterer's Agent.....	19
15.	Assignments by Charterer; Use and Possession.....	19
15.1.	Charterer's Rights to the Vessels.....	19
15.2.	Use and Possession by Charterer.....	19
15.3.	Merger, Consolidation or Acquisition of Charterer.....	19
16.	Interest on Overdue Charter Hire and Amounts Paid by Owner .....	20
17.	Notices.....	20
18.	Charterer's Right of First Refusal.....	20
19.	Miscellaneous.....	21
19.1.	Governing Law.....	21
19.2.	Modification.....	21
19.3.	Merger.....	21
19.4.	Charterer's Control of Vessels.....	21

Section

Heading

Page

Signature Page.....21

ATTACHMENTS TO CHARTER AGREEMENT:

SCHEDULE 1 -- Description of Vessels

SCHEDULE 2 -- Schedule of Casualty Value

EXHIBIT 1 -- Certificate of Acceptance

## CHARTER AGREEMENT

THIS CHARTER AGREEMENT dated as of June 1, 1983 between THE MINNESOTA MUTUAL LIFE INSURANCE COMPANY, a Minnesota corporation (the "Owner"), and INGRAM BARGE COMPANY, A DIVISION OF INGRAM INDUSTRIES INC., a Tennessee corporation (the "Charterer");

### W I T N E S S E T H:

#### SECTION 1. DELIVERY OF VESSELS.

1.1. Intent to Charter. The Owner intends to acquire certain vessels described in Schedule 1 hereto together with all ancillary equipment (collectively the "Vessels" and individually a "Vessel") to be provided by HBC Barge, Inc., a Pennsylvania corporation (the "Manufacturer"), which will sell the Vessels to Wellspring Corporation, a Minnesota corporation (the "Seller"), and immediately thereafter the Seller will sell the Vessels to the Owner, and, upon the transfer of title by the Seller to the Owner of each Vessel, the Charterer shall bareboat charter such Vessel from the Owner for the charter hire and on and subject to the terms and conditions herein set forth.

1.2. Inspection and Acceptance. Upon the delivery of each Vessel by the Manufacturer to the Charterer and the transfer of title by the Seller to the Owner of each Vessel, the Charterer will inspect the Vessels and if found in order will accept delivery thereof and execute and deliver a Certificate of Acceptance with respect thereto, substantially in the form of Exhibit 1 attached hereto and made a part hereof.

1.3. Certificate of Acceptance. The Charterer's execution and delivery to the Owner of the Certificate of Acceptance with respect to each Vessel shall conclusively establish as between the Owner and the Charterer, but without prejudice to any rights either party may have against the Manufacturer or any other party, that such Vessel is acceptable to and accepted by the Charterer under this Charter, notwithstanding any defect with respect to design, manufacture, seaworthiness, condition or in any other respect, and that such Vessel is in good order and condition and conforms to the specifications applicable thereto.

#### SECTION 2. TERM OF CHARTER.

The term of this Charter shall be for a period of five years commencing on the date of the Certificate of Acceptance.

SECTION 3. CHARTER HIRE.

3.1. Charter Hire. During the term of this Charter, the Charterer shall pay to the Owner as charter hire for each Vessel, an amount equal to Seventy Dollars (\$70.00) per day, payable monthly in advance on the date of the Certificate of Acceptance and the first day of each calendar month thereafter. Charter hire shall be prorated on a daily basis for any partial month.

3.2. Place of Charter Hire Payment. All payments provided for in this Charter to be made to the Owner shall be made to the Owner by wire transfer to the Federal Reserve Bank of Minneapolis for the account of The First National Bank of St. Paul, St. Paul, Minnesota, for Account No. 10-00600 of The Minnesota Mutual Life Insurance Company, Minnesota Mutual Life Center, 400 North Robert Street, St. Paul, Minnesota 55101, or at such other place as the Owner shall specify in writing.

3.3. Bareboat Charter. This Charter is a bareboat charter and the Charterer's obligation to pay all charter hire and all other amounts payable hereunder shall be absolute and unconditional under any and all circumstances and shall not be affected by any circumstances of any character, including, without limitation (a) any setoff, counterclaim, recoupment, defense or other right which the Charterer may have against the Owner, the Manufacturer or anyone else for any reason whatsoever, (b) any defect in the title, seaworthiness, condition, design, operation or fitness for use of the Vessels or the ineligibility of the Vessels for any particular trade, (c) any loss or destruction of, or damage to, the Vessels or interruption or cessation in the use or possession thereof by the Charterer for any reason whatsoever and of whatever duration, (d) any ineligibility of the Vessels for documentation under the United States flag by reason of any law or regulation of the United States or otherwise, (e) any insolvency, bankruptcy, reorganization or similar proceeding by or against the Charterer, (f) the invalidity or unenforceability or lack of due authorization or other infirmity of this Charter, or lack of right, power or authority of the Owner to enter into this Charter, or (g) any other circumstance or happening whatsoever, whether or not similar or dissimilar to any of the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the charter hire and other amounts payable by the Charterer hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated pursuant to Section 10 hereof, or until the Vessels are surrendered and placed in storage pursuant to Section 12 hereof; provided, however, that if the Owner breaches its warranty of quiet enjoyment set forth in Section 15.1 hereof and as a result thereof the possession, use and quiet enjoyment by the Charterer of any Vessel for any period of time is materially and adversely affected thereby, then the Charterer may cease paying or deduct the amount of charter hire and all other amounts due for such Vessel during such period of time. As between the Owner and the

Charterer, the Charterer assumes all risk of loss of the Vessels whether or not covered by insurance.

SECTION 4. OWNERSHIP; LIENS; MARKING OF THE VESSELS.

4.1. Retention of Title; Documentation of the Vessels.

The Owner, as between the Owner and the Charterer, shall and hereby does retain full legal title to the Vessels notwithstanding the delivery thereof to and the possession and use thereof by the Charterer. The Charterer shall, with the cooperation of the Owner, throughout the period of this Charter maintain the documentation of the Vessels in the name of the Owner under the laws of the United States at the Charterer's expense. The Charterer shall not permit the Vessels to be put, placed or operated under any other flag or documentation and will not do or suffer or permit anything to be done which can or might injuriously affect the documentation of the Vessels under the laws or regulations of the United States.

4.2. Creation of Liens; Liens to be Discharged by Charterer. The Charterer shall, no later than 30 days after they become due, pay or satisfy and discharge any and all claims against, through or under the Charterer and its successors or assigns which, if unpaid, might constitute or become a lien or a charge upon the Vessels, and any liens or charges which may be levied against or imposed upon the Vessels as a result of the failure of the Charterer to perform or observe any of its covenants or agreements under this Charter, but the Charterer shall not be required to pay or discharge any such claim so long as it shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Owner to the Vessels. The Charterer's obligations under this Section 4.2 shall survive the termination of this Charter.

4.3. Liens to be Discharged by Owner. The Owner shall, no later than 30 days after they become due, pay or satisfy and discharge any and all claims against, through or under the Owner and its successors or assigns which, if unpaid, might constitute or become a lien or charge upon the Vessels and any liens or charges which may be levied against or imposed upon the Vessels as a result of the failure of the Owner to perform any of its covenants or agreements under this Charter, which, if allowed to remain, would affect or endanger the Charterer's right of possession, use and quiet enjoyment of the Vessels set forth in Section 15.1 hereof. The Owner shall not be required to pay or discharge any such claims so long as it shall, in good faith and by appropriate legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the Charterer's right of possession, use and quiet enjoyment of the Vessels set forth in Section 15.1 hereof. The Owner's obligations under this Section 4.3 shall survive termination of this Charter.

4.4. Notices and Duty to Mark Vessels. (a) Neither the Charterer nor any of its employees, officers, agents, nor any members of the crew of the Vessels has any right, authority or power to create, incur, suffer or permit to be placed or imposed upon the Vessels any maritime or other lien, encumbrance, claim or charge whatsoever, or to incur any debt, obligation or charge upon the credit of the Vessels, other than liens for wages of the crew of the Vessels or for salvage (including contract salvage), and the Charterer shall give notice of such limitation to all persons, firms and corporations furnishing towages, repairs, stores, supplies, fuel or other necessaries to the Vessels.

(b) The Charterer agrees to cause the Vessels to be plainly, permanently and conspicuously marked by a metal plate affixed to each Vessel or by a stencil with the following legend in letters not less than one-quarter inch in height:

"This Vessel is owned by The Minnesota Mutual Life Insurance Company and is under charter to Ingram Barge Company, a division of Ingram Industries Inc. Neither said charterer 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 liens for wages of the crew of the Vessels or for salvage (including contract salvage)."

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Owner to such Vessel and its rights under this Charter. The Charterer will not place any Vessel in operation or exercise any control or dominion over the same until the required legend shall have been so marked and will replace promptly any such legend which may be removed, defaced or destroyed.

4.5. Prohibition Against Certain Designations. Except as above provided, the Charterer will not allow the name of any person, association or corporation to be placed on the Vessels as a designation that might be interpreted as a claim of ownership; provided, however, that the Charterer may cause the Vessels to be lettered with the names or initials or other insignia of the Charterer for the purpose of identifying the right of the Charterer to use the Vessels under this Charter.

4.6. Indemnification for Improper Marking. The Charterer shall indemnify the Owner against any liability, loss or expense incurred by it as a result of the aforesaid marking of the Vessels with such name, initials or insignia.

4.7. Right of Owner to Assign. The Owner may assign any or all of its rights under this Charter and/or the Vessels, and the Charterer agrees to acknowledge in writing any such assignment within five days after written notice thereof.

SECTION 5. DISCLAIMER OF WARRANTIES.

AS BETWEEN THE OWNER AND THE CHARTERER, THE OWNER CHARTERS THE VESSELS TO THE CHARTERER "AS-IS, WHERE-IS", IN WHATEVER CONDITION THEY MAY BE, WITHOUT WARRANTY OR REPRESENTATION EITHER EXPRESS OR IMPLIED AS TO (A) THE DESIGN, CONDITION, SEAWORTHINESS, FITNESS FOR USE OR FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OF ANY VESSEL, (B) THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN THE VESSELS, OR (C) ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE OWNER AND THE CHARTERER, ARE TO BE BORNE BY THE CHARTERER (it being understood that the foregoing is not intended to operate in derogation of the Charterer's right to possession, use and quiet enjoyment as set forth in Section 15.1 hereof). The Owner does warrant, however, to the Charterer that the Owner has good title to the Vessels on the date of the Certificate of Acceptance, subject to this Charter. The Owner hereby appoints and constitutes the Charterer as its agent and attorney-in-fact during the term of this Charter, so long as no Event of Default has occurred and is continuing, to assert and enforce, from time to time, in the name and for the account of the Owner and the Charterer, as their interests may appear, but in all cases at the sole cost and expense of the Charterer, whatever claims and rights the Owner may have as owner of the Vessels against any party whomever, including the Manufacturer and the Seller. The costs and expenses incurred by the Charterer, including attorneys' fees, in connection with any recovery, shall first be deducted from such recovery, and the balance, if any, shall be distributed between the Owner and the Charterer, as their interests may appear.

SECTION 6. CHARTERER'S INDEMNITY.

6.1. Indemnified Persons. The Charterer shall pay, and shall protect, indemnify and hold harmless the Owner and its successors, assigns, agents and servants (the "Indemnified Persons"), from and against any and all causes of action, suits, penalties, claims, demands or judgments of any nature whatsoever which may be imposed on, incurred by or asserted against any Indemnified Person, including any or all liabilities, obligations, damages, costs, disbursements and expenses relating thereto (including, without limitation, attorneys' fees and expenses of any Indemnified Person) in any way relating to or arising or alleged to arise out of: (a) the manufacture, construction, lack of seaworthiness, navigation, inspection, purchase, acceptance, rejection, ownership, delivery, non-delivery, charter, possession, use, operation, condition, sale, return or other disposition of any Vessel or portion thereof; (b) any latent and other defects in any of the Vessels, whether or not discoverable by the Owner or the Charterer; (c) any claim for patent, trademark or copyright infringement arising out of the construction of the Vessels; (d) any claims based on warranty, product or pollution liability or strict liability in tort involving any of the Vessels; (e) any injury to or the death of any person or any damage to or loss of

property on or near the Vessels or in any manner growing out of or concerned with, or alleged to grow out of or be connected with, the ownership, use, replacement, adaptation or maintenance of the Vessels or of any other equipment in connection with the Vessels (whether owned or under the control of the Owner, the Charterer or any other person) or resulting or alleged to result from the condition of any thereof; (f) any violation, or alleged violation by the Charterer of any provision of this Charter or of any other agreement affecting or applicable to the Vessels; or (g) any violation or alleged violation by the Charterer of any law, rule, regulation, ordinance or restriction affecting or applicable to the Vessels or the chartering, ownership, use, replacement, adaptation or maintenance thereof; provided, however, that the foregoing indemnity with respect to any Indemnified Person shall not extend to any liabilities resulting from: (A) the gross negligence or willful misconduct of such Indemnified Person, or (B) any breach of an express duty assumed by such Indemnified Person pursuant to this Charter. The Charterer shall otherwise be obligated under this Section 6.1, irrespective of whether any Indemnified Person shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Charterer under this Section 6.1 without first resorting to any such other rights of indemnification. In case any claim, demand, action, suit or proceeding is brought against any Indemnified Person in connection with any claim indemnified against hereunder, the Charterer may and, upon such Indemnified Person's request, will at the Charterer's expense, resist and defend such claim, demand, action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Charterer and reasonably acceptable to such Indemnified Person and, in the event of any failure by the Charterer to do so, the Charterer shall pay all costs and expenses (including, without limitation, attorneys' fees and expenses) incurred by such Indemnified Person in connection with such claim, demand, action, suit or proceeding. In the event the Charterer is required to make any indemnification payment under this Section 6, the Charterer shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States of America or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the reasonable judgment of the Indemnified Person), shall be equal to the amount of such payment. The Charterer and the Owner each agrees to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this Section 6 by the Charterer and provided that no Event of Default shall have occurred and be continuing, the Charterer shall be subrogated to any right of such Indemnified Person in respect of the matter against which indemnity has been given. After an Indemnified

Person has been fully indemnified with respect to a claim pursuant to this Section 6, such Indemnified Person hereby assigns to the Charterer its rights to proceed against all persons other than Indemnified Persons and their insurance carriers as to such claim. The Charterer shall have the right to control the prosecution and defense of each claim involving such third parties, and each Indemnified Person shall cooperate reasonably with prosecution thereof. Any payments received by such Indemnified Person from any person (except the Charterer) as a result of any matter with respect to which such Indemnified Person has been indemnified by the Charterer pursuant to this Section 6.1 shall be paid over to the Charterer to the extent necessary to reimburse the Charterer for indemnification payments and costs made or incurred, including attorney's fees and costs of litigation incurred by the Charterer. Nothing in this Section 6.1 shall constitute a guarantee by the Charterer of the residual value of any Vessel.

6.2. Continuation of Indemnities and Assumptions. The indemnities and assumptions of liability contained in this Section 6 shall survive the expiration or termination of this Charter with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this Section 6 shall be deemed to create any rights of subrogation in any insurer or third party against the Charterer therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

## SECTION 7. INSURANCE.

7.1. Duty to Obtain Insurance. (a) The Charterer covenants and agrees that it will at all times during the term of this Charter at its sole cost and expense maintain insurance in respect of the Vessels against such risks (including insurance against hull and machinery and usual marine risks and protection and indemnity risks, including coverage of pollution liability risks), in such form (including, without limitation, the form of the loss payable clause and the designation of named assureds) and with such insurers of recognized responsibility as shall be reasonably satisfactory to the Owner, which insurance, in the opinion of the independent insurance brokers referred to below or the Charterer's insurance manager (or, if and to the extent such opinion is not available as set forth below, in the reasonable opinion of the Owner), shall be at least sufficient to protect the interests of the Owner. All insurance shall cover the period from the date of the Certificate of Acceptance to and including the date of redelivery of the Vessels to the Owner and shall provide for at least thirty days prior written notice to the Owner of any cancellation or reduction in coverage or increase in or addition of deductibles.

(b) On or before the Charterer accepts the Vessels under this Charter and on or before June 30 of each year thereafter commencing June 30, 1984, the Charterer will furnish to the Owner a report signed by independent marine insurance brokers reasonably satisfactory to the Owner or the Charterer's insurance manager with respect to the insurance maintained under this Charter (including, without limitation, as to each policy, its number, the amount, the insurer, the named assureds, the type of risk, the loss payee and the expiration date) and stating the opinion of said brokers or manager that the insurance carried hereunder complies with the terms hereof and stating the opinion of the signer as to the adequacy of such insurance for the protection of the interests of the Owner. The Charterer will cause such broker or manager to agree to mark its records and advise the Owner in writing at least 30 days in advance of any lapse of any insurance by reason of expiration, cancellation, failure to renew or otherwise, and of any default in the payment of any premium and of any other act or omission of which it has knowledge and which might invalidate or render unenforceable, in whole or in part, any insurance maintained hereunder.

(c) For the purpose of hull and machinery insurance, each Vessel shall be insured (including any deductibles which may not exceed \$20,000 per Vessel) for not less than the greater of (i) the full insurable value of such Vessel, or (ii) the Casualty Value (as hereinafter defined) of such Vessel. Marine liability insurance shall not be less than \$20,000,000 per occurrence, irrespective of the number of Vessels involved in a casualty. Deductibles for such marine liability coverage shall not exceed a combined total of \$25,000 per occurrence. The Charterer shall also maintain pollution liability insurance in an amount not less than \$2,500,000 per occurrence irrespective of the number of Vessels involved in a casualty, with deductible amounts as are customarily maintained on similar vessels by companies of similar size and financial standing and having similar operations and cargoes.

(d) All policies of insurance shall name the Owner and the Charterer as named insureds, shall provide that there shall be no recourse against the Owner for premiums or calls, and any loss thereunder concerning the Vessels shall be payable to the Owner (the foregoing to be endorsed on all slips, cover notes, policies, certificates of entry, or other instruments issued in connection with such policies), shall be considered primary to any other policy in effect for the Owner, shall require no participation or contribution from such other policy in the event of a loss, and shall ensure the interests of the Owner regardless of any breach of or violations by the Charterer of any warranties, declarations, or conditions contained in such policies.

7.2. Payment of Proceeds. Unless and until the Owner shall have given written notice to the underwriter that an Event of Default has occurred and is continuing:

(i) any sums payable as a result of a loss under any insurance on the Vessels with respect to protection and indemnity risks may be paid directly to the person to whom any liability covered by such insurance has been incurred, or to the Charterer to reimburse it for any loss, damage or expense incurred by it and covered by such insurance provided that the underwriters shall have first received evidence that the liability insured against has been discharged; and

(ii) any sums payable as a result of a loss (other than sums payable as the result of a Casualty Occurrence as hereinafter described with respect to a Vessel) under any insurance on the Vessels, involving any damage to a Vessel or liability of a Vessel, may be paid directly for the repair, salvage, liability or other charges involved, or if the Charterer shall have first fully repaired such damage or discharged such liability, or paid such other charges, may be paid to the Charterer.

Any sums payable as a result of any loss which are paid to the Owner but which might have been paid, in accordance with the provisions of clause (i) or (ii) of the immediately preceding sentence, directly to the Charterer or others, shall, so long as no Event of Default has occurred and is continuing, and upon proper proof, be paid by the Owner to, or as directed by, the Charterer. In the case of all insurance payments received as the result of a Casualty Occurrence with respect to a Vessel, so much of such payments as shall not exceed the sum of the Casualty Value required to be paid by the Charterer pursuant to Section 11.2 hereof and any other charter hire then due and owing by the Charterer hereunder shall be applied, first, in reduction of the Charterer's obligation to pay such other charter hire, if any, then due and owing, and second, in reduction of the Charterer's obligation to pay such Casualty Value if not already paid by the Charterer, or, if already paid by the Charterer and provided no Event of Default shall have occurred and be continuing, to reimburse the Charterer for its payment of the Casualty Value; and the balance, if any, of such payments remaining thereafter will be paid over to, or retained by, the Owner.

7.3. Prohibited Acts. The Charterer will not do any act, nor suffer any act to be done, whereby any insurance required hereunder shall or may be suspended, impaired or defeated, and will not suffer the Vessels to carry any cargo not permitted, or the Vessels to be operated in any geographical area where they would not be covered, under the insurance policies in effect without first covering the Vessels with insurance satisfactory in all respects, including the amount thereof, to the Owner.

7.4. Notices. The Charterer will give prompt notice as required by the underwriters of all casualties or other insured loss or damage to any of the Vessels and of all damage or injury to cargo, property, persons or other third parties in excess of

deductible amounts, and the Charterer will concurrently send copies of all such notices to the Owner when the potential liability exceeds \$500,000 per occurrence or the damage exceeds \$50,000 to any such Vessel.

SECTION 8. USE AND MAINTENANCE OF VESSELS.

(a) The Charterer agrees that in using the Vessels for the transportation of corrosive cargoes such as salt and fertilizer, the Charterer will use and maintain the Vessels in the same manner that the Charterer uses and maintains its own barges and that the frequency of use of the Vessels for such cargoes will bear a reasonable relationship to such use by the Charterer for its own barges. The Charterer agrees to comply with all governmental laws, regulations, requirements and rules (including the rules of the United States Coast Guard) with respect to the use, maintenance and operation of each Vessel. In case any equipment or appliance on any such Vessel shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such Vessel in order to comply with such laws, regulations, requirements and rules, the Charterer agrees to make such changes, additions and replacements, and such changes, additions and replacements so made shall be deemed a part of such "Vessel" as defined herein for all purposes hereof and title thereto shall vest, without further act, in the Owner.

(b) The Charterer shall have full responsibility for maintenance and repair of each Vessel throughout the term of this Charter, and at its expense (whether or not any applicable insurance proceeds are adequate for the purpose) will maintain and preserve each Vessel and her equipment in good running order and repair, so that each Vessel shall be, insofar as due diligence (by reference to standard industry practice) can make her so, tight, staunch, strong and well and sufficiently tackled, appareled, furnished, equipped and in every respect seaworthy and in as good operating condition as when delivered hereunder, ordinary wear and tear excepted. The Charterer agrees that it will not, and will not permit any other person to, use any Vessel in any manner or to any extent materially different from the manner and extent of use of similar vessels in the Charterer's fleet.

(c) The Charterer will permit the Vessels to be operated only on the Mississippi, Illinois and Ohio Rivers and their navigable tributaries, the Missouri River not beyond Sioux City, Iowa, the Gulf Intracoastal Waterway and its connecting inland waterway tributaries, and Lake Michigan coastal waters between Chicago, Illinois and Michigan City, Indiana (as permitted by applicable insurance policies). The Charterer will not permit the Vessels to engage in any unlawful trade or violate any law or carry any unlawful cargo that will expose the Vessels to penalty, forfeiture or capture. The Charterer shall use the Vessels only

in the manner for which they were designed and intended and so as to subject them only to ordinary wear and tear.

(d) Except as may be required by Section 8(a) or 8(b) hereof, the Charterer shall make no material structural changes or alterations in any Vessel and shall make no material changes or alterations in any Vessel (other than additions or improvements that are readily removable without causing material damage to such Vessel) unless and to the extent that, in each instance, (i) it first secures written approval of the Owner, and (ii) any such change or alteration is made at the Charterer's expense and risk and does not diminish the value, utility or seaworthiness of such Vessel below the value, utility and seaworthiness of such Vessel immediately prior to such change if such Vessel were then in the condition and seaworthiness required to be maintained by the terms of this Charter. Subject to the foregoing provision, the Charterer may install any pumps, barge covers, gear or equipment it may require in addition to that on board any Vessel on delivery, provided that such installations are accomplished at the Charterer's expense and risk. Pumps, barge covers, gear and equipment so installed and additions and improvements so made shall remain the property of the Charterer unless such pumps, barge covers, gear or equipment are owned by a third-party lessor which has furnished the same to the Charterer under a lease agreement. So long as no Event of Default shall have occurred and be continuing under Section 13 hereof, any such pumps, barge covers, gear or equipment not required to be installed, or any such addition or improvement not required to be made, in order to meet the requirements of Section 8(a) or 8(b) hereof and not installed as replacements for property included in the Purchase Price of any Vessel may be removed by the Charterer, at its own expense and risk, at any time during, or at the expiration of, the term of this Charter.

(e) In addition to the permitted structural changes or alterations, additions and improvements and the addition of pumps, barge covers, gear and equipment referred to in paragraph (d) above, the Charterer may, in the ordinary course of maintenance, repair or overhaul of any Vessel, remove any item of property constituting a part of such Vessel, provided such item is replaced as promptly as possible by an item of property which is free and clear of all liens, charges and encumbrances and is in as good operating condition and is as seaworthy as, and has a value and utility at least equal to that of, the item of property being replaced. Any item of property so removed from such Vessel shall remain the property of the Owner until replaced in accordance with the terms of the preceding sentence, but shall then, without further act, become the property of the Charterer. Any such replacement item of property shall, without further act, become the property of the Owner and be deemed part of such "Vessel" as defined herein for all purposes hereof. The Charterer shall man, victual, navigate and operate the Vessels at its own expense or by its own procurement throughout the term of this Charter.

SECTION 9. FILING AND TAXES.

9.1. Filing. The Charterer will, from time to time, do and perform any act and will execute, acknowledge, deliver, file, register and record (and will refile, re-register or re-record whenever required) any and all instruments requested by the Owner, for the purpose of protecting the Owner's title to or any security interest in the Vessels to the satisfaction of the Owner's counsel or counsel for the holder of such security interest or for the purpose of carrying out the intention of this Charter, and in connection with any such action, will deliver to the Owner proof of such filings. All costs and expenses incident to any such filing, refile, registering, re-registering, recording and re-recording of any such instruments or incident to the taking of such action shall be paid by the Owner.

9.2. Taxes. The Charterer shall report, pay and discharge when due all license and registration fees, assessments, sales, use and property taxes, gross receipts taxes arising out of receipts from use or operation of the Vessels, and other taxes, fees and governmental charges similar or dissimilar to the foregoing, levied or assessed against the Vessels or the interest of the Owner or the Charterer therein and in respect thereof arising during the term of this Charter and all taxes which may be levied or assessed against or payable by the Owner or the Charterer on account of the construction, acceptance, rejection, ownership, delivery, non-delivery, charter, subcharter, possession, use, operation, return or other disposition of the Vessels, exclusive, however, of any sales or use tax arising from the purchase of the Vessels by the Owner or a transfer of any Vessel by the Owner to any party other than the Charterer not occurring as a result of an Event of Default and exclusive of any income taxes, local and state franchise taxes and any other taxes on or measured by net income (except and to the extent of any taxes based on such net income which are in direct substitution for, or which relieve the Charterer from, a tax which the Charterer would otherwise be obligated to pay under the terms of this Section), together with any penalties or interest thereon, imposed by any state, Federal or local government upon any Vessel and whether or not the same shall be assessed against or in the name of the Owner or the Charterer.

SECTION 10. PAYMENT UPON CASUALTY OCCURRENCE.

10.1. Notification by Charterer of Casualty Occurrence. In the event that (a) any Vessel shall be declared or become a total or constructive total loss, or (b) any Vessel shall be or become lost, stolen, destroyed, or (c) in the good faith judgment of the Charterer as evidenced by a resolution of its Board of Directors, any Vessel shall be irreparably damaged, or (d) the title or use of any Vessel shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise during the term of this Charter (any such occurrence, except for any requi-

sition of the use of the Vessel which by its terms does not exceed the remaining term of this Charter, being hereinafter called a "Casualty Occurrence" and any such Vessel being hereinafter called a "Casualty Vessel"), the Charterer shall promptly and fully (after it has knowledge of such Casualty Occurrence) inform the Owner in writing in regard thereto.

10.2. Payment upon Casualty Occurrence. On the next charter hire payment date after a Casualty Occurrence has occurred, or at the end of the term of this Charter if such Casualty Occurrence occurs after the last charter hire payment date, the Charterer shall pay to the Owner a sum equal to the Casualty Value of the Casualty Vessel determined as set forth in Section 10.4 hereof.

10.3. Charter Hire Termination. Upon payment of the Casualty Value in respect of any Vessel or Vessels, the obligation to pay charter hire for such Vessel or Vessels shall terminate, but the Charterer shall continue to pay charter hire for all other Vessels.

10.4. Casualty Value. For purposes of Section 10.2, the Casualty Value of each Vessel in respect of a Casualty Occurrence shall be an amount determined according to Schedule 2 attached hereto as of the charter hire payment date next succeeding such Casualty Occurrence.

10.5. Requisition of Vessels. In the event that during the term of this Charter the use of any Vessel is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for a period which does not exceed the remaining term of this Charter, the Charterer's duty to pay charter hire shall continue for the duration of such requisitioning or taking, and the Charterer shall be entitled to receive and retain for its own account all insurance proceeds and all other sums payable for any such period by such governmental authority as compensation for requisition or taking of possession.

10.6. Recovery of and Prosecution of Claims. The Owner hereby authorizes and empowers the Charterer, at the Charterer's expense and by counsel reasonably satisfactory to the Owner and so long as no Event of Default has occurred and is continuing, as agent for the Owner, to negotiate, accept, reject, file and prosecute any claims, including what otherwise would be the Owner's claims, for any award or compensation on account of any loss, damage, destruction, confiscation, requisition or taking of any Vessels and to collect and retain the proceeds thereof to the extent permitted by this Section. The proceeds obtained by the Charterer for any loss or damage which is not a Casualty Occurrence shall be retained by the Charterer and applied to the repair and replacement of such damage or loss.

SECTION 11. REPORTS; INSPECTION.

11.1. Certificate of No Default and Report. Within 120 days after the end of each fiscal year of the Charterer, the Charterer will deliver to the Owner a certificate of the President or any Vice President or any Assistant Vice President in the finance department of the Charterer stating (x) that a review of the activities of the Charterer during such fiscal year has been made with a view to determining whether the Charterer has kept, observed, performed and fulfilled all its obligations under this Charter, and that, to the best knowledge, information and belief of such officer, there exists no Event of Default (or event which with the lapse of time or notice, or both, would become an Event of Default) or, if any such Event of Default or event exists, specifying the nature thereof, the period of existence thereof and what action the Charterer has taken or proposes to take with respect thereto, and (y) that the Charterer has a net worth of not less than \$1,000,000 determined in accordance with generally accepted accounting principles. At such time the Charterer will also furnish to the Owner: (i) an accurate statement, as of the end of the preceding fiscal year (A) showing the amount, description and designation of the Vessels then chartered hereunder, the amount, description and designation of all Vessels that may have suffered a Casualty Occurrence during the preceding 12 months and such other information regarding the condition or repair of the Vessels as the Owner may reasonably request, (B) stating that, in the case of all Vessels repainted during the period covered by such statement, the markings required by Section 4.4 hereof shall have been preserved or replaced, and (C) identifying Vessels subchartered to non-affiliates of the Charterer, the respective subcharterers thereof and the date and the original term of each such subcharter, and (ii) a copy of the most recent vessel survey made with respect to each Vessel.

11.2. Owner's Inspection Rights. The Owner and its successors and assigns shall have the right, at their sole cost and expense, by their authorized representatives, to inspect the Vessels and the Charterer's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Owner or its successors or assigns the existence and proper maintenance thereof during the continuance of this Charter; provided, that such inspection shall not unreasonably interfere with the operations of the Charterer. The Charterer shall not be required to retain any records with respect to the Vessels beyond its normal retention policy or as may otherwise be required by any governmental law, rule or regulation.

SECTION 12. RETURN OF VESSELS UPON EXPIRATION OF TERM.

(a) Upon the expiration of the term of this Charter for reasons other than payment of the Casualty Value of a Vessel and disposition pursuant to Section 10, the Charterer will, at its own cost and expense, deliver possession of such Vessel to the Owner

at New Orleans, Louisiana, or at such other place as may be mutually agreed upon by the Owner and the Charterer. The Charterer agrees that at any time of such redelivery such Vessel will be safely afloat and in such good order, condition and repair, ordinary wear and tear excepted, as is required by all of the terms of Section 8 hereof and free and clear of all liens and encumbrances other than any liens or encumbrances created by, through or under the Owner which the Charterer is not otherwise obligated to discharge and free of any insignia or identification of the Charterer or others. At the time of such redelivery at the end of the term of this Charter, the Charterer will make such Vessel available to the Owner at the port of redelivery for inspection. The off-charter survey for redelivery shall be at the port of redelivery, the cost of which will be borne equally by the parties. Each party shall select an independent marine surveyor and said surveyors shall agree on the condition of such Vessel at redelivery. The Charterer, at its expense, will fully correct and repair any condition disclosed by such inspection to the extent necessary to cause such Vessel to comply with all the terms of Section 8 hereof.

(b) The term of this Charter may be extended with respect to any Vessel at the election of the Charterer for a period not to exceed 30 days in the event any Vessel is in tow at the end of the term of this Charter, and the term of this Charter shall be extended for any period of time necessary to make repairs for which the Charterer is responsible; and the Charterer will pay additional charter hire hereunder for any such period at the charter hire rate specified in Section 3.1 hereof. In any event, all, but not less than all, of the Vessels will be redelivered to the Owner within 60 days after the end of this Charter except to the extent not practically possible due to circumstances outside of the control of the Charterer and so long as the Charterer is diligently attempting to redeliver the Vessels.

(c) Upon redelivery of any Vessel hereunder, the Charterer will dock or otherwise store such Vessel for a period not exceeding 90 days at the Owner's expense and risk. During any such storage period the Charterer will permit the Owner or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Vessel, to inspect the same.

### SECTION 13. DEFAULT.

13.1. Events of Default. If, during the continuance of this Charter, one or more of the following events ("Events of Default"), shall occur and be continuing:

(a) Failure to make payment when due of any part of the charter hire provided in Section 3 hereof and such failure shall continue for 5 business days after the due date thereof; or

(b) Failure to make the payment when due of any amounts provided by Section 10 hereof, and such failure shall continue for 30 days after the due date thereof; or

(c) The Charterer shall cease being a citizen of the United States within the meaning of Section 2 of the Shipping Act, 1916, as amended, qualified to engage in the coastwise trade within the meaning of said Act; or

(d) Insurance with respect to the Vessels required by Section 7 hereof (i) shall, pursuant to the terms thereof, cease to be in effect in any material respect because of any act or omission of the Charterer, or (ii) shall fail to be in effect in any material respect for any other reason and such failure shall continue for 30 days; or

(e) The Charterer shall make or permit any unauthorized assignment or transfer of this Charter, or of the Charterer's interest in the Vessels, or any portion thereof; or

(f) The Charterer shall fail to observe or perform any other of the covenants, conditions and agreements contained herein or in any other agreement entered into by the Charterer with the Owner in respect of the Vessels, and such failure shall continue for 30 days after written notice from the Owner to the Charterer specifying the failure and demanding the same to be remedied; or

(g) Any representation or warranty made by the Charterer herein or in any statement or certificate furnished pursuant to this Charter proves untrue in any material respect as of the date of issuance or making thereof and shall not be made good within 30 days after notice thereof to the Charterer by the Owner; or

(h) The Charterer shall become insolvent or bankrupt or admit in writing its inability to pay its debts as they mature or shall make an assignment for the benefit of its creditors; or

(i) Bankruptcy, reorganization, arrangement or insolvency proceedings or other proceedings for relief under any bankruptcy or similar law or laws for the relief of debtors shall be instituted by or against the Charterer; or the Charterer shall permit or there shall occur any involuntary transfer of its interest hereunder or of all or substantially all of the Charterer's property by bankruptcy or by the appointment of a receiver or trustee or by execution or by any judicial or administrative decree or process or otherwise; unless in

every such case such proceedings (if instituted against the Charterer) shall be dismissed or such assignment, transfer, decree or process shall within 60 days from the filing or other effective date therein be nullified, stayed or otherwise rendered ineffective;

then, and in any such case the Owner, at its option, may:

(1) Proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Charterer of the applicable covenants of this Charter or to recover damages for the breach thereof; or

(2) By notice in writing to the Charterer, terminate this Charter, whereupon all right of the Charterer to the use of the Vessels shall absolutely cease and terminate as though this Charter had never been made, but the Charterer shall remain liable as hereinafter provided; and thereupon, the Owner may by its agents enter upon the premises of the Charterer or other premises where any of the Vessels may be located and take possession of all or any of such Vessels, cause the removal and storage at the Charterer's cost and expense of any cargo on board the Vessels, and thenceforth hold, possess and enjoy the Vessels free from any right of the Charterer, or its successors or assigns, to use the Vessels for any purpose whatever, but the Owner shall nevertheless, have a right to recover from the Charterer any and all amounts which under the terms of this Charter may be then due or which may have accrued to the date of such termination and also to recover forthwith from the Charterer (a) as damages for loss of the bargain and not as a penalty, an amount, with respect to each Vessel, which represents the excess of the present worth, at the time of such termination, of all charter hire for such Vessels which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Charter, over the then present worth of the then fair charter hire value of such Vessels for such period computed by discounting from the end of such term to the date of such termination charter hire which the Owner reasonably estimates to be obtainable for the use of the Vessels during such period, such present worth to be computed in each case on a basis of an 5% per annum discount, from the respective dates upon which charter hire would have been payable hereunder had this Charter not been terminated, plus (b) any damages and expenses including reasonable attorneys' fees, in addition thereto which the Owner shall have sustained, or shall reasonably expect to sustain, by reason of the breach of any covenant or covenants of this Charter, other than for the payment of charter hire; provided, however, that the Owner's recovery for any breach of this Charter shall be reduced by any amount drawn by the Owner under the Letter

of Credit issued by First National Bank of St. Paul, St. Paul, Minnesota, to cover the obligations of the Charterer hereunder.

13.2. Cumulative Remedies. The remedies in this Charter provided in favor of the Owner shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing at law or in equity. The Charterer hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided to the extent that such waiver is permitted by law. The Charterer hereby waives any and all existing or future claims of any right to assert any offset against the charter hire payments regardless of any offset or claim which may be asserted by the Charterer on its behalf in connection with the charter of the Vessels, except as provided in Section 3.3 hereof.

13.3. Owner's Failure to Exercise Rights. The failure of the Owner to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

#### SECTION 14. RETURN OF VESSELS UPON DEFAULT.

14.1. Charterer's Duty to Return. If the Owner shall terminate this Charter pursuant to Section 13 hereof, the Charterer shall forthwith deliver possession of the Vessels to the Owner. For the purpose of delivering possession of any Vessel to the Owner as above required, the Charterer shall at its own cost, expense and risk (except as hereinafter stated):

(a) Forthwith assemble and place such Vessels at such location along the waterways referred to in Section 8 hereof, as the Owner may designate or, in the absence of such designation, as the Charterer may select;

(b) Dock or otherwise store such Vessels at the risk and expense of the Charterer at such location for a period not exceeding 30 days after written notice to the Owner specifying the designations of the Vessels to be stored; and

(c) Transport any Vessels, at any time within such 30-day period, to any place on the waterways within a 250-mile radius of such location, all as the Owner may reasonably direct upon not less than 7 days' written notice to the Charterer.

14.2. Intention of Parties. The assembling, delivery, storage and transporting of the Vessels as hereinbefore provided are of the essence of this Charter, and upon application to any

court of equity having jurisdiction in the premises, the Owner shall be entitled to a decree against the Charterer requiring specific performance of the covenants of the Charterer so as to assemble, deliver, store and transport the Vessels.

14.3. Owner Appointed Charterer's Agent. Without in any way limiting the obligations of the Charterer under the foregoing provisions of this Section 14, the Charterer hereby irrevocably appoints the Owner as the agent and attorney of the Charterer, with full power and authority, at any time while the Charterer is obligated to deliver possession of any Vessel to the Owner, to demand and take possession of such Vessel in the name and on behalf of the Charterer from whomsoever shall be at the time in possession of such Vessel.

SECTION 15. ASSIGNMENTS BY CHARTERER; USE AND POSSESSION.

15.1. Charterer's Rights to the Vessels. So long as no Event of Default shall have occurred and be continuing, the Charterer shall be entitled to the possession, use and quiet enjoyment of the Vessels in accordance with the terms of this Charter.

15.2. Use and Possession by Charterer. The Charterer agrees that it will not assign, transfer or encumber this Charter or any of its rights hereunder or subcharter any Vessel; provided, that the Charterer may assign or subcharter the Vessels for a period not to exceed 6 months so long as any such subcharterer or assignee is a citizen of the United States within the meaning of Section 2 of the Shipping Act, 1916, as amended, for the purpose of operating the Vessels in the coastwise trade. Any subcharter shall expressly state that such subcharter is subject and subordinate to this Charter. No such assignment or subcharter shall relieve the Charterer of any of its obligations, liabilities or duties hereunder, which shall be and remain those of a principal and not a surety.

15.3. Merger, Consolidation or Acquisition of Charterer. Nothing in this Section shall be deemed to restrict the right of the Charterer to assign or transfer its interest under this Charter in the Vessels or possession of the Vessels to any corporation (which shall have duly assumed the obligations hereunder of the Charterer) into or with which the Charterer shall have become merged or consolidated or which shall have acquired the property of the Charterer as an entirety or substantially as an entirety; provided that, such assignee or transferee shall have a net worth of not less than \$1,000,000 determined in accordance with generally accepted accounting principles.

SECTION 16. INTEREST ON OVERDUE CHARTER HIRE AND AMOUNTS PAID BY OWNER.

Anything to the contrary herein contained notwithstanding, any nonpayment of charter hire or any other amounts due hereunder, or amounts expended by the Owner on behalf of the Charterer, shall result in the obligation on the part of the Charterer to pay also an amount equal to 14% per annum (or the maximum lawful rate, whichever is less) on such overdue amounts and amounts expended for the period of time during which they are overdue or expended and not repaid.

SECTION 17. NOTICES.

Any notice required or permitted to be given by either party hereof to the other shall be deemed to have been given when deposited in the United States mails, certified first class, postage prepaid, addressed as follows:

If to the Owner:           The Minnesota Mutual Life Insurance  
  Company  
  Minnesota Mutual Life Center  
  400 North Robert Street  
  St. Paul, Minnesota 55101

Attention: Investment Department

If to the Charterer:       Ingram Barge Company, a division  
  of Ingram Industries Inc.  
  4304 Harding Road  
  Nashville, Tennessee 37202

Attention: President

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

SECTION 18. CHARTERER'S RIGHT OF FIRST REFUSAL.

If the Owner receives a good faith offer to buy any or all of the Vessels before or at the end of the term of this Charter, and the Owner desires to accept such offer, then, as long as no Event of Default or event which with the giving of notice or the lapse of time or both would constitute an Event of Default has occurred and is continuing, the Owner shall give the Charterer written notice of such offer at least 30 days before the date of such proposed sale, and the Charterer may, upon written notice to the Owner at least 15 days before such sale date, buy such Vessels on such date for the same price and terms as proposed by such offer.

SECTION 19. MISCELLANEOUS.

19.1. Governing Law. This Charter shall be construed in accordance with the laws of the State of Minnesota; provided, however, that the parties shall be entitled to all rights conferred by any applicable Federal statute, rule or regulation.

19.2. Modification. No change, alteration, modification or addition to this Charter shall be effective unless in writing and properly executed by the parties hereto.

19.3. Merger. This Charter represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral.

19.4. Charterer's Control of Vessels. This Charter is a full and complete demise of the Vessels to the Charterer, which shall, subject to the terms and conditions of this Charter and at its own expense, navigate, man, victual and operate the Vessels and, as long as no Event of Default has occurred and is continuing, the Charterer shall have exclusive control of the Vessels during the term of this Charter.

IN WITNESS WHEREOF, the parties have duly executed this Charter Agreement as of the date first above written.

THE MINNESOTA MUTUAL LIFE  
INSURANCE COMPANY

By Paul Gooding and  
Its PAUL GOODING, SECOND VICE PRESIDENT *MSL*

By Marlys Mahle  
Its MARLYS MAHLE, ASSISTANT SECRETARY

OWNER

INGRAM BARGE COMPANY, A DIVISION  
OF INGRAM INDUSTRIES INC.

By P. J. Kopsch  
Its Executive Vice President

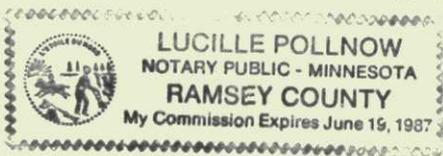
CHARTERER

STATE OF MINNESOTA )  
 ) SS  
COUNTY OF Ramsey )

On this 27<sup>th</sup> day of June, 1983 before me personally appeared Paul Gooding and Marilyn Mable, to me personally known, who being by me duly sworn say that they are the Second Vice President and Assistant Secretary, respectively, of THE MINNESOTA MUTUAL LIFE INSURANCE COMPANY, a Minnesota corporation, that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and they acknowledged that the execution of said instrument was the free act and deed of said corporation.

Lucille Pollnow  
Notary Public

(NOTARIAL SEAL)



My commission expires:

STATE OF TENNESSEE )  
 ) SS  
COUNTY OF Davidson )

On this 28<sup>th</sup> day of June, 1983 before me personally appeared P. J. Kopebak to me personally known, who being by me duly sworn says that he is the Exec. Vice President of INGRAM BARGE COMPANY, A DIVISION OF INGRAM INDUSTRIES INC., a Tennessee corporation, that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of said instrument was the free act and deed of said corporation.

Susan N. Costello  
Notary Public

(NOTARIAL SEAL)

My commission expires: 10/21/84

DESCRIPTION OF VESSELS

Fifteen (15) 195' x 35' x 12' semi-integrated, double skin, dry cargo, jumbo hopper barges, built in 1981 by HBC Barge, Inc. and bearing the names, hull numbers and official numbers set forth below:

<u>Name</u>	<u>Hull No.</u>	<u>Official No.</u>
MML 101	8143	641222
MML 102	8144	641223
MML 103	8145	641224
MML 104	8146	641225
MML 105	8147	641226
MML 106	8148	641227
MML 107	8149	641228
MML 108	8150	641229
MML 109	8151	641230
MML 110	8152	641231
MML 111	8153	641232
MML 112	8154	641233
MML 113	8155	641234
MML 114	8156	641235
MML 115	8157	641236

SCHEDULE OF CASUALTY VALUE

CASUALTY VALUE: The following amount for each Vessel is to be paid by the Charterer to the Owner pursuant to Section 10.2 of the Charter Agreement following a Casualty Occurrence:

<u>From the Due Date for Charter Hire Payment Number</u>	<u>Until the Due Date for Charter Hire Payment Number</u>	<u>Amount</u>
1	2	\$246,512
2	3	246,512
3	4	248,022
4	5	249,529
5	6	250,875
6	7	252,218
7	8	253,556
8	9	254,732
9	10	255,903
10	11	257,068
11	12	258,176
12	13	259,235
13	14	260,289
14	15	261,294
15	16	255,305
16	17	256,297
17	18	257,240
18	19	258,176
19	20	259,104
20	21	259,984
21	22	260,855
22	23	261,718
23	24	262,555
24	25	263,346
25	26	264,129
26	27	264,865
27	28	258,604
28	29	259,248
29	30	259,992
30	31	260,653
31	32	261,304
32	33	261,908
33	34	262,501
34	35	263,084
35	36	263,640

From the Due Date  
for Charter Hire  
Payment Number

Until the Due Date  
for Charter Hire  
Payment Number

Amount

36	37	\$264,148
37	38	264,644
38	39	265,092
39	40	258,540
40	41	258,965
41	42	259,340
42	43	259,702
43	44	260,053
44	45	260,352
45	46	260,640
46	47	260,180
47	48	261,160
48	49	261,354
49	50	261,534
50	51	261,384
51	52	254,234
52	53	254,056
53	54	253,825
54	55	253,581
55	56	253,321
56	57	253,008
57	58	252,680
58	59	252,335
59	60	251,958
60	61	251,979
61	End of the term of this Charter	251,987

CERTIFICATE OF ACCEPTANCE  
PURSUANT TO CHARTER AGREEMENT DATED AS OF JUNE 1, 1983  
BETWEEN  
THE MINNESOTA MUTUAL LIFE INSURANCE COMPANY, OWNER  
AND  
INGRAM BARGE COMPANY,  
A DIVISION OF INGRAM INDUSTRIES INC., CHARTERER

---

The Charterer under the Charter Agreement described in the caption hereof acknowledges and agrees that the Vessels described in Schedule 1 of the Charter Agreement have been delivered to, and are now in the possession of, and have been accepted by, the Charterer under and pursuant to and subject to all the terms and conditions of the Charter, on the date hereof.

The Charterer does further certify that said Vessels are in good order and condition, and conform to all applicable requirements and specifications and that said Vessels have been marked in accordance with Section 4.4 of the Charter.

The execution of this Certificate will in no way relieve or decrease the responsibility of the Manufacturer of the Vessels for any warranties it has made with respect to the Vessels.

DATED:

INGRAM BARGE COMPANY, A DIVISION  
OF INGRAM INDUSTRIES INC.

By \_\_\_\_\_  
Its \_\_\_\_\_

CHARTERER