

LEASE

THIS AGREEMENT, executed in duplicate

November 12

1980. WITNESSETH:

The undersigned Carrier hereby lets and the undersigned Lessee (a Colorado Corporation and state where incorporated)

(show whether an individual, co-partners or corporation and state where incorporated), to be addressed at P. O. Box 246, Wiley, Colorado 81092

hereby leases, on solely the herein expressed terms and conditions, for the term to begin with September 29 1980, and, unless sooner concluded as herein provided, to end with September 28

conditioned to continue after said term subject to termination as herein provided, the following described property, herein called "Premises", and located substantially where shown enclosed in heavy blue line on Exhibit "A", attached hereto as part hereof, situate in Eads, Kiowa County, Colorado, 1981, and (place) (county or parish) (state), to wit:

From the intersection of the westerly line of Main Street produced and the centerline of Carrier's main track, measure westwardly, along said centerline of Carrier's main track 159 feet; thence southwardly normal to last described course 70 feet, more or less, to a point 9 feet southerly of and normal from the centerline of Carrier's Track No. 2, said point being the point of beginning; thence continue along last described course 125 feet, more or less, to Carrier's southerly right-of-way line; thence westwardly along Carrier's said southerly right-of-way line 530 feet; thence northwardly at right angles to last described course 160 feet, more or less, to a point 9 feet southerly of and normal from the centerline of Carrier's Track No. 2; thence eastwardly, parallel to said centerline, 535 feet, more or less, to the point of beginning; containing 69,400 square feet, more or less,

subject and subordinate, however, to the right in Carrier, its lessees and licensees, to maintain, operate and renew on, beneath or above surface of Premises any telephone, telegraph, power and signal lines and poles, tracks, roadways, pipe lines, and facilities of like character, as now located; the Lessee hereby releasing Carrier, its lessees and licensees, from all loss or damage which Lessee may sustain by reason thereof. Any of Carrier's adjacent right of way lands occupied by any unloading platform attached or appurtenant to Lessee's improvements located on Premises hereinabove described shall be included in the term Premises as used in Paragraphs 3 and 4 hereof.

1. Premises shall be used solely as site for Lessee's existing grain handling and storage facilities.

Lessee's occupancy of Premises by existing or proposed structures and buildings of Lessee shall be limited to solely the following; provided, however, Lessee may place additional structures and buildings on Premises upon written approval of Carrier:

Lessee's structures and buildings listed in detail in Section 3(a) on Page 2.

2. Lessee shall pay, and Carrier shall accept, in equal annual installments, each in advance, rental of \$ 650.00 per annum. Rental may be redetermined by Carrier at any time subsequent to the expiration of five years following the date on which rental was last determined or established. Lessee shall pay all taxes on Lessee's property and all charges for utilities used on Premises.

The payment hereunder by Lessee of any sums in advance shall not be held to create an irrevocable license for the period for which the same is paid, but Carrier may terminate this agreement, as hereinafter provided, and refund the payment for the balance of the period for which same has been paid; provided, however, that no unearned rental shall be refunded if the termination of the lease be (a) on account of violation or non-fulfillment of any of the terms of this lease by the Lessee, or (b) on account of abandonment of said Premises by the Lessee, or (c) if the unearned rental shall not exceed Twenty-Five Dollars (\$25.00).

Acceptance of rental payment by the Carrier from the Lessee after any default by the Lessee or after termination or expiration of the agreement, howsoever, or after the serving of any notice, or after the commencement of any suit, or after final judgment for possession of said property, shall not waive such default or reinstate, continue or extend the terms of the agreement or affect any such notice or suit, as the case may be.

3. Lessee shall not, unless expressly authorized in Paragraph 1 hereof, (a) use Premises for storage or handling of petroleum or its products, or (b) store or handle on Premises any other commodities of an explosive, dangerous or flammable nature. In the event Lessee is authorized to store or handle any of the foregoing, the lighting of Premises shall be by electricity, at the cost of Lessee, and Lessee, at Lessee's cost, shall comply with all Federal, State or Municipal orders, regulations and ordinances, and with all regulations and recommendations from time to time prescribed or published by any public authority having jurisdiction, by the National Board of Fire Underwriters or any bureau or board exercising similar functions, or by the Carrier relating to the loading, unloading, storage and handling thereof and the installation, maintenance or use of any electric lighting equipment or appliances, or of any safeguard or safety device, and of any loading or unloading apparatus and any pipe line provided by Lessee on Carrier's adjacent lands, with the consent of Carrier's Superintendent, for use in loading or unloading any of said commodities into or from any tank car. In the event Lessee stores or handles any of said commodities howsoever on Premises, Lessee agrees to indemnify and save harmless Carrier, its employees and agents and to assume all risk, responsibility and liability for (i) death of, or injury to, any persons (including, but not limited to, employees, agents, officers, patrons and licensees of the parties hereto) and (ii) loss, damage or injury to any property (including property of Carrier or property in its care, custody or possession), together in all cases with all liability for any expenses, attorneys' fees and costs incurred or sustained by Carrier, arising from or in any manner or degree attributable to the existence of, handling or storage of any of said commodities on or beneath Premises regardless of any negligence of Carrier.

~~Carrier shall not be liable for any loss or damage to any property of Lessee or its agents, employees, officers, patrons and licensees of the parties hereto, arising from or in any manner or degree attributable to the existence of, handling or storage of any of said commodities on or beneath Premises regardless of any negligence of Carrier.~~

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3(a). Description of Structures:

- Lessee's one existing 17' x 40' steel building on concrete foundation.
- Lessee's three existing 26' diameter x 72' high bolted steel tanks with hoppers bottoms.
- Lessee's one existing 86' high steel load out scale tower and pit together with a 10-inch flexible loading spout and that portion of two ½-inch stranded steel cables crossing guy wires attached to said tower, as well as two ½-inch stranded steel cable guys attached to said tower and located on or above Premises.
- Lessee's one existing 40' diameter x 44' high steel tank on concrete pads.
- Lessee's one existing 70' x 12' scale
- Lessee's one existing 10' x 12' scale house on concrete foundation.
- Lessee's three proposed 40' diameter x 42' high steel bins on concrete pads.

3(b). Any movable appliance which shall be extended into or over, or connected to any car standing on any track and used by Lessee in loading and/or unloading of any such car, shall, when not in actual use, be by Lessee removed and kept in a position which shall afford the clearances provided in Paragraph 4(b) hereof. Any injury to or death of persons and loss of or damage to property caused by failure on part of Lessee to so keep said appliance when not in actual use, shall be assumed and borne by Lessee, and Lessee shall indemnify Carrier thereagainst.

3(c). Carrier grants to Lessee license and permission to keep, maintain and use two ½-inch stranded steel cable guys and two ½-inch stranded steel cable crossing guy wires attached to Lessee's aforesaid scale tower on Premises, the latter two of which extend over and across Carrier's Track No. 2 and adjacent right of way lands and are anchored on said right of way lands, 25'6" and 24'3" southerly of centerline of Carrier's Main Track as shown on Exhibit "A". Lessee shall and hereby agrees to indemnify and save harmless Carrier from and against all claims, suits, damages, costs (including attorneys' fees) losses and expenses in any manner resulting from, arising out of, or incident to the maintenance, renewal, repair, use or existence of said steel cable guys and steel cable crossing guy wires, and appurtenances thereto, and, also agrees to assume all risk of loss or damage to said steel cable guys and steel cable crossing guy wires, and appurtenances thereto, regardless of whether such claims, suits, damages, losses, costs (including attorneys' fees) and expenses shall be caused or contributed to by the negligence of Carrier or otherwise. Not later than last day of term hereof Lessee shall remove said steel cable guys and steel cable crossing guy wires, and appurtenances thereto, and restore any thereby affected of Carrier's Premises.

4. Lessee agrees:

(a) to keep Premises and all buildings and structures thereon in a condition satisfactory to Carrier, and to refrain from the committing of any unlawful act on or in respect of Premises.

