

Devol OK,

Folder No. 478-17
1323-00

BLANKET ASSIGNMENT

THIS AGREEMENT, made and entered into this 25th day of July, 1990 by and between ELDERS GRAIN, INC. a Delaware corporation to be addressed at 5000 College Blvd., Suite 400, Overland Park, KS 66211-1629 (hereinafter called "Assignor"); ATTEBURY GRAIN CO., INC. a Texas corporation to be addressed at P. O. Box 2707, Amarillo, TX 79105 (hereinafter called "Assignee"); and MISSOURI PACIFIC RAILROAD COMPANY a Delaware corporation as successor in interest by merger to the Missouri-Kansas-Texas Railroad Company on December 1, 1989 (hereinafter called "Railroad Company"), WITNESSETH:

RECITALS:

The Assignor, or its predecessors in interest, and the Railroad Company entered into agreements which are listed and identified in the schedule hereto attached, marked "Exhibit A", and hereby made a part hereof.

The Assignor desires, with the consent of the Railroad Company, to assign said agreements to the Assignee.

AGREEMENT:

NOW THEREFORE, it is mutually agreed by and between the parties hereto as follows:

Section 1. The Assignor, for a valuable consideration, does hereby sell, assign, transfer and set over to the Assignee all of the Assignor's right, title and interest in and to the agreements described in Exhibit A.

Section 2. The Assignee hereby accepts the above assignment and agrees to be bound by and to perform and observe fully and faithfully all of the covenants, stipulations and conditions contained in said agreements to be performed and observed by the Assignor and assumes all liabilities mentioned in said agreements to be assumed by the Assignor.

Section 3. The Railroad Company, in consideration of the covenants and agreements of the Assignor and the Assignee herein contained, gives its consent to the aforesaid assignment; PROVIDED, however, that such consent shall not be deemed or construed to authorize any further assignment of said agreements, whether voluntary, by operation of law, or otherwise, without the consent in writing of the Railroad Company thereto first had and obtained, and PROVIDED, FURTHER, that, as between the Assignor and the Railroad Company, neither said assignments nor anything herein contained shall be construed as releasing the Assignor, in the event of default by the Assignee, from the obligation to perform all of the covenants contained in said agreements to be performed by the Assignor, or from any of the liabilities assumed by the Assignor under said agreements.

Section 4. In further consideration of the consent of the Railroad Company, the Assignee shall pay to the Railroad Company the sum of Two Hundred Fifty Dollars (\$250.00) upon the execution and delivery of this Assignment.

Section 5. This agreement shall be considered as taking effect as of May 14, 1990.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in triplicate as of the date first herein written.

Witness:

ELDERS GRAIN, INC.

X Stephen Renken

X Daniel C. Bakers
Title: Vice-President

Witness:

ATTEBURY GRAIN CO., INC.

X Bobby Richardson

X Ed Lamm
Title: Vice-President

MISSOURI PACIFIC RAILROAD COMPANY

By: D. J. [Signature]
Director - Field Operations

EXHIBIT "A"

Agreements between Missouri Pacific Railroad Company and Elders Grain, Inc. or their respective predecessors in interest, assigned to Attebury Grain Co., Inc.

| No. | Audit No. | Subject |
|-------|-----------|---|
| ----- | ----- | ----- |
| 1. | KT-38628 | Dated July 22, 1988 - Track Operating Agreement, Supplemented April 9, 1990 - Joint Use Agreement at Devol, Ok. |
| 2. | KT-38627 | Dated July 22, 1988 - Land Lease at Devol, OK |
| 3. | KT-38624 | Dated July 25, 1988 - Industrial Track Agreement at Burkburnett, Tx. |
| 4. | KT-38623 | Dated July 22, 1988 - Land Lease at Burkburnett, TX. |

CM
LAND LEASE 38627

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|------------------|-------------|
| FILE..... | D-2787..... |
| CONTRACT NO..... | 38627..... |
| CANCELLED..... | |

THIS AGREEMENT, made this 22nd day of July, 1988, by and between the MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, a Delaware corporation, hereinafter called "Lessor", party of the First Part, and ELDERS GRAIN, INC., hereinafter called "Lessee", party of the Second Part.

W I T N E S S E T H:

ARTICLE I

1. Term: The term of this Land Lease shall commence on the 1st day of June, 1988, and unless sooner terminated as hereinafter provided, shall continue in force until either party shall give the other party thirty (30) days' written notice of an intention to terminate the same; said lease to terminate upon the expiration thereof.

2. Premises: In consideration of the rental hereinafter provided to be paid by Lessee to Lessor, and of the covenants, agreements, and undertakings of Lessee, as hereinafter set forth, Lessor hereby leases to Lessee the following described premises at or near Devol, County of Cotton, State of Oklahoma, to wit:

An area comprising 32,760 square feet, more or less, as shown on Lessor's print of Drawing No. B-4872, Engineering Department, Denison, Texas, dated May 16, 1986, marked Exhibit "A", attached hereto and made a part hereof.

ARTICLE II

Lessee undertakes and agrees:

1. Rental: To pay to Lessor as rental for the use of said leased premises the sum of ONE THOUSAND TWO HUNDRED AND NO/100 (\$1,200.00) DOLLARS per annum, payable annually in advance; and to pay to Lessor an additional sum of money equal to .833 percent per month of the total unpaid rental due above, in the event said rental is not received by Lessor within thirty (30) days from the date it is due and payable.

2. Use and Inspection: To use said premises for the purpose of maintenance and operation of a grain storage facility, office and track scale, and for no other purpose whatsoever, Lessee further agrees to use the leased premises in such a manner as not to interfere with the conduct of Lessor's business, or with the safe operation of trains or other railroad equipment or facilities adjacent thereto. Lessee has thoroughly inspected the leased premises, and is familiar with its condition, and hereby accepts the same in the present condition thereof. Lessee agrees to obtain at its own cost and expense any and all licenses and permits necessary for any such use stated in this paragraph, and shall perform, observe and comply with all federal, state, county and municipal laws, orders, regulations, ordinances, including, but not limited to inspection, sanitation, safety devices, fire prevention, environmental protection, pollution control, and other matters connected with the maintenance and use of said premises; and to protect, indemnify and hold harmless Lessor from any fines, judgments, or

penalties arising from any violation by Lessee of any of said laws, orders, regulations or ordinances.

3. Improvements: To construct, install, maintain, and operate on said premises buildings, utilities, other structures, and facilities suitable for the purposes for which the said premises are to be used hereunder, provided plans and specifications thereof shall first be submitted to Lessor, and Lessee has Lessor's consent and approval in writing. Any tracks shall be constructed under the terms of Lessor's standard Industrial Track Agreement. Lessee agrees not to make any further alterations, additions, or improvements to the premises without the prior written consent of Lessor.

4. Utilities: To contract for and supply at its own cost and expense all utilities and their installation required by the Lessee in the conduct of its business; subject to Lessee having first secured the approval of Lessor in writing; and having complied with all federal, state, county and municipal laws, orders, regulations, and ordinances connected with the maintenance and use of said utilities; and to protect, indemnify and hold harmless Lessor from any fines or penalties arising from any violation by Lessee of any said laws, orders, regulations or ordinances.

5. Appearance: To care for the grounds of the leased premises, including mowing of grass, care of shrubs, and general landscaping, and to keep the parking area, driveways, alleys, and the whole of the premises in a clean, sanitary and satisfactory condition to Lessor.

6. Hazardous Commodity Compliance: Lessee agrees not to allow, keep, use, store, or place upon the leased premises, or permit to be kept, used, stored, or placed thereon any commodities of any kind having an explosive, dangerous, flammable nature, and violation of this covenant shall automatically and without further action on the part of Lessor be deemed a default and breach of this lease by Lessee, and shall entitle Lessor to immediate possession of the premises, and a forfeiture by Lessee of any unearned rental.

7. Clearances: Not to erect or maintain, or suffer to be erected or maintained on the leased premises, any obstruction over any railroad track or tracks on or adjacent to the said premises less than twenty-three (23') feet above the top of the rail, or alongside any such track or tracks less than ten (10') feet from the center thereof, and to maintain greater clearance than that herein provided for if Lessor shall so designate in writing, or if greater clearances be required by statute or order of any competent public authority, and to protect, indemnify and hold harmless Lessor from any fines or penalties arising from a violation by Lessee of any such statute or order. Regardless of the provisions of any other section contained in this agreement, all loss, injury or damage of any and every kind or nature whatsoever to any person or persons whomsoever, arising directly or indirectly out of a breach of this section by Lessee shall be the sole responsibility of Lessee, regardless of any negligence on the part of Lessor, or its agents and employees, and Lessee shall indemnify and hold Lessor harmless from all claims, costs, suits, judgments, and attorneys' fees.

8. Liability: (a) Except as otherwise provided in sub-section (c) of this section, Lessee hereby assumes all liability and all risks of loss, injury or damage of any kind or nature whatsoever to any buildings, other structures or

appurtenances thereto, belonging to Lessee, or to others, or to any goods, merchandise, chattels or to the contents of such buildings or structures, or any other property that may be now or hereafter placed upon said leased premises, or on land adjoining or adjacent thereto, and which are at the time used in connection with any buildings or structures on said premises, unless such loss, injury or damage be caused solely and directly by the negligence of Lessor, its agents, or employees; provided, however, that if any such loss, injury or damage aforesaid shall arise from fire, theft, or other casualty, which can be insured against, then Lessee assumes the risks thereof, and shall protect, and indemnify Lessor as herein provided, regardless of whether the same be caused or contributed to by the negligence of Lessor, its agents, employees or otherwise.

(b) Except as otherwise provided in sub-section (c) of this section, Lessee hereby assumes all liability and all the risks of injury to or death of himself and of any persons in his or its employ, and of all persons whomsoever who may be upon or about said leased premises, or on land adjoining or adjacent thereto, unless such injury or death be caused solely and directly by the negligence of Lessor, its agents, or employees.

(c) Lessee assumes the risks of injury to or death of himself, and all persons whomsoever, and of loss or damage to property whosoever growing out of the presence, loading or unloading of tank cars upon or adjacent to the leased premises, or the handling or storage upon or about said premises of any goods of an explosive, dangerous or flammable nature in violation of Paragraph 6 above, regardless of whether same be caused or contributed to by the negligence of Lessor, its agents, or employees.

(d) The risks of injury to or death of persons and loss or damage to property herein assumed by Lessee, as herein defined, shall include, but shall not be limited to, loss or damage to property of either of the parties hereto, and injury to or death of, or the loss or damage to property of the officers, agents, employees, contractors, licensees, or invitees of either of the parties hereto, and whether or not such injury to or death of persons shall arise under any Workmen's Compensation Act or Federal Employers' Liability Act.

(e) Lessee, for himself, or itself, and for his heirs, successors, assigns, officers, agents, contractors, and employees, does hereby agree to protect, defend, indemnify and hold harmless the Lessor from, and to reimburse Lessor for, any and all liability and damages arising out of the risks herein assumed by Lessee, including claims, suits, judgments, costs, attorneys' fees, and all other expenses incurred by Lessor in defense of any claims, causes of action, or judgments arising from any liability assumed by Lessee herein.

9. Waiver: To waive all right to question the validity of this lease or any of the terms or provisions hereof, or the right or power of Lessor to execute and enforce the same, and to waive all right to claim damages in the event Lessee shall be ejected from or required to surrender possession of the lease premises by reason of the failure of title of Lessor, or for other cause.

10. Taxes:

(a) Ad Valorem: That Lessor will pay and will continue to pay all ad valorem taxes assessed against the leased premises as long as Lessor's property within the taxing jurisdiction is assessed as a "whole". However, Lessor

specifically reserves the right to pass any and all ad valorem taxes applicable to the leased premises to Lessee should Lessor be able to specifically identify any such ad valorem tax, and Lessee agrees to pay such tax as additional rental within thirty (30) days from receipt of Lessor's bill.

(b) Special Taxes and Assessments: As additional rental, to pay to Lessor, within thirty (30) days from date of Lessor's bill, a sum equal to 50% of all special taxes and assessments, including but not limited to assessments for paving, curbing, guttering and/or water main extensions, which may be assessed against said leased premises at any time during the term of this lease.

(c) Other Taxes: To pay all taxes, special and general, which may be assessed against any property owned by or under the control of Lessee on the leased premises.

ARTICLE III

1. Landlord's Lien: Lessor shall have, and is hereby given a lien upon all buildings and structures erected by Lessee on the premises, and upon all of Lessee's property therein, or on the premises, to secure the payment of rental or other amounts for which Lessee may be obligated to Lessor hereunder. Lessee may remove from the premises any such buildings or structures erected on the premises by Lessee at any time before the expiration or any termination of this lease, provided that Lessee be not at the time in default in the payment of rent, or in the performance of any obligation under this agreement.

2. Refunds: If and when this lease shall be terminated pursuant to Section I of Article I, hereof, or by the happening of any of the events specified in Section 8 (a) of this Article III, and Lessee has complied with the conditions of Section 6 of this Article III, Lessor shall refund to Lessee any unearned rental paid in advance; but if this lease shall be terminated by Lessor, pursuant to Section 3 or 5 of this Article III, or by reason of default or breach hereof, no unearned rent shall be refunded, and such unearned rental shall be deemed liquidated damages; provided, however, that no unearned rental shall be refunded in any case if the unearned rental shall not exceed Fifty (\$50.00) Dollars. Lessor expressly reserves the right to increase the rental rate at any time during the lease year upon giving Lessee thirty (30) days' notice of its intention to increase said rent. In such event, Lessor agrees to prorate any advanced rentals paid by Lessee for the then current year to the date of said increase.

3. Casualty: In case any buildings, structures or works upon the leased premises shall at any time during the term hereof be destroyed in whole or in part by fire, tornado, flood, or other acts of God, Lessee shall give Lessor immediate written notice of such occurrence, and Lessee shall have ninety (90) days thereafter in which to rebuild same, in accordance with plans approved by Lessor's Chief Engineer. In the event the property so destroyed shall not be rebuilt in a manner satisfactory to Lessor's Chief Engineer, or other authorized officer within the said time, this lease may be terminated at the option of Lessor.

4. Right of Entry: Lessor through its duly authorized representative shall at all reasonable times, have right of entry and free access to said leased premises, and every part thereof, for the purpose of inspecting the same to determine its condition, and to determine whether or not Lessee is using and

occupying the same for the purpose, and in the manner herein set forth; or to construct, extend or repair any signals or side, switch or main line track, or to enter upon and to make use of said premises when necessary, in order to clear any derailment, or to restore service over any side, switch or main line track, or for any other reason whatsoever.

5. Default: (a) In case Lessee shall default in the payment of any rental, tax or other reimbursements provided for herein, late payment penalties, returned check charges, or other sums due by Lessee, or upon breach or violation of any of Lessee's other covenants, agreements, undertakings, provisions, terms, applicable laws, or conditions herein contained, Lessor may, at Lessor's option, either immediately terminate this lease, assert its landlord's lien rights, and enter into, upon, and possess the premises together with all of Lessee's property thereon, with or without process of law, and may remove therefrom Lessee and all persons occupying the premises or any part thereof, using such force as may be necessary for that purpose; or Lessor may require Lessee to remove all of Lessee's property from the premises within twenty (20) days following receipt of termination notice. Failure by Lessor to enforce one or more of the remedies herein provided upon an event of default, shall not be construed to constitute a waiver of such default. In addition, Lessor reserves the right to avail itself of any and all rights and remedies available to it by operation of law or equity and any proceeding by the appropriate court action to enforce performance by Lessee of the applicable covenants of this lease or to secure damages for the breach thereof including reasonable attorney fees. Lessor may waive any default of Lessee at any time without affecting or impairing any right arising from any subsequent default. Lessee agrees to reimburse Lessor for the costs of any claims, suits, judgments, costs, attorneys' fees, court costs, and all other related expenses incurred by Lessor arising from or growing out of Lessee's defaulting in any of the terms of this lease. No action or proceeding by Lessor under this paragraph shall in any manner release or discharge the covenants, agreements, and undertakings of Lessee of any of the obligations, risks, or duties herein assumed by Lessee which may have accrued as of the date of any default.

(b) Lessee understands and agrees that Lessor shall not be required to make formal demand or give notice for any due and unpaid rental or for the curing of any default hereunder before declaring this lease terminated or before asserting its rights to avail itself of any remedies contained herein, either at law or equity, and Lessee does hereby expressly waive any rights to receive such demand or notice.

6. Termination: Upon the expiration or any termination of this lease, including termination by reason of default, Lessee shall, at the option of Lessor, remove all structures, buildings, tanks, foundations, improvements, debris and rubble from the leased premises within twenty (20) days following such expiration or termination, regardless of whether or not such structures were placed thereon by Lessee or others, and surrender the leased premises to the possession of Lessor in a condition satisfactory to Lessor, reasonable wear and tear and acts of God for the purposes herein authorized excepted. If Lessor elects not to have said buildings or structures removed, same shall thereafter be deemed to be a part of the realty and shall become the property of Lessor. In the event Lessor elects to have Lessee remove same, and Lessee fails to do so, same shall either become part of the realty, and the property of Lessor, or, Lessor may remove such buildings and structures, and Lessee hereby agrees to reimburse Lessor for the expense thereof.

7. Holding Over: Should Lessee hold over the premises or any part thereof, after the expiration of the term of this lease, unless otherwise agreed in writing, such holding over shall constitute and be construed as tenancy from month to month, at a rental equal to the rental payable for the last month of the term of this lease, or 1/12th of the annual rental if rental is paid annually, plus fifty (50%) percent of such amount. The inclusion of the preceding sentence shall not be construed as Lessor's permission for Lessee to hold over, nor shall acceptance of rental waive any accrued rights of Lessor or accrued liabilities of Lessee, or any default, termination or cancellation of this lease.

8. Miscellaneous: (a) This lease is personal to the Lessee and shall not inure to the benefit of any receiver, trustee, or other officer, or of any assignee for the benefit of creditors, as an asset of Lessee, but shall cease and terminate upon the appointment of any such receiver, trustee, or other officer, or the making of any such assignment.

(b) This lease and all of the provisions herein contained shall be binding upon the parties hereto, their heirs, executors, administrators, successors, and assigns, and Lessee agrees to supply notice in writing to Lessor of any name changes. Lessee agrees not to sublet said leased premises, or any part thereof, or assign this lease, or any interest therein, or sell any of its improvements located on the leased premises, without the prior consent of Lessor expressed in writing, and any and every such attempted subletting or assignment without such prior written consent shall be void and of no effect. In the event of any assignment or subletting, Lessee shall at all times remain fully responsible and liable for the payment of the rental herein specified, and for the compliance of all of its other obligations under the terms, provisions, and covenants of this lease.

(c) The personal pronouns used herein as referring to Lessee shall be understood so to refer to Lessee whether Lessee be a natural person, a partnership, a corporation, or any combination thereof.

(d) Any notice herein required to be given by Lessor to Lessee shall be deemed properly given if served upon or delivered to Lessee or his authorized agent, or if posted on the leased premises, or if mailed, postpaid, addressed to Lessee at his last known place of business.

(e) No oral promises, oral agreements, or oral warranties shall be deemed a part of this Lease, nor shall any alteration, amendment, supplement or waiver of any of the provisions of this lease be binding upon either party hereto, unless the same be supplemented, altered, changed or amended by an instrument in writing, signed by Lessor and Lessee.

(f) This lease does not become binding upon Lessor until executed by Lessor's vice-president.

(g) This lease is made subject to rights granted by or through Lessor for sub-surface or aerial uses antedating this lease.

(h) Lessee agrees that it will not allow, permit or suffer any liens of any kind to be filed which in any way affect Lessor's right, title and interest in

and to the leased premises. Lessee shall cause any such lien to be released within 15 days from the date such lien is asserted, claimed or filed, and failure to do so shall constitute a default hereunder.

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

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

By 
Vice President

ELDERS GRAIN, INC.

By 
Vice President

Address: 8717 West 110th Street
Overland Park, Kansas 66210

File: 0-2787

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DRAWING NO. B-4872



