

224-003800-011

FIRST AMENDMENT TO  
INSTALLMENT SALE CONTRACT  
AND  
SECURITY AGREEMENT



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THIS FIRST AMENDMENT TO INSTALLMENT SALE CONTRACT AND SECURITY AGREEMENT is made and entered into as of NOVEMBER 30, 1992, pursuant to a minute order adopted by the Board of Harbor Commissioners of the City of Long Beach at its May 4, 1992 meeting by and between the CITY OF LONG BEACH, a municipal corporation, acting by and through its Board of Harbor Commissioners ("City") and CALIFORNIA UNITED TERMINALS, a California joint venture ("Buyer").

1. RECITALS: This First Amendment is made with reference to the following facts and objectives:

1.1 City and Buyer entered into an Installment Sale Contract and Security Agreement for the modification and sale of a Paceco forty (40) long ton MACH PORTAINER container crane (the "Crane") bearing identification number 959 (Harbor Department Document No. HD-5029 and Federal Maritime Commission Agreement No. 224-003800-008) (the "Agreement").

1.2 City and Buyer acknowledge that the Agreement does not represent the parties' intent in that the purchase price stated herein is not correct.

1.3 The parties intend by this First Amendment to correctly set forth their agreement with reference to the purchase price to be paid for the Crane and other agreements

1 Document No. HD-5029-A

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1 and understandings regarding the disposition of the Crane.

2 2. The first sentence of paragraph 4 is amended  
3 and restated in its entirety to read as follows:

4 "4. PURCHASE PRICE: Buyer shall pay to City an  
5 amount equal to the total sum required to fully amortize a  
6 principal sum consisting of the total of (i) Two Million  
7 Seventeen Thousand Two Hundred One and 40/100 Dollars  
8 (\$2,017,201.40) and (ii) that portion of City's actual cost  
9 of modifying the Crane attributable to the extension of the  
10 boom over a payment period of seventeen (17) years which  
11 principal sum shall bear compound interest at the rate of  
12 nine percent (9%) per annum ("purchase price")."

13 3. Paragraph 4 is further amended by adding a new  
14 paragraph 4.6 thereto to read as follows:

15 "4.6 Buyer has received an opinion of counsel  
16 that the transaction contemplated hereunder is not a taxable  
17 event under California sales and use tax laws and for that  
18 reason the parties have not allocated the responsibility for  
19 the payment of sales and/or use taxes. If sales or use  
20 taxes are imposed on the transactions contemplated  
21 hereunder, Buyer may prosecute a claim of exemption  
22 therefrom before the California Board of Equalization.  
23 Buyer agrees to defend and indemnify City from and against  
24 any such taxes, including penalty and interest, if any,  
25 determined by the Board of Equalization to be payable on  
26 this transaction."

27 4. Paragraph 20.2 is amended and restated in its  
28 entirety to read as follows:

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1 "20.2 Subject to the provisions of this  
2 paragraph, Buyer shall be free to sell the Crane after the  
3 purchase price has been paid to City in full. In the event  
4 Buyer elects to sell or otherwise dispose of the Crane  
5 (whether prior to payment of the purchase price in full or  
6 thereafter) and the Crane is the only remaining crane of  
7 Cranes Nos. 507, 959 and 960 in Buyer's possession, Buyer  
8 shall not sell or agree to sell the Crane until (i) Buyer  
9 pays the purchase price then owing to City hereunder in  
10 full; (ii) Buyer shall first offer in writing to sell the  
11 Crane to City, such offer to remain open for a sixty (60)  
12 day period; and (iii) City fails to elect in writing to  
13 purchase the Crane within said sixty (60) day period. The  
14 purchase price and other terms shall be mutually agreed to  
15 by City and Buyer and shall be the fair market value of the  
16 Crane, and its equipment and parts, if any, or equal to a  
17 bonafide written offer to purchase the Crane acceptable to  
18 Buyer made by a third party not affiliated with City or  
19 Buyer or any member of joint venture comprising Buyer. If  
20 City and Buyer are unable to agree on the fair market value,  
21 the matter shall be determined in accordance with paragraph  
22 7."

23 5. Paragraph 21 is amended and restated in its  
24 entirety to read as follows:

25 "21. OPTION OF CITY TO LEASE OR PURCHASE CRANE:  
26 If the Crane is the only remaining crane of cranes 507, 959  
27 and 960 in Buyer's possession and at any time Buyer  
28 unconditionally gives notice in writing of its intent to

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terminate the Terminal Agreement or 180 days before the termination of the Terminal Agreement without notice, City shall have the option to either lease or purchase the Crane together with its equipment and component parts, if any. City shall exercise its option by giving Buyer written notice of its election either within sixty (60) days from the date on which Buyer gives notice of its intent to terminate the Terminal Agreement or within 120 days before the termination of the Terminal Agreement without notice.

21.1 If City elects to lease the Crane, Buyer shall make the Crane available for lease to City after the termination of the Terminal Agreement for a period to end on the date which is twenty-four (24) months from the date City notifies Buyer of City's election to lease the Crane. Buyer shall deliver possession of the Crane to City upon termination of the Terminal Agreement. The lease shall be at the fair rental value of the Crane, and its equipments and parts, if any, as determined by the parties. If the parties are unable to agree on a fair rental value, such shall be determined in accordance with paragraph 7.

21.2 If City elects to purchase the Crane, the purchase price by City shall be the fair market value of the Crane, its equipment and parts, if any, as determined by the parties. If City and Buyer are unable to agree on the fair market value, such shall be determined in accordance with paragraph 7. Delivery of the Crane and payment of the purchase price shall take place upon the date of expiration of the term of the Terminal Agreement, at which time this

STATE OF CALIFORNIA }  
COUNTY OF LOS ANGELES } SS.

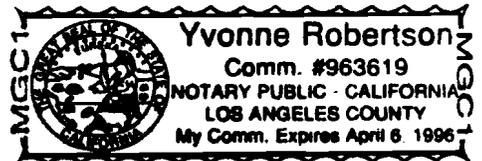
On November 13, 1992 before me, Yvonne Robertson, a  
Notary Public in and for said State, personally appeared Charles Doan and David Hoekstra

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.  
WITNESS my hand and official seal.

Signature Yvonne Robertson  
Yvonne Robertson  
Name (Typed or Printed)

L-10 (7/91)

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STAPLE HERE  
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(This area for official notarial seal)

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Contract shall terminate. If the fair market value of the Crane has not been determined as of the date of the expiration of the term of the Terminal Agreement, the Crane shall nevertheless be delivered on that date and interest on the purchase price for the Crane shall be paid by City to Buyer and shall accrue at the then existing prime rate quoted by the Bank of America National Trust and Savings Association in San Francisco, plus one percent (1%) from that date to the date of payment of the purchase price, compounded monthly."

6. Except as provided in this First Amendment, all terms and conditions of the Agreement shall remain unchanged and in full force and effect.

7. This First Amendment shall become effective on the date City shall have complied with the provisions of the Shipping Act of 1984 with respect to the filing of marine terminal agreements with the Federal Maritime Commission.

CALIFORNIA UNITED TERMINALS,  
a joint venture

Dated: 11/13/92, 1992 By [Signature]

Dated: 11/13/92, 1992 By [Signature]  
BUYER

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CITY OF LONG BEACH, a municipal corporation, acting by and through its Board of Harbor Commission

Dated: Nov. 30, 1992

By   
S. R. Dillenbeck,  
Executive Director  
Long Beach Harbor Department

CITY

The foregoing First Amendment to Installment Sale Contract and Security Agreement is hereby approved as to form this 30th day of November, 1992.

JOHN R. CALHOUN, City Attorney

By   
Senior Deputy

Certified as a True and Correct Copy

  
Executive Secretary  
Board of Harbor Commissioners  
of the City of Long Beach,  
California  
Dated December 1, 1992

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ECP:pw  
10/12/92  
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