

RECORDATION OF SUPPLEMENTAL
LEASE AGREEMENT

June 4, 1979

9-156405
JUN 5 1979
50.00

RECORDATION NO. 10453 Filed 1979 Washington, D. C.

JUN 5 1979 - 3 50 PM

Secretary of the Interstate Commerce Commission
Commerce Commission
Washington, D.C. 20423

Dear Secretary:

Pursuant to Title 49, Section 11303 U.S.C., Diboll Leasing Company, a party to the Supplemental Lease Agreement hereinafter mentioned, is submitting herewith for recordation three copies of the Supplemental Lease Agreement dated June 4, 1979, two bearing original signatures and one duly certified after comparison with the original and all of which have been acknowledged (or certified as to acknowledgment) pursuant to the requirements of 49 CFR 1116.3. In accordance with 49 CFR 1116.4, we furnish the following information:

Lessors: Arthur Temple, P. O. Drawer N, Diboll, Texas 75941; Arthur Temple, III, P. O. Box 430, Diboll, Texas 75941; Joe C. Denman, Jr., 702 Nelson Drive, Diboll, Texas 75941; Wayne McDonald, 2803 Scenic Drive, Austin, Texas 78703; R. B. Thompson, 1310 Live Oak, Lufkin, Texas 75901; Clifford J. Grum, 35 Deerfield Road, Chappaqua, New York 10514; H. J. Shands, Jr., 1310 Allendale Drive, Lufkin, Texas 75901; Kenneth M. Jastrow, II, 15 Niles Road, Austin, Texas 78703; David H. Dolben, 2205 Copeland, Lufkin, Texas 75901; C. Tom Sumner, P. O. Drawer N, Diboll, Texas 75941; Green Acres Convalescent Centers, Inc., P O. Box 696, Lufkin, Texas 75901; and Billy Lee Thompson, Route 1, Box 210-C, Pollok, Texas 75969.

Lessee: Diboll Leasing Company, P. O. Box 636, Diboll, Texas 75941.

Equipment: One Hundred Twenty (120) 70-Ton 50'6" Single Sheath Boxcars with Single 10' Sliding Doors centered on each car, Nailable Steel Flooring, Lading Anchors, AAR Plate "C", manufactured by FMC Corporation, Portland, Oregon,

RECEIVED

A.A.R. Mechanical Designation XM, bearing reporting markings and identifying marks TSE 5001 through TSE 5120, inclusive, including appurtenances and additions thereto.

We are also enclosing herewith a cashier's check in the sum of \$50.00 to cover the filing cost.

We request that the security agreement be duly recorded and returned to the following attorneys:

Zeleskey, Cornelius, Rogers
Hallmark & Hicks
P. O. Drawer 1728
Lufkin, Texas 75901
Attention: Jack D. Hicks

Your attention to the foregoing matter will be appreciated.

Yours truly,

DIBOLL LEASING COMPANY



C. Tom Sumner,
President

cc: Mr. Jack D. Hicks
Zeleskey, Cornelius, Rogers,
Hallmark & Hicks
P. O. Drawer 1728
Lufkin, Texas 75901

cc: Mr. Ward R. Burke
Burke, Leach & Sloan
P.O. Box 777
Diboll, Texas 75941

cc: Mr. Ira D. Einsohn
Gardere, Wynne, Jaffe & DeHay
1700 Republic National Bank Bldg.
Dallas, Texas 75201

RECORDATION NO. **10453** Filed 1425

JUN 5 1979 - 3 50 PM

INTERSTATE COMMERCE COMMISSION

SUPPLEMENTAL LEASE AGREEMENT

AGREEMENT

THE STATE OF TEXAS ¶
 ¶
COUNTY OF ANGELINA ¶

KNOW ALL MEN BY THESE PRESENTS:

THIS AGREEMENT made and executed by and between ARTHUR TEMPLE, ARTHUR TEMPLE, III, JOE C. DENMAN, JR., DAVID H. DOLBEN, CLIFFORD J. GRUM, WAYNE McDONALD, KENNETH M. JASTROW, II, H. J. SHANDS, JR., R. B. THOMPSON, C. TOM SUMNER, BILLY LEE THOMPSON, and GREEN ACRES CONVALESCENT CENTERS, INC., herein sometimes collectively referred to as "Owners" and singularly referred to as "Owner," and DIBOLL LEASING COMPANY, a private corporation with its principal office and place of business in the City of Diboll, Angelina County, Texas, herein sometimes referred to as "DLC,"

W I T N E S S E T H:

PREFACE

Owners and DLC are purchasing from FMC Corporation 120 70-Ton 50'6" Single Sheath Boxcars which are identified and marked "TSE 5001" through "TSE 5120" (the "Boxcars"). Such Boxcars are owned as follows:

<u>OWNER</u>	<u>NO. OF CARS</u>	<u>MARKINGS</u>
Diboll Leasing Company	20	"TSE 5001" through "TSE 5020"
Arthur Temple	20	"TSE 5021" through "TSE 5040"
Arthur Temple, III	10	"TSE 5041" through "TSE 5050"
Joe C. Denman, Jr.	10	"TSE 5051" through "TSE 5060"
Wayne McDonald	10	"TSE 5061" through "TSE 5070"

R. B. Thompson	10	"TSE 5071" through "TSE 5080"
Clifford J. Grum	10	"TSE 5081" through "TSE 5090"
H. J. Shands, Jr.	5	"TSE 5091" through "TSE 5095"
Kenneth M. Jastrow, II	5	"TSE 5096" through "TSE 5100"
David H. Dolben	5	"TSE 5101" through "TSE 5105"
C. Tom Sumner	5	"TSE 5106" through "TSE 5110"
Green Acres Convalescent Centers, Inc.	8	"TSE 5111" through "TSE 5118"
Billy Lee Thompson	2	"TSE 5119" through "TSE 5120"

Owners have contemporaneously herewith leased their respective Boxcars to DLC, and DLC has in turn leased the above described 120 Boxcars to Texas Southeastern Railroad Company ("TSE").

Each of the Lease Agreements executed by and between Owners and DLC provide for the payment of additional rental based on "utilization" of a particular Owner's Boxcars. The parties hereto, in order to (1) avoid the difficulties in record keeping required to determine the "utilization" of each Boxcar and (2) insure that each Owner shares equitably in any additional rental resulting from the "utilization" of the Boxcar fleet, have agreed to a modification of the provisions of Paragraph 4B of their respective Lease Agreements to incorporate the following.

MODIFICATION TO LEASE AGREEMENTS

Paragraph 4B of each of the Lease Agreements executed by and between DLC and the Owner of the Boxcars hereinabove enumerated is hereby modified to read as follows:

"B. In addition to the monthly rental provided in Paragraph 4A hereof, DLC shall pay to Owners the following additional rental:

(1) All of said Lease Agreements (the "Leases") commence on June 1, 1979, and terminate on the 31st day of October, 1989. The term "Lease Year" shall mean any annual period, commencing with the first day of the month which coincides with the commencement of the term of the Leases, and the first day of each succeeding year during the term of the Leases.

(2) The term "Boxcars" shall mean the 120 boxcars hereinabove described owned by Owners and DLC.

(3) In the event utilization of the Boxcars exceed 85% in any Lease Year following the first Lease Year of the term of the Leases, Owners shall receive the following additional rental:

(i) In the event utilization of the Boxcars exceeds 95% in any such Lease Year following the first Lease Year, DLC shall pay to each Owner for each Boxcar owned and leased by such Owner to DLC, the sum of \$720.00; and

(ii) In the event utilization of the Boxcars exceeds 90% in any such Lease Year following the first Lease Year but does not exceed 95%, DLC shall pay to each Owner for each Boxcar owned and leased by such Owner to DLC, the sum of \$480.00; and

(iii) In the event utilization of the Boxcars exceeds 85% in any such Lease Year following the first Lease Year but does not exceed 90%, DLC shall pay to each Owner for each Boxcar owned and leased by such Owner to DLC, the sum of \$240.00; and

(iv) For that period commencing June 1, 1989, through October 31, 1989 (the "partial Lease Year"), should utilization of the Boxcars exceed 85%, the Owners shall be entitled to receive 5/12ths of the amount they would have received for an entire Lease Year under Subparagraphs (i), (ii), or (iii) immediately above (whichever rate of utilization is applicable).

(v) At the end of each Lease Year or partial Lease Year (excluding the first Lease Year), DLC shall prepare a statement reflecting the utilization of the Boxcars for the previous Lease Year or partial Lease Year. Such statement will be delivered to each Owner within one hundred twenty (120) days following the end of each Lease Year or partial Lease Year along with such additional rental payments, if any, as may be due thereunder.

(vi) DLC covenants that it will keep separate and accurate records reflecting the utilization of the Boxcars, and Owners, or any of them, or their representatives, shall be given access at any and all reasonable times to any such books and records. In the event any Owner shall be dissatisfied with a statement of utilization made in any Lease Year or partial Lease Year, such Owner or Owners may have the privilege of an audit made for the purpose of determining utilization in such period by a representative selected by such Owner or Owners. If an error or omission is revealed by the audit as a result of which Owners have been paid less than the amount to which Owners are entitled, then and in that event, it is agreed that DLC shall pay such deficiency to Owners within ten (10) days after the error or omission has been verified by DLC. If the audit reveals that the Owners have been paid more than the amount to which Owners are entitled under the terms hereof, it is agreed that such excess will be paid by Owners to DLC within ten (10) days after receipt of the report of the audit and in the event any Owner should fail to repay his proportionate part of such amount, DLC shall have the privilege of deducting that amount owing by a particular Owner from the next succeeding monthly rental payments due by DLC to such Owner until DLC has been reimbursed in full for such overpayment. In the event such audit reveals that as to such additional rental payments (if any) Owners have been paid less than ninety (90%) per cent of the amount to which they are entitled, then the expense of such audit shall be borne wholly by DLC, otherwise by the Owner or Owners requesting such audit.

(vii) In the event an aforementioned Lease Agreement between DLC and a car Owner is terminated as to one or more boxcars during a Lease

Year or partial Lease Year for which additional rental payments shall become owing under the foregoing provisions, such car Owner shall be entitled to receive for each of such terminated boxcars an amount equal to 1/360th of that amount to which such Owner would have been entitled had the car been used for the entire Lease Year or partial Lease Year, for each day of the Lease Year or partial Lease Year from the commencement thereof until the Lease Agreement as to such car is terminated.

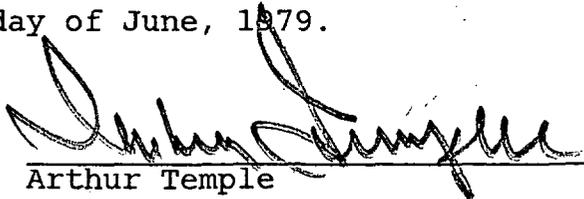
RATIFICATION

Except as each of the aforementioned Lease Agreements are modified and supplemented by this Agreement, the same are in all of their respective terms and provisions ratified and confirmed by the parties hereto.

COUNTERPARTS

This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument. A complete set of signed counterparts shall be held by DLC and shall be available for inspection and copying by any other party hereto and each other party hereto shall be furnished with a composite xerox copy of such signed counterparts upon request.

EXECUTED this 4th day of June, 1979.



Arthur Temple

Arthur Temple, III

Joe C. Denman, Jr.

Year or partial Lease Year for which additional rental payments shall become owing under the foregoing provisions, such car Owner shall be entitled to receive for each of such terminated boxcars an amount equal to 1/360th of that amount to which such Owner would have been entitled had the car been used for the entire Lease Year or partial Lease Year, for each day of the Lease Year or partial Lease Year from the commencement thereof until the Lease Agreement as to such car is terminated.

RATIFICATION

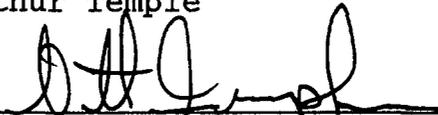
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This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument. A complete set of signed counterparts shall be held by DLC and shall be available for inspection and copying by any other party hereto and each other party hereto shall be furnished with a composite xerox copy of such signed counterparts upon request.

EXECUTED this 4th day of June, 1979.

Arthur Temple



Arthur Temple, III

Joe C. Denman, Jr.

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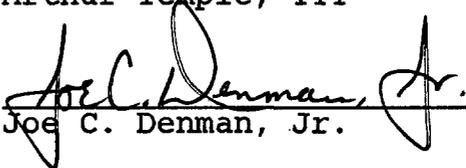
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EXECUTED this 4th day of June, 1979.

Arthur Temple

Arthur Temple, III



Joe C. Denman, Jr.

David H. Dolben
David H. Dolben

Clifford J. Grum
Clifford J. Grum

Wayne McDonald
Wayne McDonald

Kenneth M. Jastrow, II
Kenneth M. Jastrow, II

H. J. Shands, Jr.
H. J. Shands, Jr.

R. B. Thompson
R. B. Thompson

C. Tom Sumner
C. Tom Sumner

Billy Lee Thompson
Billy Lee Thompson

GREEN ACRES CONVALESCENT CENTERS, INC.

By _____
President

OWNERS

DIBOLL LEASING COMPANY

By C. Tom Sumner
President

David H. Dolben

Clifford J. Grum

Clifford J. Grum

Wayne McDonald

Kenneth M. Jastrow, II

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By _____
President

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DIBOLL LEASING COMPANY

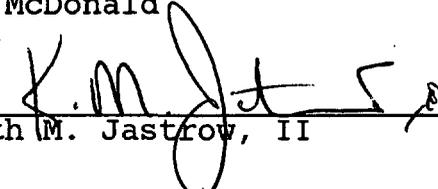
By *C. Tom Sumner*

President

David H. Dolben

Clifford J. Grum

Wayne McDonald



Kenneth M. Jastrow, II

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C. Tom Sumner

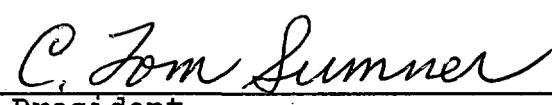
Billy Lee Thompson

GREEN ACRES CONVALESCENT CENTERS, INC.

By _____
President

OWNERS

DIBOLL LEASING COMPANY

By 

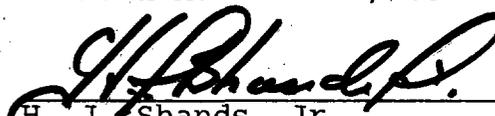
President

David H. Dolben

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Wayne McDonald

Kenneth M. Jastrow, II



H. J. Shands, Jr.

R. B. Thompson

C. Tom Sumner

Billy Lee Thompson

GREEN ACRES CONVALESCENT CENTERS, INC.

By _____
President

OWNERS

DIBOLL LEASING COMPANY

By 

President

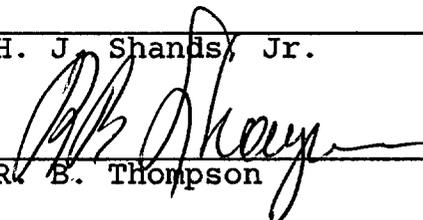
David H. Dolben

Clifford J. Grum

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Kenneth M. Jastrow, II

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R. B. Thompson

C. Tom Sumner

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GREEN ACRES CONVALESCENT CENTERS, INC.

By _____
President

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DIBOLL LEASING COMPANY

By 

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By _____
President

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DIBOLL LEASING COMPANY

By *C. Tom Sumner*

President

David H. Dolben

Clifford J. Grum

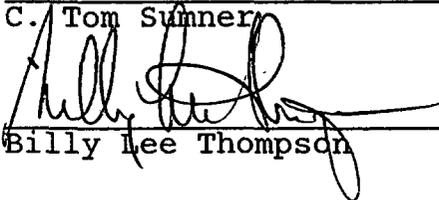
Wayne McDonald

Kenneth M. Jastrow, II

H. J. Shands, Jr.

R. B. Thompson

C. Tom Sumner



Billy Lee Thompson

GREEN ACRES CONVALESCENT CENTERS, INC.

By _____
President

OWNERS

DIBOLL LEASING COMPANY

By C. Tom Sumner
President

David H. Dolben

Clifford J. Grum

Wayne McDonald

Kenneth M. Jastrow, II

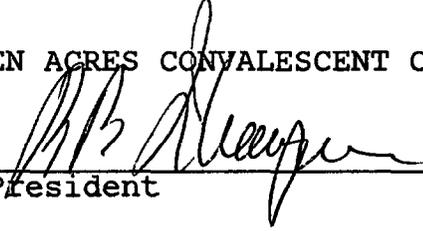
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C. Tom Sumner

Billy Lee Thompson

GREEN ACRES CONVALESCENT CENTERS, INC.

By 
President

OWNERS

DIBOLL LEASING COMPANY

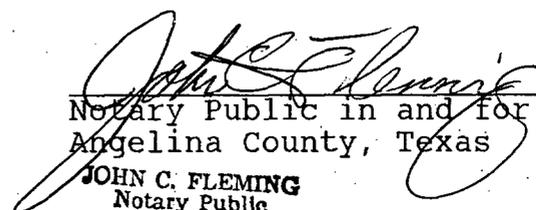
By C. Tom Sumner
President

THE STATE OF TEXAS ¶

COUNTY OF ANGELINA ¶

BEFORE ME, the undersigned authority, a Notary Public, on this day personally appeared C. TOM SUMNER, President of Diboll Leasing Company, a corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Diboll Leasing Company, a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 4th day of June, 1979.


Notary Public in and for
Angelina County, Texas
JOHN C. FLEMING
Notary Public

Individual Form of Acknowledgment

The State of Texas

County of Angelina

On this 4th day of June, 1979, before me personally appeared
ARTHUR TEMPLE, to me well
known to be the person described in and who executed the foregoing in-
strument and he acknowledged that he executed the same as his free act
and deed.



Notary Public, in and for Angelina
County, Texas.

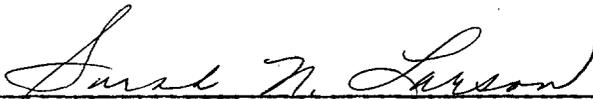
My commission expires: _____

SARAH N. LARSON, Notary Public
Angelina County, Texas
My Commission Expires 11/30/80

Individual Form of Acknowledgment

The State of Texas
County of Angelina

On this 4th day of June, 1979, before me personally appeared
ARTHUR TEMPLE, III, to me well
known to be the person described in and who executed the foregoing in-
strument and he acknowledged that he executed the same as his free act
and deed.


Notary Public, in and for Angelina
County, Texas.

My commission expires: _____

SARAH N. LARSON, Notary Public
Angelina County, Texas
My Commission Expires 11/20/80

Individual Form of Acknowledgment

The State of Texas

County of Angelina

On this 4th day of June, 1979, before me personally appeared
JOE C. DENMAN, JR., to me well
known to be the person described in and who executed the foregoing in-
strument and he acknowledged that he executed the same as his free act
and deed.

Sarah N. Larson
Notary Public, in and for Angelina
County, Texas.

My commission expires: _____

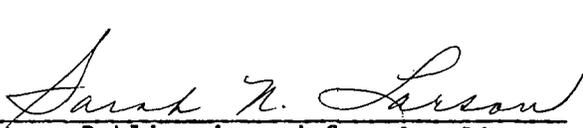
SARAH N. LARSON, Notary Public
Angelina County, Texas
My Commission Expires 11/30/80

Individual Form of Acknowledgment

The State of Texas

County of Angelina

On this 4th day of June, 1979, before me personally appeared
DAVID H. DOLBEN, to me well
known to be the person described in and who executed the foregoing in-
strument and he acknowledged that he executed the same as his free act
and deed.


Notary Public, in and for Angelina
County, Texas.

My commission expires: _____

SARAH N. LARSON, Notary Public
Angelina County, Texas
My Commission Expires 11/30/80

Individual Form of Acknowledgment

The State of New York

County of New York

On this 4th day of June, 1979, before me personally appeared
CLIFFORD J. GRUM, to me well
known to be the person described in and who executed the foregoing in-
strument and he acknowledged that he executed the same as his free act
and deed.

Alice M. Herstin
Notary Public, in and for _____
County, New York.

ALICE M. HERSTIN
Notary Public, State of New York
No. 30-1776400
Qualified in Nassau County
Certificate filed in New York County
Commission Expires March 30, 1981

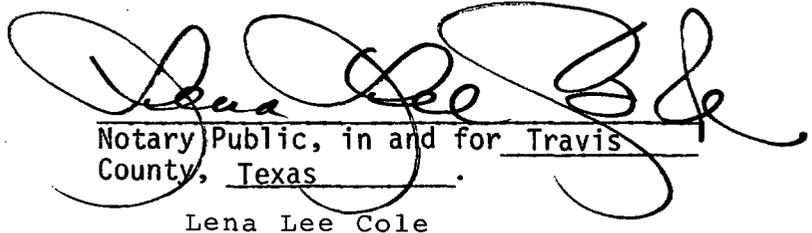
My commission expires: _____

Individual Form of Acknowledgment

The State of Texas

County of Travis

On this 4th day of June, 1979, before me personally appeared
WAYNE Mc DONALD, to me well
known to be the person described in and who executed the foregoing in-
strument and he acknowledged that he executed the same as his free act
and deed.


Notary Public, in and for Travis
County, Texas
Lena Lee Cole

My commission expires: July 31, 1980

Individual Form of Acknowledgment

The State of Texas

County of Travis

On this 4th day of June, 1979, before me personally appeared
KENNETH M. JASTROW, II, to me well
known to be the person described in and who executed the foregoing in-
strument and he acknowledged that he executed the same as his free act
and deed.

Shonda Beverly
Notary Public, in and for Travis
County, Texas.

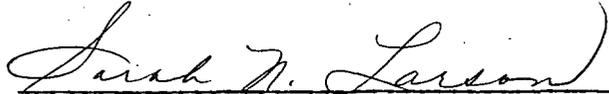
My commission expires: Nov. 22, 1980

Individual Form of Acknowledgment

The State of Texas

County of Angelina

On this 4th day of June, 1979, before me personally appeared
H.J. SHANDS, JR., to me well
known to be the person described in and who executed the foregoing in-
strument and he acknowledged that he executed the same as his free act
and deed.


Notary Public, in and for Angelina
County, Texas

My commission expires: _____

SARAH N. LARSON, Notary Public
Angelina County, Texas
My Commission Expires 11/30/80

Individual Form of Acknowledgment

The State of Texas

County of Angelina

On this 4th day of June, 1979, before me personally appeared
R.B. THOMPSON, to me well
known to be the person described in and who executed the foregoing in-
strument and he acknowledged that he executed the same as his free act
and deed.


Notary Public, in and for Angelina
County, Texas.

My commission expires: _____

SARAH N. LARSON, Notary Public
Angelina County, Texas
My Commission Expires 11/30/80

Individual Form of Acknowledgment

The State of Texas

County of Angelina

On this 4th day of June, 1979, before me personally appeared
C. TOM SUMNER, to me well
known to be the person described in and who executed the foregoing in-
strument and he acknowledged that he executed the same as his free act
and deed.


Notary Public, in and for Angelina
County, Texas.

My commission expires: _____

SARAH N. LARSON, Notary Public
Angelina County, Texas
My Commission Expires 11/30/80

Individual Form of Acknowledgment

The State of Texas

County of Angelina

On this 4th day of June, 1979, before me personally appeared
BILLY LEE THOMPSON, to me well
known to be the person described in and who executed the foregoing in-
strument and he acknowledged that he executed the same as his free act
and deed.


Notary Public, in and for Angelina
County, Texas.

My commission expires: _____

SARAH N. LARSON, Notary Public
Angelina County, Texas
My Commission Expires 11/30/80

Corporate Form of Acknowledgment

The State of Texas |

County of Angelina |

On this 4th day of June, 1979, before me personally appeared R. B. Thompson, President Green Acres Convalescent Centers, Inc., to me personally known, who being by me duly sworn, says that he is the President of Green Acres Convalescent Centers, Inc., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


Notary Public, in and for Angelina
County, Texas

My commission expires: _____

SARAH N. LARSON, Notary Public
Angelina County, Texas
My Commission Expires 11/30/80