

RECORDATION NO. 1 5103 Filed & Recorded

NOV 24 1986 2-3 0 PM

University State Bank INTERSTATE COMMERCE COMMISSION

Shelley Martell
Loan Operations Office

RECORDATION NO. 1 5103 Filed & Recorded

NOV 24 1986 2-3 0 PM

11-14-86

INTERSTATE COMMERCE COMMISSION
RECORDATION NO. 1 5103 A Filed & Recorded

NOV 24 1986 2-3 0 PM

11/24/86
Fee \$ 30.00

Mildred Lee, Room 2303
Interstate Commerce Commission
Twelfth Street and Constitution Ave., N.W.
Washington, D.C. 20423

ICC Washington, D. C.

Dear Ms. Lee,

Enclosed you will find two original security agreements and a copy of a Management Agreement. Please record these documents and return to the undersigned. I am aware that you require all documents be original with signatures notarized, however, a new Management Agreement is in the process of being signed and should be ready for recording soon. Meanwhile, I would like to record this copy. A check for \$30.00 is also enclosed.

The debtor's name and address is as follows:

Robert K. Moses, Jr.
4545 Post Oak Place #180
Houston, Tx 77027

The secured party's name and address is as follows:

University State Bank
John E. Davis, President
P. O. Box 6568
Houston, Tx 77265
713-692-3565

The Manager of the tank cars is as follows:

Richmond Leasing Company
777 South Post Oak Road
Houston, Tx 77056

University State Bank

Shelley Martell
Assistant Vice President

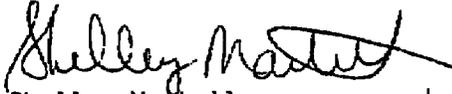
11-14-86

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If you should need any additional information or have any questions, feel free to contact myself or John E. Davis at 713-692-3565.

Your assistance in this matter is greatly appreciated.

Sincerely,



Shelley Martell
Assistant Vice President

Interstate Commerce Commission
Washington, D.C. 20423

11/24/86

OFFICE OF THE SECRETARY

Shelley Martell
Assist. Vice President
University State Bank
5615 Kirby Drive, P.O. Box 6568
Houston, Texas 77265

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 11/24/86 at 2:30pm, and assigned re-
recording number(s). 15103, 15103-A & 15103-B

Sincerely yours,

Norita R. McGee
Secretary

Enclosure(s)

SE-30
(7/79)

1 5103 *B*

RECORDATION NO. _____ Filed & Recorded

NOV 24 1986 2-3 0 PM

INTERSTATE COMMERCE COMMISSION

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT ("Agreement"), by and between Richmond Leasing Company, a Delaware corporation ("RLC"), having its principal place of business in Houston, Texas, and *Robert K. Moses, Jr.* ("Owner"), a resident of *Houston*, *Harris* County, *Texas*

WITNESSETH:

WHEREAS, Owner has ordered ... *Fifty* railroad tank cars pursuant to Richmond Tank Car Company purchase order dated *June 23, 1976* (the "Railway Equipment") and is desirous of entering into the following Agreement with RLC, whereby RLC will manage the Railway Equipment pursuant to the terms and conditions hereof; and

WHEREAS, RLC is desirous of undertaking the management of the Railway Equipment pursuant to the terms and conditions hereof;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and conditions set forth herein, the parties hereto agree as follows:

ARTICLE I

Appointment

1. Owner hereby appoints RLC to manage and otherwise supervise the operation of the Railway Equipment in the name of the Owner, or in the name of RLC, but for the account and on behalf of the Owner pursuant and subject to the terms and conditions set forth in this Agreement.

2. RLC hereby accepts the appointment set forth in Paragraph 1 of this Article I and agrees to perform the duties and obligations set forth herein. Owner acknowledges and agrees that, whereas RLC has accepted the responsibility of managing the Railway Equipment, except as specifically set forth herein to the contrary or as provided by law, RLC shall have the sole function and operative judgment, to be exercised in a reasonable manner, for the leasing, operation and management of the Railway Equipment and for establishing and implementing policies and standards of leasing, operation, service, maintenance, repair, reporting and other such policies and standards affecting the Railway Equipment or the operation, maintenance or repair thereof. RLC shall be entitled to rely upon written or oral instructions received from Owner as to any and all acts to be performed by RLC.

ARTICLE II

Owner's Covenants and Responsibilities

1. Effective on the delivery of the Railway Equipment by Richmond Tank Car Company to Owner, Owner does hereby deliver and release to RLC the Railway Equipment for the management thereof by RLC, and RLC acknowledges delivery and receipt thereof.

2. Except as provided below, Owner shall be responsible for the payment of all expenses incurred in connection with the Railway Equipment, including ad valorem and other taxes, freight, storage, design changes and other modifications required by governmental or industry regulations or technological changes, deductibles under insurance policies, and other expenses, levies or charges, including the Management Fee (as defined in Article V hereof), incurred in connection with the Railway Equipment and the operation and leasing thereof (all of which shall hereinafter be sometimes collectively referred to as the "Expenses"). The Expenses shall not include, however, minor and major repair and maintenance work (including, without limitation, running repairs, cleaning, painting and periodic inspection costs) and insurance premiums as provided herein which shall be paid by RLC.

3. Owner agrees to pay a portion of the aggregate ad valorem, gross receipts, property, or similar taxes levied against all tank cars (including the Railway Equipment) managed or owned by RLC (the "RLC Fleet") in an amount equal to the percentage which the Lease Fees (as defined in Paragraph 1 of Article III) earned by the Railway Equipment are of the gross rental and service charges earned by all tank cars in the RLC Fleet.

4. If the Lease Fees (as defined in Paragraph 1 of Article III) earned by the Railway Equipment are less than the Expenses incurred or reasonably foreseeable in connection with the operation and management of the Railway Equipment hereunder, RLC will so advise the Owner in the Quarterly Report provided for under Article III, Paragraph 8 hereof, including the amount of such deficiency and, if requested by RLC, Owner will remit to RLC within ten days of receipt of the Quarterly Report the amount of such deficiency.

5. Owner agrees to cooperate fully with RLC and to provide all assistance reasonably requested by RLC to carry out its obligations hereunder. This shall include, subject to the provisions of Article VI hereof, full cooperation and assistance in any lawsuit or other similar matter or proceeding before any court or agency.

ARTICLE III

RLC's Covenants and Responsibilities

In consideration of the Management Fee provided for hereunder, RLC agrees to utilize reasonable time and efforts to:

1. Collect the rental and service charges earned by the Railway Equipment (the "Lease Fees"). Such duties shall not, however, be deemed to include the filing of a suit to collect such Lease Fees, although RLC may elect to do so at its option but at the expense of Owner, subject to the provisions of Article VI hereof.

2. Use its best efforts to obtain leases for the Railway Equipment for terms (including renewal options) not to exceed 71 months and maintain the Railway Equipment under lease throughout the term of this Agreement. RLC shall execute any such leases, in RLC's sole discretion, either in the name of Owner or in the name of RLC but for the account and on behalf of the Owner.

3. Comply with the terms and conditions of any lease agreements to which the Railway Equipment is subject during the term hereof. It is understood, however, that before RLC shall be obligated to comply with any lease not negotiated by RLC or any amended terms and conditions of any such lease, such lease and/or amendments must be approved, in writing, by RLC.

4. Make all required registration and other filings with the Interstate Commerce Commission, the Association of American Railroads, the Department of Transportation and any other governmental or industry authority.

5. File applicable ad valorem and other tax returns and pay, from the Lease Fees or from funds advanced by Owner, all such taxes due, in accordance with the provisions of Article II, Paragraph 3. RLC may, however, retain during each calendar year of the term of this Agreement, an amount equal

to three percent of the Lease Fees received during that calendar year to cover such taxes, but will, within 90 days following the end of each calendar year, remit to Owner any amounts not required for such taxes.

6. Maintain adequate books and records sufficient to account properly for the Lease Fees, Expenses and other such items applicable to the Railway Equipment.

7. Contract for or otherwise obtain all repair and/or maintenance work on the Railway Equipment considered necessary by RLC, such repair and/or maintenance work to be paid for by RLC, subject to the provisions of Article II, Paragraph 2.

8. Provide periodic reports to Owner on a quarterly basis (the "Quarterly Reports") which shall set forth the Lease Fees derived from the use of the Railway Equipment, as well as Expenses incurred or that are reasonably foreseeable to be incurred in connection with the Railway Equipment. The Quarterly Reports shall be for the quarters ending March 31, June 30, September 30 and December 31, and will be delivered to Owner as promptly as is reasonably possible. Should the Lease Fees exceed the Expenses incurred in connection with the Railway Equipment, payment of the excess (except for any amount retained under Paragraph 5 and this Paragraph 8 of Article III) shall accompany the Quarterly Report. Should Expenses (incurred or reasonably foreseeable) exceed the Lease Fees for the period in question, the Quarterly Report will set forth the amount to be remitted by Owner to RLC, if requested. It is understood that RLC shall be under no obligation to advance funds for payment of the Expenses, regardless of the results of the nonpayment thereof. It is further understood that RLC shall have the authority to retain portions of Lease Fees that exceed actual Expenses incurred to cover future Expenses that can be reasonably foreseen to exceed Lease Fees for the applicable future period or periods. Such retention of Lease Fees shall be accomplished on a reasonable basis and in such a manner as to minimize the effect that such retention shall have on cash distributions, if any, made to Owner. No assessment for cash deficiencies shall be made to Owner, however, to the extent of unremitted mileage credits held by RLC.

9. Maintain the following insurance coverage on the Railway Equipment: A policy of general liability insurance with limits of coverage not less than the amounts and against the risks insured against by RLC from time to time on railroad equipment owned by it; and a policy of property insurance with limits of coverage of not less than \$50,000 per car, \$1,500,000 each occurrence, with no more than a \$50,000 deductible (to be paid by Owner) each occurrence, naming Owner as an additional insured. Any additional insurance desired by Owner shall be obtained by Owner at Owner's expense. If at any time the general liability insurance maintained on the Railway Equipment shall have limits of less than \$10,000,000 or shall not include assumed contractual coverage, for whatever reason, RLC shall, not less than thirty (30) days after it receives effective notice of the decrease in such insurance coverage, give written notice to Owner of the same. RLC will provide the Owner as promptly as practicable after receipt by RLC a certificate setting forth the then existing insurance coverage on the Railway Equipment.

10. Reasonably pursue any and all warranties or other claims against manufacturers, users, lessees, railroads and other parties on behalf of Owner. Such duties shall not, however, be deemed to include the filing of suit, although RLC may elect to do so at its option, but at the expense of Owner, subject to the provisions of Article VI.

ARTICLE IV

Term and Termination

1. Subject to the provisions set forth herein, this Agreement shall be effective commencing with the first date on which a railroad tank car included in the Railway Equipment is delivered to Owner, as set forth in the invoice for such railroad tank car, and shall automatically terminate ten years from such date.

2. Except as otherwise provided in this Agreement, the Owner may terminate this Agreement by giving RLC written notice of termination not less than three months prior to the termination date designated in such notice; provided, however, if Owner shall owe RLC any amounts under this Agreement, the Owner may not terminate this Agreement as to any of the Railway Equipment until all such amounts have been paid. RLC shall, at its option, be entitled to continue to lease and otherwise operate and manage the Railroad Equipment and retain any and all Lease Fees received therefrom until all amounts outstanding and/or subsequently incurred in connection with such continued leasing of the Railroad Equipment have been paid.

3. Except as otherwise provided in Article IV, Paragraph 4, should either party default under its obligations set forth herein, the sole and exclusive remedy of the other party shall be to advise the defaulting party of such default, and should such default not be corrected within 30 days of such notification, the aggrieved party may, at its option, immediately terminate this Agreement; provided, that the Owner shall (in addition to the foregoing) preserve and retain any rights the Owner might have at law or in equity if RLC defaults in its obligations under Article III, Paragraph 9, or if RLC's actions constitute gross negligence or willful misconduct.

4. Neither RLC nor the Owner shall, by reason of the expiration or the termination of this Agreement in accordance with the terms and provisions hereof, be liable to the other for compensation, reimbursement or damages, either on account of present or prospective profits or on account of expenditures, investments or commitments made in connection therewith or in connection with establishment, development or maintenance of the business or goodwill of RLC or the Owner, or on account of any other cause or thing whatsoever; provided, however, that such expiration or termination shall not affect the rights or liabilities of the parties with respect to any indebtedness owing by either party to the other; and further provided, that such expiration or termination shall be subject to any then existing lease or leases of the Railway Equipment, and RLC, at its option, shall be entitled to continue, pursuant to the terms and conditions of this Agreement, the management and control of any of the Railway Equipment covered by such lease or leases as may be necessary for RLC to comply with such lease or leases, including the right to retain the Lease Fees, Management Fee and other sums as provided for herein, until the expiration or termination of such lease or leases. Except as may be otherwise expressly set forth herein, upon the expiration or termination of this Agreement, all obligations of the parties shall immediately cease. RLC shall, however, provide reasonable assistance to Owner in transferring to Owner, all at Owner's expense and upon Owner's request, all records, data and other information relating to the Railway Equipment and in assisting Owner in the implementation of such records, data and information into Owner's operations.

ARTICLE V

Management Fee

In consideration of the services of RLC hereunder, Owner shall pay to RLC a management fee of 16% of the Lease Fees collected for each railway car included in the Railway Equipment (the "Management Fee"). The Management Fee shall be deducted from the remittance due quarterly to Owner as otherwise provided herein.

ARTICLE VI

Legal Actions

RLC will give written notice to Owner at least 10 days prior to the institution of legal proceedings by RLC or not more than 10 days after being served with process in any legal proceedings against RLC involving the Railway Equipment. Unless otherwise directed in writing by Owner, RLC may, at its option, institute or defend, in its own name or in the name of Owner, or both, but not against each other, and in all events at the expense of the Owner, any and all legal actions or proceedings it considers necessary hereunder, including those to collect charges, rents, claims or other income for the Railway Equipment, or lawfully oust or dispossess lessees or other persons in possession

thereof, or lawfully cancel, modify or terminate any lease, license or concession agreement for the breach thereof or default by a lessee, licensee or concessionaire or take any and all necessary actions to protest or litigate to a final decision in any appropriate Court or other forum any violation, order, rule, regulation, suit, claim or other matter affecting the Railway Equipment. RLC shall keep Owner currently advised of all legal proceedings and Owner reserves the right to direct RLC to terminate any litigation brought pursuant to the foregoing authority.

ARTICLE VII Assignment

This Agreement is not assignable by either party except with the written consent of the other party; provided, however, (a) this Agreement together with the Railway Equipment may be transferred by Owner to his estate, heirs or devisees or to any purchaser at a foreclosure sale where this Agreement and the related Railway Equipment are sold as collateral so long as such sale complies with applicable federal or state securities laws and (b) may be assigned by RLC in connection with the merger or consolidation of RLC into another corporation or as part of the sale of substantially all of the assets of RLC, provided that notice of such merger, consolidation, or sale shall be given to Owner prior to the effective date thereof.

ARTICLE VIII Indemnification

Owner and RLC jointly and severally acknowledge, agree and covenant that RLC is entering into this contract as an independent contractor, and neither party hereto shall take any action to alter such legal relationship. Owner shall have no right or authority, and shall not attempt, to enter into contracts or commitments in the name, or on behalf, of RLC, or to bind RLC in any manner or respect whatsoever. Further, Owner agrees to indemnify and hold RLC harmless from any and all claims, demands, causes of action (at law or in equity), costs, damages, reasonable attorney's fees, expenses and judgments, which may hereafter be asserted by any third party based on or relating to the Railway Equipment or the operation, including the leasing, thereof, except for all claims, demands, causes of action (at law or in equity), costs, damages, reasonable attorney's fees, expenses and judgments which may hereafter be asserted by any third party based on or relating to actions taken by, or inactions of, RLC in connection with the Railway Equipment, which actions or inactions were not authorized hereunder, were authorized hereunder but performed negligently, or were not specifically requested or approved by Owner; provided, that RLC shall indemnify and hold harmless the Investor from all claims, demands, causes of action (at law or in equity), damages, reasonable attorney's fees, expenses and judgments which may be asserted hereafter by any third party based on or relating to any of the aforesaid actions or inactions of RLC in connection with the Railway Equipment.

ARTICLE IX Additional Agreements

1. Each party hereto shall promptly and duly execute and deliver to the other party such further documents, assurances, releases and other instruments, and take such further actions, including any necessary filings and the execution of a power of attorney of Owner, as the other party may reasonably request, in order to carry out more fully the intent and purpose of this Agreement and to indicate the ownership of the Railway Equipment during the continuance and upon termination of this Agreement.

2. It is understood that upon the expiration or termination of this Agreement as to any or all of the Railway Equipment, Owner shall no longer be entitled to use the Recording and UMLER Car Initials and Numbers and other designations (the "Designations") that are presently the property of RLC. Accordingly, Owner agrees that it will promptly undertake upon such expiration or termination, at Owner's expense, all steps necessary to change promptly the Designations on the Railway Equipment no longer included under the Agreement and to execute any and all documents requested by RLC to transfer to RLC any rights Owner may have acquired to such Designations. RLC agrees to prepare, at RLC's expense, documentation as, in its opinion, is necessary to change all designations on the Railway

Equipment from the Designations of RLC to those adopted by Owner, and to provide reasonable assistance to Owner, at Owner's expense, in the filing of such documents.

3. Any notice or other communication by either party to the other shall be in writing, and shall be deemed to have been duly given if either delivered personally or mailed, postage prepaid, registered or certified mail, addressed as follows:

RLC: Richmond Leasing Company
777 South Post Oak Road
Houston, Texas 77056
Attention: President

Owner: *Robert K. Moses, Jr.*
4545 Post Oak Plaza, Suite 204
Houston, Texas 77027

or to such other address, and to the attention of such other person or officer as either party may designate to the other in writing as provided by this Paragraph.

4. The Owner or his authorized representative shall be entitled to inspect the books and records of RLC applicable to the Railway Equipment at any reasonable time during the office hours of RLC.

5. RLC hereby confirms that it will act as agent of Owner in entering into and performing all obligations and duties of the lessor under any lease of the Railway Equipment and hereby assigns to Owner all rights of the lessor under any such lease, including any rights of indemnification of the lessor thereunder; provided, that such assignment shall not affect or modify the relationship between, or the respective rights, obligations, and duties of, RLC and Owner pursuant to this Agreement.

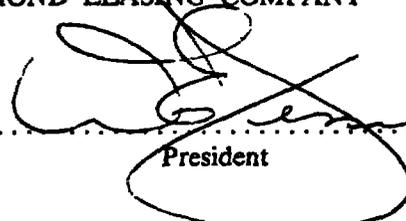
6. This Agreement contains the entire agreement of the parties hereto pertaining to the management and operation of the Railway Equipment. Except as otherwise provided herein, this Agreement may not be modified or amended, except by express, written agreement signed by both parties hereto. Any waiver of any obligation of either party hereto shall not be construed as a continuing waiver of any such obligation under any provision hereof.

7. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of, and be enforceable by, the heirs, administrators, executors, successors and assigns, if any, of the parties hereto, subject to the provisions pertaining to the assignment hereof set forth in Article VII.

8. This Agreement shall be construed in accordance with the laws of the State of Texas.

IN WITNESS WHEREOF, the parties have hereunto set their names, effective this *23rd* day of *June*, 1978.

RICHMOND LEASING COMPANY

By 
President
OWNER

Robert K. Moses, Jr.