



**FIRST CHICAGO**  
The First National Bank of Chicago

One First National Plaza  
Chicago, Illinois 60670  
Telephone: (312) 732-4000

13131A  
RECORDATION NO. .... Filed 1425

1-159A070  
No.  
Date JUN 8 1981  
Fee \$ 100.00

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INTERSTATE COMMERCE COMMISSION

ICC Washington, D. C.

June 1, 1981

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

13131  
RECORDATION NO. .... Filed 1425

JUN 8 1981 10 25 AM

RECEIVED  
JUN 8 10 15 AM '81

Dear Sir:

INTERSTATE COMMERCE COMMISSION

In accordance with 49 C.F.R. 1116, The First National Bank of Chicago hereby requests that you record the following documents:

(1) Equipment Mortgage and Assignment of Lease Rentals

Mortgagor: DATX Associates  
9235 North 107th Street  
Milwaukee, Wisconsin

Mortgagee: The First National Bank of Chicago  
One First National Plaza  
Chicago, Illinois 60670

(2) Railroad Car Lease Agreement

Lessor: DATX Associates  
9235 North 107th Street  
Milwaukee, Wisconsin

Lessee: Wisconsin Industrial Fuel Oil, Inc.  
9325 North 107th Street  
Milwaukee, Wisconsin

Included in the property covered by the aforesaid Equipment Mortgage and Assignment of Lease Rentals are railroad cars used or intended for use in connection with interstate commerce, or interests therein, owned by DATX Associates at the date of said mortgage or thereafter acquired by it or its successors.

Please return the original recorded document to Ms. Marivonne Basten, Attorney, Law Department, One First National Plaza, Chicago, Illinois 60670.

Very truly yours,

*Carl Johnson*  
Carl Johnson, Vice President

Enclosures



## RAILROAD CAR LEASE AGREEMENT

This Agreement made this 29th day of December, 1980 between DATX Associates, a Wisconsin partnership (hereinafter called "Lessor") and Wisconsin Industrial Fuel Oil Inc., a Wisconsin corporation, (hereinafter called "Lessee").

In consideration of the mutual terms and conditions hereinafter set forth, the parties hereto hereby agree as follows:

### ARTICLE 1: LEASE AGREEMENT

Lessor agrees to lease to the Lessee, and Lessee agrees to lease from Lessor, the cars shown on each Rider hereto and such additional Riders as may be added from time to time by agreement of the parties and signed by their duly, authorized representative (all such cars being hereinafter referred to as the "cars"). Each Rider shall set forth a brief description of the car or cars covered thereby including such facts as the number of cars, the A.A.R. or D.O.T. specifications, rental charges, term throughout which the car or cars shall remain in Lessee's service, and such other information as may be desired by both parties.

### ARTICLE 2: DELIVERY

Lessor agrees to deliver each car to Lessee, f.o.b. point of manufacture, and Lessee agrees to accept such delivery. The obligations of the Lessor to deliver the cars shall be excused, and Lessor shall not be liable for any causes beyond the reasonable control of Lessor (including, but not limited to, delays caused by fire, labor difficulties, delays of carriers and materials suppliers, governmental authority, late delivery by the manufacturer of the cars or late delivery by a prior lessee) and, in the event of a delay in such delivery, Lessor shall deliver the cars to Lessee as soon as reasonably possible thereafter.

### ARTICLE 3: CONDITION OF CARS - ACCEPTANCE

All cars delivered under this lease shall be in satisfactory condition for movement in the normal interchange of rail traffic and shall otherwise comply with the description and specifications contained in the applicable Rider; but Lessee shall be solely responsible for determining that cars are in proper condition for loading and shipment except for those responsibilities which, under the law, have been assumed by the railroads. Lessee shall inspect the cars promptly after they are delivered and shall notify Lessor in writing within five days after delivery of its rejection of any car and the specific reasons for such rejection. Failure by the Lessee to inspect car within five days after delivery and/or the successful loading of any car by Lessee shall constitute *acceptance of the car by Lessee and shall be conclusive evidence of the fit and suitable condition of such car.* At Lessor's request, Lessee shall deliver to Lessor an executed Certificate of Acceptance with respect to all cars.

### ARTICLE 4: RENTALS

Lessee agrees to pay to Lessor for the use of each car the monthly rental set forth in the Rider applicable to such car from the date such car is delivered to Lessee until such car is returned to Lessor as hereinafter provided in Article 18. The rental shall be payable in advance to Lessor at 9325 North 107th Street, Milwaukee, Wisconsin 53224, or at such other address as Lessor may specify by notice to Lessee, on or before the first Friday of the month during the term hereof; provided, however, that the rental for each car for the month in which it is delivered shall be prorated for the number of days (including the day of delivery) remaining in such month and shall be payable on or before the first Friday of the next succeeding month.

### ARTICLE 5: MILEAGE ALLOWANCE

Lessor shall collect all mileage earned by the cars during the lease term and shall credit to the rental of the Lessee, for the annual accounting period, such mileage earned by the cars while in the service of Lessee, as and when received from the

railroads according to, and subject to, all rules of the tariffs of the railroads, but only to the extent of the aggregate rental charges payable for such annual accounting period. Lessee agrees to keep records pertaining to the movement of cars. Lessee shall provide Lessor with reports on the movement of the cars, giving origin, destination, date and complete routing of each shipment as well as commodity and any other information reasonably required.

#### ARTICLE 6: TERM

This Agreement shall be effective as dated and will expire upon completion of the leasing arrangement shown on attached Riders of the last car or cars covered hereunder. The lease term with respect to all cars covered by a particular Rider shall commence on the average date of delivery of the cars covered by such Rider and shall terminate as specified in such Rider unless sooner terminated in accordance with provisions of this lease.

#### ARTICLE 7: USE AND POSSESSION

Throughout the continuance of this lease so long as Lessee is not in default under this lease, Lessee shall be entitled to possession of each car from the date the lease becomes effective as to such car and shall use such car on its own property or lines in the usual interchange of traffic, provided, however, that Lessee agrees that the cars shall at all times be used (a) in conformity with all Interchange Rules, (b) in compliance with the terms and conditions of this lease, and (c) only in the continental limits of the United States unless Lessee has specific written authorization from Lessor.

In the event any car is used outside of the continental United States for any reason whatsoever, Lessee shall assume full responsibility for all costs, taxes, duties or other charges incidental to such use including costs incurred in returning car to the continental United States and any investment tax credit which may be recaptured by Lessee's use of car predominantly outside of the United States within the meaning of the Internal Revenue Code.

#### ARTICLE 8: EMPTY MILEAGE INDEMNIFICATION

Lessee agrees that it will use its best efforts to so use the cars that their total mileage under load will equal or exceed their mileage empty on each railroad over which the cars move. Should the empty mileage exceed the loaded mileage, the Lessee shall pay to the Lessor for such excess at a rate and at the time established by the tariff of the railroad on which such excess of empty miles has accrued. For purpose of this paragraph, the railroad mileage reports received by Lessor shall be prima facie evidence of the facts reported therein.

#### ARTICLE 9: ADDITIONAL CHARGES BY RAILROADS

Lessee agrees to use the cars, upon each railroad over which cars shall move, in accordance with the then prevailing tariffs to which each railroad shall be a party, and if the operation or movements of any of the cars during the term hereof shall result in any charges being made against Lessor by any such railroad, Lessee shall pay to Lessor the amount of such charges within the period prescribed by and at the rate and under the conditions of the then prevailing tariffs. Lessee agrees to indemnify Lessor against any such charges and shall be liable for any switching, demurrage, track storage, detention, or special handling charges imposed on any car during the term thereof.

#### ARTICLE 10: LESSEE'S RIGHT TO TRANSFER OR SUBLEASE

Lessee may transfer, sublease, or assign any car or its interests and obligations pursuant to this Agreement, with the consent of Lessor, provided, however, that Lessor shall have the right, at any time, to withdraw from Lessee the privilege of subleasing or assigning any car or its interests and obligations hereunder. Any sublease or assignment by Lessee shall be expressly subordinate to this Lease Agreement, and in accordance with all terms and conditions herein. No transfer, sublease, or assignment by operation of the law or otherwise of Lessee's interest in the cars or this Agreement be effective against Lessor without Lessor's prior written consent. No transfer, sublease, or assignment of this Agreement or of the cars shall relieve Lessee from any of its obligations to Lessor under this Agreement.

Lessee shall have the right to sublease any of the cars for single trips to its customers or suppliers, and to cause each car so subleased to be boarded or placarded with the name of the sublessee in accordance with the provisions of the demurrage

tariffs lawfully in effect, where the sole purpose of such subleasing is to obtain an exemption from demurrage for said cars so subleased; provided, however, that notwithstanding any such sublease, Lessee shall continue to remain liable to Lessor for the fulfillment of Lessee's obligations under this lease; and providing further, that Lessor shall have the right, at any time, to withdraw the privilege of subleasing hereinabove granted to Lessee. No right, title or interest in any of the cars shall vest in the Lessee or a sublessee by reason of this Lease Agreement or by reason of the delivery to or use by Lessee or any sublessor of the cars, except the right to use the cars in accordance with the terms of this Lease Agreement.

#### ARTICLE 11: MAINTENANCE RESPONSIBILITY

Lessor agrees, at its expense, to maintain the cars in good condition and repair according to the Interchange Rules of the Association of American Railroads (AAR), provided, however, that Lessor may contract with any person, including Lessee, to perform its obligation to repair and maintain the cars. Lessee agrees to notify Lessor promptly when any car is damaged or in need of repair and to forward such cars and any other cars subject to this lease to shops as directed by Lessor for repairs and/or periodic maintenance and inspections.

When cars are placed in a private shop for maintenance or repair, the rental charges shall cease on date of arrival in shop, except in the case where a car arrives without advance notice of defects from Lessee in which case rental charges will cease on communication of such notice of defects from Lessee, and shall be reinstated on the date car is forwarded from shop or on the date car is ready to leave awaiting disposition instructions from Lessee. If any repairs are required as a result of the misuse by or negligence of or are otherwise the responsibility of Lessee or its consignee, agent, or sublessee, the rental charges shall continue during the repair period.

#### ARTICLE 12: LOSS OR DESTRUCTION

If any of the cars shall be bad ordered completely destroyed, or if the physical condition of the car shall become such that car cannot be operated in railroad service as determined by the parties, then Lessor may at its option cancel this lease as to such car as of the date on which such event occurred, or may substitute another car within a reasonable period of time. In the event of such substitution, the substituted car shall be held pursuant to all the terms and conditions of this Agreement. Lessee agrees that if a car is lost or destroyed or in such physical condition that it cannot be operated in railroad service by reason of misuse or negligence of Lessee or its consignee, agent, or sublessee, or while on a railroad that does not subscribe to the AAR Interchange Rules, or while on any private siding or track or any private or industrial railroad, Lessee will pay Lessor in cash the depreciated value of such car following a request by Lessor for such payment.

#### ARTICLE 13: LOSS OF COMMODITY

Lessor shall not be liable for any loss of or damage to commodities, or any part thereof, loaded or shipped in the car, however such loss or damage shall be caused or shall result. Lessee agrees to assume responsibility for, to indemnify Lessor against, and to save it harmless from any such loss or damage or claim therefor.

#### ARTICLE 14: DAMAGE TO CAR BY COMMODITY

Lessee shall be liable for damage to any car covered by this Agreement, whether or not due to Lessee's negligence, if caused by the commodity loaded therein. Lessee assumes such responsibility for damage by the commodity to the tank, fittings, or appurtenances thereto, including the interior lining for tanks so equipped. Lessee will use said cars for the transportation and handling of commodities which will not injure the cars, unless otherwise specified in a Rider. Lessee agrees not to load any cars in excess of the load limit stenciled thereon.

#### ARTICLE 15: ALTERATION AND LETTERING

Lessee will preserve the cars in good condition and will not in any way alter the physical structure of the cars without the advance approval in writing of the Lessor. Lessee shall place no lettering or marking of any kind upon the cars without Lessor's prior written consent; provided however that Lessee may cause said cars to be stencilled, boarded, or placarded with letters not to exceed two inches (2") in height to indicate to whom the cars are leased and with commodity stencils per AAR or D.O.T. specifications.

#### ARTICLE 16: LININGS AND COATINGS

The application, maintenance, and removal of interior protective linings and coatings in cars so equipped is to be at the expense of the Lessee unless otherwise specified on the Rider. Commodity or mechanical damage to such linings or coatings shall be for the account of the Lessee.

#### ARTICLE 17: INTERIOR PREPARATION FOR COMMODITIES

Any cleaning or special preparation of the interior of cars to make them suitable for the shipment of commodities by or for Lessee during the term of lease shall be done at Lessee's expense unless otherwise agreed.

#### ARTICLE 18: RETURN OF CARS - CLEANING

At the expiration of the lease term as provided in the Riders, Lessee shall, at its expense, return the cars to Lessor at the location and to the agent selected by the Lessor, empty, clean, and free from residue, and in the same good condition as the cars were in when delivered except for normal wear and tear. At the expiration, should car cleaning be required, the Lessee shall bear the full cost of cleaning and the rent shall continue until the car is clean.

#### ARTICLE 19: MODIFICATIONS

Lessor and Lessee agree that if, at any time, after the effective date of any Rider, changes in car design or equipment are required by the AAR, DOT, FRA or any other governmental authority, Lessor may, at its option, perform all modifications so ordered, and that the cost of those modifications shall be reflected in an increase in the monthly rental rate per car according to the rental escalation formula shown on the Rider for that car.

#### ARTICLE 20: INDEMNIFICATIONS

Lessee shall defend (if such defense is tendered to Lessee), indemnify and hold Lessor harmless from and against, and does hereby release Lessor from, all claims, suits, liabilities, losses, damages, costs and expenses, including attorney's fees, in any way arising out of or resulting from the conditions, storage, use, loss of use, or operation of the cars, or any other cause whatsoever except to the extent the same results from Lessor's negligence or except to the extent a railroad has assumed full responsibility and satisfies such responsibility.

#### ARTICLE 21: TAXES AND LIENS

Lessor shall be liable for and pay all Federal, State or other governmental property taxes assessed or levied against the cars. Lessee shall be liable at all times for and shall pay or reimburse Lessor for the payment of any sales, use, leasing, operation, excise, and other taxes with respect to the cars, together with any penalties, fines or interest thereon, and all duties, imposts, taxes, investment tax credit reductions, and similar charges arising out of the use of cars outside the continental United States.

Lessee shall keep the cars free from any and all encumbrances or liens and promptly discharge any such lien, encumbrance, or legal process.

#### ARTICLE 22: DEFAULT AND REMEDIES

If Lessee defaults in the payment of any sum of money to be paid under this Agreement and such default continues for a period of ten (10) days after written notice to Lessee of such default; or if Lessee fails to perform any covenant or condition required to be performed by Lessee, which failure shall not be remedied within ten (10) days after notice thereof by Lessor to Lessee; or if any proceeding under any bankruptcy or insolvency statute or any laws relating to relief of debtors is commenced by Lessee; or if any such proceeding is commenced against Lessee and same shall not have been removed within thirty (30) days of the date of the filing thereof; or if a receiver, trustee or liquidator is appointed for Lessee or for all or a substantial part of Lessee's assets with Lessee's consent; or if without Lessee's consent the same shall not have been removed within thirty (30) days of the date of the appointment thereof; or if an order, judgment, or decree is entered by a court of competent jurisdiction and continues unpaid and in effect for any period of thirty (30) consecutive days without a stay of execution;

or if a writ of attachment or execution is levied on any car and is not discharged within ten (10) days thereafter; Lessor may exercise one or more of the following remedies with respect to the cars:

1. Immediately terminate this Agreement and Lessee's rights hereunder;
2. Require Lessee to return the cars to Lessor at Lessee's expense, and if Lessee fails to so comply, Lessor may take possession of such cars without demand or notice and without court order or legal process. Lessee hereby waives any damages occasioned by such taking of possession, whether or not Lessee was in default at the time possession was taken, so long as Lessor reasonably believes that Lessee was in default at such time. Lessee acknowledges that it may have a right to notice of possession and the taking of possession with a court order or other legal process. Lessee, however, knowingly waives any right to such notice of possession and the taking of such possession without court order or legal process;
3. Lease the cars to such persons, at such rental, and for such period of time as Lessor shall elect. Lessor shall apply the proceeds from such leasing of such cars, toward the payment of Lessee's obligations hereunder. Lessee shall remain liable for any deficiency, which, at Lessor's option, shall be paid monthly as suffered, or immediately, or at the end of the term as damages for Lessee's default;
4. Bring legal action to recover all rent or other amounts then accrued or thereafter accruing from Lessee to Lessor under any provision hereunder;
5. Pursue any other remedy which Lessor may have.

Each remedy is cumulative and may be enforced separately or concurrently. In the event of default, Lessee shall pay to Lessor all costs and expenses including reasonable attorneys' fees expended by Lessor in the enforcement of its rights and remedies hereunder, and Lessee shall pay interest on any amount owing to Lessor from the time such amount becomes due hereunder at a rate per annum equal to two percentage points above the prime rate of the First National Bank of Chicago, such rate to be reduced, however, to the extent it exceeds the maximum rate permitted by applicable law. In addition, Lessee shall, without expense to Lessor, assist Lessor in repossessing the cars and shall, for a reasonable time if required, furnish suitable truckage space for the storage of the cars.

If Lessee fails to perform any of its obligations hereunder, Lessor, at Lessee's expense, and without waiving any rights it may have against Lessee for such nonperformance, may itself render such performance. Lessee shall reimburse Lessor on demand for all sums so paid by Lessor on Lessee's behalf, together with interest at a rate equal to two percentage points above the prime rate of The First National Bank of Chicago, such rate to be reduced, however, to the extent it exceeds the applicable law.

#### ARTICLE 23: SUBORDINATION

The Lessor shall have the right to transfer or assign its interest under this Agreement and all riders hereto to any other person either as a complete assignment or for security purposes. The Agreement and all rights of Lessee (and of any persons claiming or who may hereafter claim under or through Lessee) under the Agreement are hereby made subject and subordinate to any security agreement or conditional sale agreement heretofore or hereafter placed on the cars leased or to be leased under the Agreement. Any lease, sublease, or loan of cars made by Lessee and otherwise permitted by Article 10 of the Agreement shall be expressly made subject to the above subordination. Lessee represents that all such leases, subleases, or loans of cars now outstanding are terminable at will.

#### ARTICLE 24: WARRANTIES

LESSOR MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, AS TO THE CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, OR ANY OTHER MATTER CONCERNING THE CARS. LESSEE HEREBY WAIVES ANY CLAIM IT MIGHT HAVE AGAINST LESSOR FOR ANY LOSS, DAMAGE, OR EXPENSE CAUSED BY THE CARS OR BY ANY DEFECT THEREIN. During the period of any lease hereunder in which Lessee renders faithful performance of its obligations, Lessor hereby assigns to Lessee any factory or dealer warranty, whether express or implied, or other legal right Lessor may have against the manufacturer in connection with defects in the cars covered by this Agreement.

## ARTICLE 25: RIGHT OF INSPECTION

Lessor or its assignee shall, at any reasonable time, and without interfering with Lessee's operations, have the right to inspect the cars by its authorized representative wherever they may be located for the purpose of determining compliance by Lessee with its obligations hereunder. Lessee shall use its best effort to obtain permission, if necessary, for Lessor or its representative to enter upon any premises where the cars may be located.

## ARTICLE 26: MISCELLANEOUS

### 26.1 Entire Agreement

This Agreement, together with any and all exhibits attached hereto, (except a Management and Maintenance Agreement of even date herewith) constitutes the entire agreement between Lessor and Lessee and it shall not be amended, altered, or changes except by written agreement signed by the parties hereto. No waiver of any provision of this Agreement or consent to any departure by Lessee therefrom shall be effective unless the same shall be in writing signed by both parties, and then such waiver of consent shall be effective only in the specific instance and for the purpose for which given.

### 26.2 Governing Law

This Agreement shall be interpreted under and performance shall be governed by the laws of the State of Wisconsin.

### 26.3 Conflict with Interchange Rules

In the event the Interchange Rules conflict with any provision of this Agreement, this Agreement shall govern.

### 26.4 No Waiver

Lessor's failure to strictly enforce any provisions of this Lease Agreement shall not be construed as a waiver thereof or as excusing the Lessee from any future default.

### 26.5 Exhibits

All exhibits attached hereto are incorporated herein by this reference.

### 26.6 Payments

All payments to be made under this Agreement shall be made at the Addresses set forth in Article 4.

### 26.7 Severability

If any term or provision of this Lease or the application thereof shall, to any extent, be invalid or unenforceable, such invalidity or unenforceability shall not affect or render invalid or unenforceable any other provision of this Lease, and this Lease shall be valid and enforced to the fullest extent permitted by law.

### 26.8 Headings

The headings that have been used to designate the various Sections and Articles hereof are solely for convenience in reading and ease of reference and shall not be construed in any event or manner as interpretative or limiting the interpretation of the same.

### 26.9 Survival

All indemnities contained in this Agreement shall survive the termination hereof. In addition, the obligation to pay any deficiency as well as the obligation for any and all other payments by Lessee to Lessor hereunder shall survive the termination of this Agreement of the lease contained herein.

ARTICLE 27: ADDRESSING OF NOTICES

Any notice required or permitted hereunder shall be in writing and shall be delivered to the respective parties hereto by personal delivery thereof or by telegram, telex, telecopier, or deposit in the United States mail as certified or registered matter, return receipt requested, postage prepaid, and addressed to the respective parties as follows, unless otherwise advised in writing.

Lessee to Lessor:

To: DATX Associates  
9325 North 107th Street  
Milwaukee, Wisconsin 53224

Attention: Thomas J. Mueller

Lessor to Lessee:

To: Wisconsin Industrial Fuel  
Oil Inc.  
9325 North 107th Street  
Milwaukee, Wisconsin 53226

Attention: John Di Frances

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed and delivered as of the 29th day of December, 1980.

LESSOR, DATX ASSOCIATES

By:



LESSEE, WISCONSIN INDUSTRIAL FUEL  
OIL INC.

By:



RIDER NO. One (1) TO LEASE AGREEMENT

Effective this 29th day of December

this rider shall become a part of the Lease Agreement between DATX Associates, Lessor, and Wisconsin Industrial Fuel Oil Inc., Lessee, dated December 29th, 1980, and the cars described herein shall be leased to Lessee subject to the terms and conditions in said Lease Agreement during the term and for the rental shown below:

CLASS OR TYPE OF CAR	Approximate Capacity (Gallonage)	Initial Monthly Rental (per Car)
111A100WI IFOX 10001	23,500	\$520.00
111A100WI IFOX 10002	23,500	520.00
111A100WI IFOX 10003	23,500	520.00
111A100WI IFOX 10004	23,500	520.00
111A100WI IFOX 10005	23,500	520.00
111A100WI IFOX 10006	23,500	520.00

The monthly rental shall be in effect from the date of delivery of each car during the entire term of this rider until such car is returned to and accepted by Lessor.

The rental period for each car leased hereunder shall be twenty-four (24) months, beginning on the date of delivery of each car to Lessee and continuing until a date two (2) years after such delivery, ~~and day to day thereafter until the date each car is returned to and accepted by Lessor.~~

Effective Riders One (1) Cancels Rider No. N/A

DATX ASSOCIATES (Lessor)

WISCONSIN INDUSTRIAL FUEL OIL INC. (Lessee)

By: Thomas J. Muller

By: John DiFrances

020 12

MANAGEMENT AND MAINTENANCE CONTRACT

This agreement, made this 29th day of December, 1980, between DATX Associates, a Wisconsin partnership (hereinafter "DATX"), and Wisconsin Industrial Fuel Oil Inc., a Wisconsin corporation (hereinafter "WIFO").

WHEREAS, the parties hereto have this date executed and delivered a Railroad Car Lease Agreement; and

WHEREAS, under the Railroad Car Lease Agreement, DATX, as Lessor, has the responsibility for administrative services and for maintenance and repair of railroad cars leased thereunder; and

WHEREAS, WIFO is willing and able to provide said administrative and maintenance services to DATX;

NOW, THEREFORE, in consideration of the mutual terms and conditions, the parties agree as follows:

1. WIFO will furnish administrative and management services to DATX with respect to all railroad cars and associated equipment leased by DATX to WIFO under the Railroad Car Lease Agreement of even date herewith. Said administrative and management services shall encompass all duties and responsibilities of DATX with respect to said cars and equipment, whether arising out of the Lease Agreement or otherwise, and shall include but are not limited to the following services: preparation and maintenance of all reports to any governmental authorities, railroads, railroad associations or any other entity with any jurisdiction over or interest in the use of said rail cars; preparation and filing of applications for all

licenses, certificates of authority and any other documentation concerning the operation or use of said rail cars; collecting necessary data and information and filing of all tax returns; collecting all mileage earned by the cars during the lease term for Lessor's account; procuring and maintaining adequate liability and property damage insurance on all rail cars under the Lease Agreement; preparation and maintenance of all records concerning the use and movement of cars, including origin, destination, date, commodities shipped thereon, and complete routing of each shipment; making all claims and prosecuting any proceedings for reimbursement of damages against any railroad or other party which may be responsible for damage to the cars and associated equipment; and all other similar services.

2. WIFO agrees to perform all duties imposed by law on DATX and during the continuance of the Lease Agreement to act and be in the place of and as a substitute for DATX in all respects whatsoever as the party entitled to and responsible for operation and management of the rail cars leased under the Lease Agreement.

3. WIFO agrees to and does assume any and all obligations and duties of DATX to perform running repairs to all rail cars under the lease agreement, as such repairs are defined in the Interchange Rules of the Association of American Railroads (AAR), including repairs to the trucks, sideframes, wheels, couplers and center plates of the cars. WIFO will schedule all repairs and forward cars to shops or other contractors for repairs and/or periodic maintenance and inspections

of the equipment. WIFO shall, at its own expense, replace any movable tank parts if lost or broken, which repair or replacement shall be with parts, equipment and/or accessories that are of like kind and of at least equal quality to those being replaced or repaired. WIFO agrees to assume responsibility for the maintenance and replacement of safety valves, angle valves and check valves, and, if cars are so equipped, thermometers, gauging devices, regulator valves, safety heads, and top-loading valves, and all other parts, equipment, fittings, accessories and appurtenances on such cars.

4. WIFO shall defend, indemnify and hold DATX harmless from and against and does hereby release DATX from all claims, suits, liabilities, losses, costs and expenses, including attorneys' fees, in any way arising out of or resulting from the conditions, storage, use, loss of use, maintenance or operation of the cars or any other cause whatsoever, except to the extent a railroad has assumed full responsibility for said losses or damages and satisfies such responsibility in full.

5. For and in consideration of WIFO's assumption of the obligations to provide administrative and management services and to provide repair and maintenance services hereunder, DATX agrees to pay to WIFO for said services the sum of \$ 90.00 per month per car covered under the Lease Agreement. Payment shall be made with respect to said services for each car from the date of delivery to DATX until DATX no longer has any interest in each such car. Payment shall be made in advance to WIFO at 9325 North 107th Street, Milwaukee, Wisconsin 53224, on or

before the first Friday of each month of the term hereof.

The charge for each car for the month in which it is delivered to DATX shall be prorated for the number of days (including the day of delivery) remaining in such month, and shall be payable on or before the first Friday of the next succeeding month.

6. This contract shall be effective as dated, and will expire upon termination of the Railroad Car Lease Agreement, as shown on all riders of said Lease Agreement.

7. This Agreement and a Lease Agreement of even date herewith, together with any and all exhibits attached thereto, constitute the entire agreement between Lessor and Lessee, and they shall not be amended, altered or changed except by written agreement signed by the parties hereto. No waiver of any provision of this Agreement or consent to any departure by Lessee therefrom shall be effective unless the same shall be in writing signed by both parties, and then such waiver of consent shall be effective only in the specific instance and for the purpose for which given.

8. This Agreement shall be interpreted under and performance shall be governed by the laws of the State of Wisconsin.

9. If any term or provision of this Agreement or the application thereof shall, to any extent, be invalid or unenforceable, such invalidity or unenforceability shall not affect or render invalid or unenforceable any other provision of this Agreement, and this Agreement shall be valid and enforced to the fullest extent permitted by law.

10. All indemnities contained in this Agreement shall

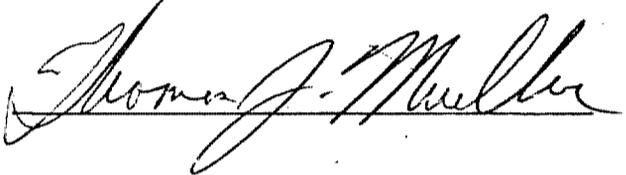
survive the termination hereof.

11. This Agreement shall be binding upon the parties hereto, their respective successors, assigns and legal representatives.

Dated at Milwaukee, Wisconsin, this 29th day of December, 1980.

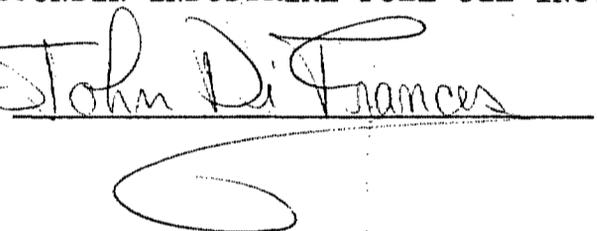
DATX ASSOCIATES

By

A handwritten signature in cursive script, appearing to read "Thomas J. Mueller", written over a horizontal line.

WISCONSIN INDUSTRIAL FUEL OIL INC.

By

A handwritten signature in cursive script, appearing to read "John DiFrancesco", written over a horizontal line. Below the signature is a large, stylized flourish or scribble.