First Interstate Bank
of Texas, N.A.
P.O. Box 3326
Houston, TX 77253-3326
713 224-6611

First Interstate Bank

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MARCH 2, 1995

19276

MAR 6 - 1995

INTERSTATE COMMERCE COMMISSION
RM 2311
WASHINGTON, D.C. 20423-0001

RE: CUSTOMER NAME: RICHARD T HOWELL, JR.
LOAN NUMBER : 4256596308

Gentlemen:

Enclosed please find our cashier's check number 2409964, dated FEB. 9, 1995, in the amount of $42.00 along with the following documents: SECURITY AGREEMENT
(1) ORIGINAL & (1) COPY

DEBTOR: RICHARD HOWELL, JR.	SECURED PARTY: FIRST INTERSTATE BANK OF TEXAS, N.A.
520 POST OAK, SUITE 600	P.O. BOX 3326
HOUSTON, TX 77027-9405	HOUSTON, TX 77253-3326

After recording please return to:

First Interstate Bank of Texas, N.A.
Collateral Department
PO Box 3326
Mail Station 595
Houston, Texas 77253-3326

If these documents cannot be recorded please return them to the aforementioned address.

Your cooperation is greatly appreciated.

RECEIVED
OFFICE OF THE
SECRETARY
MAR 6 11 48 AM '95
LICENSING BRANCH

Very truly yours,

LOAN CLOSER

Enclosures

cc: Collateral Department

(1)

19276

1995

SECURITY AGREEMENT

THAT, **RICHARD HOWELL, JR.**, 520 Post Oak, Suite 600, Houston, Harris County, Texas 77027-9405 (hereinafter referred to as "Debtor"), for value received, the receipt and sufficiency of which is hereby acknowledged, hereby grants to **FIRST INTERSTATE BANK OF TEXAS, N.A.**, P.O. Box 3326, Houston, Texas 77253-3326 (hereinafter referred to as "Secured Party"), the security interest hereinafter set forth and agrees with Secured Party as follows:

A. OBLIGATIONS SECURED. The security interest granted hereby are to secure punctual payment and performance of the following: (i) that certain promissory note of even date herewith in the original principal sum of $28,312.00, executed by Debtor and payable to the order of Secured Party, and any and all extensions, renewals, modifications and rearrangements thereof; (ii) certain obligations of Debtor to Secured Party under the Assignment of Leases and Management Agreements dated of even date herewith executed by Debtor and Secured Party and all extensions, renewals, modifications and rearrangements thereof; and (iii) any and all other indebtedness, liabilities and obligations whatsoever and of whatever nature of Debtor to Secured Party whether direct or indirect, absolute or contingent, primary or secondary, due or to become due and whether now existing or hereafter arising and howsoever evidenced or acquired, whether joint or several, or joint and several (all of which are herein separately and collectively referred to as the "Obligations"). Debtor acknowledges that the security interest hereby granted shall secure all future advances as well as any and all other indebtedness, liabilities and obligations of Debtor to Secured Party whether now in existence or hereafter arising.

B. USE OF COLLATERAL. Debtor represents, warrants and covenants that the Collateral will be used by Debtor primarily for business purposes.

C. DESCRIPTION OF COLLATERAL. Debtor hereby grants to Secured Party a security interest in and agrees that Secured Party shall continue to have a security interest in the following property, to-wit:

> Railroad tank car described as 34,000 gallon nominal capacity, D.O.T. specification 105J300W, equipped with 100 ton roller bearing trucks, being Railcar Number GLNX 34352 (previously GROX 421) and all additions and accessions thereto and all agreements, contracts and other rights to payment related thereto, including, but not limited to, all Lease Agreements and Management Agreements, and all documents of title evidencing or representing any part thereof, and all products and proceeds thereof.

The term "Collateral" as used in this Agreement shall mean and include, and the security interest shall cover, all of the foregoing property, as well as any accessions, additions and attachments thereto and the proceeds and products thereof, including without limitation, all cash, general intangibles, accounts, inventory, equipment, fixtures, notes, drafts, acceptances, securities, instruments, chattel paper, insurance proceeds payable because of loss or damage, or other property, benefits or rights arising therefrom, and in and to all returned or repossessed goods arising from or relating to any of the property described herein or other proceeds of any sale or other disposition of such property.

As additional security for the punctual payment and performance of the Obligations, and as part of the Collateral, Debtor hereby grants to Secured Party a contractual right of set-off to and a security interest in, and a pledge and assignment of, any and all money, property, deposit accounts, accounts, securities, documents, chattel paper, claims, demands, instruments, items or deposits of the Debtor, and each of them, or to which any of them is a party, now held or hereafter coming within Secured Party's custody or control, including without limitation, all certificates of deposit and other depository accounts, whether such have matured or the exercise

of Secured Party's rights results in loss of interest or principal or other penalty on such deposits, but excluding deposits subject to tax or penalties if assigned. Without prior notice to or demand upon the Debtor, Secured Party may exercise its rights granted above at any time when a default has occurred. Secured Party's rights and remedies under this paragraph shall be in addition to and cumulative of any other rights or remedies at law and equity, including, without limitation, any rights of set-off to which Secured Party may be entitled.

D. REPRESENTATIONS, WARRANTIES AND COVENANTS OF DEBTOR. Debtor represents and warrants as follows:

1. **Ownership; No Encumbrances**. Except for the security interest granted hereby, the Debtor is, and as to any property acquired after the date hereof which is included within the Collateral, Debtor will be, the owner of all such Collateral free and clear from all charges, liens, security interests, adverse claims and encumbrances of any and every nature.

2. **No Financing Statements**. There is no financing statement or similar filing now on file in any public office covering any part of the Collateral, and Debtor will not execute and there will not be on file in any public office any financing statement or similar filing except those filed or to be filed in favor of Secured Party.

3. **Accuracy of Information**. All information furnished to Secured Party concerning Debtor, the Collateral and the Obligations, or otherwise for the purpose of obtaining or maintaining credit, is or will be at the time the same is furnished, accurate and complete in all material respects.

4. **Authority**. Debtor has full right and authority to execute and perform this Agreement and to create the security interest and rights of set-off created by this Agreement. The making and performance by Debtor of this Agreement will not violate any provision of law, any order of court or governmental agency, or any indenture or other agreement to which Debtor is a party, or by which Debtor or any of Debtor's property is bound, or be in conflict with, result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture or other agreement, or result in the creation or imposition of any charge, lien, security interest, claim or encumbrance of any and every nature whatsoever upon the Collateral, except as contemplated by this Agreement.

5. **Addresses**. The address of Debtor designated at the beginning of this Agreement is Debtor's place of business if Debtor has only one place of business; Debtor's chief executive office if Debtor has more than one place of business; or Debtor's residence if Debtor has no place of business. Debtor agrees not to change such address without advance written notice to Secured Party.

E. GENERAL COVENANTS. Debtor covenants and agrees as follows:

1. **Operation of the Collateral**. Debtor agrees to maintain and use the Collateral solely in the conduct of its own business, in a careful and proper manner, and in conformity with all applicable permits or licenses. Debtor shall comply in all respects with all applicable statutes, laws, ordinances and regulations. Debtor shall not use the Collateral in any unlawful manner or for any unlawful purposes, or in any manner or for any purpose that would expose the Collateral to unusual risk, or to penalty, forfeiture or capture, or that would render inoperative any insurance in connection with the Collateral.

2. **Condition**. Debtor shall maintain, service and repair the Collateral so as to keep it in good operating condition. Debtor shall replace within a reasonable time all parts that may be worn out, lost, destroyed or otherwise rendered unfit for use, with appropriate replacement parts. Debtor shall obtain and maintain in good standing at all time all applicable permits, licenses, registrations and certificates respecting the Collateral.

3. **Assessments**. Debtor shall promptly pay when due all taxes, assessments, license fees, registration fees, and governmental charges levied or assessed against Debtor or with respect to the Collateral or any party thereof.

4. **No Encumbrances**. Debtor agrees not to suffer or permit any charge, lien, security interest, adverse claim or encumbrance of any and every nature whatsoever against the Collateral or any part thereof, except those which are in favor of Secured Party.

5. **No Removal**. Debtor shall not remove the Collateral from the continental United States unless Secured Party gives its prior written consent.

6. **No Transfer**. Except as otherwise provided in this Agreement, Debtor shall not, without the prior written consent of Secured Party, sell, assign, transfer, encumber, hypothecate or dispose of the Collateral, or any part thereof, or interest therein, or offer to do any of the foregoing.

7. **Notices and Reports**. Debtor shall promptly notify Secured Party in writing of any change in the name, identity or structure of Debtor, any charge, lien, security interest, claim or encumbrance asserted against the Collateral, any litigation against the Collateral, any theft, loss, injury or similar incident involving the Collateral, and any other material matter adversely affecting Debtor or the Collateral. Debtor shall furnish such reports, information and data regarding Debtor's financial condition and operations, the Collateral and such other matters as Secured Party may request from time to time.

8. **Landlord's Waivers**. Debtor shall furnish to Secured Party, if requested, a landlord's waiver of all liens with respect to any Collateral covered by this Agreement that is or may be located upon leased premises, such landlord's waiver to be in such form and upon such terms as are acceptable to Secured Party.

9. **Additional Filings**. Debtor agrees to execute and deliver such financing statement or statements, or amendments thereof or supplements thereto, or other documents as Secured Party may from time to time require in order to comply with the Texas Uniform Commercial Code (or other applicable state law of the jurisdiction where any of the Collateral is located) and all Federal statutes and regulations and to preserve and protect the Secured Party's rights to the Collateral.

10. **Protection of Collateral**. Secured Party, at its option, whether before or after default, but without any obligation whatsoever to do so, may (a) discharge taxes, claims, charges, liens, security interests, assessments or other encumbrances of any and every nature whatsoever at any time levied, placed upon or asserted against the Collateral, (b) place and pay for insurance on the Collateral, including insurance that only protects Secured Party's interest, (c) pay for the repair, improvement, testing, maintenance and preservation of the Collateral, (d) pay any filing, recording, registration, licensing or certification fees or other fees and charges related to the Collateral, or (e) take any other action to preserve and protect the Collateral and Secured Party's rights and remedies under this Agreement as Secured Party may deem necessary and appropriate. Debtor agrees that Secured Party shall have no duty or obligation whatsoever to take any of the foregoing action. Debtor agrees to promptly reimburse Secured Party upon demand for any payment made or any expense incurred by the Secured Party pursuant to this authorization. These payments and expenditures, together with interest thereon from date incurred until paid by Debtor at the maximum contract rate allowed under applicable laws, which Debtor agrees to pay, shall constitute additional Obligations and shall be secured by and entitled to the benefits of this Agreement.

11. **Inspection**. Debtor shall at all reasonable times allow Secured Party by or through any of its officers, agents, attorneys or accountants, to examine the Collateral, wherever located.

12. **Further Assurances**. Debtor shall do, make, procure, execute and deliver all such additional and further acts, things, deeds, interests and assurances as Secured Party may require from time to time to protect, assure and enforce Secured Party's rights and remedies.

13. **Insurance**. Debtor shall have and maintain insurance at all times with respect to all tangible Collateral insuring against risks of fire (including extended coverage), theft and other risks as Secured Party may require, containing such terms, in such form and amounts and written by such companies as may be satisfactory to Secured Party, all of such insurance to contain loss payable clauses in favor of Secured Party as its interest may appear. All policies of insurance shall provide for thirty (30) days' written minimum cancellation notice to Secured Party and at the request of Secured Party shall be delivered to and held by it. Secured Party is hereby authorized to act as attorney for Debtor in obtaining, adjusting, settling and canceling such insurance and endorsing any drafts or instruments. Secured Party shall be authorized to apply the proceeds from any insurance to the Obligations secured hereby whether or not such Obligations are then due and payable. Debtor specifically authorizes Secured Party to disclose information from the policies of insurance to prospective insurers regarding the Collateral.

14. **Additional Collateral**. If Secured Party should at any time be of the opinion that the Collateral is impaired, not sufficient or has declined or may decline in value, then Secured Party may call for additional security satisfactory to Secured Party, and Debtor promises to furnish such additional security within thirty (30) days of the call for additional Collateral by Secured Party. The call for additional security may be oral, by telegram, or United States mail addressed to Debtor, and shall not affect any other subsequent right of Secured Party to exercise the same.

15. **Financial Statements**. Debtor shall provide to Secured Party financial statements, inclusive of cash flow statements and a listing of contingent liabilities on an annual basis.

F. EVENTS OF DEFAULT. Debtor shall be in default hereunder upon the happening of any of the following events or conditions: (i) non-payment when due (whether by acceleration of maturity or otherwise) of any payment of principal, interest or other amount due on any Obligation; (ii) the occurrence of any event which under the terms of any evidence of indebtedness, indenture, loan agreement, security agreement or similar instrument permits the acceleration of maturity of any obligation of Debtor (whether to Secured Party or to others); (iii) any representation or warranty made by Debtor to Secured Party in connection with this Agreement, the Collateral or the Obligations, or in any statements or certificates, proves incorrect in any material respect as of the date of the making or the issuance thereof; (iv) default occurs in the observance or performance of, or if Debtor fails to furnish adequate evidence of performance of, any provision of this Agreement or of any note, assignment, transfer, other agreement, document or instrument delivered by Debtor to Secured Party in connection with this Agreement, the Collateral or the Obligations; (v) death, dissolution, liquidation, termination of existence, insolvency, business failure or winding-up of Debtor or any maker, endorser, guarantor, surety or other party liable in any capacity for any of the Obligations; (vi) the commission of an act of bankruptcy by, or the application for appointment of a receiver or any other legal custodian for any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceedings under any bankruptcy, arrangement, reorganization, insolvency or similar laws for the relief of debtors by or against, the Debtor or any maker, endorser, guarantor, surety or other party primarily or secondarily liable for any of the Obligations; or (vii) the filing of any levy, attachment, execution, garnishment or other process against the Debtor or any of the Collateral or any maker, endorser, guarantor, surety, or other party liable in any capacity for any of the Obligations.

G. REMEDIES. Upon the occurrence of an event of default, Secured Party, at its option, shall be entitled to exercise any one or more of the following remedies (all of which are cumulative):

1. **Declare Obligations Due**. Secured Party, at its option, may declare the Obligations or any part thereof immediately due and payable, without demand, notice of intention to accelerate, notice of acceleration, notice of non-payment, presentment, protest, notice of dishonor, or any other notice whatsoever, all

of which are hereby waived by Debtor and any maker, endorser, guarantor, surety or other party liable in any capacity for any of the Obligations.

2. **Remedies**. Secured Party shall have all of the rights and remedies provided for in this Agreement and in any other agreements executed by Debtor, the rights and remedies of the Uniform Commercial Code of Texas, and any and all of the rights and remedies at law and in equity, all of which shall be deemed cumulative. Without limiting the foregoing, Debtor agrees that Secured Party shall have the right to: (a) require Debtor to assemble the Collateral and make it available to Secured Party at a place designated by Secured Party that is reasonably convenient to both parties, which Debtor agrees to do; (b) peaceably take possession of the Collateral and remove same, with or without judicial process; (c) without removal, render equipment included within the Collateral unusable, and dispose of the Collateral on the Debtor's premises; (d) sell, lease or otherwise dispose of the Collateral, at one or more locations, by public or private proceedings, for cash or credit, without assumption of credit risk; (e) upon or after default, exercise rights of set-off against funds and other property of Debtor within Secured Party's custody or control; and/or (f) whether before or after default, collect and receipt for, compromise, and settle, and give releases, discharges and acquittances with respect to, any and all amounts owed by any person or entity with respect to the Collateral. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Secured Party will send Debtor reasonable notice of the time and place of any public sale or of the time after which any private sale or other disposition will be made. Any requirement of reasonable notice to Debtor shall be met if such notice is mailed, postage prepaid, to Debtor at the address of Debtor designated at the beginning of this Agreement, at least five (5) days before the day of any public sale or at least five (5) days before the time after which any private sale or other disposition will be made.

3. **Expenses**. Debtor shall be liable for and agrees to pay the reasonable expenses incurred by Secured Party in enforcing its rights and remedies, in retaking, holding, testing, repairing, improving, selling, leasing or disposing of the Collateral, or like expenses, including, without limitation, attorneys' fees and legal expenses incurred by Secured Party. These expenses, together with interest thereon from date incurred until paid by Debtor at the maximum contract rate allowed under applicable laws, which Debtor agrees to pay, shall constitute additional Obligations and shall be secured by and entitled to the benefits of this Agreement.

4. **Proceeds; Surplus; Deficiencies**. Proceeds received by Secured Party from disposition of the Collateral shall be applied toward Secured Party's expenses and other Obligations in such order or manner as Secured Party may elect. Debtor shall be entitled to any surplus if one results after lawful application of the proceeds. Debtor shall remain liable for any deficiency.

5. **Remedies Cumulative**. The rights and remedies of Secured Party are cumulative and the exercise of any one or more of the rights or remedies shall not be deemed an election of rights or remedies or a waiver of any other right or remedy. Secured Party may remedy any default and may waive any default without waiving the default remedied or without waiving any other prior or subsequent default.

H. OTHER AGREEMENTS.

1. **Railcar Transport of Hazardous Substances**. Debtor represents and warrants that the Collateral may be used for the storage, transportation, or disposal of hazardous waste or substances, as those terms are defined in the Comprehensive Environmental Response, Compensations, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 6901, et seq. or other applicable state of Federal laws, rules, or regulations adopted pursuant to any of the foregoing. The terms "hazardous waste" and "hazardous substance" shall also include, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos. The representations and warranties contained herein are based on Debtor's due diligence in knowing the content of substances to be placed on or in the Collateral, and assuring that all applicable laws, rules, regulations and policies are complied with concerning the storage,

transport, disposal and handling of hazardous wastes and substances. Debtor hereby (a) releases and waives any future claims against Secured Party for indemnity or contribution in the event Debtor becomes liable for cleanup or other costs under any such laws, and (b) agrees to indemnify and hold harmless Secured Party against any and all claims and losses resulting from any accident, spill, or other action or inaction that may result in claims, penalties or actions relating to hazardous wastes or substances. This obligation to indemnify shall survive the payment of the Indebtedness and the satisfaction of this Agreement.

2. **Savings Clause**. Notwithstanding any provision to the contrary herein, or in any of the documents evidencing the Obligations or otherwise relating thereto, no such provision shall require the payment or permit the collection of interest in excess of the maximum permitted by applicable usury laws. If any such excessive interest is so provided for, then in such event (i) the provisions of this paragraph shall govern and control, (ii) neither the Debtor nor his or its heirs, legal representatives, successors or assigns or any other party liable for the payment thereof, shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount permitted by law, (iii) any such excess interest that may have been collected shall be, at the option of the holder of the instrument evidencing the Obligations, either applied as a credit against the then unpaid principal amount thereof or refunded to the maker thereof, and (iv) the effective rate of interest shall be automatically reduced to the maximum lawful rate under applicable usury laws as now or hereafter construed by the courts having jurisdiction.

3. **Joint and Several Responsibility**. If this Security Agreement is executed by more than one Debtor, the obligations of all such Debtors shall be joint and several.

4. **Waivers**. Debtor and any maker, endorser, guarantor, surety or other party liable in any capacity respecting the Obligations hereby waive demand, notice of intention to accelerate, notice of acceleration, notice of non-payment, presentment, protest, notice of dishonor and any other similar notice whatsoever.

5. **Severability**. Any provision hereof found to be invalid by courts having jurisdiction shall be invalid only with respect to such provision (and then only to the extent necessary to avoid such invalidity). The offending provision shall be modified to the maximum extent possible to confer upon Secured Party the benefits intended thereby. Such provision as modified and the remaining provisions hereof shall be construed and enforced to the same effect as if such offending provision (or portion thereof) had not been contained herein, to the maximum extent possible.

6. **Relationship to Other Agreements**. This Security Agreement and the security interests (and pledges and assignments as applicable) herein granted are in addition to (and not in substitution, novation or discharge of) any and all prior or contemporaneous security agreements, security interests, pledges, assignments, liens, rights, titles or other interests in favor of Secured Party or assigned to Secured Party by others in connection with the Obligations. All rights and remedies of Secured Party in all such agreements are cumulative, but in the event of actual conflict in terms and conditions, the terms and conditions of the latest security agreement shall govern and control.

7. **Notices**. Any notice or demand given by Secured Party to Debtor in connection with this Agreement, the Collateral or the Obligations, shall be deemed given and effective upon deposit in the United States mail, postage prepaid, addressed to Debtor at the address of Debtor designated at the beginning of this Agreement. Actual notice to Debtor shall always be effective no matter how given or received.

8. **Headings and Gender**. Paragraph headings in this Agreement are for convenience only and shall be given no meaning or significance in interpreting this Agreement. All words used herein shall be construed to be of such gender or number as the circumstances require.

9. **Amendments**. This Agreement may be changed, amended, modified, waived or discharged only by an instrument in writing signed by the party against whom enforcement of the change, amendment, modification, waiver or discharge is sought.

10. **Continuing Agreement**. The security interest hereby granted and all of the terms and provisions in this Agreement shall be deemed a continuing agreement and shall continue in full force and effect until terminated in writing. Any such revocation or termination shall only be effective if explicitly confirmed in a signed writing issued by Secured Party to such effect and shall in no way impair or affect any transactions entered into or rights created or Obligations incurred or arising prior to such revocation or termination, as to which this Agreement shall be fully operative until same are repaid and discharged in full. Unless otherwise required by applicable law, Secured Party shall be under no obligation to issue a termination statement or similar documents unless Debtor requests same in writing and, provided further, that all Obligations have been repaid and discharged in full and there are no commitments to make advances, incur any Obligations or otherwise give value.

11. **Binding Effect**. The provisions of this Security Agreement shall be binding upon the heirs, personal representatives, successors and assigns of Debtor and the rights, powers and remedies of Secured Party hereunder shall inure to the benefit of the successors and assigns of Secured Party.

12. **Governing Law**. This Security Agreement shall be governed by the law of the State of Texas and applicable federal law.

13. **Agreement for Binding Arbitration**. The parties agree to be bound by the terms and provisions of the current Arbitration Program of First Interstate Bank of Texas, N.A. which is incorporated by reference herein and is acknowledged as received by the parties, pursuant to which any and all disputes shall be resolved by mandatory binding arbitration upon the request of any party.

EXECUTED this 3 day of February, 1995.

DEBTOR:

Richard J. Howell, Jr.

RICHARD HOWELL, JR.

SECURED PARTY:

FIRST INTERSTATE BANK OF TEXAS, N.A.

by: Claudia V. Shia
Name: Claudia V. Shia
Title: Banking Officer

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

INITIAL HERE

This instrument was acknowledged before me on ~~January~~ Feb 3, 1995, by RICHARD HOWELL, JR.

SHAWN M. BYRNES
Notary Public, State of Texas
My Commission Expires
SEPTEMBER 22, 1997

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
Shawn M Byrnes
Printed Name of Notary
My Commission Expires: 9/22/97

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

INITIAL HERE

This instrument was acknowledged before me on ~~January~~ Feb 3, 1995, by Claudia Shic, _____ of FIRST INTERSTATE BANK OF TEXAS, N.A., a national banking association, on behalf of said association.

SHAWN M. BYRNES
Notary Public, State of Texas
My Commission Expires
SEPTEMBER 22, 1997

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
Shawn M Byrnes
Printed Name of Notary
My Commission Expires: 9/22/97