

3-096A002

ROBINSON, LEWIS, ORBISON, SMITH & COYLE

A PROFESSIONAL CORPORATION

ATTORNEYS-AT-LAW

BANK OF OKLAHOMA TOWER

SUITE 1500

P. O. BOX 1046

TULSA, OKLAHOMA 74101

918-583-1232

R. L. DAVIDSON, JR.

1914-1979

TELECOPIER

918-583-1549

JAMES C. ORBISON
C. S. LEWIS, III
KENNETH M. SMITH
CHRISTOPHER L. COYLE
HARLEY W. THOMAS
GORDON L. MILLER
ROBERT LEE BEARER
PATRICIA NEEL
MARC F. CONLEY
JOHN M. NUCKOLLS
MARILYN M. WAGNER
SCOTT P. KIRTLEY
BEVERLY A. STEWART
SCOTT E. COULSON
KAREN S. CARDEN

RECORDATION NO. 18188
FILED 1422

APR 6 1993 10-00 AM

March 29, 1993

INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission
12th and Constitution Avenue, N.W.
Washington D.C. 20423

RECORDATION NO. 18188
FILED 1422

APR 6 1993 10-00 AM

INTERSTATE COMMERCE COMMISSION

Attn: Mildred Lee
Room 2303

Re: Security Agreement and Financing Statement regarding C. W. Brooks, Inc.

Dear Mildred:

Enclosed please find two original sets of the following documents:

1. UCC-1 Financing Statement; and
2. Security Agreement and Collateral Assignment of Leases and Rents.

Also enclosed is a check in the amount of \$32.00 to cover all requisite recording fees for these two documents. The names and addresses of the parties to both these agreements are as follows:

C. W. Brooks, Inc.
7229 South 85th East Avenue
Unit 200
Tulsa, Oklahoma 74133
Attn: C. W. Brooks

Bank of Oklahoma, National
P. O. Box 2300
Tulsa, Oklahoma 74192
Attn: Edward E. Conn, Jr.

If you have any questions, please call the undersigned collect.

Very truly yours,

ROBINSON, LEWIS, ORBISON,
SMITH & COYLE

Brenda Austin

Brenda Austin
for Harley W. Thomas

Interstate Commerce Commission
Washington, D.C. 20423

4/6/93

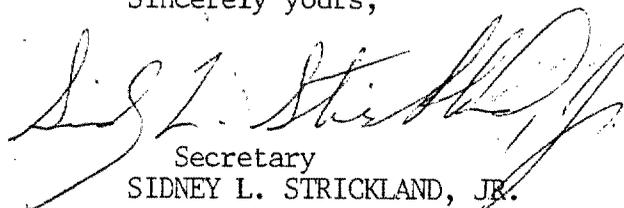
OFFICE OF THE SECRETARY

Brenda Austin
Robinson Lewis Orbison
Smith & Coyle
Bank Of Oklahoma Tower Suite 1500
P.O.Box 1046
Tulsa Oklahoma 74101

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 **4/6/93** at **10:00am**, and assigned recordation number(s). **18188** & 18188-A

Sincerely yours,



Secretary
SIDNEY L. STRICKLAND, JR.

Enclosure(s)

SECURITY AGREEMENT AND
COLLATERAL ASSIGNMENT OF
LEASES AND RENTS

18188
RECORDATION NO. FILED 1993
APR 6 1993 10:00 AM

(Rolling Stock)

INTERSTATE COMMERCE COMMISSION

This Security Agreement ("Security Agreement") is made effective this 26th day of March, 1993, by and between C. W. BROOKS, INC., an Oklahoma corporation, 7229 South 85th East Avenue, Unit 200, Tulsa, Oklahoma 74133 ("Borrower") and BANK OF OKLAHOMA, NATIONAL ASSOCIATION, P. O. Box 2300, Tulsa, Oklahoma 74192 ("BOK").

RECITALS

A. Reference is made to the Loan Agreement of even date, pursuant to which BOK loaned Borrower \$1,282,500 for Borrower to use to acquire certain rail cars.

B. Borrower hereby intends to grant BOK a security interest in the Rolling Stock (defined below) and any lease agreements relating thereto.

AGREEMENT

1. Definitions.

1.1 "Rolling Stock" means (a) certain rail cars purchased by Borrower pursuant to the Agreement for the Sale and Purchase of Rail Cars by and between Rocky Mountain Transportation Services, Inc. ("RMTS") and Borrower, as purchaser ("Purchase Agreement"), more particularly described on Schedule "1.1-A" hereto, and (b) certain rail cars currently owned by Borrower, particularly described on Schedule "1.1-B" hereto, together with (i) accessories attached thereto; (ii) chattel paper, documents of title, all leases, repurchase agreements, guaranty agreements and rental agreements relating thereto; and (iii) all proceeds thereof and therefrom whether arising out of the rental, lease, sale, or other disposition of such Rolling Stock, including all cash, accounts, chattel paper, general intangibles, notes and any other obligation or evidence of obligation to Borrower constituting such proceeds to the extent relating to the Rolling Stock.

1.2 "Leases" shall mean any lease of any Rolling Stock, which (i) must constitute a "true" lease and not a finance lease (ii) must not contain any purchase options in favor of the lessee, and (iii) must otherwise be in form and content satisfactory to BOK, together with all extensions, renewals and modifications thereto and any guaranties thereof.

1.3 "Secured Indebtedness" means all liabilities and obligations of Borrower to BOK under the Loan Agreement, whether now existing or hereafter arising, including without limitation those obligations evidenced by the Note (defined below), all future advances, all advances by BOK involving the performance of or enforcement of any covenant, agreement or warranty under this Agreement, the Loan Agreement or any other related loan agreement, and any costs, expenses or fees (e.g., reasonable attorney fees) incurred by BOK arising out of or in connection with the enforcement or collection of any obligation or liability of Borrower to BOK hereunder or under the Loan Agreement.

1.4 "Note" shall mean the \$1,282,500 Note of even date herewith, payable by Borrower to BOK, together with any extensions, renewals or changes in form thereof.

2. Collateral Assignment and Security Interest. Borrower hereby grants a security interest (and as to the Rolling Stock acquired from RMTS, a Purchase Money Security Interest) to BOK in and to, and also hereby collaterally assigns, transfers and conveys to BOK, any and all of Borrower's right, title and interest in and to the Rolling Stock, Leases and proceeds and products therefrom. This security interest is granted to secure payment of the Secured Indebtedness. Borrower warrants and agrees that the funds under the Note shall be applied to payment of the purchase price of the Rolling Stock acquired from RMTS and for no other purposes.

3. Representations. As inducement for BOK to enter the Loan Agreement, Borrower hereby represents and warrants to BOK that:

3.1 the Leases are (or with regard to future executed Leases will be), valid and subsisting and enforceable according to all the terms and provisions thereof;

3.2 the Rolling Stock covered by the existing Leases have been (or with regard to future executed Leases promptly will be), delivered to and accepted by the lessees named therein and no default on the part of Borrower has occurred or is anticipated to occur under the terms and provisions of the Leases;

3.3 no default on the part of the lessees named in the existing Leases, or any of them, has occurred;

3.4 no offsets, counterclaims or other defenses exist or shall be permitted to arise in favor of the lessees, or any of them, under the Leases, except in the ordinary course of business (e.g., mileage credits);

3.5 Borrower has not made and will not hereafter make any other assignment of the moneys and benefits due or to accrue under the Leases except to BOK;

3.6 this Security Agreement shall not impose upon BOk any of the obligations of Borrower under the Leases;

3.7 Borrower will not in any manner hinder or interfere with BOk in making collections under this Agreement but will, unless otherwise instructed in writing by BOk, in its own name and at its own expense, but for the account of BOk, attempt to collect all moneys due and becoming due under the Leases and deliver the same, in the form received by Borrower, with any endorsements necessary for collection, to BOk to be applied in payment upon the indebtedness secured hereby.

4. Books and Records. Borrower does now keep and hereafter at all times shall keep correct and accurate records itemizing and describing the kind, type, quality, and quantity of all of Borrower's inventory, including without limitation the Rolling Stock, and such books and records shall at all times during regular business hours be available for review and copying by BOk and its representatives.

5. Inspection of Collateral. BOk shall have the right to inspect and examine the Rolling Stock from time to time, and Borrower agrees to reimburse BOk for any reasonable costs, expenses and fees incurred in connection therewith. So long as no default exists, such costs, expenses and fees shall not exceed \$500.00 per inspection, unless BOk and Debtor have reasonably agreed otherwise.

6. Compliance with Law. Debtor shall at all times comply with all laws, rules, regulations and orders (whether federal, state or local) including without limitation those promulgated by the Interstate Commerce Commission, applicable to it or its assets.

7. Collection. Borrower authorizes and empowers BOk, without notice to Borrower but only upon the occurrence of a Default, as defined below, either in the name of Borrower or in its own name and right to ask, demand, collect, receive, receipt for, account for and prosecute any claim or effect any settlement for the moneys due and to become due unto Borrower under or pursuant to the Leases and agrees that the receipt of BOk for any such sums shall be binding upon Borrower and constitute the valid receipt of Borrower therefor, even though any such sum or sums may be in excess of the indebtedness then due and owing by Borrower to BOk. Any such excess shall be delivered to Borrower promptly.

8. Ownership, Liens and Insurance. Borrower hereby warrants to BOk that Borrower is the owner of the Rolling Stock made subject to this Agreement and the Leases, and that the same are, and shall remain, free and clear of all assignments, liens, security interests and encumbrances except in favor of BOk. Borrower will keep or cause the lessees to keep the Rolling Stock at all times insured under policies of liability insurance issued by reputable insurers. Borrower shall be reimbursed for any proceeds from any claims in excess of those sums owed to BOk. BOk is hereby authorized to file proofs of loss, to give receipts and acquittances to insurers for payments on account of losses and to accept return premiums on all such policies relating to the Rolling Stock.

9. Taxes and Assessments. Borrower shall pay or cause to be paid all taxes, charges and assessments which are or may be levied against the Rolling Stock before any delinquency occurs; provided, that Borrower may contest same; if prior notice is given to BOK and adequate reserves are established with BOK in an amount equal to 125% of the tax or claim.

10. Discharge of Taxes. At BOK's option and following ten (10) days' notice to Borrower and cure period, it may discharge taxes, liens, levies, security interests or other encumbrances at any time levied or placed upon the Rolling Stock, and may acquire or pay for liability insurance on the Rolling Stock and otherwise incur, following a Default, expenses for the maintenance and preservation of the Rolling Stock, if Borrower shall fail to do so. All sums disbursed by BOK for such purposes shall be payable by Borrower to BOK on demand and shall bear interest at the rate of interest accruing under the Note.

11. Default. If any one or more of the following events shall occur (separately, a "Default"):

11.1 Borrower shall default in the payment of the Secured Indebtedness, or any part thereof, as and when the same shall become due and payable (whether by extension, acceleration or otherwise) or within any applicable grace period;

11.2 Any representation herein set forth should prove to be false in any material respect or Borrower should fail to keep, observe, comply with or perform, in any material respect, any term, provision, warranty, covenant or obligation on its part required by the terms of this Agreement or the Credit Agreement to be kept, observed, complied with or performed;

11.3 Any loss, theft, substantial damage or destruction or theft of or with respect to the Rolling Stock shall occur, or any lien, levy or other encumbrance should attach thereto, and insurance proceeds or equal amount from any other source is not received by BOK within forty-five (45) days of the event, which time period will be extended for an additional period not to exceed forty-five (45) days so long as Borrower is diligently pursuing satisfaction of this subsection;

11.4 Borrower should make any assignment for the benefit of creditors or attempt to effect any composition or arrangement with creditors or be adjudged a bankrupt to insolvent or any receiver, trustee, liquidator, conservator or like officer be appointed to take custody, possession or control of any property of Borrower, or Borrower shall file any petition, answer or other pleading in any proceeding under the Bankruptcy Code, as now or hereafter in force, or in any proceeding under any law now or hereafter in effect for the purpose of affording relief to debtors from their obligations;

11.5 Any default shall occur under the Loan Agreement; then

BOK may, at its option, following a thirty (30) day notice and cure period for non-monetary defaults, without further notice, declare all of Borrower's obligations to BOK under the Loan Agreement, including, without limitation, the Note, to be immediately due and payable, and may proceed to exercise any or all of the rights granted by the Oklahoma Uniform Commercial Code to a secured party upon default with respect to the Rolling Stock, the Leases, or any of them. In connection with any sale or disposition of collateral, the requirements of reasonable notice shall be met if such notice is mailed, postage prepaid, return receipt requested, to the address of Borrower shown at the end of this Agreement at least ten (10) days before the time of the sale or disposition. Costs, expenses and fees relating to retaking, holding, preparing for sale, selling, collecting and otherwise enforcing this Agreement or the Leases shall be secured hereby and shall bear interest at the rate accruing under the Note.

11.6 BOK may enter any premises of Borrower, with or without judicial process, and take possession of the Rolling Stock. BOK may remove the Rolling Stock and may remove and/or copy all records pertaining thereto, and/or BOK may remain on such premises and use the premises for the purpose of collecting, preparing and disposing of the Rolling Stock, without any liability for rent or occupancy charges. Borrower shall, upon request of BOK, assemble the Rolling Stock and any records pertaining thereto and make them available at a place designated by Secured Party that is reasonably convenient to both parties.

11.7 BOK may dispose of the Rolling Stock in its then existing condition or, at its election, may take such measures as it deems necessary or advisable to refurbish, repair, improve, process, finish, operate, demonstrate and prepare for sale of the Rolling Stock and may store, ship, reclaim, recover, protect, advertise for sale or lease and insure the Rolling Stock. BOK may use and operate Equipment of Borrower in order to process or finish Inventory included in the Rolling Stock. If any collateral consists of documents, BOK may proceed either as to the documents or as to the goods represented thereby.

11.8 BOK shall have no duty of care with respect to the Rolling Stock except that BOK shall exercise reasonable care with respect to the Rolling Stock in BOK's custody. BOK shall be deemed to have exercised reasonable care if such property is accorded treatment substantially equal to that which BOK accords its own property or if BOK takes such action with respect to the Rolling Stock as Borrower shall request or agree to in writing, provided that no failure to comply with any such request or any omission to do any such act requested by Borrower shall be deemed a failure to exercise reasonable care. BOK's failure to take steps to preserve rights against any parties or property shall not be deemed to be failure to exercise reasonable care with respect to the Rolling Stock in BOK's custody. All risk of loss, damage or destruction of the Rolling Stock shall be borne by Borrower.

12. No Waiver. No waiver by BOK of any default shall be deemed to be a continuing waiver or a waiver of any other default or of any right or remedy consequent upon any such

default. All rights of BOK hereunder shall inure to the benefit of its successors and assigns and all obligations of Borrower shall be binding upon its successors and assigns. This Agreement shall constitute a security agreement under the Oklahoma Uniform Commercial Code and shall also constitute a financing statement.

13. Indemnity. Borrower hereby agrees to indemnify and hold BOK harmless from any costs, expenses, fees (e.g., attorney fees), damages, claims, assessments, liabilities, taxes or related obligations and duties incurred by BOK arising out of or in connection herewith, except for matters directly resulting from the gross negligence or willful misconduct of BOK.

14. Condition and Repair. Borrower shall keep the Rolling Stock in good repair and order at all times, and shall advise BOK immediately if any material damage occurs to any Rolling Stock, regardless whether such damage is covered by insurance.

15. License. BOK is hereby granted a license or other right to use, without charge, Borrower's patents, copyrights, trade secrets, technical processes, rights of use of any name, trade names, trademarks, labels and advertising matter, or any property of a similar nature, as it pertains to the Rolling Stock, in completing production of, advertising for sale and selling any Rolling Stock, and Borrower's rights under all licenses and all franchise agreements shall inure to BOK's benefit.

16. Power of Attorney. Borrower hereby appoints BOK (and any of BOK's officers, employees or agents designated by BOK) as Borrower's attorney, with power after the occurrence of an Event of Default, and following any applicable cure period: (a) to endorse Borrower's name on any checks, notes, acceptances, money orders, drafts or other forms of payment or security that may come into BOK's possession relating to the Rolling Stock; (b) to send requests for verification of Leases; and (c) to do all things necessary to carry out this Agreement. The appointment of BOK as Borrower's attorney and each and every one of Secured Party's rights and powers, being coupled with an interest, are irrevocable as long as any obligations are outstanding. Any person dealing with BOK shall be entitled to rely conclusively on any written or oral statement of BOK that this power of attorney is in effect. BOK may also use Borrower's stationery in connection with exercising its rights and remedies and performing the obligations of Borrower.

17. Remedies are Cumulative. No remedy set forth herein is exclusive of any other available remedy or remedies, but each is cumulative and in addition to every other right or remedy given under this Agreement or under any other agreement between BOK and Borrower or now or hereafter existing at law or in equity or by statute. BOK may pursue its rights and remedies concurrently or in any sequence, and no exercise of one right or remedy shall be deemed to be an election. No delay by BOK shall constitute a waiver, election or acquiescence by it.

18. Severability; Headings. If any part of this Agreement or the application thereof to any person or circumstance is held invalid, the remainder of this Agreement shall not be

affected thereby. The section headings herein are included for convenience only and shall not be deemed to be a part of this Agreement.

19. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto; however, Borrower may not assign any of its rights or delegate any of its obligations hereunder. Secured Party (and any subsequent assignee) may transfer and assign this agreement and deliver the Collateral to the assignee, who shall thereupon have all of the rights of BOK; and BOK (or such subsequent assignee who in turn assigns as aforesaid) shall then be relieved and discharged of any responsibility or liability with respect to this Agreement and said Collateral.

20. Notices. Any notices under or pursuant to this Agreement shall be deemed duly sent when delivered in hand or when mailed by registered or certified mail, return receipt requested, or when delivered by courier or when transmitted by telex, telecopy or similar electronic medium to the following addresses:

To Borrower:	C. W. Brooks, Inc. 7229 South 85th East Avenue Unit 200 Tulsa, Oklahoma 74133 Attn: C. W. Brooks, President
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To BOK:	Bank of Oklahoma, National Association P. O. Box 2300 Tulsa, Oklahoma 74192 Attn: Edward E. Conn, Jr., Vice President
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Either party may change such address by sending notice of the change to the other party; such change of address shall be effective only upon actual receipt of the notice by the other party.

21. Governing Law. All acts and transactions hereunder and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the domestic laws of Oklahoma.

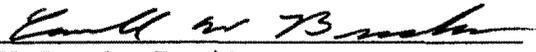
22. Jurisdiction. Borrower agrees that the state and federal courts in Tulsa County, State of Oklahoma, or any other court in which BOK initiates proceedings, have exclusive jurisdiction over all matters arising out of this Agreement, and that service of process in any such proceeding shall be effective if mailed to Borrower at its address described in the Notices section of this Agreement. Borrower waives any right it may have to assert the defense forum non conveniens or to object to such venue, and hereby consents to any court ordered relief.

23. Provisional Remedies, Self-Help and Foreclosure. No provision of this paragraph shall limit the right of any party to this Agreement to exercise self-help remedies, such as setoff or the foreclosure against or sale of any real or personal property collateral or security, or to obtain provisional or ancillary remedies from a court of competent jurisdiction before, after or during the pendency of any arbitration or other proceeding.

Executed as of the date above shown.

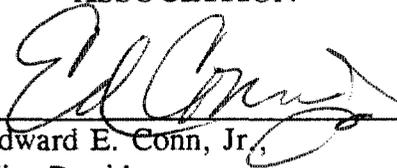
"Borrower"

C. W. BROOKS, INC.

By 
C. W. Brooks, President

"BOK"

BANK OF OKLAHOMA, NATIONAL
ASSOCIATION

By 
Edward E. Conn, Jr.
Vice President

STATE OF OKLAHOMA)
)ss.
COUNTY OF TULSA)

This instrument was acknowledged before me on this 26th day of March, 1993 by Carroll W. Brooks, as President of C. W. Brooks, Inc.

My Commission Expires:

10-8-93
[S E A L]

Brenda Brown Austin
Notary Public

STATE OF OKLAHOMA)
)ss.
COUNTY OF TULSA)

This instrument was acknowledged before me on this 26th day of March, 1993 by Edward E. Conn, Jr., as Vice President of Bank of Oklahoma, National Association.

My Commission Expires:

10-8-93
[S E A L]

Brenda Brown Austin
Notary Public

SCHEDULE "1.1-A"

(Rail Cars Purchased)

HOMX 1007	HOMX 1066
HOMX 1008	HOMX 1067
HOMX 1009	HOMX 1068
HOMX 1010	HOMX 1069
HOMX 1011	HOMX 1070
HOMX 1012	HOMX 1071
HOMX 1013	HOMX 1072
HOMX 1014	HOMX 1073
HOMX 1015	HOMX 1074
HOMX 1016	HOMX 1075
HOMX 1017	HOMX 1077
HOMX 1018	HOMX 1078
HOMX 1022	HOMX 1079
HOMX 1023	HOMX 1081
HOMX 1024	HOMX 1082
HOMX 1025	HOMX 1083
HOMX 1026	
HOMX 1027	
HOMX 1029	
HOMX 1031	
HOMX 1033	
HOMX 1034	
HOMX 1036	
HOMX 1037	
HOMX 1039	
HOMX 1040	
HOMX 1041	
HOMX 1042	
HOMX 1043	
HOMX 1044	
HOMX 1046	
HOMX 1049	
HOMX 1050	
HOMX 1051	
HOMX 1053	
HOMX 1055	
HOMX 1057	
HOMX 1061	
HOMX 1062	
HOMX 1064	
HOMX 1065	

SCHEDULE "1.1-B"

(Rail Cars Currently Owned)

MOGX 1004
MOGX 1005
MOGX 1006
MOGX 1007
MOGX 1008
MOGX 1009
MOGX 1010
MOGX 1011
MOGX 1012
MOGX 1013
MOGX 1014
MOGX 1015
MOGX 1016
MOGX 1017
MOGX 1018
MOGX 1019
MOGX 1020
MOGX 1021
MOGX 1022
MOGX 1023