

RECORDATION NO. 24715 FILED

DEC 05 '03 12-47 PM

ALVORD AND ALVORD  
ATTORNEYS AT LAW  
1050 SEVENTEENTH STREET, N.W.  
SUITE 301  
WASHINGTON, D.C.  
20036  
(202) 393-2266  
FAX (202) 393-2156  
E-MAIL [alvordlaw@aol.com](mailto:alvordlaw@aol.com)

SURFACE TRANSPORTATION BOARD

ELIAS C. ALVORD (1942)  
ELLSWORTH C. ALVORD (1964)

OF COUNSEL  
URBAN A. LESTER

December 4, 2003

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Lease and Assignment Agreement, dated November 25, 2003, a primary document as defined in the Board's Rules for the Recordation of Documents.

The names and addresses of the parties to the enclosed document are:

Lessor/  
Assignee: MILPI Holdings, LLC  
200 Nyala Farm Road  
Westport, CT 06880

Lessee/  
Assignor: PLM Equipment Growth Fund  
Canada Limited  
200 Nyala Farm Road  
Westport, CT 06880

A description of the railroad equipment covered by the enclosed document  
is:

Four railcars: PLMX 3738, PLMX 3751, PLMX 3756 and PLMX 4513

Mr. Vernon A. Williams  
December 4, 2003  
Page Two

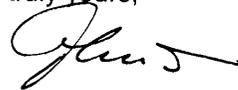
A short summary of the document to appear in the index is:

Lease and Assignment Agreement

Also enclosed is a check in the amount of \$30.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,



Robert W. Alvord

RWA/anr

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SURFACE TRANSPORTATION BOARD

**LEASE AND ASSIGNMENT AGREEMENT**

THIS LEASE AND ASSIGNMENT AGREEMENT (this "Agreement") is entered into as of this 25th day of November, 2003 by and between MILPI Holdings, LLC, a Delaware limited liability company, having an address c/o 200 Nyala Farm Road, Westport, Connecticut 06880 ("Lessor") and PLM Equipment Growth Fund Canada Limited, an Alberta corporation with an address at 200 Nyala Farm Road, Westport, Connecticut 06880 ("Lessee").

WHEREAS, the rail cars listed on Schedule A hereto (collectively, the "Cars") are leased by Lessor to Lessee pursuant to a written lease (the "Lease") and Lessor has been unable to locate the Lease;

WHEREAS, the Cars are subleased by Lessee to Gibson Petroleum Company Limited, successor by consolidation to Gibson Gas Liquids Limited (the "Sublessee") pursuant to a Master Railcar Leasing Agreement dated October 1, 1989 and Rider 9 to Master Railcar Leasing Agreement (collectively, the "Sublease") (for purposes hereof, any subsequent sublessee other than Gibson Petroleum Company Limited shall be deemed to be "Sublessee" hereunder and any subsequent sublease entered into with such sublessee shall be deemed to be a "Sublease" hereunder);

WHEREAS, (i) Lessor and Lessee desire to amend and restate the Lease upon the terms and conditions set forth herein, and (ii) Lessee desires to assign to Lessor for collateral purposes all of its rights under the Sublease.

NOW, THEREFORE, in consideration of the mutual agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Amendment and Restatement of the Lease. The Lease is hereby amended and restated as follows:

Lessor hereby leases the Cars to Lessee, and Lessee hereby leases the Cars from Lessor on the terms and conditions as are set forth below. Certain terms and conditions of the Sublease are hereby incorporated by reference and are specifically referred to below.

- (a) To the extent that the Sublease is incorporated herein by reference, references to "Lessor" in the Sublease shall be deemed to be references to Lessor hereunder, and references to "Lessee" in the Sublease shall be deemed to be references to Lessee hereunder.
- (b) The Sublease is expressly permitted hereunder. Lessee shall take no action to disturb the quiet enjoyment of the Sublessee under the Sublease, so long as no default by the Sublessee shall have occurred and is continuing.
- (c) Lessee has accepted the Cars pursuant to Section 4 of the Lease.

- (d) Lessee shall not place a Lien (as defined in the Sublease) upon the Cars or the Sublease nor may Lessee transfer or assign its interest under the Sublease.
- (e) Lessee shall provide Lessor with all records in Lessee's possession, from time to time, pertaining to the movement of the Cars as set forth in Section 5 of the Sublease.
- (f) Lessee shall not amend, modify or waive any terms or conditions under the Sublease without Lessor's prior written consent which may be given or withheld in Lessor's sole and absolute discretion.
- (g) Lessor shall have the right at any time to terminate this Agreement and to become the direct lessor under the Sublease. Lessor shall have the right to enforce the rights of Lessee under the Sublease in Lessee's name and Lessee shall cooperate with Lessor and execute such documents or instruments as may be necessary or advisable to assist Lessor in enforcing such rights against the Sublessee; provided, however, that Lessor shall reimburse Lessee for its reasonable out-of-pocket third-party costs and expenses incurred in connection with such cooperation. Lessor shall approve in advance any costs and expenses that exceed Five Hundred Dollars (\$500.00). Lessee shall not interfere with Lessor exercising its rights against the Sublessee under the Sublease.
- (h) Rent and all other sums payable to Lessee by Sublessee under the Sublease shall be paid to Lessor to an account designated by Lessor's manager, Transportation Equipment-PLM LLC, 200 Nyala Farm Road, Westport, CT 06880, facsimile (203) 341-9988, or as otherwise directed by Lessor in writing. Lessee is obligated to remit to Lessor rent and all other sums payable under this Agreement only in the amount and to the extent paid by Sublessee under the Sublease. Lessor shall have no recourse to Lessee with respect rent or other amounts not paid by Sublessee under the Sublease. Lessor shall in no way be limited by Lessee to enforce all of Lessee's rights under the Sublease and to retain the rent and all other sums payable by Sublessee.
- (i) Lessor hereby agrees to indemnify, defend and hold Lessee and its officers, directors, stockholders, employees, agents or attorneys (the "Lessee Parties") harmless from and against all claims, liabilities, losses, damages, costs and expenses, including, without limitation, reasonable fees and disbursements of counsel, resulting or arising on or after December \_\_, 2003, from the Sublease or the Cars, except to the extent arising out of any Lessee Party's negligence, willful misconduct or breach of the terms and conditions of this Agreement.

2. Assignment of Rights under the Sublease. To secure Lessee's obligations to Lessor hereunder, Lessee hereby collaterally assigns, transfers and conveys to Lessor, and grants to Lessor a security interest in, all of its right, title and interest in and to the Sublease and Lessor

hereby accepts the foregoing assignment (but shall have no obligation to perform the obligations of Lessee as sublessor thereunder). Lessee authorizes Lessor to file, and execute on behalf of Lessee when required, all documents and instruments which are necessary or required to evidence or perfect such assignment.

3. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, including all matters of construction, validity, performance and enforcement.

4. Counterparts, Facsimile Signatures, Notices. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. This Agreement may be executed by facsimile signatures which shall be considered originals. The addresses of the parties shall be the addresses of the parties set forth in the first paragraph hereof or such other address as shall be provided by Lessor or Lessee to the other party in writing.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Agreement as of the date first above written.

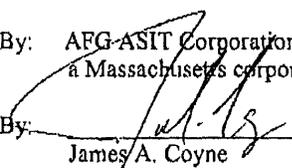
**LESSOR:**

MILPI HOLDINGS, LLC, a Delaware limited liability company

By: AFG Investment Trust C  
AFG Investment Trust D

Its: Managing Members

By: AFG-ASIT Corporation,  
a Massachusetts corporation

By:   
James A. Coyne  
Its: Senior Vice President

**LESSEE:**

PLM EQUIPMENT GROWTH FUND  
CANADA LIMITED

By: \_\_\_\_\_  
Name: Richard K. Brock  
Title: Senior Vice President

hereby accepts the foregoing assignment (but shall have no obligation to perform the obligations of Lessee as sublessor thereunder). Lessee authorizes Lessor to file, and execute on behalf of Lessee when required, all documents and instruments which are necessary or required to evidence or perfect such assignment.

3. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, including all matters of construction, validity, performance and enforcement.

4. Counterparts; Facsimile Signatures; Notices. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. This Agreement may be executed by facsimile signatures which shall be considered originals. The addresses of the parties shall be the addresses of the parties set forth in the first paragraph hereof or such other address as shall be provided by Lessor or Lessee to the other party in writing.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Agreement as of the date first above written.

**LESSOR:**

MILPI HOLDINGS, LLC, a Delaware  
limited liability company

By: AFG Investment Trust C  
AFG Investment Trust D

Its: Managing Members

By: AFG ASIT Corporation,  
a Massachusetts corporation

By: \_\_\_\_\_  
James A. Coyne

Its: Senior Vice President

**LESSEE:**

PLM EQUIPMENT GROWTH FUND  
CANADA LIMITED

By: \_\_\_\_\_  
Name: Richard K. Brock

Title: Senior Vice President

STATE OF Connecticut )  
 )ss.  
COUNTY OF Fairfield )

On this \_\_\_\_\_ day of December, 2003, before me personally appeared James Caputo, to me personally known, who being by me duly sworn, says that s/he is the President of MILPI Holdings LLC, that the foregoing instrument was signed on behalf of said corporation, and s/he acknowledged that the execution of the said instrument was the free act and deed of said corporation.

Brenda R. Broadhurst  
NOTARY PUBLIC

My commission expires: 1/31/08

Brenda R. Broadhurst  
NOTARY PUBLIC  
My Commission Expires  
January 31, 2008



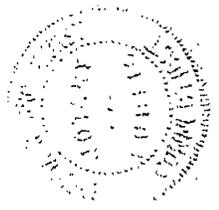
STATE OF Connecticut )  
 )ss.  
COUNTY OF Fairfield )

On this \_\_\_\_\_ day of December, 2003, before me personally appeared Jim Caputo, to me personally known, who being by me duly sworn, says that s/he is the President of MILPI Holdings LLC, that the foregoing instrument was signed on behalf of said corporation, and s/he acknowledged that the execution of the said instrument was the free act and deed of said corporation.

Brenda R. Broadhurst  
NOTARY PUBLIC

My commission expires: 1/31/08

Brenda R. Broadhurst  
NOTARY PUBLIC  
My Commission Expires  
January 31, 2008



STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of December, 2003, before me personally appeared \_\_\_\_\_, to me personally known, who being by me duly sworn, says that s/he is the \_\_\_\_\_ of \_\_\_\_\_, that the foregoing instrument was signed on behalf of said corporation, and s/he acknowledged that the execution of the said instrument was the free act and deed of said corporation.

\_\_\_\_\_  
NOTARY PUBLIC

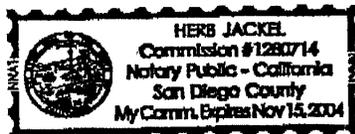
My commission expires: \_\_\_\_\_

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN DIEGO )

On this 4<sup>th</sup> day of December, 2003, before me personally appeared Richard Stark, to me personally known, who being by me duly sworn, says that s/he is the owner of 1200 E. 1st St. San Diego, CA, that the foregoing instrument was signed on behalf of said corporation, and s/he acknowledged that the execution of the said instrument was the free act and deed of said corporation.

Herb Jackel  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: 11-15-04



**SCHEDULE A**

**Cars**

PLMX 3738	PLMX 3751	PLMX 3756	PLMX 4513
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CERTIFICATION

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: 12/5/03

  
\_\_\_\_\_  
Robert W. Alvord