



1100 Shawnee Street
Mount Vernon, Illinois
(P) 618.241.9270

RECORDATION NO. 31958
FILED OCTOBER 6, 2015 9:15 AM
SURFACE TRANSPORTATION BOARD

September 29, 2015

Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
Washington DC 20423-0001

Re: Rail Equipment Recordation; E-Filing

Dear Section Chief,

I have attached for recordation, pursuant to 49 U.S.C. 11301, one original and one certified true copy of a Locomotive Lease Agreement, dated June 4, 2015, a primary document.

The names and addresses of the parties to the enclosed Locomotive Lease Agreement are as follows:

Lessor: National Railway Equipment Co.
1100 Shawnee Street
Mt. Vernon, IL 62864

Lessee: Watco Companies, L.L.C.
315 West Third
Pittsburg, KS 66762

The equipment covered by the Locomotive Lease Agreement is as follows:

Three Six-Axle EMD SD40-2 Locomotives, bearing road #s 2666, 2683, 2715.

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

Locomotive Lease Agreement between National Railway Equipment Co. (Lessor) and Watco Companies, L.L.C. (Lessee), dated June 4, 2015, for the lease of three EMD SD40-2 locomotives, bearing road #s 2666, 2683, 2715.

Attached please find a credit card authorization form in the amount of \$43.00 to cover the E-Filing fees for recordation of the attached Locomotive Lease.



1100 Shawnee Street
Mount Vernon, Illinois
(P) 618.241.9270

Please return a date-stamped copy of the Locomotive Lease Agreement to:

Hal Burgan
National Railway Equipment Co.
P.O. Box 1416
Mt. Vernon, Illinois 62864

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Burgan', is written over a faint, larger version of the signature.

Hal Burgan
General Counsel



LOCOMOTIVE LEASE AGREEMENT

THIS LOCOMOTIVE LEASE AGREEMENT ("Lease") entered into as of this 4th day of June 2015, between NRE, whose legal name is National Railway Equipment Co., which is an Illinois corporation, ("LESSOR"), and Watco Companies, L.L.C., a Delaware limited liability company, ("LESSEE").

LESSOR AND LESSEE HEREBY AGREE AS FOLLOWS:

1. LEASE AND LEASED PROPERTY. Lessee hereby leases from Lessor, the locomotive(s), ("Locomotive", "locomotive", or plural thereof), together with the parts, accessories, attachments and devices, if any, now or hereafter affixed thereto, as described in Schedule "A" attached to and made part hereof.

2. TERM. The term of this Lease for each locomotive shall be the fixed term set forth in Schedule "A", commencing on the date such locomotive is delivered to Lessee ("Commencement Date").

3. RENTAL

A. The rental payable shall be the sum identified in Schedule "A" payable in advance monthly installments, with two month's advance rent payable upon Lessee's execution of this Lease and, in addition, two month's rent payable upon Lessee's execution to be held as a security deposit. Lessee shall operate such locomotive(s) in service only on its railroad. If the Commencement Date for any locomotive does not fall on the first day of the month, the first rental payment shall be prorated accordingly.

B. Payments past due for more than five (5) days shall bear interest at the rate of one and half percent per month.

C. All rentals shall be paid to Lessor at:

NRE
8394 Solutions Center
Chicago IL 60677
ABA No.: 071006486
Account No.: 2270651
Account Name: NRE

or at such other address as Lessor may direct in writing.

4. TAXES. Lessee shall pay all sales, use, excise, ad valorem, stamp, documentary and similar taxes on or relating to this lease of the locomotive(s), or the use, registration, rental, maintenance, possession or operation thereof, and shall file any returns required therefore, and shall hold Lessor harmless against any liability and expense (including attorney fees and costs) on account of Lessee's failure to do the same.

5. OWNERSHIP AND INSPECTION. The locomotive(s) shall at all times remain the property of the Lessor. Upon reasonable notice to Lessee, Lessor or its agents shall have free access to the locomotive(s) at reasonable times for the purpose of inspections. No accessions, additions, alterations or improvements to the locomotive(s) of any nature shall be made without Lessor's consent, but if any are made, they immediately shall become part of the locomotive(s) and shall become Lessor's property. Lessee shall keep the locomotive(s), at all times, free and clear from all claims, liens and encumbrances. This Lease is intended to be a true lease of the locomotive(s) and is not and in no way shall be construed as creating a sale of the locomotive(s) to Lessee.

6. DELIVERY / RETURN. Lessee shall accept delivery of the locomotive(s) at Lessor's Dixmoor facility ("Delivery Location"). Upon expiration or other termination of this Lease, Lessee shall return such locomotive(s) to Lessor at Lessor's Dixmoor facility in good order and condition. Lessee shall bear freight return costs outbound and inbound. Lessee shall pay or reimburse Lessor for any reasonable and ordinary expenses incurred by Lessor in returning the locomotive(s) to good order and condition, in delivering the locomotive(s) to Lessor or effecting return of the locomotive(s) from Lessee as provided herein. All obligations of Lessee under this Lease shall continue with respect to any locomotive not returned by the expiration or earlier termination as permitted herein until such locomotive is returned to the Delivery Location in accordance herewith including, without limitation, the obligation to pay rent, which shall increase to \$400 dollars per day per locomotive for the first 45 days the locomotive is late and to \$425 per day thereafter. Shipment cost and risk of loss during shipment shall be Lessee's responsibility.

7. WARRANTY AND DISCLAIMER. Lessee hereby acknowledges that Lessee has had or will have the opportunity to inspect the locomotive prior to accepting delivery of same, and that acceptance of delivery of the locomotive by Lessee constitutes acknowledgement that they have been received in good condition and repair. **LESSOR MAKES NO REPRESENTATION OR WARRANTY EXPRESS OR IMPLIED, WITH RESPECT TO THE CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PURPOSE OF THE LOCOMOTIVE** and Lessor hereby disclaims all such representation and warranties. **LESSOR SHALL NOT BE RESPONSIBLE FOR ANY CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES.**

8. USE AND MAINTENANCE.

A. Lessee shall be responsible and pay for all registrations, certificates, and permits, and all other similar requirements of governmental authorities, whether required to be obtained in the name of the Lessor or Lessee.

B. The locomotive(s) shall be used and operated only by properly qualified, trained and registered personnel authorized by Lessee.

C. Lessee shall comply with all federal, state, municipal and local laws, ordinances, and rules, and regulations relating to the lease, possession, insuring, use and operation of the locomotive(s).

D. Lessee shall be solely responsible for the payment of any and all fines, penalties or forfeitures (including without limitation the confiscation of the locomotive(s) levied upon or arising out of the use, operation, maintenance or insuring of the locomotive(s) in violation of any law, ordinance, rule or regulation of any governmental authority.

E. Lessee shall pay all costs, expenses and charges incurred in connection with the maintenance, lease, use and operation of the locomotive(s).

F. Lessee shall maintain the locomotive(s) in good mechanical condition and running order and in compliance with OEM specifications and safety rules and regulations now or hereafter promulgated by applicable governmental authorities.

G. Lessee shall keep and maintain any and all books and records and make any filings required by any governmental authority with respect to the possession, lease, use or operation of the locomotive(s).

9. INSURANCE / INDEMNIFICATION.

A. Railroad liability insurance and property insurance providing coverage during the Term and until returned to Lessor in an amount not less than seven million dollars combined single limit per occurrence and ten million dollars combined in the aggregate shall be provided by Lessee at Lessee's sole expense throughout the Term as to each locomotive. The insurance policy or policies providing the foregoing coverage shall: i.) be written by an insurance company or companies satisfactory to Lessor and authorized to transact business in all of the states in which the locomotive(s) will be used and operated; ii.) protect the interests of Lessor and Lessee, including Lessee's authorized operators, with respect to liability for injuries to or the death of third party persons and damage to or loss of use of property of third persons resulting from the ownership, maintenance, use or operation of the locomotive(s); or iii.) provide by endorsement or otherwise that the coverage shall be primary coverage as to Lessor and show Lessor as additional insured.

B. Lessee, at Lessee's sole expense, shall provide collision and comprehensive physical damage insurance on each locomotive in the amount of the Replacement Value. The insurance policy or policies providing the foregoing coverages shall: be written in standard form by an insurance company acceptable to Lessor and provide for losses to be payable to Lessor and Lessee as their respective interests may appear.

C. Lessee shall furnish Lessor with a certificate(s) of insurance or other evidence of said insurance coverage.

D. Lessee does hereby agree to defend, indemnify, protect and hold harmless Lessor and any assignees or successors of Lessor, and their respective employees and agents, from and against any and all losses, liabilities (including without limitation strict liability imposed by law), damages, injuries, claims, demands and expenses (including legal expenses) of whatsoever kind and nature; resulting from or arising out of the use, condition, operation or ownership of any locomotive. This covenant of indemnity shall continue in full force and effect notwithstanding the termination of this lease or the termination of the lease of any locomotive.

E. Lessee assumes and agrees to indemnify, protect and hold free and harmless Lessor, any assignee or successor of Lessor, and their respective employees or agents, irrespective of any responsibility for negligence, from any loss, damage, theft or destruction of any locomotive. In the event of damage to a Locomotive, Lessee shall immediately place the same in good repair (ordinary wear and tear excepted). If Lessor, in the exercise of its reasonable judgment, determines that any item of Locomotive is lost, stolen, destroyed, damaged beyond repair or rendered permanently unfit for use for any reason, or in the event of condemnation or seizure of a Locomotive, Lessee shall (at Lessor's option) (i) replace such locomotive with substantially similar equipment of equal or greater value and in good repair and transfer title thereto to Lessor free and clear of any all liens, claims and encumbrances of any kind or nature whatsoever, or (ii)

pay Lessor in cash the sum of (a) any installments of rent and other amounts payable by Lessee hereunder with respect to such item due but unpaid at the date of such payment plus (b) the Replacement Value of such Locomotive determined in accordance with Schedule A. Upon payment of such amount to Lessor, such item shall become the property of Lessee, Lessor will transfer to Lessee, without recourse or warranty, all of Lessor's right, title and interest therein, the rent with respect to such item shall terminate, and the basic rental payments on the remaining items shall be reduced accordingly. Lessee shall pay any sales and use taxes due on such transfer or upon any purchase or passage of title to Lessee.

F. If Lessee shall fail to obtain or maintain the insurance coverage required in this Lease, or shall fail to furnish Lessor with evidence thereof, Lessor at its option, may obtain such required insurance coverage on behalf of Lessee at Lessee's expense.

10. ASSIGNMENT. WITHOUT LESSOR'S PRIOR WRITTEN CONSENT, LESSEE WILL NOT SELL, ASSIGN, SUBLET OR OTHERWISE ENCUMBER OR PERMIT A LIEN ARISING THROUGH LESSEE TO EXIST ON OR AGAINST ANY INTEREST IN THIS LEASE OR THE LOCOMOTIVES. Lessor may assign its interest in this lease and sell or grant a security interest in all or any part of the Locomotives without notice to or the consent of Lessee. Lessee agrees not to assert against any assignee of Lessor any claim or defense Lessee may have against Lessor, it being understood that in the event of a default or breach by Lessor, Lessee shall pursue any rights on account thereof solely against Lessor. Lessor and Lessee further agree that no such assignment shall change Lessee's duties or obligations under this lease or increase Lessee's risks or burdens, all of which shall remain as set forth herein. Each party to this Lease acknowledges notice of and consents in all respects to, the terms of this Lease.

11. FINANCIAL DATA. In the event of a default, upon the written request of Lessor, Lessee shall furnish to Lessor, when reasonably available, copies of Lessee's financial statements and such other reports and statements concerning this Lease and the locomotive(s) as Lessor reasonably may request.

12. DEFAULT. Lessee shall be in default under this Lease upon the happening of any of the following events or conditions ("Event of Default"): default in the payment when due of any installment of rental hereunder or of any other obligation for the payment of money now or hereafter owed by Lessee to Lessor, or default in the timely performance of any other liability, obligation, covenant, or agreement in this Lease. Lessee shall also be in default under this Lease if, in Lessor's sole and reasonable determination, Lessee has attempted or is attempting to reverse-engineer the leased property.

13. REMEDIES UPON DEFAULT.

A. Upon the occurrence of any Event of Default or at any time hereafter, Lessor, in its sole discretion, may take any one or more of the following actions with respect to the locomotive(s):

i. Declare all unpaid lease payments to be immediately due and payable.

ii. Terminate the Lease of any or all locomotives by written notice to Lessee.

iii. Whether or not the Lease is terminated, take possession of any or all locomotive(s) wherever found, and for this purpose Lessor may at Lessor's option enter upon the premises where such locomotive(s) are located and take immediate possession of and remove the same, all without liability to Lessee for damage to property or otherwise.

iv. Termination of this Lease does not terminate, limit, or restrict the rights and remedies of

Lessor. In addition to Lessor's right under common law to redress for any breach or violation, Lessee shall indemnify and defend Lessor against all losses, damages, cost and expenses (including, without limitation, interest, penalties, court costs, and attorney's fees and expenses) asserted against, imposed upon, or incurred by Lessor, directly or indirectly, arising out of or resulting from any breach or violation.

v. Require that Lessee shall, upon demand by Lessor and at Lessee's expense, promptly make available to Lessor at Lessee's expense, any or all locomotives at a place designated by Lessor which is reasonably convenient to both parties.

vi. Use, hold, sell, lease or otherwise dispose of any or all such locomotive(s) as Lessor in its sole discretion may decide, without affecting the obligations of Lessee as provided in this Lease.

vii. Proceed by appropriate action either at law or in equity to enforce performance by Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof or to rescind the Lease hereunder of any or all locomotive(s).

viii. Exercise any and all rights and remedies available to Lessor under any applicable law. In addition, Lessee shall be charged with and shall pay to Lessor all damages resulting from the ordinary course of events from the Lessee's default as determined in any reasonable manner, together with incidental damages, less expenses saved in consequence of each Event of Default by Lessee.

ix. In addition to other remedies available, Lessor may also recover from Lessee the amount which will fully compensate the Lessor for any loss or damage to the Lessor's residual interest in the goods caused by the default of the Lessee

x. Lessee shall pay Lessor all costs and expenses, including but not limited to reasonable attorney's fees and out of pocket expenses, incurred by Lessor in exercising any of its rights or remedies hereunder or enforcing any of the terms, conditions, of the Lease.

B. None of the rights and remedies under or referred to is intended to be exclusive, but each such right or remedy shall as to each locomotive be cumulative and may be availed of separately or concurrently with or in addition to any other right or remedy provided or referred to herein or otherwise available to Lessor at law or in equity. Any repossession or subsequent sale or lease by Lessor of any locomotive(s) shall not bar an action against Lessee for a deficiency. To the extent permitted by applicable law, **LESSEE WAIVES ANY AND ALL RIGHTS TO NOTICE AND TO A JUDICIAL HEARING WITH RESPECT TO THE REPOSSESSION OF LOCOMOTIVE BY LESSOR AS A RESULT OF ANY EVENT OF DEFAULT HEREUNDER BY LESSEE.**

C. Without limitation of any rights of Lessor otherwise existing or otherwise available to Lessor, it is expressly covenanted and agreed by the parties hereto that in the event of any assignment by operation of law of this Lease or of any lease hereunder, or of a bankruptcy of Lessee within the meaning of the Federal Bankruptcy Act, then Lessor may, at Lessor's election, terminate this Lease or any one or more leases hereunder.

14. **RECORDATION OF LESSOR'S INTEREST.** Lessee agrees to execute and notarize all recording documents requested by Lessor to show, create and perfect Lessor's interest in the locomotive(s). Lessee further authorizes Lessor to execute and file financing statements or other documents evidencing Lessor's interest in the locomotive(s) without Lessee's signature.

15. MISCELLANEOUS.

A. This Lease and all rights and obligations hereunder shall be governed by and construed in accordance with the laws of the State of Illinois. Illinois shall be choice of forum for all litigation.

B. Neither this Lease nor any schedule shall be amended, and no provision hereof or of any Schedule shall be waived or varied unless by writing signed by the parties.

C. No delay or omission by Lessor in exercising any right hereunder shall operate as a waiver of such right or any other right. A waiver by Lessor of any Event of Default by Lessee shall not be construed as a waiver of any future occasion.

D. In case any provision (or portions thereof) in this lease shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions (or portions thereof) hereby shall not in any way be affected or impaired thereby.

E. This Lease shall be binding upon and inure to the benefit of Lessor and Lessee and their respective successors.

F. This Lease shall not transfer to Lessee any rights or license in Lessor's trade secrets. Lessee agrees that it shall not attempt to reverse-engineer the leased property.

G. All notices permitted or required to be given pursuant to this Lease shall be mailed by Certified or Registered Mail, Return Receipt Requested to the parties at the following addresses or at such other addresses as each party may notify each other.

If to Lessor: NRE
908 Shawnee
Mt. Vernon, Illinois 62864
Attn: Keith Batley

And a copy to:
NRE
P. O. Box 1416
Mt. Vernon, Illinois 62864
Attn: Hal Burgan – General Counsel

If to Lessee: Watco Companies, L.L.C.
315 West Third
Pittsburgh, Kansas 66762
Attn: Larry Jensen

WITNESS WHEREOF, the parties have executed this Lease the day and year first mentioned above.

LESSOR:

LESSEE:

NRE

National Railway Equipment Co.

WATCO COMPANIES, L.L.C.

By: _____

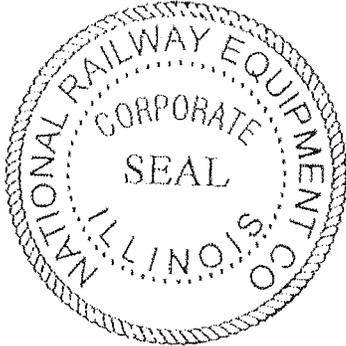
Name: Keith K. Batley

Title: AVP-Sales & Marketing

By: Keith Testerman

Name: Keith Testerman

Title: AVP/CMO watco



Attached to and incorporated into the Lease dated the 4th day of June, 2015, by and between NRE ("LESSOR") and Watco Companies, L.L.C., ("LESSEE").

Type and General Description of Locomotive Units, Marks and Numbers:

<u>Unit No.</u>	<u>Type</u>	<u>General Description</u>
2666	SD40-2	EMD Locomotive 6 axle-3000hp
2683	SD40-2	EMD Locomotive 6 axle-3000hp
2715	SD40-2	EMD Locomotive 6 axle-3000hp

<u>REPLACEMENT VALUE</u>	<u>LEASE TERM</u>	<u>LEASE RATE PER LOCOMOTIVE LEASE TERM</u>
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[REDACTED]	16 months.	[REDACTED]
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Note: As 1 or more of the 10 purchased units supplied by NRE arrives, a leased unit can be released.

LESSOR: NRE
National Railway Equipment Co.

By: _____

Name: Keith K. Batley

Title: AVP - Sales and Marketing

LESSEE: Watco Companies, L. L. C.

By: Keith Testerman

Name: Keith Testerman

Title: AVP/CMO Watco



MEMORANDUM OF LOCOMOTIVE LEASE AGREEMENT

THIS MEMORANDUM OF LOCOMOTIVE LEASE AGREEMENT has an effective date of _____, and is by and between National Railway Equipment Co. ("NRE" or "Lessor"), and Watco Companies, L.L.C., ("Lessee"), with reference to the following:

1. Lessor has agreed to lease to Lessee, and Lessee has agreed to lease from Lessor the Locomotive model(s) described herein. This MEMORANDUM OF LEASE AGREEMENT evidences a lease.

Each locomotive is fully-described in a certain Lease Agreement with an effective date as stated above, (the "Lease"), between Lessor and Lessee.

2. All terms of the LOCOMOTIVE LEASE AGREEMENT are hereby referred to and incorporated in this memorandum by reference.

The MEMORANDUM OF LOCOMOTIVE LEASE AGREEMENT may be executed counterpart constituting an original but all together only one MEMORANDUM OF LEASE AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have executed or caused this MEMORANDUM OF LEASE AGREEMENT to be executed as of the date first above written.

LESSEE:

WATCO COMPANIES, L.L.C.

By: Keith Testerman

Name: Keith Testerman

Title: AVP/CMO Watco

LESSOR:

NRE

National Railway Equipment Co.

By: _____

Name: Keith K. Batley

Title: AVP – Sales and Marketing





1100 Shawnee Street
Mount Vernon, Illinois
(P) 618.241.9270

I, Hal Burgan, certify that I am the General Counsel of National Railway Equipment Co., that the seal affixed to the forgoing instrument is the corporate seal of said corporation, that the instrument was signed and sealed on behalf of the corporation by the authority of its Board of Directors, and that I acknowledge that the execution of the foregoing instrument was the free act and deed of the corporation. I further state under penalty of perjury that the foregoing is true and correct.

Executed on September 29, 2015

Signature

A handwritten signature in black ink, appearing to read 'H. Burgan', is written over a horizontal line.

Hal Burgan
General Counsel
National Railway Equipment Co.



LOCOMOTIVE LEASE AGREEMENT

THIS LOCOMOTIVE LEASE AGREEMENT ("Lease") entered into as of this 4th day of June 2015, between NRE, whose legal name is National Railway Equipment Co., which is an Illinois corporation, ("LESSOR"), and Watco Companies, L.L.C., a Delaware limited liability company, ("LESSEE").

LESSOR AND LESSEE HEREBY AGREE AS FOLLOWS:

1. LEASE AND LEASED PROPERTY. Lessee hereby leases from Lessor, the locomotive(s), ("Locomotive", "locomotive", or plural thereof), together with the parts, accessories, attachments and devices, if any, now or hereafter affixed thereto, as described in Schedule "A" attached to and made part hereof.

2. TERM. The term of this Lease for each locomotive shall be the fixed term set forth in Schedule "A", commencing on the date such locomotive is delivered to Lessee ("Commencement Date").

3. RENTAL

A. The rental payable shall be the sum identified in Schedule "A" payable in advance monthly installments, with two month's advance rent payable upon Lessee's execution of this Lease and, in addition, two month's rent payable upon Lessee's execution to be held as a security deposit. Lessee shall operate such locomotive(s) in service only on its railroad. If the Commencement Date for any locomotive does not fall on the first day of the month, the first rental payment shall be prorated accordingly.

B. Payments past due for more than five (5) days shall bear interest at the rate of one and half percent per month.

C. All rentals shall be paid to Lessor at:

NRE
8394 Solutions Center
Chicago IL 60677
ABA No.: 071006486
Account No.: 2270651
Account Name: NRE

or at such other address as Lessor may direct in writing.

4. TAXES. Lessee shall pay all sales, use, excise, ad valorem, stamp, documentary and similar taxes on or relating to this lease of the locomotive(s), or the use, registration, rental, maintenance, possession or operation thereof, and shall file any returns required therefore, and shall hold Lessor harmless against any liability and expense (including attorney fees and costs) on account of Lessee is failure to do the same.

5. OWNERSHIP AND INSPECTION. The locomotive(s) shall at all times remain the property of the Lessor. Upon reasonable notice to Lessee, Lessor or its agents shall have free access to the locomotive(s) at reasonable times for the purpose of inspections. No accessions, additions, alterations or improvements to the locomotive(s) of any nature shall be made without Lessor's consent, but if any are made, they immediately shall become part of the locomotive(s) and shall become Lessor's property. Lessee shall keep the locomotive(s), at all times, free and clear from all claims, liens and encumbrances. This Lease is intended to be a true lease of the locomotive(s) and is not and in no way shall be construed as creating a sale of the locomotive(s) to Lessee.

6. DELIVERY / RETURN. Lessee shall accept delivery of the locomotive(s) at Lessor's Dixmoor facility ("Delivery Location"). Upon expiration or other termination of this Lease, Lessee shall return such locomotive(s) to Lessor at Lessor's Dixmoor facility in good order and condition. Lessee shall bear freight return costs outbound and inbound. Lessee shall pay or reimburse Lessor for any reasonable and ordinary expenses incurred by Lessor in returning the locomotive(s) to good order and condition, in delivering the locomotive(s) to Lessor or effecting return of the locomotive(s) from Lessee as provided herein. All obligations of Lessee under this Lease shall continue with respect to any locomotive not returned by the expiration or earlier termination as permitted herein until such locomotive is returned to the Delivery Location in accordance herewith including, without limitation, the obligation to pay rent, which shall increase to \$400 dollars per day per locomotive for the first 45 days the locomotive is late and to \$425 per day thereafter. Shipment cost and risk of loss during shipment shall be Lessee's responsibility.

7. WARRANTY AND DISCLAIMER. Lessee hereby acknowledges that Lessee has had or will have the opportunity to inspect the locomotive prior to accepting delivery of same, and that acceptance of delivery of the locomotive by Lessee constitutes acknowledgement that they have been received in good condition and repair. **LESSOR MAKES NO REPRESENTATION OR WARRANTY EXPRESS OR IMPLIED, WITH RESPECT TO THE CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PURPOSE OF THE LOCOMOTIVE** and Lessor hereby disclaims all such representation and warranties. **LESSOR SHALL NOT BE RESPONSIBLE FOR ANY CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES.**

8. USE AND MAINTENANCE.

A. Lessee shall be responsible and pay for all registrations, certificates, and permits, and all other similar requirements of governmental authorities, whether required to be obtained in the name of the Lessor or Lessee.

B. The locomotive(s) shall be used and operated only by properly qualified, trained and registered personnel authorized by Lessee.

C. Lessee shall comply with all federal, state, municipal and local laws, ordinances, and rules, and regulations relating to the lease, possession, insuring, use and operation of the locomotive(s).

D. Lessee shall be solely responsible for the payment of any and all fines, penalties or forfeitures (including without limitation the confiscation of the locomotive(s) levied upon or arising out of the use, operation, maintenance or insuring of the locomotive(s) in violation of any law, ordinance, rule or regulation of any governmental authority.

E. Lessee shall pay all costs, expenses and charges incurred in connection with the maintenance, lease, use and operation of the locomotive(s).

F. Lessee shall maintain the locomotive(s) in good mechanical condition and running order and in compliance with OEM specifications and safety rules and regulations now or hereafter promulgated by applicable governmental authorities.

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B. Lessee, at Lessee's sole expense, shall provide collision and comprehensive physical damage insurance on each locomotive in the amount of the Replacement Value. The insurance policy or policies providing the foregoing coverages shall: be written in standard form by an insurance company acceptable to Lessor and provide for losses to be payable to Lessor and Lessee as their respective interests may appear.

C. Lessee shall furnish Lessor with a certificate(s) of insurance or other evidence of said insurance coverage.

D. Lessee does hereby agree to defend, indemnify, protect and hold harmless Lessor and any assignees or successors of Lessor, and their respective employees and agents, from and against any and all losses, liabilities (including without limitation strict liability imposed by law), damages, injuries, claims, demands and expenses (including legal expenses) of whatsoever kind and nature; resulting from or arising out of the use, condition, operation or ownership of any locomotive. This covenant of indemnity shall continue in full force and effect notwithstanding the termination of this lease or the termination of the lease of any locomotive.

E. Lessee assumes and agrees to indemnify, protect and hold free and harmless Lessor, any assignee or successor of Lessor, and their respective employees or agents, irrespective of any responsibility for negligence, from any loss, damage, theft or destruction of any locomotive. In the event of damage to a Locomotive, Lessee shall immediately place the same in good repair (ordinary wear and tear excepted). If Lessor, in the exercise of its reasonable judgment, determines that any item of Locomotive is lost, stolen, destroyed, damaged beyond repair or rendered permanently unfit for use for any reason, or in the event of condemnation or seizure of a Locomotive, Lessee shall (at Lessor's option) (i) replace such locomotive with substantially similar equipment of equal or greater value and in good repair and transfer title thereto to Lessor free and clear of any all liens, claims and encumbrances of any kind or nature whatsoever, or (ii)

pay Lessor in cash the sum of (a) any installments of rent and other amounts payable by Lessee hereunder with respect to such item due but unpaid at the date of such payment plus (b) the Replacement Value of such Locomotive determined in accordance with Schedule A. Upon payment of such amount to Lessor, such item shall become the property of Lessee, Lessor will transfer to Lessee, without recourse or warranty, all of Lessor's right, title and interest therein, the rent with respect to such item shall terminate, and the basic rental payments on the remaining items shall be reduced accordingly. Lessee shall pay any sales and use taxes due on such transfer or upon any purchase or passage of title to Lessee.

F. If Lessee shall fail to obtain or maintain the insurance coverage required in this Lease, or shall fail to furnish Lessor with evidence thereof, Lessor at its option, may obtain such required insurance coverage on behalf of Lessee at Lessee's expense.

10. ASSIGNMENT. WITHOUT LESSOR'S PRIOR WRITTEN CONSENT, LESSEE WILL NOT SELL, ASSIGN, SUBLET OR OTHERWISE ENCUMBER OR PERMIT A LIEN ARISING THROUGH LESSEE TO EXIST ON OR AGAINST ANY INTEREST IN THIS LEASE OR THE LOCOMOTIVES. Lessor may assign its interest in this lease and sell or grant a security interest in all or any part of the Locomotives without notice to or the consent of Lessee. Lessee agrees not to assert against any assignee of Lessor any claim or defense Lessee may have against Lessor, it being understood that in the event of a default or breach by Lessor, Lessee shall pursue any rights on account thereof solely against Lessor. Lessor and Lessee further agree that no such assignment shall change Lessee's duties or obligations under this lease or increase Lessee's risks or burdens, all of which shall remain as set forth herein. Each party to this Lease acknowledges notice of and consents in all respects to, the terms of this Lease.

11. FINANCIAL DATA. In the event of a default, upon the written request of Lessor, Lessee shall furnish to Lessor, when reasonably available, copies of Lessee's financial statements and such other reports and statements concerning this Lease and the locomotive(s) as Lessor reasonably may request.

12. DEFAULT. Lessee shall be in default under this Lease upon the happening of any of the following events or conditions ("Event of Default"): default in the payment when due of any installment of rental hereunder or of any other obligation for the payment of money now or hereafter owed by Lessee to Lessor, or default in the timely performance of any other liability, obligation, covenant, or agreement in this Lease. Lessee shall also be in default under this Lease if, in Lessor's sole and reasonable determination, Lessee has attempted or is attempting to reverse-engineer the leased property.

13. REMEDIES UPON DEFAULT.

A. Upon the occurrence of any Event of Default or at any time hereafter, Lessor, in its sole discretion, may take anyone or more of the following actions with respect to the locomotive(s):

- i. Declare all unpaid lease payments to be immediately due and payable.
- ii. Terminate the Lease of any or all locomotives by written notice to Lessee.
- iii. Whether or not the Lease is terminated, take possession of any or all locomotive(s) wherever found, and for this purpose Lessor may at Lessor's option enter upon the premises where such locomotive(s) are located and take immediate possession of and remove the same, all without liability to Lessee for damage to property or otherwise.
- iv. Termination of this Lease does not terminate, limit, or restrict the rights and remedies of

Lessor. In addition to Lessor's right under common law to redress for any breach or violation, Lessee shall indemnify and defend Lessor against all losses, damages, cost and expenses (including, without limitation, interest, penalties, court costs, and attorney's fees and expenses) asserted against, imposed upon, or incurred by Lessor, directly or indirectly, arising out of or resulting from any breach or violation.

v. Require that Lessee shall, upon demand by Lessor and at Lessee's expense, promptly make available to Lessor at Lessee's expense, any or all locomotives at a place designated by Lessor which is reasonably convenient to both parties.

vi. Use, hold, sell, lease or otherwise dispose of any or all such locomotive(s) as Lessor in its sole discretion may decide, without affecting the obligations of Lessee as provided in this Lease.

vii. Proceed by appropriate action either at law or in equity to enforce performance by Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof or to rescind the Lease hereunder of any or all locomotive(s).

viii. Exercise any and all rights and remedies available to Lessor under any applicable law. In addition, Lessee shall be charged with and shall pay to Lessor all damages resulting from the ordinary course of events from the Lessee's default as determined in any reasonable manner, together with incidental damages, less expenses saved in consequence of each Event of Default by Lessee.

ix. In addition to other remedies available, Lessor may also recover from Lessee the amount which will fully compensate the Lessor for any loss or damage to the Lessor's residual interest in the goods caused by the default of the Lessee

x. Lessee shall pay Lessor all costs and expenses, including but not limited to reasonable attorney's fees and out of pocket expenses, incurred by Lessor in exercising any of its rights or remedies hereunder or enforcing any of the terms, conditions, of the Lease.

B. None of the rights and remedies under or referred to is intended to be exclusive, but each such right or remedy shall as to each locomotive be cumulative and may be availed of separately or concurrently with or in addition to any other right or remedy provided or referred to herein or otherwise available to Lessor at law or in equity. Any repossession or subsequent sale or lease by Lessor of any locomotive(s) shall not bar an action against Lessee for a deficiency. To the extent permitted by applicable law, **LESSEE WAIVES ANY AND ALL RIGHTS TO NOTICE AND TO A JUDICIAL HEARING WITH RESPECT TO THE REPOSSESSION OF LOCOMOTIVE BY LESSOR AS A RESULT OF ANY EVENT OF DEFAULT HEREUNDER BY LESSEE.**

C. Without limitation of any rights of Lessor otherwise existing or otherwise available to Lessor, it is expressly covenanted and agreed by the parties hereto that in the event of any assignment by operation of law of this Lease or of any lease hereunder, or of a bankruptcy of Lessee within the meaning of the Federal Bankruptcy Act, then Lessor may, at Lessor's election, terminate this Lease or any one or more leases hereunder.

14. **RECORDATION OF LESSOR'S INTEREST.** Lessee agrees to execute and notarize all recording documents requested by Lessor to show, create and perfect Lessor's interest in the locomotive(s). Lessee further authorizes Lessor to execute and file financing statements or other documents evidencing Lessor's interest in the locomotive(s) without Lessee's signature.

15. MISCELLANEOUS.

A. This Lease and all rights and obligations hereunder shall be governed by and construed in accordance with the laws of the State of Illinois. Illinois shall be choice of forum for all litigation.

B. Neither this Lease nor any schedule shall be amended, and no provision hereof or of any Schedule shall be waived or varied unless by writing signed by the parties.

C. No delay or omission by Lessor in exercising any right hereunder shall operate as a waiver of such right or any other right. A waiver by Lessor of any Event of Default by Lessee shall not be construed as a waiver of any future occasion.

D. In case any provision (or portions thereof) in this lease shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions (or portions thereof) hereby shall not in any way be affected or impaired thereby.

E. This Lease shall be binding upon and inure to the benefit of Lessor and Lessee and their respective successors.

F. This Lease shall not transfer to Lessee any rights or license in Lessor's trade secrets. Lessee agrees that it shall not attempt to reverse-engineer the leased property.

G. All notices permitted or required to be given pursuant to this Lease shall be mailed by Certified or Registered Mail, Return Receipt Requested to the parties at the following addresses or at such other addresses as each party may notify each other.

If to Lessor: NRE
908 Shawnee
Mt. Vernon, Illinois 62864
Attn: Keith Batley

And a copy to:
NRE
P. O. Box 1416
Mt. Vernon, Illinois 62864
Attn: Hal Burgan – General Counsel

If to Lessee: Watco Companies, L.L.C.
315 West Third
Pittsburgh, Kansas 66762
Attn: Larry Jensen

MEMORANDUM OF LOCOMOTIVE LEASE AGREEMENT

THIS MEMORANDUM OF LOCOMOTIVE LEASE AGREEMENT has an effective date of _____, and is by and between National Railway Equipment Co. ("NRE" or "Lessor"), and Watco Companies, L.L.C., ("Lessee"), with reference to the following:

1. Lessor has agreed to lease to Lessee, and Lessee has agreed to lease from Lessor the Locomotive model(s) described herein. This MEMORANDUM OF LEASE AGREEMENT evidences a lease.

Each locomotive is fully-described in a certain Lease Agreement with an effective date as stated above, (the "Lease"), between Lessor and Lessee.

2. All terms of the LOCOMOTIVE LEASE AGREEMENT are hereby referred to and incorporated in this memorandum by reference.

The MEMORANDUM OF LOCOMOTIVE LEASE AGREEMENT may be executed counterpart constituting an original but all together only one MEMORANDUM OF LEASE AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have executed or caused this MEMORANDUM OF LEASE AGREEMENT to be executed as of the date first above written.

LESSEE:

WATCO COMPANIES, L.L.C.

By: Keith Testerman

Name: Keith Testerman

Title: AVP/CMO Watco

LESSOR:

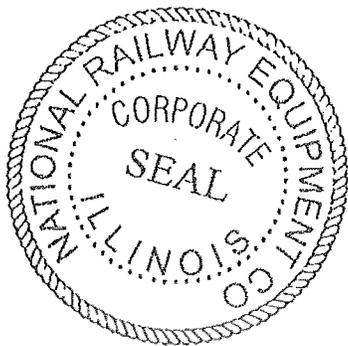
NRE

National Railway Equipment Co.

By: _____

Name: Keith K. Batley

Title: AVP – Sales and Marketing



Attached to and incorporated into the Lease dated the 4th day of June, 2015, by and between NRE ("LESSOR") and Watco Companies, L.L.C., ("LESSEE"),

Type and General Description of Locomotive Units, Marks and Numbers:

<u>Unit No.</u>	<u>Type</u>	<u>General Description</u>
2666	SD40-2	EMD Locomotive 6 axle-3000hp
2683	SD40-2	EMD Locomotive 6 axle-3000hp
2715	SD40-2	EMD Locomotive 6 axle-3000hp

<u>REPLACEMENT VALUE</u>	<u>LEASE TERM</u>	<u>LEASE RATE PER LOCOMOTIVE LEASE TERM</u>
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[REDACTED]	16 months.	[REDACTED]
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Note: As 1 or more of the 10 purchased units supplied by NRE arrives, a leased unit can be released.

LESSOR: NRE
National Railway Equipment Co.

By: _____

Name: Keith K. Batley

Title: AVP - Sales and Marketing

LESSEE: Watco Companies, L. L. C.

By: Keith Testerman

Name: Keith Testerman

Title: AVP/CMO watco



WITNESS WHEREOF, the parties have executed this Lease the day and year first mentioned above.

LESSOR:

LESSEE:

NRE
National Railway Equipment Co.

WATCO COMPANIES, L.L.C.

By: _____

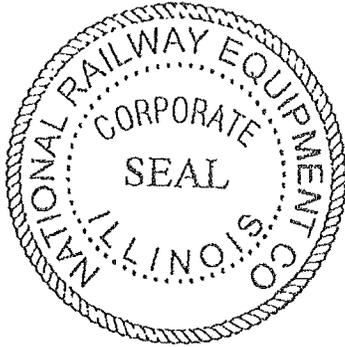
By: *Keith Testerman*

Name: Keith K. Batley

Name: *Keith Testerman*

Title: AVP-Sales & Marketing

Title: *AVP/CMO watco*





1100 Shawnee Street
Mount Vernon, Illinois
(P) 618.241.9270

I, Hal Burgan, certify that I am the General Counsel of National Railway Equipment Co., that I have compared this copy of the Locomotive Lease Agreement with the original Locomotive Lease Agreement and have found the copy to be complete and identical in all respects to the original document. I further state under penalty of perjury that the foregoing is true and correct.

Executed on September 29, 2015

Signature

A handwritten signature in black ink, appearing to read 'H. Burgan', is written over a horizontal line. The signature is fluid and cursive.

Hal Burgan
General Counsel
National Railway Equipment Co.