

GENERATIONS OF TRUST. NEIGHBORS YOU KNOW.



United Cumberland Bank  
RECORDATION NO. 32004-A  
FILED NOVEMBER 18, 2015 1:21 PM  
SURFACE TRANSPORTATION BOARD

November 5, 2015

**Via Electronic Filing**

Chief Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E. Street, S.W.  
Washington, D.C. 20423

Dear Section Chief:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) is a copy of the Assignment of Leases, Rents and Profits, dated as of November 5, 2015, between United Cumberland Bank and Crossroads Railcar Services, Inc. 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:

Assignee: United Cumberland Bank  
47 S. Main Street  
Whitley City, KY 42653

Assignor: Crossroads Railcar Services, Inc.  
89 Railroad St.  
Stearns, KY 42647

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

1937 Budd CB&Q303 Silver Fountain Railcar

In addition, the Surface Transportation Board Recording fee of \$43 is being mailed separately.  
Thank you.

Respectfully,

Michael J. Bush

Enclosure

<b>Main Office</b> 47 South Main Street PO Box 160 Whitley City, KY 42653 606 376 5031 phone	<b>Pine Knot Branch</b> 3995 South Hwy 27 PO Box 519 Pine Knot, KY 42635 606 376 5031 phone	<b>North Branch</b> 1385 North Hwy 27 PO Box 160 Whitley City, KY 42653 606 376 5031 phone	<b>Municipal Drive Branch</b> 106 Municipal Drive PO Box 4909 Oneida, TN 37841 423 569 6313 phone	<b>Scott High Branch</b> 567 Baker Hwy PO Box 4909 Huntsville, TN 37756 423 569 6313 phone	<b>Jacksboro Branch</b> 2828 Appalachian Hwy PO Box 355 Jacksboro, TN 37757 423 562 5151 phone
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**ASSIGNMENT OF LEASE, RENTS AND PROFITS**

This ASSIGNMENT OF LEASE, RENTS AND PROFITS ("Assignment") is made and entered into as of October 30, 2015, by and among **Crossroads Railcar Services, Inc.**, a Indiana Corporation authorized to do business in Kentucky ("Assignor") and **United Cumberland Bank**, a Kentucky bank ("Assignee").

**WITNESSETH**

WHEREAS, Assignor is party to a Loan Agreement by and among Assignor and Assignee of even date herewith (the "Loan Agreement"), pursuant to which Assignee agreed to make a loan to Assignor under a Promissory Note in the amount of \$140,000 (the "Note"); and

WHEREAS, pursuant to a Security Agreement of even date herewith, Assignor has granted Assignee a first priority lien and security interest in and to a certain railcar (the "Railcar") which has been leased to Cincinnati Dinner Train (the "Lessee") pursuant to a Railcar Lease Agreement (the "Lease") dated October 5, 2015 between Assignee and Lessee; and

WHEREAS, Assignee is unwilling to extend credit to the Assignor without Assignor's assignment of certain rights of the lease with the Lessee, and Assignor has agreed to assign such rights of the Lease pursuant to this Assignment;

**NOW, THEREFORE**, for value received and to induce Assignee to make the Loan to the Assignors pursuant to the Loan Agreement and other loans or financial accommodations extended by Assignee to Assignor or any of its affiliates, the undersigned Assignor, with the intent of being legally bound hereby, agrees as follows:

1. **DEFINITIONS.** Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed thereto in the Loan Agreement of even date herewith. Terms not otherwise defined in this Assignment or the Loan Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.
2. **ASSIGNMENT OF LEASES, RENTS AND PROFITS.** As collateral security for (i) the prompt and complete payment and performance when due (whether stated maturity, by acceleration or otherwise) of all of the obligations of the Assignors under the Note, the other Loan Documents, and any other documents related to loans or financial accommodations extended by Assignee to Assignor or any of its affiliates and (ii) the due and punctual payment and performance of Assignor's obligations and liabilities under, arising out of, or in connection with this Assignment, including, without limitation, any taxes and expenses payable pursuant hereto (all of the foregoing are collectively the "Indebtedness"), Assignor hereby conveys, transfers and assigns unto the Assignee, its successors and assigns
  - a. all the rights, title, interests and privileges which the Assignor has and may have in that certain Lease between the Assignor and the Lessee, as said Lease may have been, or may

- from time to time hereafter be modified, extended and renewed, with all rents, income and profits due therefrom; and
- b. any award made hereafter to it in any court procedure involving the Lease in any bankruptcy, insolvency, or reorganization proceeding in any state or Federal court and any and all payments made by Lessee in lieu of rent.
3. **ASSIGNMENT FOR SECURITY PURPOSES.** This assignment is made as additional security for the payment of the Note and any and all other obligations of the Assignor to the Assignee under the Loan Documents or any other documents related to loans or financial accommodations extended by Assignee to Assignor or any of its affiliates, and the Assignee's acceptance of this Assignment and the collection of rents or the payments under the Lease hereby assigned shall not constitute a waiver of rights to the Assignee under the terms of said Note, any Loan Document, or any other documents related to loans or financial accommodations extended by Assignee to Assignor or any of its affiliates.
  4. **COLLECTION OF RENTS.** Prior to the occurrence of an Event of Default under this Assignment, Assignor shall have the right to collect said rents, income and profits from the Lease and to retain and use the same; provided, however, that even before default occurs no rent more than two months in advance shall be collected or accepted without the prior written consent of the Assignee.
  5. **REPRESENTATIONS AND WARRANTIES OF BORROWER.** Assignor warrants and covenants to Assignee as follows:
    - a. A true and correct copy of the Lease is attached hereto as **Exhibit A**.
    - b. The Assignor has full right and title to assign the Lease and the rents, income and profits due or to become due thereunder;
    - c. the terms of the Lease have not been changed from the terms in the copy of the Lease attached hereto as **Exhibit A**;
    - d. no other assignment of any interest in the Lease or the rents, income and profits due or to become due thereunder has been made;
    - e. there are no existing defaults under the provisions thereof; and
    - f. Assignor will not hereafter cancel, surrender or terminate the Lease, or exercise any option which might lead to such termination of the Lease, or change, alter or modify the Lease or consent to the release of any party liable under the Lease or to the assignment of the Lessee's interest in the Lease without the prior written consent of the Assignee.
  6. **EVENTS OF DEFAULT.** The following shall constitute an Event of Default under this Assignment:
    - a. Failure of Assignor to keep any written promise Assignor has made to Assignee;
    - b. Failure of Assignor to comply with or to perform when due any other term, obligation, covenant or condition contained in this Assignment or in any of the Loan Documents;
    - c. Failure of Assignor to comply with or to perform any other material term, obligation, covenant or condition contained in any other agreement between Assignee and Assignor;

- d. The occurrence of any Event of Default under the Loan Documents or any other documents related to loans or financial accommodations extended by Assignee to Assignor or any of its affiliates; and
- e. The default by the Assignor under the terms of the Lease.

7. **RIGHTS AND REMEDIES ON DEFAULT.** If an Event of Default occurs under this Assignment, Assignor hereby authorizes the Assignee, at its option, to enter and take possession of the Railcar and to manage and operate the same, to collect all or any rents accruing therefrom, to lease or re-lease said Railcar or any part thereof, to cancel and to modify the Leases, to bring or defend any suits in connection with the possession of the Railcar in its own name or Assignor's name, to make repairs as Assignee deems appropriate, and to perform such other acts in connection with the management and operation of said Railcar as the Assignee, in its discretion, may deem proper. The receipt by the Assignee of any rents, issues or profits pursuant to this Agreement after the institution of foreclosure or any other proceedings under the Loan Documents or otherwise shall not cure such default nor affect such proceedings or any sale pursuant thereto.

8. **INDEMNIFICATIONS.** Assignee shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Assignor under Lease or any future leases, and the Assignor hereby agrees to indemnify the Assignee for, and to save it harmless from, any kind and all liability arising from any of said leases or from this assignment, and this assignment shall not place responsibility for the control, care, management or repair of the Railcar upon the Assignee nor make the Assignee responsible or liable for any negligence in the management, operation, upkeep, repair or control of said Railcar resulting in loss or injury or death to any tenant, licensee, employee or stranger.

9. **ADDITIONAL OBLIGATIONS.** Any expenditures made by the Assignee in curing any default on the Assignor's behalf, with interest thereon at the highest rate for which it is now lawful to contract, shall become part of the debt secured by this Assignment and the other Security Documents.

10. **MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this assignment:

- a. **Additional Assurances.** The Assignor will, on request of the Assignee, execute any other documents or instruments that Assignee deems necessary or appropriate to evidence the assignment granted hereby and assignments of any future leases affecting any part of the property leased pursuant to the Lease.
- b. **Termination of Assignment.** The full performance of said Promissory Note and Security Agreement and the duly recorded release or satisfaction of said Promissory Note and Security Agreement shall render this assignment void.
- c. **Absolute Assignment.** Notwithstanding any provisions herein to the contrary, this Assignment is intended to be an absolute assignment from Assignor to Assignee and not

merely the passing of a security interest. The rents and leases are hereby assigned absolutely by Assignor to Assignee, even prior to the occurrence of a default.

- d. **Amendments.** This Assignment, together with any other Loan Documents and any other documents related to loans or financial accommodations extended by Assignee to Assignor or any of its affiliates, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Assignment. No alteration of or amendment to this Assignment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- e. **Applicable Law.** This Assignment has been delivered to Assignee and accepted by Assignee in the Commonwealth of Kentucky.
- f. **SUBMISSION TO JURISIDCTION AND VENUE.** IF THERE IS A LAWSUIT, ASSIGNOR AGREES UPON ASSIGNEE'S REQUEST TO SUBMIT TO THE JURISIDCTION OF THE COURTS OF THE COMMONWEALTH OF KENTUCKY AND THE LAYING OF VENUE IN THE COURTS OF MCCREARY COUNTY, KENTUCKY.
- g. **Governing Law.** This assignment shall be governed by and constructed in accordance with the laws of the Commonwealth of Kentucky without regard to conflict of laws principles.
- h. **Attorneys' Fees; Expenses.** Assignor agrees to pay upon demand all of Assignee's reasonable costs and expenses, including reasonable attorneys' fees and Assignee's legal expenses, incurred in connection with the enforcement of this Assignment. Assignee may pay someone else to help enforce this Assignment, and Assignor shall pay the reasonable costs and expenses of such enforcement. Costs and expenses include Assignee's reasonable attorneys' fees and legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and legal expenses for bankruptcy proceedings (and including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Assignor also shall pay all court costs and such additional fees as may be directed by the court.
- i. **Caption Headings.** Caption headings in this Assignment are for convenience purposes only and are not to be used to interpret or define the provisions of this Assignment.
- j. **Notices.** Unless otherwise specifically provided herein, any notice or other communication required or permitted to be given shall be in writing addressed to the respective party as set forth below and may be personally served, telecopied or sent by overnight courier service or United States mail certified or registered and shall be deemed to have been given: (i) if delivered in person, when delivered; (ii) if delivered by telecopy, on the date of transmission if transmitted on a Business Day before 4:00 p.m. (Eastern time) or, if not, on the next succeeding Business Day; (iii) if delivered by overnight courier, two Business Days after delivery to such courier properly addressed; or (iv) if by United States mail, four Business Days after deposit in the United States mail, postage prepaid and properly addressed. Notices shall be addressed as follows:

(i) in the case of the Assignor, to:

Crossroads Railcar Services, Inc.  
89 Railroad St.  
Stearns, KY 42647

(ii) in the case of the Assignee, to:

United Cumberland Bank  
47 S. Main St.  
Whitley City, KY 42653

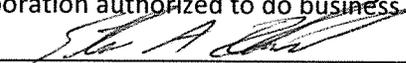
or in any case, to such other address as the party addressed shall have previously designated by written notice to the serving party, given in accordance with this Section. A notice not given as provided above shall, if it is in writing, be deemed given if and when actually received by the party to whom given.

- k. **Power of Attorney.** Assignor hereby appoints Assignee as its true and lawful attorney-in-fact, irrevocably, with full power of substitution to do the following upon the occurrence of an Event of Default: (i) to demand, collect, receive, receipt for, sue and recover all sums of money or other property which may now or hereafter becomes due, owing or payable from the Lease; (ii) to execute, sign and endorse any and all claims, instruments, receipts, checks, drafts or warrants issued in payments for the Lease; (iii) to settle or compromise any and all claims arising under the Lease, and, in the place and stead of Assignor, to execute and deliver its release and settlement for the claim; and (iv) to file any claim or claims or to take any action or institute or take part in any proceedings, either in its own name or in the name of the Assignor, or otherwise, which in the discretion of Assignee may seem to be necessary or advisable. This power is given as security for the Indebtedness of Assignor to Assignee, and the authority hereby conferred is and shall be irrevocable and shall remain in full force and effect until renounced by Assignee.
- l. **Notice to Lessee.** Assignor hereby authorizes the Assignee to give notice in writing of this assignment at any time to the Lessee under the Lease.
- m. **Severability.** If a court of competent jurisdiction finds any provision of this Assignment to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Assignment in all other respects shall remain valid and enforceable.

- n. **Successor Interests.** Subject to the limitations set forth above on transfer of the Lease, this Assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns.
- o. **Waiver.** Assignee shall not be deemed to have waived any rights under this assignment unless such waiver is given in writing and signed by Assignee. No delay or omission on the part of Assignee in exercising any right shall operate as a waiver of such right or any other right. A waiver by Assignee of a provision of this Assignment shall not prejudice or constitute a waiver of Assignee's right otherwise to demand strict compliance with that provision or any other provision of this Assignment. No prior waver by Assignee, nor any course of dealing between Assignee and Assignor, shall constitute a waiver of any of Assignee's rights or of any of Assignor's obligations as to any future transactions. Whenever the consent of Assignee is required under this Assignment, the granting of such consent by Assignee in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Assignee.
- p. **Applicability.** Each agreement, representation, warranty, and provision hereof shall be binding on Assignor.
- q. **Inconsistency.** To the extent that this Assignment is inconsistent or in conflict with any other agreement or assignment between the parties, the terms of this instrument shall govern.

IN WITNESS WHEREOF, the Assignor and the Assignee have caused this **Assignment** to be duly executed and delivered by their proper and duly authorized officers as of this 30<sup>th</sup> day of October 2015.

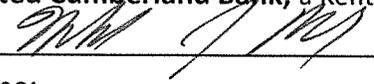
**CROSSROADS RAILCAR SERVICES, INC.,** An Indiana Corporation authorized to do business in Kentucky

By: 

Name:

Title:

**United Cumberland Bank,** a Kentucky bank

By: 

Name:

Title:

STATE OF KENTUCKY

COUNTY OF McCREARY, to-wit:

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of October, 2015, by Stephen Richards of Crossroads Railcar Services, Inc., a Indiana Corporation authorized to do business in Kentucky, on behalf of Crossroads Railcar Services, Inc.

My commission expires 09-04-2016

[Signature]  
Notary Public



STATE OF KENTUCKY

COUNTY OF McCREARY, to-wit:

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of October, 2015, by Michael Bush, Vice President, Commercial of United Cumberland Bank, a Kentucky bank, on behalf of United Cumberland Bank.  lending officer

My commission expires May 29, 2016

Amanda Vanover  
Notary Public



**EXHIBIT A**

**RAILCAR LEASE AGREEMENT**

See attached

## LEASE AGREEMENT

Dated this 5th day of October, 2015, by and between the Cincinnati Dinner Train, having its offices at 11013 Kenwood Road, Cincinnati, OH 45242 and Crossroads Railcar Services, having its mailing address at 87 K&T Railway Street, Stearns, KY 42647.

Cincinnati Dinner Train, an Ohio corporation owned jointly by Brian W. Collins and William Thomas, hereby agrees to lease the 1937 Budd built stainless steel railcar known as "Silver Fountain" under the following terms and conditions.

**LEASE TERM:** Two year renewable terms beginning on the date two weeks after the car is delivered to our railyard in Norwood Ohio. There must be a written notice of termination either by either party at least 180 days prior to the expiration of this lease. Otherwise this lease will automatically renew itself thereafter, running for two year terms.

**LEASE AMOUNT:** Cincinnati Dinner Train will pay Crossroads Railcar Services \$2900.00 per month, payable in advance and due at the first of each month.

**PAYMENT DEDUCTION:** CDT will deduct \$1000.00 per month for the first eight months of payments, which represents payment of \$8000.00 from Crossroads Railcar Services for the purchase price of the car from Cincinnati Scenic Railway. Cincinnati Dinner Train will forward \$1000.00 per month to Cincinnati Scenic Railway as payment for the car from Crossroads.

**LEASE INCREASE:** The lease amount of \$2900.00 shall remain fixed for the first two, two year terms and then can be increased a maximum of 5% for the third term and another 5% for the fourth term.

**COT&S:** Cincinnati Dinner Train will pay for the cost of the current valves to be rebuilt and Crossroads Railcar Services will pay for all service, time and labor and travel expenses to complete the four year service. The car will be delivered with a current COT&S to start.

**MINOR REPAIRS AND MAINTENANCE:** Cincinnati Dinner Train will pay for all minor repairs such as light bulbs, carpet cleaning, broken toilets, hardware, shades, and normal wear and tear inside the car.

**MAJOR REPAIRS AND MAINTENANCE:** Crossroads Railcar Services will pay for major repairs such as wheels and axels, HEP cable and connections, windows, waste tanks, water tanks, electrical closets, springs etc.

**CINCINNATI DINNER TRAIN FREE OR DISCOUNTED TICKETS:** Crossroads Railcar Services will pay Cincinnati Dinner Train for any and all free dinner train tickets they must give to the Pat Rose group or the Jack Avril group, both of which demanded free use on Cincinnati Dinner Train in return for giving up their interest in the car. Free discounted tickets will be void if the lease is not renewed.

**WINTERIZATION:** Crossroads Railcar Services will be responsible for the winterization of the car once Cincinnati Dinner Train shuts down for the season.

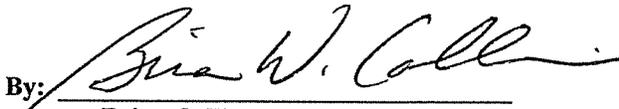
**INSURANCE:** Cincinnati Dinner Train will insure the car at their expense, through the master policy Cincinnati Railway Company maintains.

**PURCHASE OPTION:** Cincinnati Dinner Train or one or both of its owners shall have the first right of refusal to purchase the car if Crossroads Railcar Services should ever entertain thoughts of selling the car.

**AGREEMENT:** This lease contains the entire agreement between the parties and may not be changed, modified, terminated, or discharged except in writing, with both parties mutually agreeing to any such changes.

**CINCINNATI DINNER TRAIN**

**CROSSROADS RAILCAR SERVICES**

By:   
Brian Collins  
Managing Partner/Owner

By:   
Steven Richards  
Owner

Date: 10/5/2015

Date: 10/16/2015