

BROWN & DUNN^{PC}
ATTORNEYS AT LAW

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Thomas G. Stoll
Admitted in MO and KS

October 17, 2006

Via Priority Overnight U.S. Mail

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Room 700
Washington D.C. 20423

RECORDATION NO. 26633-A FILED

OCT 19 06

4-32 PM

SURFACE TRANSPORTATION BOARD

Dear Mr. Williams

I have enclosed two (2) signed originals of each of the documents described below to be recorded pursuant to Section 11301 of Title 49 of the U.S. Code:

1. Commercial Security Agreement, dated September 29, 2006. This document is a Security Agreement, and a "primary document" as defined in the Board's Rules for the Recordation of Documents.
2. A Collateral Assignment of Equipment Lease. This document is a Collateral Assignment of Lease, and a primary document.

The names and addresses of the parties to both documents are as follows:

Grantor/Borrower: Christopher P. Mnichowski
9051 W 194th Terrace
Bucyrus, KS 66013

Lender: Valley View State Bank
7500 West 95th Street
Overland Park, KS 66212

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

25 covered hopper railcars bearing the following road marks and numbers:

EAFX 5000	EAFX 5007	EAFX 5022	EAFX 5031
EAFX 5001	EAFX 5008	EAFX 5025	EAFX 5032
EAFX 5002	EAFX 5010	EAFX 5026	RRLX 5971

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EAFX 5003 EAFX 5011 EAFX 5027 RRLX 5992
EAFX 5004 EAFX 5012 EAFX 5028
EAFX 5005 EAFX 5013 EAFX 5029
EAFX 5006 EAFX 5014 EAFX 5030

A short summary of the documents to appear in the index follows:

1. Commercial Security Agreement
2. Collateral Assignment of Lease

Also enclosed is a check in the amount of \$148.00 payable to the order of the Surface Transportation Board covering the required recordation fee. Please return stamped copies of the enclosed documents to the undersigned with the envelope provided. Thank you.

Very Truly Yours,



Thomas G. Stoll

TGS/cml
Enclosures
cc: Chris Calvert

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October 19, 2006

Ms. Karen January
Surface Transportation Board
1925 K Street, N.W.
Room 700
Washington D.C. 20423

Re: Recordation of Rail Logistics/Chris Mnichowski Documents

Dear Karen:

Per our conversation, enclosed is a check for \$68.00 made payable to the Surface Transportation Board. Please call if you have any questions. Thank you.

Very Truly Yours,


Thomas G. Stoll

TGS/cml
Enclosure

OCT 19 '06

4:32 PM

COLLATERAL ASSIGNMENT OF EQUIPMENT LEASE

SURFACE TRANSPORTATION BOARD

THIS COLLATERAL ASSIGNMENT OF EQUIPMENT LEASE ("**Assignment**") dated effective as of September 29, 2006, is made for the benefit of **Valley View State Bank**, a Kansas banking corporation, 7500 West 95th St., Overland Park, Kansas 66212 (together with its successors and assigns hereinafter "**Lender**") by **Christopher P. Mnichowski**, an individual, 9051 W. 194th Terrace, Bucyrus, Kansas 66013 ("**Borrower**").

RECITALS:

A. Borrower is the owner of twenty five (25) covered hopper railcars (the "**Equipment**"). Borrower has leased the Equipment to a certain third party pursuant to the following written lease agreement: Master Car Leasing Agreement and Service Contract dated October 1, 2006 (ML #1088) together with Contract Riders Nos. 1088ML.1 and 1088ML.2, by and between Borrower as lessor, and Rail Logistics, L.C., a Kansas limited liability company, 6600 College Blvd., Suite 310, Overland Park, Kansas 66211 as lessee, a true and correct copy of said lease is attached hereto as **Exhibit A** (collectively the "**Lease**").

B. Borrower has asked Lender to extend credit to Borrower in the amount of \$375,000.00 (**Loan No. 85777**) (the "**Loan**") pursuant to the terms of the "**Note**" and other "**Loan Documents**" (as defined below).

C. As a condition for the loan evidenced by the Note, Lender has required Borrower to execute and deliver this Assignment.

NOW THEREFORE, to induce Lender to make the loan evidenced by the Note, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower hereby agrees as follows:

1. DEFINITIONS.

As used herein the following terms shall mean:

1.1 "Debt" means all: **a)** obligations owed by Borrower to Lender under the Loan Documents and/or applicable law; and **b)** interest and costs, including but not limited to attorneys' fees and expenses, incurred by Lender in originating, documenting, administering, collecting, enforcing, or compromising any of the foregoing.

1.2 "Guaranty" or "Guaranties" means any guaranty of payment, collection, or performance by any person ("**Guarantor**") of the Lease or Rents (as defined below) and any obligations thereunder, and any amendments or modifications thereof.

1.3 "Lease" has the meaning ascribed to such term in Recital A above, and all extensions, renewals, and modifications thereof.

1.4 "Loan Documents" means the Note, the Commercial Security Agreement, the Business Loan Agreement and all other documents and instruments executed in connection with the Note and Loan together with all modifications and amendments thereof.

1.5 "Note" means that certain Promissory Note executed by Borrower of even date herewith in the original principal amount of \$375,000.00 payable to the order of Lender.

1.6 "Pledged Assets" means the Lease and all other collateral described in the Loan Documents.

1.7 "Rents" means all past due, present and future consideration and payments made or to be made by any person or entity pursuant to the Lease or for any other purpose in connection with the Equipment or any portion thereof, together with all royalties, rents, revenues, income, proceeds, security deposits, credit card payments made and to be made, profits, benefits, and payments of any kind generated by the Lease. The term shall also include any payments made pursuant to any Guaranty.

1.8 "Lessee" means those parties who have the right to possess the Equipment under the Lease.

2. GRANT OF ASSIGNMENT.

2.1. CONVEYANCE OF LEASE AND RENTS.

For good and valuable consideration, receipt of which is hereby acknowledged, Borrower hereby absolutely and unconditionally **GRANTS, TRANSFERS, SETS OVER, AND ASSIGNS** to Lender, and grants to Lender a lien on and security interest in, all of Borrower's right, title, and interest in and to the Lease, the Rents, the Guaranties, and all accounts, contract rights, and general intangibles relating to any of the foregoing and all products and proceeds thereof. Lender shall be entitled to receive all of Borrower's benefits thereunder and exercise all of Borrower's rights arising therefrom.

2.2. STATUS OF RENTS.

During the term of this Assignment, Borrower agrees that: **a)** Lender shall have a perfected, absolute, and present assignment of the Rents; **b)** the Rents are no longer Borrower's property or the property of Borrower's estate, as defined in Title 11, United States Code; and **c)** the Rents will not constitute collateral, cash or otherwise.

2.3. LICENSE.

Until the occurrence of an Event of Default, Borrower shall have a revocable license to collect the Rents when due and apply them for the benefit of Borrower or the Debt, as Borrower shall reasonably determine.

3. WARRANTIES.

Borrower warrants that: **a)** Borrower is the sole owner of the lessor's interest in the Lease, the Rents, the Guaranties, and all other property assigned or encumbered hereunder, free and clear of all other liens and encumbrances; **b)** Borrower has good right, title, and interest in and to the Equipment; **c)** the Lease and Guaranties: **i)** are valid and enforceable; **ii)** are not in default; and **iii)** have not been altered or modified; **d)** no Rents under the Lease have been assigned, waived, discounted, compromised, released, or anticipated; **e)** no Rents under the Lease have been collected prior to their due dates; and **f)** Borrower has the authority to execute and deliver this Assignment and to perform Borrower's obligations hereunder without creating any default under the Lease.

4. COVENANTS.

4.1. AFFIRMATIVE COVENANTS.

i) Borrower covenants to: **a)** promptly perform all obligations under the Lease; **b)** enforce the performance of all Lessee obligations under the Lease; **c)** deliver the Lease; **d)** execute future Lease only on forms pre-approved by Lender; **e)** pay or perform the Debt; **f)** promptly notify Lender of any claim by any guarantor of any Guaranty that such guarantor intends to assert any defense to liability under the Guaranty; and **g)** appear in and defend any action related to the Lease, the Rents, the Guaranties, or this Assignment, all at Borrower's sole cost.

ii) Borrower acknowledges and agrees that **a)** this Assignment is a collateral assignment for purposes of securing the Loan; **b)** Borrower has not by this Assignment delegated any of its duties to Lender; **c)** Lender shall not be obligated to perform any duties or obligations of lessor under the Lease, and Borrower shall perform all such obligations or lessor; **d)** Lender shall have no liability for Borrower's failure to perform all obligations and duties of lessor under the Lease, and Borrower shall indemnify and hold Lender harmless from all claims, damages, actions, liabilities, and costs, including without limitation Lender's attorneys' fees incurred by Lender in connection with any claim by any Lessee or any other party against Lender in connection with the Lease.

4.2. NEGATIVE COVENANTS.

Without Lender's prior written consent, Borrower covenants that Borrower shall not, nor shall Borrower allow any person to: **a)** borrow against, assign, pledge, or transfer Borrower's interest in the Equipment, Lease, Rents, or Guaranties, to any person other than Lender; **b)** subordinate the Lease to the lien of any person other than Lender; **c)** modify the terms of any Lease, nor waive, excuse, condone, nor release any Lessee of its obligations under any Lease, nor give any consent or exercise any option required or permitted under any Lease other than to renew a Lease upon the same terms and conditions; **d)** modify the terms of any Guaranty nor release any guarantor; or **e)** execute any future Lease.

5. EVENTS OF DEFAULT.

The following shall be "**Events of Default**" under this Assignment:

5.1. FAILURE TO PERFORM.

Borrower's failure to pay or perform any of the Debt.

5.2. REPRESENTATIONS, WARRANTIES, COVENANTS, OBLIGATIONS.

Any of the representations and warranties contained herein shall be untrue, inaccurate, or misleading at any time during the term of this Assignment, or Borrower shall fail to timely perform or fulfill any covenant or other obligation hereunder.

5.3. TERMINATION OR MODIFICATION OF LEASE OR RELEASE OF LESSEE.

The termination for any reason of any Lease or the release of any Lessee of any obligations thereunder, or any modification of any Lease without the prior written consent of Lender.

5.4. LOAN DOCUMENT DEFAULT.

An event of default occurs and remains uncured under any Loan Document.

5.5. DEFAULT UNDER GUARANTIES.

Any: **a)** default under the Guaranties; **b)** action or inaction which may give rise to a claim that the guarantor is not or will no longer be bound under the Guaranty.

5.6. MODIFICATION OF THE GUARANTY OR RELEASE OF ANY GUARANTOR.

The release of any Guarantor of any obligations under the respective Guaranty, or any modification of any Guaranty without the prior written consent of Lender.

6. REMEDIES.

At any time that an uncured Event of Default is outstanding, Borrower's license to collect the Rents shall terminate upon Lender's written notice to Borrower and Lessees. In addition to the remedies available to Lender under the Uniform Commercial Code, Lender may, at its option, with or without notice, exercise any remedy under the Loan Documents, applicable law, and/or principles of equity, including but not limited to the following:

6.1. ACCELERATE INDEBTEDNESS.

Declare the Debt immediately due and payable.

6.2. MODIFY LEASE.

Modify the Lease, terminate Lease, and do any acts which Lender deems proper to protect its security interest.

6.3. NOTICE OF DEFAULT TO LESSEES.

Send written demand to the Lessees for payment of all Rents directly to Lender.

6.4. COLLECTION OF RENTS.

Lender may collect Rents with or without taking possession of the Equipment.

6.5. APPLICATION OF RENTS TO PAYMENTS.

Apply Rents to the payment of: **a)** all costs of collecting the Rents, including attorneys' fees; **b)** all costs of managing, improving, operating, repairing, and maintaining the Equipment; and **c)** all Deb, all in the order and manner as Lender shall determine in its sole discretion.

6.6. RELEASE OF DEBT.

Take or release other security for the Debt, release any party primarily or secondarily liable therefor, and apply any other security held by Lender to the satisfaction of the Debt without prejudice to any of Lender's rights under this Assignment.

6.7. SALE OF COLLATERAL.

Take any action deemed necessary to transfer Lender's right, title, and interest in the Lease, Rents, and Guaranties to any person in connection with a foreclosure proceeding or otherwise.

6.8. ACCOUNTING FOR RENTS.

Require Borrower to hold the Rents solely for Lender's benefit and to account for and immediately deliver the Rents to Lender. Borrower shall not commingle Rents with Borrower's other funds. Rents which accrue prior to the occurrence of an Event of Default but are paid thereafter shall be immediately delivered to Lender.

6.9. NO WAIVER BY LENDER.

Nothing contained in this Assignment and no act done or omitted by Lender pursuant to the powers and rights granted hereunder shall be deemed to be a waiver by Lender of its remedies under the Loan Documents. This Assignment is made and accepted without prejudice to any of the remedies available to Lender under the Loan Documents.

6.10. SURVIVAL.

This Assignment shall survive any merger of the interests of the parties to the Lease, and the Lease shall remain in full force and effect.

7. ATTORNMENT AUTHORIZATION.

This Assignment directs and authorizes all Lessees and those persons obligated under the Guaranties ("Guarantors") to pay Rents to Lender without requiring proof of default. Borrower presently and irrevocably authorizes all Lessees and Guarantors to rely upon and comply with any notice from Lender for the payment of Rents. Borrower shall have no claim against any Lessee or Guarantor for Rents paid to Lender.

8. NO LIABILITY.

Lender shall not be liable for any loss sustained by Borrower or any other person resulting from: **a)** Lender's failure to lease the Equipment, or **b)** Lender's exercise of any rights granted hereunder or under the Loan Documents. Borrower agrees that this Assignment does not: **v)** obligate Lender to improve, operate, repair, or maintain the Equipment; **w)** conflict with the terms of the Lease; **x)** make Lender responsible for any damage to the Equipment by the Lessees or any other person; **y)** make Lender responsible for any dangerous or defective condition of the Equipment; or **z)** make Lender responsible for any negligence in the operation, management, improvement, repair, or maintenance of the Equipment resulting in loss, injury, or death to any person. Borrower shall indemnify Lender and hold Lender harmless from all liability, loss, or damage which it may incur under the Lease or this Assignment. If Lender incurs any liability under the Lease or this Assignment, the amount of such liability shall be included in the Debt.

9. ATTORNEY IN FACT.

Borrower hereby makes, constitutes, and appoints Lender as its attorney in fact, which appointment shall be coupled with an interest and shall be irrevocable until the Debt is satisfied, to do the following: **a)** execute, acknowledge, endorse, obtain, and deliver any and all instruments, documents, or other items which may be necessary to receive and enforce performance of the Lease by the Lessees or the Guaranties by the guarantors; **b)** give any notice to the Lessees or the guarantors deemed appropriate by Lender; **c)** enforce, compromise, settle, or discharge any of Borrower's claims arising from the Lease or the Guaranties; and **d)** file any claim or take any action, either in its name or in Borrower's name, to enforce or preserve Lender's rights under the Lease or the Guaranties.

10. NOTICES.

All communications required hereunder or in the Loan Documents shall be given to Borrower and Lender at their respective addresses set forth in this Assignment, or at such other addresses as either party may designate by notice given in accordance with the terms of this section. All communications required or permitted pursuant to this Assignment shall be legible and shall be deemed to have been properly given and received: **a)** if sent by hand delivery, then upon such delivery; **b)** if sent by nationally known overnight courier, then on the next business day after dispatch; and **c)** if mailed by registered or certified U.S. Mail, postage prepaid and return receipt requested, then 3 days after deposit in the mail. The writing shall be deemed legible unless the recipient of the notice notifies the sender to the contrary within one business day after receipt of the notice.

11. MISCELLANEOUS.

a) This Assignment shall be binding on Borrower and Borrower's successors and assigns and shall inure to the benefit of Lender and Lender's successors and assigns.

b) Headings are inserted into this Assignment for convenience only and shall not be considered in construing any provision.

c) This Assignment may not be modified, nor any of its provisions waived, without Lender's prior written consent.

d) Time shall be of the essence of this Assignment, but no delay or deferral in exercising any remedies after an Event of Default shall be deemed a waiver of such remedies.

e) The provisions of this Assignment are separable. If any judgment is hereafter entered holding that any provision of this Assignment to be invalid or unenforceable, then the remainder of this Assignment shall not be affected by such judgment, and the remaining terms of this Assignment shall be carried out as nearly as possible according to its original terms.

f) The term "**person**" includes, but is not limited to natural persons, corporations, partnerships, trusts, trustees, limited liability companies, joint ventures, and/or other legal entities.

g) Borrower agrees that Lender shall not be a mortgagee in possession if Lender takes any action pursuant to this Assignment.

h) The recitals listed above form an integral part of this Assignment.

i) Any exhibits to this Assignment are incorporated into this Assignment by reference as if fully set forth herein.

j) The term "**modify**" and its derivatives means amend, restate, change, extend, renew, alter, terminate, or cancel.

k) This Assignment may be executed in counterparts, each of which shall be deemed an original and all of which together constitute one and the same instrument.

12. NO ORAL AGREEMENTS.

The following is included in this Agreement pursuant to K.S.A. § 16-118(b):

This Agreement and all the Loan Documents collectively constitute the written credit agreement which is the final expression of the credit agreement between Borrower and Lender.

This Agreement and all the Loan Documents may not be contradicted by evidence of any prior oral credit agreement or of a contemporaneous oral credit agreement between Borrower and Lender.

The following space (which Borrower and Lender agree is sufficient space) is provided for the placement of nonstandard terms, if any:

[None]
_____.

Borrower and Lender affirm that there is no unwritten oral credit agreement between Borrower and Lender with respect to the subject matter of this Agreement and the other Loan Documents.

13. CHOICE OF LAW; VENUE.

This Assignment shall be deemed to have been executed and shall be performed in the State of Kansas and shall be governed by its laws except to the extent the laws of the State in which the Pledged Assets are located affect enforceability of the liens granted in the Loan Documents. Borrower irrevocably agrees that subject to Lender's sole and absolute election, Lender may bring suit, action, or other legal proceedings arising out of the Loan Documents in courts located in Johnson County, Kansas or the State in which the Pledged Assets are located, whether local, state, or federal. Borrower hereby submits to the jurisdiction of such court(s) and waives any right Borrower may have to request a change of venue or a removal to another court.

14. WAIVER OF JURY TRIAL.

Borrower hereby irrevocably and severally: a) waives the right to a trial by jury in any action or proceeding brought by any party in connection with this Assignment; b) has made this waiver knowingly, intentionally, and voluntarily; c) acknowledges no reliance upon any oral or written statements made by Lender or on Lender's behalf, either to induce this waiver of trial by jury or to modify or nullify its effect, other than those contained herein; d) acknowledge reading and understanding the meaning and ramifications of this waiver provision; and e) agree to take all such actions as may be required by applicable law to allow this waiver to be enforceable. By accepting this Assignment, Lender waives the right to a trial by jury in any action or proceeding brought by any party in connection with this Assignment.

15. REPRESENTATION BY COUNSEL.

Borrower hereby represents that **1)** it has been represented by competent counsel of its choice, or has had the opportunity to engage such counsel, in the negotiation and execution of this Assignment and the other Loan Documents, **2)** it has read and fully understands the terms hereof, **3)** Borrower and its counsel have been afforded an opportunity to review, negotiate, and modify the terms of this Assignment and that Borrower intends to be bound hereby. In accordance with the foregoing, the general rule of construction to the effect that any ambiguities in a contract are to be resolved against the party drafting the contract shall NOT be employed in the construction and interpretation of this Assignment.

In Witness Whereof, Borrower has signed and delivered this Assignment on the day and year first above written.

BORROWER:

Christopher P. Mnichowski
Christopher P. Mnichowski

ACKNOWLEDGEMENT

STATE OF KS)
COUNTY OF JO) ss.

On this 29 day of September, 2006, before me personally appeared Christopher P. Mnichowski, an individual, to me known to be the person described in and who executed the within and foregoing instrument, and acknowledged said instrument to be his free and voluntary act and deed.

In Witness Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

Simone O'Sorman
Notary Public for the State of KS

My Commission Expires: 4/28/07

