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April 14, 2008

Honorable Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D. C. 20423

RECORDATION NO. 20144 G **FLUD**

APR 14 '08 -9 4 7 AM

**SURFACE TRANSPORTATION BOARD**

Dear Acting Secretary Quinlan:

I have enclosed for e-filing the document described below, to be recorded pursuant to 49 U.S.C. § 11301.

The document is a Partial Termination of Lease, a secondary document, dated as of April 11, 2008. The primary document to which this is connected is recorded under Recordation No. 20144. We request that one copy of this document be recorded under Recordation No. 20144-G.

The names and addresses of the parties to the Termination of Lease are:

Lessor:

The Fifth Third Leasing Company  
38 Fountain Square Plaza  
Cincinnati OH 45202

Lessee:

Dakota, Minnesota & Eastern Railroad Corporation  
140 North Phillips Ave.  
Sioux Falls, SD 57101

A description of the equipment covered by the Termination of Lease consists of 30 covered hopper cars numbered DME 51200-51229, inclusive.

Honorable Anne K. Quinlan

April 14, 2008

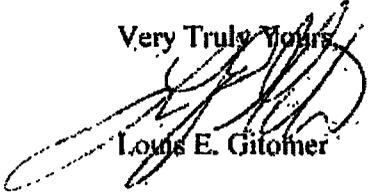
Page 2

A fee of \$ 35.00 is enclosed. Please return the original to:

Louis E. Gitomer  
Of Counsel  
Ball Janik LLP  
Suite 225  
1455 F Street, N.W.  
Washington, DC 20005

A short summary of the document to appear in the index follows: a Termination of Lease between The Fifth Third Leasing Company, 38 Fountain Square Plaza, Cincinnati OH 45202, and Dakota, Minnesota & Eastern Railroad Corporation, 140 North Phillips Ave., Sioux Falls, SD 57101, covering 30 covered hopper cars numbered DME 51200-51229, inclusive.

Very Truly Yours,

  
Louis E. Gitomer

Enclosures

APR 14 '08 -9 4 7 AM

## PARTIAL TERMINATION OF LEASE

## SURFACE TRANSPORTATION BOARD

THIS PARTIAL TERMINATION OF LEASE is made as of April 11, 2008 by The Fifth Third Leasing Company, assignee and successor in interest to Banc of America Leasing & Capital, LLC, as Lessor, and Dakota, Minnesota & Eastern Railroad Corporation, as Lessee.

## WITNESSETH:

WHEREAS, The Railroad Equipment identified in the Attachment hereto was leased from Lessor to Lessee pursuant to: (1) that certain Master Equipment Lease Agreement No. 02034-00300 (the "Master Lease") dated as of April 9, 1996 between NationsBanc Leasing Corporation ("NationsBanc"), as lessor, and Lessee, which was recorded at the Surface Transportation Board (the "STB") on June 19, 1996 at 1:45 pm under Recordation No. 20144; (2) that certain Equipment Lease Schedule Number 2 dated as of July 29, 1996 between NationsBanc, as lessor, and Lessee, which incorporates the terms and conditions of the Master Lease ("Equipment Schedule Number 2"), which was recorded at the STB on August 12, 1996 at 11:30 am under Recordation No. 20144-A; and (3) that certain Partial Assignment and Assumption Agreement dated as of August 30, 2002 between Banc of America Leasing & Capital, LLC, successor by merger to NationsBanc, as assignor, and Lessor, and The Fifth Third Leasing Company, as assignee, (the "Partial Assignment") which was recorded at the STB on August 30, 2002 at 2:30 pm under Recordation No. 20144-E (the Master Lease, Equipment Schedule Number 2, and the Partial Assignment shall collectively be referred to as the "Lease"); and

WHEREAS, Subject to the terms and conditions of the Lease, the Lessee wishes to exercise the early termination option in connection with thirty (30) covered hopper cars relating to Equipment Schedule Number 2 as specifically described in the Attachment hereto;

NOW, THEREFORE, the parties hereto agree as follows:

1. The parties hereby acknowledge that Lessee shall exercise its early termination option under the Lease in connection with the Railroad Equipment identified in the Attachment hereto.
2. The Lease termination shall occur concurrently with the satisfaction of those certain terms and conditions more particularly set forth in that certain Sale and Purchase Agreement between Lessor and Monza Acquisitions, LLC, as Buyer dated \_\_\_\_\_, 2008 (the "Purchase Agreement"). The parties acknowledge that satisfaction of Buyer's obligations under the Purchase Agreement is a condition precedent to the Lease termination.
3. Upon receipt of the Purchase Price (as defined in the Purchase Agreement), and verification of good defeasible funds, the Lease shall terminate as to the Railroad Equipment identified in the Attachment hereto, and such Lease termination shall be officially terminated in the files of the STB and if applicable, Lessor shall terminate any

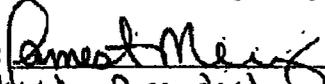
other financing statements which it filed to evidence its interest in the Railroad Equipment .

4. Lessor and Lessee further agree this termination does not apply to provisions of the Lease stated to survive such termination.
5. Lessor and Lessee agree to execute and deliver such other instruments and take such other actions, as each may reasonably request in order to effect or evidence the purpose of this Agreement and the terminations set forth herein or contemplated hereby.

IN WITNESS WHEREOF, the parties hereto have caused this Partial Termination of Lease to be duly executed as of the date hereinabove first written.

The Fifth Third Leasing Company

Dakota, Minnesota & Eastern Railroad Corporation

By:   
Title: Vice President

By: \_\_\_\_\_  
Title: \_\_\_\_\_

other financing statements which it filed to evidence it's interest in the Railroad Equipment .

4. Lessor and Lessee further agree this termination does not apply to provisions of the Lease stated to survive such termination.
5. Lessor and Lessee agree to execute and deliver such other instruments and take such other actions, as each may reasonably request in order to effect or evidence the purpose of this Agreement and the terminations set forth herein or contemplated hereby.

IN WITNESS WHEREOF, the parties hereto have caused this Partial Termination of Lease to be duly executed as of the date hereinabove first written.

The Fifth Third Leasing Company

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Dakota, Minnesota & Eastern Railroad Corporation

By:   
Title: \_\_\_\_\_  
Kurt V. Foester, Chief Financial Officer  
Treasurer & Ass't Secretary

State of OH )  
 ) ss.  
County of Hamilton )

On this 11 day of April, 2008, before me personally appeared JAMES A. WELZ to me personally known, who, being by me duly sworn, says that (s)he is VP of The Fifth Third Leasing Company, and that (s)he is duly authorized to sign the foregoing instrument on behalf of The Fifth Third Leasing Company, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of The Fifth Third Leasing Company.

Elaine Ellis  
Notary Public

My commission expires:

**ELAINE ELLIS**  
Notary Public, State of Ohio  
My Commission Expires Sept. 14, 2012



State of South Dakota )  
 ) ss.  
County of Minnehaha )

On this \_\_\_ day of April, 2008, before me personally appeared \_\_\_\_\_ to me personally known, who, being by me duly sworn, says that (s)he is \_\_\_\_\_ of Dakota, Minnesota & Eastern Railroad Corporation and that (s)he is duly authorized to sign the foregoing instrument on behalf of Dakota, Minnesota & Eastern Railroad Corporation, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of Dakota, Minnesota & Eastern Railroad Corporation.

\_\_\_\_\_  
Notary Public

My commission expires:

State of )  
 ) ss.  
County of )

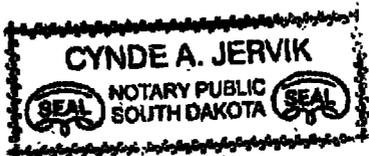
On this \_\_\_ day of April, 2008, before me personally appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, says that (s)he is \_\_\_\_\_ of The Fifth Third Leasing Company, and that (s)he is duly authorized to sign the foregoing instrument on behalf of The Fifth Third Leasing Company, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of The Fifth Third Leasing Company.

\_\_\_\_\_  
Notary Public

My commission expires:

State of South Dakota )  
 ) ss.  
County of Minnehaha )

On this 11 day of April, 2008, before me personally appeared Kurt V. Fenster to me personally known, who, being by me duly sworn, says that (s)he is CEO of Dakota, Minnesota & Eastern Railroad Corporation and that (s)he is duly authorized to sign the foregoing instrument on behalf of Dakota, Minnesota & Eastern Railroad Corporation, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of Dakota, Minnesota & Eastern Railroad Corporation



Cynde A. Jervik  
Notary Public

My commission expires: 6-15-12

## **ATTACHMENT**

**The Railroad Equipment consists of 30 covered hopper cars numbered DME 51200-51229, inclusive.**