

REGISTRATION NO. 24454-A FILED

MAY 15 '03 2-19 PM

SURFACE TRANSPORTATION BOARD

OF COUNSEL
URBAN A. LESTER

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

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

May 15, 2003

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

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are three (3) copies of an Assignment and Assumption Agreement, dated as of May 15, 2003, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Assignment and Assumption Agreement which is being filed with the Board under Recordation Number 24454.

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

Seller: Babcock & Brown Rail Funding LLC
c/o Babcock & Brown LP
230 Park Avenue
New York, NY 10169

Buyer: BBRM Title Holding SPC #1 LLC
c/o Babcock & Brown LP
230 Park Avenue
New York, NY 10169

Mr. Vernon A. Williams
May 15, 2003
Page Two

Head Lessor: Lloyds TSB Equipment
Leasing (No. 5) Limited
C/o Lloyds TSB Leasing
25 Gresham Street
London EC2V 7HN
England

Head Lessee: North America Rail Leasing
#1 LLC
(d/b/a Babcock & Brown Rail Leasing)
c/o Babcock & Brown LP
230 Park Avenue
New York, NY 10169

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

165 boxcars UP 354450 – UP 354614

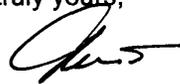
A short summary of the document to appear in the index follows:

Assignment and Assumption Agreement

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

Kindly return one stamped copy of the enclosed documents to the
undersigned.

Very truly yours,



Robert W. Alvord

RWA/anr
Enclosures

RECORDATION NO. 24454-A

MAY 15 '03 2-19 PM

SURFACE TRANSPORTATION BOARD

EXECUTION
VERSION

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement dated as of May 15, 2003 (this "Agreement"), is among Babcock & Brown Rail Funding LLC, a Delaware limited liability company (the "Seller"), BBRM Title Holding SPC #1 LLC, a Delaware limited liability company (the "Buyer"), Lloyds TSB Equipment Leasing (No. 5) Limited, a limited liability company organized under the laws of England and Wales (as assignee of BBRM Sub #1 LLC) (the "Head Lessor") and North America Rail Leasing #1 LLC (d/b/a Babcock & Brown Rail Leasing), a Delaware limited liability company (the "Head Lessee").

Witnesseth:

WHEREAS, the Buyer and the Seller have entered into that certain Purchase Agreement (BBRL I) dated as of May 13, 2003 (as amended, modified or supplemented, the "Purchase Agreement"), providing for the purchase of the Ownership Interest by the Buyer from the Seller, subject to the terms and conditions set forth therein; and

WHEREAS, the Buyer and the Head Lessor have entered into that certain Conditional Sale Agreement (BBRL I) dated as of May 13, 2003 (as amended, modified or supplemented, the "Conditional Sale Agreement"), providing for the purchase of the Conditional Ownership Interest by the Head Lessor from the Buyer, subject to the terms and conditions set forth therein; and

WHEREAS, the Head Lessor and the Head Lessee have entered into that certain Master Railcar Head Lease Agreement dated as of May 13, 2003 (as amended, modified or supplemented, the "Head Lease"), pursuant to which the Head Lessor has agreed, among other things, to lease the Equipment to the Head Lessee and to assign the Lease to the Head Lessee, subject to the terms and conditions set forth therein; and

WHEREAS, the Purchase Agreement contemplates the execution and delivery of this Agreement by the Seller, the Buyer, the Head Lessor and the Head Lessee on the date hereof.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows.

1. Definitions. Capitalized terms used herein without definition shall have the meanings assigned to them in Section 4 of this Agreement.

2. Assignment. Effective as to each item of Equipment on the Funding Date: (a) the Seller transfers to the Buyer all of the Seller's rights, title and interest, except as reserved under Section 2.1 of the Purchase Agreement, in and to such item and assigns to the Buyer all of the Seller's rights and obligations, except to the extent constituting Existing Obligations (as defined in the Purchase Agreement), under each of the Assigned Operative Agreements (as defined below), (b) the Buyer transfers to the Head Lessor all of the Buyer's rights, title and interest,

except as reserved under Section 2.1 of the Conditional Sale Agreement, in and to such item and assigns to the Head Lessor all of the Buyer's rights and obligations, except to the extent constituting Existing Obligations (as defined in the Conditional Sale Agreement), under each of the Assigned Operative Agreements and (c) the Head Lessor assigns to the Head Lessee all of the Head Lessor's rights and obligations, except to the extent constituting Existing Obligations (as defined in the Head Lease) under each of the Assigned Operative Agreements. The "Assigned Operative Agreements" shall mean the following documents:

- (i) the Lease;
- (ii) Rider No. 1 to Master Lease Agreement dated as of September 30, 2002, by and between the Seller and Union Pacific Railroad Company, to the extent the same relates to the Equipment;
- (iii) Amendment No. 1 to Lease Rider No. 1 entered into effective on February 25, 2003, by and between the Seller and Union Pacific Railroad Company, to the extent the same relates to the Equipment;
- (iv) Memorandum of Master Lease Agreement and Rider No. 1 made and entered into as of September 30, 2002, by and between the Seller and Union Pacific Railroad Company, to the extent the same relates to the Equipment;
- (v) Certificate of Acceptance dated as of September 30, 2002 executed by Union Pacific Railroad Company;
- (vi) Bill of Sale dated February 11, 2003, from Gunderson, Inc. to the Prior Seller and the Certificate of Acceptance executed by the Prior Seller in relation to the railcars identified in such Bill of Sale.
- (vii) Letter Agreement dated February 26, 2003, between the Seller and the Prior Seller;
- (viii) Purchase Agreement [GLC/BBRF] dated as of February 26, 2003, between the Seller and the Prior Seller;
- (ix) the Assignment and Assumption Agreement dated as of February 26, 2003 between the Seller and the Prior Seller; and
- (x) the Bill of Sale dated February 26, 2003 from the Prior Seller;

provided that for purposes of the assignment to the Head Lessee described in Section 2(c), "Assigned Operative Agreements" shall not include the documents described in clauses (vi), (viii) and (x) above.

Notwithstanding the foregoing, each of the Seller, the Buyer, the Head Lessee and the Head Lessor, as the case may be, shall continue to be entitled to the benefit of any applicable rights to indemnification for tax and other matters which arose or may arise from or be related to

any event or circumstance occurring or in existence prior to the Funding Date, as specified in each of the Purchase Agreement, Conditional Sale Agreement and Head Lease, as applicable.

3. Acceptance of Assignment; Assumption of Obligations; Effect of Assignment.

(a) Each of the Buyer, the Head Lessor and the Head Lessee the accepts the assignments contained in Sections 2(a), 2(b) and 2(c), respectively.

(b) In respect of the period on and after the Funding Date, each of the Buyer, the Head Lessor and the Head Lessee assumes all obligations of the Seller or the relevant transferor, as the case may be, under, and agrees to be bound to the same extent as the Seller by all the terms of, the applicable Assigned Operative Agreements.

(c) Effective on and after the Funding Date, after giving effect to the transactions described herein, the Head Lessee or the Head Lessor, as the case may be, shall be deemed to stand in the place of the Seller for all purposes under the applicable Assigned Operative Agreements and each reference in the Assigned Operative Agreements to the Seller shall be deemed to mean the Head Lessee or the Head Lessor, as the case may be.

(d) Each of the Seller, the Buyer and the Head Lessor in respect of the period on and after the Funding Date, is released from all obligations of the lessor under the Assigned Operative Agreements, except to the extent constituting Existing Obligations under, and as described in the Purchase Agreement, the Conditional Sale Agreement or the Head Lease, as the case may be.

4. Definitions. Except as otherwise specified or as the context may otherwise require, the following terms have the respective meanings set forth below whenever used in this Agreement (terms defined in the singular to have a correlative meaning when used in the plural and vice versa).

Bill of Sale: as to any one or more items of Equipment, a bill of sale in the form of Exhibit 1 hereto.

Conditional Ownership Interest: as defined in Section 1.1(a) of the Conditional Sale Agreement.

Funding Date: as to any one or more items of Equipment and related Ownership Interest, the date of the Bill of Sale with respect thereto.

Equipment: the items of equipment listed on Exhibit A to Exhibit 1 hereto, together with each and every part, accessory, component and any equipment installed therein or attached thereto owned by the Seller (individually such railcars shall be referred to as an "item" or "items of Equipment").

Lease: Master Lease Agreement dated as of September 30, 2002, by and between the Seller, as lessor and the Lessee, as lessee, as amended, modified or supplemented from time to time.

Lessee: Union Pacific Railroad Company.

Ownership Interest: the Seller's rights, title and interest in and to the Equipment and the Seller's rights and obligations under the Assigned Operative Agreements, except the Existing Obligations.

Prior Seller: Greenbrier Leasing Corporation.

5. Amendments. No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

6. Notices. All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by Section 9.5 of the Purchase Agreement.

7. Headings. The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

8. Counterparts. This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

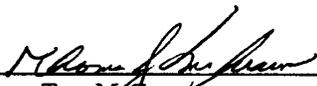
9. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the internal substantive laws of the State of New York, without giving effect to the conflict of law rules thereof, other than Section 5-1401 of the New York General Obligations Law.

10. Recordation. The parties hereto agree to record this Agreement with the Surface Transportation Board to evidence the assignment by the Seller to the Buyer, by the Buyer to the Head Lessor and by the Head Lessor to the Head Lessee of the Seller's, Buyer's and Head Lessor's rights and obligations under the Lease, respectively, if and only if the Lease has been recorded with the Surface Transportation Board.

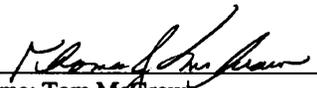
[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Assignment and Assumption Agreement has been duly executed by the parties hereto as of the date first above written.

BABCOCK & BROWN RAIL FUNDING LLC,
as Seller

By: 
Name: Tom McGraw
Title: Vice President

BBRM TITLE HOLDING SPC #1 LLC, as Buyer

By: 
Name: Tom McGraw
Title: Vice President

LLOYDS TSB EQUIPMENT LEASING (NO. 5)
LIMITED, as Head Lessor

By: 
Name:
Title:

NORTH AMERICA RAIL LEASING #1 LLC
(d/b/a BABCOCK & BROWN RAIL LEASING),
as Head Lessee

By: 
Name: Tom McGraw
Title: Vice President

State of New York)
)
County of New York)

On this, the 15th day of May, 2003, before me, a Notary Public in and for said County and State, personally appeared Thomas McGraw, a Vice President of Babcock & Brown Rail Funding LLC, who acknowledged himself to be a duly authorized officer of Babcock & Brown Rail Funding LLC, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: Jennifer Moreno
Notary Public

My Commission Expires: _____

Residing in: _____

Jennifer Moreno
Notary Public, State of New York
No. 012MO6036946
Qualified in Queens County
Commission Expires January 24, 2004

State of New York)
)
County of New York)

On this, the 15th day of May, 2003, before me, a Notary Public in and for said County and State, personally appeared Thomas McGraw, a Vice President of BBRM Title Holding SPC #1 LLC, who acknowledged himself to be a duly authorized officer of BBRM Title Holding SPC #1 LLC, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: Jennifer Moreno
Notary Public

My Commission Expires: _____

Residing in: _____

Jennifer Moreno
Notary Public, State of New York
No. 01M06036946
Qualified in Queens County
Commission Expires January 24, 2006

State of New York)
)
County of New York)

On this, the 15TH day of MAY, 2003, before me, a Notary Public in and for said County and State, personally appeared OWEN HARRINGTON, a Attorney in fact of Lloyds TSB Equipment Leasing (No. 5) Limited, who acknowledged himself herself to be a duly authorized officer of Lloyds TSB Equipment Leasing (No. 5) Limited, and that, as such officer, being authorized to do so, he she executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: Patricia A. Wages
Notary Public

My Commission Expires: _____

Residing in: _____

PATRICIA A. WAGES
Notary Public, State of New York
No. 01WA6051049
Qualified in New York County
Commission Expires November 13, 2004

State of New York)
)
County of New York)

On this, the 15th day of May, 2003, before me, a Notary Public in and for said County and State, personally appeared Thomas McGraw, a Vice President of North America Rail Leasing #1 LLC (d/b/a Babcock & Brown Rail Leasing), who acknowledged himself to be a duly authorized officer of North America Rail Leasing #1 LLC (d/b/a Babcock & Brown Rail Leasing), and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: Jennifer Moreno
Notary Public

My Commission Expires: _____

Residing in: _____

Jennifer Moreno
Notary Public, State of New York
No. 01MO036346
Qualified in Queens County
Commission Expires January 24, 2006

Exhibit 1
(to Assignment and
Assumption Agreement)

Bill of Sale

On this _____ day of _____, 2003, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Babcock & Brown Rail Funding LLC ("Seller"), does hereby sell, transfer and assign to BBRM Title Holding SPC #1 LLC ("Buyer") all of Seller's rights, title and interest in and to the equipment described in Exhibit A hereto (the "Equipment"), subject to the terms and conditions of the Purchase Agreement (BBRL I) dated as of _____, 2003 (the "Purchase Agreement") and the Assignment and Assumption Agreement dated as of _____, 2003, each between Seller and Buyer.

Seller represents and warrants to Buyer and its successors and assigns that at the time of delivery of the Equipment, Seller had such title thereto as was transferred to Seller by Prior Seller (as defined in the Purchase Agreement), and the Equipment was free and clear of all Liens (as defined in the Purchase Agreement), other than as described in Section 3.3 of the Purchase Agreement.

BABCOCK & BROWN RAIL FUNDING LLC

By: _____
Name:
Title:

Exhibit A
(to Bill of Sale)

EQUIPMENT

One Hundred Sixty Five (165) 60' 9" Plate F Boxcars, 286,000 lb Gross Rail Load with 15" End of Car Cushioning, Double 8' 0" x 12' 4" Plug Doors, bearing the reporting marks as follows:

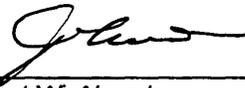
UP 354450–354614, inclusive.

CERTIFICATION

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

Dated: _____

5/15/03



Robert W. Alvord