RECORDATION NO. 22419-J FILED

NOV 02 '05 4-25 PM

SURFACE TRANSPORTATION BOARD

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

OF COUNSEL
URBAN A. LESTER

November 2, 2005

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, Assumption and Termination Agreement, dated as of November 2, 2005, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Locomotive Head Lease which was previously filed under Recordation Number 22419.

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

Assignor: Controladora General Motors, S.A. de C.V.
Av. Ejercito Nacional No. 843
Colonia Granada
C.P. 11520
Mexico, D.F.

Assignee/
Assignor: General Motors Corporation
9301 West 55th Street
LaGrange, IL
U.S.A. 60525

Assignee: El-Mo-Mex, Inc.
c/o General Motors Corporation
(Electro-Motive Division)
9301 West 55th Street
LaGrange, IL
U.S.A. 60525

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

75 locomotives TFM 1600 – TFM1674

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

Assignment, Assumption and Termination Agreement

Also enclosed is a check in the amount of $33.00 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/anm
Enclosures

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SURFACE TRANSPORTATION BOARD

# ASSIGNMENT, ASSUMPTION AND TERMINATION AGREEMENT

**THIS ASSIGNMENT, ASSUMPTION AND TERMINATION AGREEMENT** (the "Agreement") is made effective as of the 2nd day of November, 2005

**BETWEEN:**

**Controladora General Motors, S.A. de C.V.**, a corporation governed by the laws of Mexico

**("CGM")**;

**General Motors Corporation**, a corporation governed by the laws of Delaware

**("GMC")**

-and-

**El-Mo-Mex, Inc.,** a corporation governed by the laws of Delaware

(the **"Assignee"**),

with the participation of

**TFM, S.A. de C.V.** , a corporation governed by the laws of Mexico

**("TFM")**.

**RECITALS:**

A. **WHEREAS** pursuant to an Assignment and Assumption Agreement dated March 14, 2003 between General Motors de Mexico, S. de R.L. de C.V. ("GMM") and CGM, CGM acquired all the rights and obligations of lessee under a lease of locomotives dated September 8, 1999 (the "Head Lease") originally between Edmun, Inc., as lessor, and GMM as lessee;

B. **AND WHEREAS** pursuant to an Assignment and Assumption Agreement dated March 14, 2003, between Edmun, Inc., as assignor and the Assignee as assignee, the Assignee has all the rights and obligations of lessor under the Head Lease;

C. **AND WHEREAS** pursuant to an Assignment and Assumption Agreement dated March 14, 2003 between GMM and CGM, CGM acquired all the rights and

obligations of lessor under a sublease of locomotives dated September 8, 1999 (the "Sublease") between GMM, as lessor, and TFM as lessee;

D. **AND WHEREAS** CGM has agreed to enter into an assignment and assumption agreement of even date herewith, whereby it will assign all of its rights and obligations under the Sublease to GMC and GMC will assign all of its rights and obligations under the Sublease to the Assignee;

E. **AND WHEREAS** CGM has agreed to assign, all of its rights and obligations under the Head Lease (the "Assigned Interest") to GMC, and GMC in turn has agreed to assign, all of its rights and obligations under the Assigned Interest to the Assignee, and the Assignee has agreed to assume the Assigned Interest;

F. **AND WHEREAS** the Assignee, will become both the lessor and the lessee under the Head Lease as well as the lessor under the Sublease, it has been determined to terminate the Head Lease (to the extent the Head Lease is not otherwise terminated by operation of law);

G. **AND WHEREAS** the locomotives subject to the Head Lease and the Sublease are those locomotives described and listed on the attached Schedule A.

**NOW THEREFORE**, for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each party hereto), the parties hereto covenant and agree as follows:

**1. Assignment**

CGM hereby absolutely assigns, transfers and sets over, effective as of the date hereof all of the Assigned Interest unto GMC for its sole use and benefit, and GMC hereby absolutely and immediately assigns, transfers and sets over, effective as of the date hereof all of the Assigned Interest unto the Assignee for its sole use and benefit.

**2. Acceptance by the Assignee**

The Assignee hereby accepts, as of the date hereof, the assignment of the Assigned Interest.

**3. Assumption by the Assignee**

The Assignee hereby expressly assumes all obligations and liabilities with respect to the Assigned Interest and agrees with GMM, CGM and GMC that the Assignee shall perform all of the covenants and obligations of GMM, CGM and/or GMC under all of the documents relating to the Assigned Interest whether arising before or after the date of this Agreement and shall indemnify and save harmless GMM, CGM and GMC from all claims, actions, causes of action, proceedings, losses, damages, costs, liabilities and expenses incurred, suffered or sustained as a result of any default by the Assignee with

respect to such assumption and performance. GMM, CGM and GMC are hereby expressly released from any and all covenants and obligations under all of the documents relating to the Assigned Interest whether arising before or after the date of this Assignment. CGM and GMC hereby acknowledge that, effective with the assignment of the Assignment Interest in favor of the Assignee, they will have no further right, title, interest or claim under or with respect to the locomotives subject to the Head Lease or the Assigned Interest (except with respect to indemnity claims attributable to events occurring prior to such assignment).

## 4. Termination of Head Lease; termination of Trust Agreement

Considering that the Assignee is, as a consequence of the assignments effected hereunder, both the lessor and the lessee under the Head Lease (and is also to become the lessor under the Sublease) the parties hereby irrevocably terminate the Head Lease and declare that the Head Lease will have no further effect from the date hereof (to the extent not terminated by operation of law). Consequently, any and all references in the Sublease to "Head Lease" and "Head Lessor" shall be deemed (from the dated hereof) to be references to the Sublease and the Lessor, respectively, as the context may require. The parties hereby acknowledge that the Trust Agreement dated as of September 14, 1999, as amended, to which CGM, TFM and others are party, is being irrevocably terminated by a separate Termination of Trust Agreement dated the date hereof.

## 5. Further Assurances

The parties hereto shall with reasonable diligence do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Agreement, and each party hereto shall provide such further documents or instruments required by any other party hereto as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions.

## 6. Law of Contract

This Agreement is a contract made under and shall be governed by and construed in accordance with the laws of the United Mexican States.

## 7. Counterparts

This Agreement may be executed by the parties hereto in counterparts and may be executed and delivered by facsimile and all such counterparts and facsimiles shall together constitute one and the same agreement.

## 8. Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors (including any successor by reason of amalgamation of any party hereto) and assigns.

[signature page follows]

[signature page to Assignment, Assumption and Termination Agreement]

**IN WITNESS WHEREOF** the parties have duly executed this agreement as of the date hereof.

**CONTROLADORA GENERAL MOTORS S.A. de C.V.**

By: _____
Name: Enrique Juan Driessen Yzerman.
Title: Legal Representative.

Oct'05

**GENERAL MOTORS CORPORATION**

By: _____
Name: Walter G. Borst
Title: Corporate Treasurer

**EL-MO-MEX, INC.**

By: _____
Name: Raymond A. Krause
Title: President

TFM, S.A. de C.V., hereby acknowledges notice of and consents to, the assignments effected hereunder, as well as to the termination of the Head Lease as described herein:

**TFM, S.A. de C.V.**

_____
By:
Title:

## Certification

I certify that I hold the title set forth below, that the foregoing instrument was signed on behalf of Controladora General Motors, S.A. de C.V. by authority of its board of directors and that I acknowledge that the execution of the foregoing instrument was the free act and deed of Controladora General Motors S.A. de C.V. I further declare under penalty of perjury that the foregoing is true and correct.

By: _____

Enrique Juan Driessen Yzerman.
Legal Representative

[signature page to Assignment, Assumption and Termination Agreement]

**IN WITNESS WHEREOF** the parties have duly executed this agreement as of the date hereof.

**CONTROLADORA GENERAL MOTORS S.A. de C.V.**

By: _____
Name:
Title:

**GENERAL MOTORS CORPORATION**

By: _____
Name: Walter G. Borst
Title: Corporate Treasurer

**EL-MO-MEX, INC.**

By: _____
Name: Raymond A. Krause
Title: President

TFM, S.A. de C.V., hereby acknowledges notice of and consents to, the assignments effected hereunder, as well as to the termination of the Head Lease as described herein:

**TFM, S.A. de C.V.**

_____
By:
Title:

## Certification

I certify that I hold the title set forth below, that the foregoing instrument was signed on behalf of General Motors Corporation by authority of its board of directors and that I acknowledge that the execution of the foregoing instrument was the free act and deed of General Motors Corporation. I further declare under penalty of perjury that the foregoing is true and correct.

By: _____

Walter G. Borst
Corporate Treasurer

[signature page to Assignment, Assumption and Termination Agreement]

**IN WITNESS WHEREOF** the parties have duly executed this agreement as of the date hereof.

**CONTROLADORA GENERAL MOTORS S.A. de C.V.**

By: _____
Name:
Title:

**GENERAL MOTORS CORPORATION**

By: _____
Name: Walter G. Borst
Title: Corporate Treasurer

**EL-MO-MEX, INC.**

By: _____
Name: Raymond A. Krause
Title: President

TFM, S.A. de C.V., hereby acknowledges notice of and consents to, the assignments effected hereunder, as well as to the termination of the Head Lease as described herein:

**TFM, S.A. de C.V.**

_____
By:
Title:

[signature page to Assignment, Assumption and Termination Agreement]

**IN WITNESS WHEREOF** the parties have duly executed this agreement as of the date hereof.

**CONTROLADORA GENERAL MOTORS S.A. de C.V.**

By: _____
Name:
Title:

**GENERAL MOTORS CORPORATION**

By: _____
Name: Walter G. Borst
Title: Corporate Treasurer

**EL-MO-MEX, INC.**

By: _____
Name: Raymond A. Krause
Title: President

TFM, S.A. de C.V., hereby acknowledges notice of and consents to, the assignments effected hereunder, as well as to the termination of the Head Lease as described herein:

**TFM, S.A. de C.V.**

By: Jay M. Nadlman
Title: Authorized Representative

## Certification

I certify that I hold the title set forth below, that the foregoing instrument was signed on behalf of TFM, S.A. de C.V. by authority of its shareholders and that I acknowledge that the execution of the foregoing instrument was the free act and deed of TFM, S.A. de C.V. I further declare under penalty of perjury that the foregoing is true and correct.

By: _____
Name: Jay M. Nadlman
Title: Authorized Representative

## Schedule A

## List of Locomotives

**Reporting Mark: TFM**

| ROAD NUMBER | ROAD NUMBER | ROAD NUMBER |
|---|---|---|
| 1600 | 1625 | 1650 |
| 1601 | 1626 | 1651 |
| 1602 | 1627 | 1652 |
| 1603 | 1628 | 1653 |
| 1604 | 1629 | 1654 |
| 1605 | 1630 | 1655 |
| 1606 | 1631 | 1656 |
| 1607 | 1632 | 1657 |
| 1608 | 1633 | 1658 |
| 1609 | 1634 | 1659 |
| 1610 | 1635 | 1660 |
| 1611 | 1636 | 1661 |
| 1612 | 1637 | 1662 |
| 1613 | 1638 | 1663 |
| 1614 | 1639 | 1664 |
| 1615 | 1640 | 1665 |
| 1616 | 1641 | 1666 |
| 1617 | 1642 | 1667 |
| 1618 | 1643 | 1668 |
| 1619 | 1644 | 1669 |
| 1620 | 1645 | 1670 |
| 1621 | 1646 | 1671 |
| 1622 | 1647 | 1672 |
| 1623 | 1648 | 1673 |
| 1624 | 1649 | 1674 |

Total Units = 75

## 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: 11/2/05

Robert W. Alvord