

RECORDATION NO. 26045 FILED

DEC 21 '05 10:06 AM

SURFACE TRANSPORTATION BOARD

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

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

OF COUNSEL  
URBAN A. LESTER

December 21, 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 two (2) copies of a Memorandum of Lease, dated as of December 21, 2005, 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:

Lessor:	ABN AMRO Bank N.V. Suite 1500, 208 South LaSalle Street Chicago, Illinois 60604
Lessee:	Railcar Investment LLC c/o First Union Rail Corporation 6250 River Road, Suite 5000 Rosemont, Illinois 60018

Mr. Vernon A. Williams  
December 21, 2005  
Page 2

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

\_\_\_\_\_ railcars with numerous reporting marks and assorted road numbers as set forth on the schedule attached to the document.

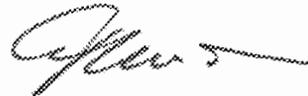
A short summary of the document to appear in the index is:

Memorandum of Lease.

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 stamped copies of the enclosed document to the undersigned.

Very truly yours,



Robert W. Alvord

RWA/anm  
Enclosures

MEMORANDUM OF LEASE  
(Surface Transportation Board)

DEC 21 '05 10:06 AM

SURFACE TRANSPORTATION BOARD

THIS MEMORANDUM OF LEASE ("Memorandum") dated as of December 21, 2005 is between ABN AMRO BANK N.V., a bank organized under the laws of the Netherlands and acting through its U.S. offices ("Lessor"), and RAILCAR INVESTMENT LLC, a Delaware limited liability company ("Lessee").

WHEREAS, Lessee and Lessor have entered into that certain (unfiled) lease agreement dated as of December 21, 2005 (as from time to time amended, restated, supplemented or otherwise modified, the "Lease") pursuant to which Lessor will lease to Lessee, and Lessee will lease from Lessor, the items of railroad rolling stock (the "Units") to be delivered to Lessor on the Delivery Date as more fully described in each Lease Supplement; and

WHEREAS, pursuant to Section 12.1 of the Lease, Lessee has granted to Lessor a security interest in all of the Units and the other Collateral to secure the payment of all sums due and payable by Lessee and the performance by Lessee of all of its obligations under the Lease, the Lease Supplements and the other Operative Documents.

NOW, THEREFORE, in consideration of the mutual premises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. For all purposes hereof, the capitalized terms used herein and not otherwise defined shall have the meanings assigned thereto in Appendix 1 to that certain Participation Agreement dated as of even date herewith, among Lessee, Wachovia Bank, National Association, as Guarantor, Lessor, Wells Fargo Bank Northwest, National Association, as Administrative Agent, and the Participants identified therein (as from time to time amended, restated, supplemented or otherwise modified, the "Participation Agreement"). The rules of interpretation set forth in such Appendix 1 shall also apply hereto.

2. This Memorandum evidences of record the Lease and the grant of a first priority security interest by Lessee to Lessor in the Units and the other Collateral, and all references herein or in the other Operative Documents to the Lease shall be deemed to include this Memorandum.

3. Pursuant to those certain Lease Supplement Nos. 1 through 31, dated as of December 21, 2005, the Units identified in such Lease Supplements and listed at Schedule 1 hereto became subject to the terms and provisions of the Lease, including without limitation the grant of a security interest as set forth in Section 12.1 of the Lease.

4. The parties hereto wish to show for public record this Memorandum and accordingly have caused this Memorandum to be executed by their officers thereunto duly authorized, as of the date first above written.

5. It is the intention of the parties that:

(a) the Overall Transaction as provided for in the Lease and the other Operative Documents constitutes an operating lease from Lessor to Lessee for purposes of Lessee's and Guarantor's financial reporting, including, without limitation, under Financial Accounting Standards Board Statement No. 13;

(b) for purposes of federal and all state and local income and transfer taxes, and for purposes of bankruptcy law:

(1) the Overall Transaction constitutes a financing by the Participants to Lessee and preserves beneficial ownership in the Equipment in Lessee; and

(2) the Lease grants a security interest or Lien, as the case may be, in the Equipment and other Collateral in favor of the Lessor, and in the Transaction Collateral for the benefit of the Secured Parties, to secure Lessee's payment and performance of the Obligations;

(c) except as may be specifically provided in the Operative Documents, each party to the Participation Agreement acknowledges and agrees that no other party thereto has made any representations or warranties to any other party concerning the tax, accounting or legal characteristics of the Operative Documents and that each party thereto has obtained and relied upon its own tax, accounting and legal advice concerning the Operative Documents as it deems appropriate.

6. This Memorandum may be executed in any number of counterparts and by each of the parties hereto in separate counterparts, all such counterparts together constituting but one and the same instrument.

[The remainder of this page is intentionally left blank.]



IN WITNESS WHEREOF, the parties have caused this Memorandum to be executed as of the first date herein above written.

RAILCAR INVESTMENT LLC

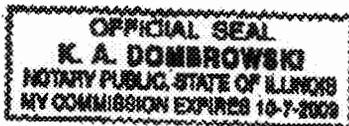
By: *Lori Heissler*  
Name: Lori Heissler  
Title: Managing Director

STATE OF ILLINOIS  
COUNTY OF COOK

On December 21, 2005, before me, K. A. Dombrowski, a Notary Public in and for said State, personally appeared Lori Heissler, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

Signature *K. A. Dombrowski* (Seal)



**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: 12/21/05



\_\_\_\_\_  
Robert W. Alvord