

RECORDATION NO. 26084 FILED

DEC 28 '05 3-27 PM

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 20, 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 Net Railcar Lease No. 02, dated as of December 19, 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: Babcock & Brown Rail Funding LLC  
885 Second Avenue  
New York, New York 10017

Lessee: Canadian National Railway Company  
935 de la Gauchetiere Street West  
Montreal, Quebec  
Canada H3B 2M9

Mr. Vernon A. Williams  
December 20, 2005  
Page 2

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

100 covered coil railcars: AOK 34200 – AOK 34299.

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

Memorandum of Net Railcar Lease No. 02.

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 NET RAILCAR LEASE NO. 02

DEC 28 '05

3-27 PM

SURFACE TRANSPORTATION BOARD

THIS MEMORANDUM OF NET RAILCAR LEASE dated as of this 8<sup>th</sup> day of December, 2005, between BABCOCK & BROWN RAIL FUNDING LLC, a Delaware limited liability company (the "Lessor") and CANADIAN NATIONAL RAILWAY COMPANY a Canadian corporation (the "Lessee" and together with the Lessor, the "Parties").

KNOW ALL PERSONS BY THESE PRESENTS THAT:

WHEREAS, the Parties have entered into that certain Master Net Railcar Lease dated August 15, 2005 and Schedule No. 02 thereto effective as of December 8, 2005 (hereinafter as the same may from time to time be amended, modified or supplemented, the "Agreement"), covering the equipment listed on Exhibit A hereto (the "Cars");

WHEREAS, the Parties wish to show for the public record the existence of the aforesaid Agreement, and the respective interests therein of the Parties and accordingly the Parties have caused this memorandum to be executed by their respective duly authorized officers, as of the date first above written.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties hereto, by this instrument the Lessor hereby leases and confirms the lease of the Cars to the Lessee in accordance with the terms and conditions of the Agreement, and the Lessee confirms and accepts such terms and conditions, which are incorporated by reference as if fully set forth herein.

This Memorandum of Net Railcar Lease No. 02 may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned has caused this Memorandum of Net  
Railcar Lease No. 02 to be executed by a duly authorized officer as of the day and year first  
above written.

BABCOCK & BROWN RAIL FUNDING LLC, as Lessor

By: 

Name: Ross Sullivan

Title: Vice President

CANADIAN NATIONAL RAILWAY COMPANY, as Lessee

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

Name: \_\_\_\_\_

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

IN WITNESS WHEREOF, the undersigned has caused this Memorandum of Net Railcar Lease No. 02 to be executed by a duly authorized officer as of the day and year first above written.

BABCOCK & BROWN RAIL FUNDING LLC, as Lessor

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

Name: Ross Sullivan

Title: Vice President

CANADIAN NATIONAL RAILWAY COMPANY, as Lessee

By: 

Name: FOON CHAU

Title: SR. MANAGER LEASING

STATE OF CALIFORNIA )

) SS:

COUNTY OF SAN FRANCISCO )

On this 14<sup>th</sup> day of December, 2005 before me personally appears Ross Sullivan, to me personally known, who by me duly sworn, says that he is the Vice President of Babcock & Brown Rail Funding LLC (the "Company"), that the foregoing instrument was signed on behalf of the said Company by authority of its Officers, and he acknowledged that the execution of the foregoing instrument was the free act and deed of the said Company.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Heidi Wagner  
Notary Public

[SEAL]

My Commission expires: June 4, 2006

PROVINCE OF \_\_\_\_\_ )

) SS:

DISTRICT OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of December, 2005 before me personally appeared \_\_\_\_\_, to me personally known, who by me duly sworn, says that he/she is the \_\_\_\_\_ of Canadian National Railway Company (the "Company"), that the foregoing instrument was signed on behalf of the said Company by authority of its Board of Directors, and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of the said Company.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Attorney

STATE OF CALIFORNIA )

) SS:

COUNTY OF SAN FRANCISCO )

On this \_\_\_\_\_ day of December, 2005 before me personally appears Ross Sullivan, to me personally known, who by me duly sworn, says that he is the Vice President of Babcock & Brown Rail Funding LLC (the "Company"), that the foregoing instrument was signed on behalf of the said Company by authority of its Officers, and he acknowledged that the execution of the foregoing instrument was the free act and deed of the said Company.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

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

[SEAL]

My Commission expires:

PROVINCE OF ALBERTA )

) SS:

~~DISTRICT OF \_\_\_\_\_ )~~

On this 19 day of December, 2005 before me personally appeared FOON CHU, to me personally known, who by me duly sworn, says that he/she is the SR Manager, Leasing of Canadian National Railway Company (the "Company"), that the foregoing instrument was signed on behalf of the said Company by authority of its Board of Directors, and he/she acknowledged that the execution of the foregoing instrument was the free act and deed of the said Company.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Sylvia Patricia Klawitter  
\_\_\_\_\_  
Attorney



**SYLVIA PATRICIA KLAWITTER**  
Conveyance Coordinator  
c/o 22nd Floor, 10004 - 104 Avenue  
Edmonton, Alberta T5J 0K2  
(780) 421-6377  
NOTARY PUBLIC FOR ALBERTA  
APPOINTMENT EXPIRES DEC. 31, 2009

**EXHIBIT A TO MEMORANDUM OF NET RAILCAR LEASE**

| <u>Quantity</u>      | <u>Car Description</u>  | <u>Reporting Marks and Numbers</u> |
|----------------------|---|------------------------------------|
| One Hundred<br>(100) | 112-Ton, 42' continuous trough covered coil cars, AAR car type code E241, built in 2005 and 2006 by Trinity Rail Group, LLC | AOK 34200-34299, 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: December 28, 2005



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