

RECORDATION NO. 26565 FILED

SEP 22 '06 2:48 PM

SURFACE TRANSPORTATION BOARD

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OF COUNSEL
URBAN A. LESTER

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

September 22, 2006

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 Mortgage, dated as of September 22, 2006, 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:

Debtor: Babcock & Brown Rail Funding LLC
885 Second Avenue, 49th Floor
New York, NY 10017

[Secured Party: Bayerische Hypo-Und Vereinsbank AG, Agent
FPA 4 Lease/Asset Finance
Am Tucherpark 1 (FPA)
80538 Munich, Germany]

Mr. Vernon A. Williams
September 22, 2006
Page 2

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

25 covered hopper railcars: GBRX 65100 – GBRX 65114 and SWSX 60611 – SWSX 60620.

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

Memorandum of Mortgage.

Also enclosed is a check in the amount of \$34.00 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,

A handwritten signature in black ink, appearing to read 'R. Alvord', with a stylized flourish at the end.

Robert W. Alvord

RWA/sem
Enclosures

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SURFACE TRANSPORTATION BOARD

MEMORANDUM OF MORTGAGE

Memorandum of Mortgage, made and entered into as of September 14, 2006 between **BABCOCK & BROWN RAIL FUNDING LLC** (the "Debtor") and **BAYERISCHE HYPO-UND VEREINSBANK AG**, as Agent under the Security Agreement referred to below (together with its successors and permitted assigns, the "Secured Party"). Terms used in this instrument have the meanings assigned thereto in the Amended and Restated Security Agreement dated as of October 18, 2002 (as supplemented, including by Security Agreement Supplement No. 40 dated the date hereof, the "Security Agreement") between the Secured Party and the Debtor.

WITNESSETH:

The undersigned and the Secured Party have entered into the Security Agreement, by which the Debtor has granted a security interest in certain railroad equipment bearing reporting marks and road numbers as listed on Exhibit A attached hereto and in each lease referred to on Exhibit B attached hereto to the Secured Party in order to secure the Debtor's performance of its obligations as described in the Security Agreement.

IN WITNESS WHEREOF, the party hereto has caused this memorandum to be duly executed by its officer duly authorized as of the date and year first above written.

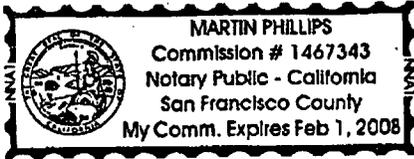
**BABCOCK & BROWN RAIL FUNDING
LLC**

By 

Name: Ross Sullivan
Title: Vice President

STATE OF CALIFORNIA)
) ss.:
COUNTY OF SAN FRANCISCO)

On the 13 day of September in the year 2006 before me personally came Ross Sullivan to me known, who, being by me duly sworn, did depose and say that he resides at 1090 Butterfield Road, San Anselmo, CA 94960; that he is the Vice President (duly appointed) of Babcock & Brown Rail Funding LLC, the limited liability company described in and which executed the above instrument; and that he signed his name thereto by authority of the officers of said limited liability company.



Martin Phillips

Notary Public

[Notarial Seal]

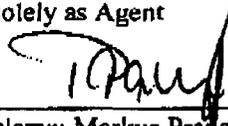
Memorandum of Mortgage

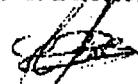
IN WITNESS WHEREOF, the parties hereto have caused this Security Agreement Supplement to be duly executed, as of the day and year first above written.

**BABCOCK & BROWN
RAIL FUNDING LLC**

By _____
Name: Ross Sullivan
Title: Vice President

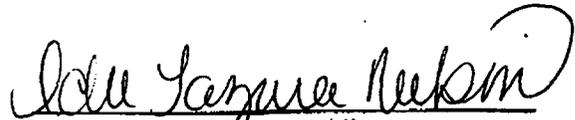
**BAYERISCHE HYPO- UND
VEREINSBANK AG**, not in its individual
capacity, except as expressly provided herein,
but solely as Agent

By  _____
Name: Markus Prajsky
Title: Director

By  _____
Name: Erkan Yilmaz
Title:

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Subscribed to me on this and day of September, 2006 by Markus Pransky,
Director of Bayerische Hypo- und Vereinsbank AG and Ezekany, MAZ of
Bayerische Hypo- und Vereinsbank AG.


Notary Public

[Notarial Seal]

IDA LAZARA RUBIN
Notary Public, State of New York
No. 01RU6134160
Qualified in New York County
Commission Expires August 9, 2008

**Exhibit A
to Memorandum of Mortgage**

EQUIPMENT

<u>Lease #</u>	<u># Cars</u>	<u>Year Built</u>	<u>Description</u>	<u>Reporting Marks</u>	<u>Casualty Marks</u>
1	10	2006	3281 CF Covered Hoppers, 286,000 GRL, AAR Car Type Code C112, built in 2006 by Trinity North American Freight Car, Inc.	SWSX 60611-60620, inclusive.	None
2	15	2006	3281 CF Covered Hoppers, 286,000 GRL, AAR Car Type Code C112, built in 2006 by Trinity North American Freight Car, Inc.	GBRX 65100 - 65114, inclusive.	None

LIST OF LEASES AND OTHER OPERATIVE AGREEMENTS

Lease # 1

Master Net Railcar Lease dated as of April 24, 2006, by and between Babcock & Brown Rail Funding LLC and Superior Well Services, Inc., to the extent the same relates to the Equipment described under "Lease #1" in Exhibit A hereto.

Schedule No. 02 to Master Net Railcar Lease dated as of June 1, 2006, by and between Babcock & Brown Rail Funding LLC and Superior Well Services, Inc., to the extent the same relates to the Equipment described under "Lease #1" in Exhibit A hereto.

Memorandum of Net Railcar Lease dated as of June 1, 2006, by and between Babcock & Brown Rail Funding LLC and Superior Well Services, Inc., in respect of the Equipment described under "Lease #1" in Exhibit A hereto.

Certificates of Acceptance for Lease dated July 27, 2006, July 28, 2006, July 31, 2006, August 4, 2006 and August 9, 2006, from Superior Well Services, Inc. to Babcock & Brown Rail Funding LLC in respect of the Equipment described under "Lease #1" in Exhibit A hereto.

Letter Agreement for One Thousand (1000) Covered Hopper Rail Cars made and entered into as of August 19, 2005, by and between Trinity North American Freight Car, Inc. and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described under the caption 'Lease #1' in Exhibit A hereto.

Warranty Bill of Sale dated as of September 14, 2006, from Trinity North American Freight Car, Inc. to Babcock & Brown Rail Funding LLC and each Certificate of Acceptance executed by Babcock & Brown Rail Funding LLC in relation to the railcars identified in such Warranty Bill of Sale.

Lease #2

Master Net Railcar Lease dated as of June 13, 2006, by and between Babcock & Brown Rail Funding LLC and The Exolon Company, to the extent the same relates to the Equipment described under "Lease #2" in Exhibit A hereto.

Schedule No. 01 to Master Net Railcar Lease dated as of June 13, 2006, by and between Babcock & Brown Rail Funding LLC and The Exolon Company, to the extent the same relates to the Equipment described under "Lease #2" in Exhibit A hereto.

Memorandum of Net Railcar Lease dated as of June 3, 2006, by and between Babcock & Brown Rail Funding LLC and Tennessee Valley Authority, in respect of the Equipment described under "Lease #2" in Exhibit A hereto.

Guaranty Agreement dated as of June 13, 2006, by and between Washington Mills Company, Inc. and Babcock & Brown Rail Funding LLC, in respect of "Lease #2" described herein.

Certificates of Acceptance for Lease dated July 31, 2006, August 4, 2006, August 9, 2006 and August 11, 2006, from The Exolon Company to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under "Lease #2" in Exhibit A hereto.

Letter Agreement for One Thousand (1000) Covered Hopper Rail Cars made and entered into as of August 19, 2005, by and between Trinity North American Freight Car, Inc. and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described under the caption 'Lease #2' in Exhibit A hereto.

Warranty Bill of Sale dated as of September 14, 2006, from Trinity North American Freight Car, Inc. to Babcock & Brown Rail Funding LLC and each Certificate of Acceptance executed by Babcock & Brown Rail Funding LLC in relation to the railcars identified in such Warranty Bill of Sale.

Together with all substitutions, replacements and renewals of the property above described, and all property which shall hereafter become physically attached to or incorporated in the property above described, whether the Debtor now has rights therein or such rights shall hereafter be acquired by it.

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:

9/22/06



Robert W. Alvord