

RECORDATION NO. 26762-9 FILED

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SURFACE TRANSPORTATION BOARD

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

November 14, 2008

Anne K. Quinlan, Esquire
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

Dear Ms. Quinlan:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of an Assignment and Assumption Agreement, dated as of November 14, 2008, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Master Net Railcar Lease and Schedule No. 1 and related documents previously filed with the Board under Recordation Number 26762.

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

Seller:	Babcock & Brown Rail Funding LLC 885 Second Avenue, 49th Floor New York, NY 10017
Buyer:	C.K. Industries, Inc. 1348 Greenland Tce. Deland, FL 32720

Anne K. Quinlan, Esquire
November 14, 2008
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A description of the railroad equipment covered by the enclosed document
is:

100 railcars: LEHX 1000 – LEHX 1099.

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

Assignment and Assumption Agreement.

Also enclosed is a check in the amount of \$41.00 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 "Robert W. Alvord", with a horizontal line extending to the right.

Robert W. Alvord

RWA/sem
Enclosures

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ASSIGNMENT AND ASSUMPTION AGREEMENT SURFACE TRANSPORTATION BOARD

This Assignment and Assumption Agreement, dated as of November 14, 2008 (this "Agreement"), is between Babcock & Brown Rail Funding LLC, a Delaware limited liability company (the "Seller"), and C.K. Industries, Inc., a Florida corporation (the "Buyer").

Witnesseth:

WHEREAS, the Buyer and the Seller have entered into that certain Purchase Agreement dated as of November 14, 2008 (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 Purchase Agreement contemplates the execution and delivery of this Agreement by the Seller and the Buyer 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 Closing Date, the Seller sells to the Buyer all of the Seller's rights, title and interest, except for those benefits accrued and rights vested pursuant to the Assigned Operative Documents in respect of the period prior to the Closing date, including, without limitation, rent received under the Leases prior to the Closing Date and all rights to indemnification in respect of tax and other, 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, under each of the agreements listed on Exhibit A hereto as they relate to the applicable Equipment (collectively, the "Assigned Operative Agreements"). Notwithstanding the foregoing, the Seller shall continue to be entitled to the benefit of any 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 Closing Date, as specified in the Purchase Agreement.
3. Acceptance of Assignment; Assumption of Obligations; Effect of Assignment. The Buyer accepts the assignment contained in Section 2 hereof and, in respect of the period on and after the Closing Date, assumes all obligations of the Seller under, and agrees to be bound to the same extent as the Seller by all the terms of, the Assigned Operative Agreements. Effective on and after the Closing Date, the Buyer shall be deemed to stand in the place of the Seller for all purposes under the Assigned Operative Agreements and each reference in the Assigned Operative Agreements to the Seller shall be deemed to mean the Buyer. The Seller, in respect of the period on and after the Closing Date, is released of all obligations of the lessor under the Assigned Operative Agreements, except to the extent constituting Existing Obligations.

1. *Introduction*

2. *Methodology*

3. *Results*

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 B hereto.

Closing 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 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").

Existing Obligations: any and all liabilities and obligations of Seller under the Ownership Interest, including the Assigned Operative Agreements, or otherwise relating to the Equipment in each such case, to the extent arising or occurring prior to the Closing Date (whether or not asserted or assessed), and, with respect to the obligations, to have been performed by Seller prior to the Closing Date.

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.

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 Seller and the Buyer agree to record this Agreement with the Surface Transportation Board to evidence the assignment by the Seller to the Buyer of the

Seller's rights and obligations under the Lease, which shall have 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.

C.K. INDUSTRIES, INC.,
as Buyer

By: _____
Name: C. BIGOT
Title: President

BABCOCK & BROWN RAIL FUNDING LLC,
as Seller

By: _____
Name:
Title:

State of) FLORIDA
)
County of) VOLUSIA

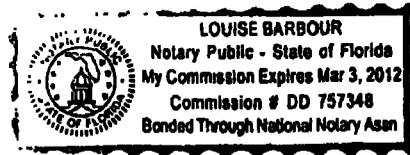
On this, the 13th day of November, 2008, before me, a Notary Public in and for said County and State, personally appeared CLAUDE BIAUT, the President of C.K. Industries, Inc., who acknowledged himself/herself to be a duly authorized officer of C.K. Industries, Inc., and that, as such officer, being authorized 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: Louise Barbour
Notary Public

My Commission Expires: 2/3/2012

Residing in: Wesland Florida



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

C.K. INDUSTRIES, INC.,
as Buyer

By: _____
Name:
Title:

BABCOCK & BROWN RAIL FUNDING LLC,
as Seller

By: Brion Conn
Name: *Brion Conn*
Title: *VP*

State of New York)
County of New York)

On this, the 11th day of November, 2008, before me, a Notary Public in and for said County and State, personally appeared Brian Conn, the 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: Clementina Capasso
Notary Public

My Commission Expires: _____
Residing in: _____

CLEMENTINA CAPASSO
NOTARY PUBLIC, STATE OF NEW YORK
No. 01CA6120806
QUALIFIED IN NEW YORK COUNTY
MY COMMISSION EXPIRES DEC. 27, 2008

Equipment

<u>Lease #</u>	<u>Lessee</u>	<u># Cars</u>	<u>Year Built</u>	<u>Manufacturer</u>	<u>Description</u>	<u>Reporting Marks</u>	<u>Casualty Marks</u>
1	Lehigh Cement Company	50	2006	Trinity Industries	3281 CF cement covered hopper cars, AAR Car Code C112, 286,000 GRL	LEHX 1000-1049, inclusive	None
2	Lehigh Cement Company	50	2006	Trinity Industries	3281 CF cement covered hopper cars, AAR Car Code C112, 286,000 GRL	LEHX 1050-1099, inclusive	None

**Exhibit A
(to Assignment
and Assumption Agreement)**

LEASES AND EQUIPMENT

Leases and Other Operative Agreements

Master Net Railcar Lease dated as of November 17, 2006 and effective as of August 1, 2006 between Greenbrier Leasing Company LLC ("Greenbrier") and Lehigh Cement Company ("Lessee").

Schedule No.1 to the Master Agreement, dated as of November 17, 2006 and effective as of August 1, 2006 ("Schedule 1"), between Babcock & Brown Rail Funding LLC, successor in interest to Greenbrier ("Lessor") and Lessee.

Schedule No. 2 to the Master Agreement, dated as of November 17, 2006 and effective as of August 2, 2006, between Lessor and Lessee.

Memorandum of Net Railcar Lease between Greenbrier and Lessee, dated as of November 17, 2006, and filed with the Surface Transportation Board ("STB") on January 8, 2007, under Recordation No. 26762.

Memorandum of Net Railcar Lease between Greenbrier and Lessee, dated as of November 17, 2006, and filed with the STB on January 8, 2007, under Recordation No. 26762-A.

Assignment and Assumption Agreement between Greenbrier and Lessor, dated as of January 31, 2007, and filed with the STB on January 31, 2007, under Recordation No. 26762-C.

Notice and Acknowledgement, dated January 22, 2007, executed by Greenbrier, Lessor and Lessee with respect to Schedule No. 1.

Notice Pursuant to Notice and Acknowledgement, dated January 31, 2007, from Lessor and Greenbrier to Lessee with respect to Schedule No. 1.

Assignment and Assumption Agreement between Greenbrier and Lessor, dated as of January 31, 2007, and filed with the STB on January 31, 2007, under Recordation No. 26762-D.

Notice and Acknowledgement, dated January 22, 2007, executed by Greenbrier, Lessor and Lessee with respect to Schedule No. 2.

Notice Pursuant to Notice and Acknowledgement, dated January 31, 2007, from Lessor and Greenbrier to Lessee with respect to Schedule No. 2.

**Exhibit B
(to Assignment
and Assumption Agreement)**

BILL OF SALE

On this ____ day of _____, 2008, 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 C.K. Industries, Inc. ("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 dated as of the date hereof (the "Purchase Agreement") and the Assignment and Assumption Agreement dated as of the date hereof, 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 legal title thereto and good and lawful right to sell the Equipment, and the Equipment was free and clear of all Liens (as defined in the Purchase Agreement), other than as described in Section 3.3(i) and (ii) of the Purchase Agreement.

BABCOCK & BROWN RAIL FUNDING LLC

By: _____
Name:
Title:

5797764_v1

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: 11/14/08



Robert W. Alvord