

RECORDATION NO.

20970-C
FILED

DEC 22 '08

-2 35 PM

SURFACE TRANSPORTATION BOARD



December 22, 2008

Ms. Anne K. Quinlan, Esq
Surface Transportation Board
Office of Proceedings
395 E Street, SW
Washington, DC 20423-0001

Dear Ms. Quinlan:

Please find attached, one (1) copy of the Memorandum of Assignment and Assumption Agreement dated December 16, 2008 between the following parties

Assignor Key Equipment Finance, Inc
 1000 S. McCaslin Blvd
 Superior, CO 80027

Buyer The David J. Joseph Company
 300 Pike Street
 Cincinnati, OH 45202

Please see Schedule 1. attached hereto, for the equipment, (99) railcars, involved in this transaction

This filing is to appear in the index as follows: Memorandum of Assignment and Assumption Agreement dated December 16, 2008 related to ninety-nine (99) railcars bearing reporting marks CW 6500 – 6599, excluding CW 6539

Please file this as a secondary document under Recordation Number 20970-C as it relates to documents previously filed with the Surface Transportation Board under Recordation Numbers 20970 through 20970-B. The filing fee in the amount of \$41.00 can be charged to our account.

Should you have any questions or need further information, please do not hesitate to contact me at (513) 419-6062

Sincerely,

A handwritten signature in cursive script that reads 'Julie Woodard'.

Julie Woodard
Documentation Coordinator

Enclosures

Rail Equipment Group

300 Pike Street
Cincinnati, OH 45202-4214
Phone (513) 419-6200
Fax (513) 419-6221

DEC 22 '08 -2 35 PM

**MEMORANDUM OF
ASSIGNMENT AND ASSUMPTION AGREEMENT SURFACE TRANSPORTATION BOARD**

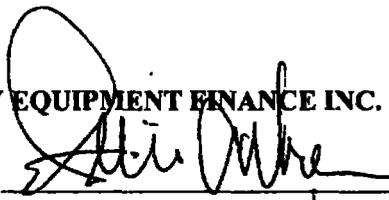
This Memorandum of Assignment and Assumption Agreement ("Memorandum of Assignment and Assumption") made and entered into as of December 16, 2008, by and between KEY EQUIPMENT FINANCE INC., a Michigan corporation ("Assignor"), and THE DAVID J. JOSEPH COMPANY, a Delaware Corporation ("Buyer").

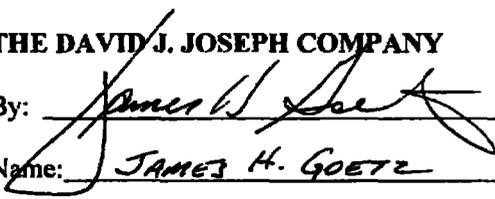
WITNESSETH:

1. ASSIGNOR has agreed to assign to ASSIGNEE that certain lease agreement dated June 16, 1997 along with Schedule No. 2 thereto dated October 6, 1997, between Greenbrier Leasing Corporation (as subsequently assigned to KeyCorp Leasing, a Division of Key Corporate Capital Inc., now known as Key Equipment Finance Inc.), as Lessor, and Colorado & Wyoming Railway Company, as Lessee (the "Lease"), for ninety-nine (99) railcars bearing the railroad reporting markings set forth on Schedule I.

2. This Memorandum of Assignment and Assumption shall be effective as of the date set forth below.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Assignment and Assumption to be executed and delivered by their duly authorized representatives as of the date set forth above, and shall be effective as of the Closing Date set forth in the Purchase and Sale Agreement by and between ASSIGNOR and ASSIGNEE dated as of December 16, 2008.

KEY EQUIPMENT FINANCE INC.
By: 
Name: MICHAEL A. WOOD
Title: REGIONAL BUSINESS UNIT MGR

THE DAVID J. JOSEPH COMPANY
By: 
Name: JAMES H. GOETZ
Title: EXEC VP + CFO

STATE OF Colorado)
) SS:
COUNTY OF Boulder)

On this 16th day of December, 2008, before me the subscriber, Victoria F. Townsend, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named Michael A. Wood, to me personally known, who stated and acknowledged that he is the Regional Business Unit Mgr of KEY EQUIPMENT FINANCE INC., a Michigan corporation, and duly authorized by authority of the Board of Directors or By-laws of said corporation in his capacity as such officer to execute and acknowledge this document for and in the name and on behalf of said corporation and further stated and acknowledged that he has so signed, executed and delivered this document as the free and voluntary act and deed of said corporation, for the consideration, uses and purposes therein mentioned and set forth and desired that the same might be recorded as such.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 16th day of December, 2008.

Victoria F. Townsend
(Notary Signature)

My commission expires:

2-05-2012



My Commission Expires Feb. 5, 2012

STATE OF OHIO)
) SS
COUNTY OF HAMILTON)

On this 11th day of December, 2008 before me the subscriber, Angela Denise Watts, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named James H Goetz, to me personally known, who stated and acknowledged that he is the EVPCFD of THE DAVID J. JOSEPH COMPANY, a Delaware corporation, and duly authorized by authority of the Board of Directors or By-laws of said corporation in his capacity as such officer to execute and acknowledge this document for and in the name and on behalf of said corporation and further stated and acknowledged that he has so signed, executed and delivered this document as the free and voluntary act and deed of said corporation, for the consideration, uses and purposes therein mentioned and set forth and desired that the same might be recorded as such.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 11th day of December, 2008.

Angela Denise Watts
(Notary Signature)

My commission has no expiration.

ANGELA DENISE WATTS
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Date Section 147.03 O.R.C

**SCHEDULE I
TO
MEMORANDUM OF ASSIGNMENT AND ASSUMPTION AGREEMENT**

CARS:

Ninety-nine (99) railcars bearing reporting marks:

CW 6500-6599, excluding CW6539

LEASE: Lease Agreement dated June 16, 1997 between Greenbrier Leasing Corporation (as subsequently assigned to KeyCorp Leasing, a Division of Key Corporate Capital Inc., now known as Key Equipment Finance Inc.), as Lessor, and Colorado & Wyoming Railway Company, as Lessee, and Schedule No. 2 thereto between the parties dated October 6, 1997 (the "Lease").