

RECORDATION NO 30578 FILED

December 28, 2012 11:40 AM

SURFACE TRANSPORTATION BOARD

ALVORD AND ALVORD

ATTORNEYS AT LAW

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

OF COUNSEL
URBAN A. LESTER

December 28, 2012

Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

Dear Section Chief,

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 December 28, 2012, 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:

Assignor/Seller: General Electric Railcar Services Corporation
161 North Clark Street, 7th Floor
Chicago, IL 60601

Assignee/Buyer: Midwest Railcar Corporation
4949 Autumn Oaks Drive
Maryville, IL 62062

[Lessee: J.R. Simplot Company
One Capital Center
999 Main Street, Suite 1300
Boise, ID 83702]

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

77 covered hopper railcars: ITLX 41646, ITLX, 44001, ITLX 44004, NAHX 65515, NAHX 800100, NAHX 800132, NAHX 890683, PLWX 23134, PLWX 23154, PLWX 23250, PLWX 23285, PTLX 33715, PTLX 34451, TRNX 500541, USLX 7055, USLX 7119 and within the series NAHX 479893 – NAHX 511560, PLCX 16470 – PLCX 28059, PTLX 14177 – PTLX 17736 and USLX 20374 – USLX 26362 as more particularly set forth in the attachment to the document.

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 \$42.00 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,



Edward M. Luria

EML/sem
Enclosures

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of December 28, 2012 (this "Agreement"), is between General Electric Railcar Services Corporation, a Delaware corporation (the "Seller"), and Midwest Railcar Corporation, an Illinois corporation (the "Buyer").

RECITALS

WHEREAS, the Buyer and the Seller have entered into that certain Purchase Agreement, dated as of December 28, 2012 (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.

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.

AGREEMENT

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 unit of Equipment on the Closing Date, the Seller sells to the Buyer all of the Seller's rights, title and interest in and to such unit and assigns to the Buyer all of the Seller's rights and obligations under the Lease (including the rider referenced in the definition thereof and, solely as it pertains to the rider, the Master Lease) (collectively, the "Operative Agreements") as they relate to each unit. Notwithstanding the foregoing, the Seller shall continue to be entitled to the benefit of any right to indemnification for tax or 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 assumes all obligations of the Seller accruing on or after the Closing Date under, and agrees to be bound to the same extent as the Seller by all the terms of, the Operative Agreements. Effective on and after the Closing Date (except with respect to obligations not assumed pursuant to the preceding sentence), the Buyer shall be deemed to stand in the place of the Seller for all purposes under the Operative Agreements and each reference in the Operative Agreements to the Seller shall be deemed to mean the Buyer. The Seller is released of all obligations accruing under the Operative Agreements on or after the Closing Date.

4. **Definitions.** Except as otherwise specified or as the context may otherwise require, the following terms have the 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: the bill of sale in the form of Exhibit I hereto.

Closing Date: the date of the Bill of Sale.

Equipment: the equipment described in Schedule 1 to this Agreement together with every part, accessory, component and any equipment installed therein or attached thereto owned by the Seller on the Closing Date (individually each railcar is referred to as a "unit" or "unit of Equipment").

Lease: Rider No. 13 Renewal No. 2B dated January 25, 2011 ("Renewal 2B") between J.R. Simplot Company (as Lessee thereunder) and the Seller, which renews the following solely with respect to the Equipment subject to Renewal 2B: Rider No. 13 dated December 26, 2000 as renewed by Rider 13 Renewal No. 1 dated November 16, 2005, which incorporates by reference the terms of the related Master Lease.

Lessee: J.R. Simplot Company.

Master Lease: Car Leasing Agreement 7911-1 dated July 12, 1985 between J.R. Simplot Company (as Lessee thereunder) and the Seller, as amended by (a) that certain letter agreement dated July 19, 1991, (b) Amendment No. 1 dated March 14, 1994 and (c) Amendment No. 2 dated September 1, 2000.

Ownership Interest: the Seller's rights, title and interest in and to the Equipment and the Seller's rights and obligations under the Operative Agreements.

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 9.6 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 Illinois, without giving effect to its conflict of law rules.

10. **Entire Agreement.** This Agreement, the Purchase Agreement, and the Bill of Sale (together with their exhibits and schedules) represent the entire agreement of the parties with respect to the subject matter hereof and thereof and supersede and cancel any prior oral or written agreement, letter of intent or understanding with respect to such subject matter.

[Remainder of this page left blank intentionally.]

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto on the date first above written.

GENERAL ELECTRIC RAILCAR SERVICES CORPORATION



By: _____

Name: Mark A. Stefani

Title: Vice President

MIDWEST RAILCAR CORPORATION

By: _____

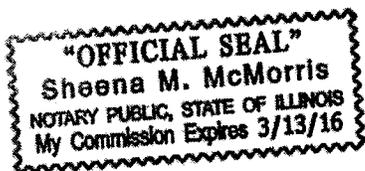
Name: Richard M. Folio

Title: Executive Vice President

State of Illinois)
)
County of Cook)

On this, the 21st day of December 2012, before me, a Notary Public in and for said County and State, personally appeared Mark A. Stefani, a Vice President of General Electric Railcar Services Corporation, who acknowledged himself to be a duly authorized officer of General Electric Railcar Services Corporation, 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.



Sheena M. McMorris
Name: Sheena M. McMorris
Notary Public

My Commission Expires: 3/13/16
Residing in: ILLINOIS

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto on the date first above written.

**GENERAL ELECTRIC RAILCAR SERVICES
CORPORATION**

By: _____
Name: Mark A. Stefani
Title: Vice President

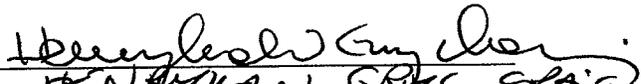
MIDWEST RAILCAR CORPORATION

By: 
Name: Richard M. Folio
Title: Executive Vice President

State of Maryland)
)
City of Baltimore)

On this, the 28th day of Dec, 2012 before me, a Notary Public in and for said County and State, personally appeared Richard M. Folio, an Executive Vice President of Midwest Railcar Corporation, who acknowledged himself to be a duly authorized officer of Midwest Railcar Corporation, 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: HENRYKA W. GRYC CRAIG
Notary Public

My Commission Expires: 7/8/14
Residing in: _____

HENRYKA W. GRYC CRAIG
NOTARY PUBLIC STATE OF MARYLAND
County of Baltimore
My Commission Expires ~~September 20, 2005~~ 7/8/14

**EXHIBIT I
TO ASSIGNMENT AND ASSUMPTION AGREEMENT**

FORM OF BILL OF SALE

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, General Electric Railcar Services Corporation (“Seller”), does hereby sell, transfer and assign to Midwest Railcar Corporation (“Buyer”) all of Seller’s rights, title and interest in and to the equipment described in Schedule 1 hereto, subject to the terms and conditions of the Purchase Agreement, dated as of _____, 20__, between Seller and Buyer, and the Assignment and Assumption Agreement, dated _____, 20__, between Seller and Buyer.

General Electric Railcar Services Corporation

By: _____
Name: Mark A. Stefani
Title: Vice President
Date: _____

**Schedule 1
to Bill of Sale**

(List of Equipment)

J.R. Simplot Lease:

Seventy-seven (77) 4,750 – 4,780 cubic foot covered hoppers with gravity gates bearing the following car marks and car numbers:

<u>Unit</u>	<u>Car</u>	<u>Car</u>	<u>Unit</u>	<u>Car</u>	<u>Car</u>
<u>Count</u>	<u>Mark</u>	<u>Number</u>	<u>Count</u>	<u>Mark</u>	<u>Number</u>
1	USLX	7055	39	PLCX	22376
2	USLX	7119	40	PLWX	23134
3	PTLX	14177	41	PLWX	23154
4	PTLX	14860	42	PLWX	23250
5	PTLX	15147	43	PLWX	23285
6	PLCX	16470	44	PLCX	24175
7	PLCX	16512	45	USLX	26014
8	PLCX	16693	46	USLX	26235
9	PLCX	17019	47	USLX	26244
10	PLCX	17021	48	USLX	26362
11	PTLX	17149	49	PLCX	27061
12	PTLX	17240	50	PLCX	27306
13	PTLX	17304	51	PLCX	27401
14	PTLX	17308	52	PLCX	28007
15	PTLX	17320	53	PLCX	28059
16	PTLX	17340	54	PTLX	33715
17	PTLX	17345	55	PTLX	34451
18	PTLX	17391	56	ITLX	41646
19	PTLX	17736	57	ITLX	44001
20	PLCX	18151	58	ITLX	44004
21	PLCX	18218	59	NAHX	65515
22	PLCX	18221	60	NAHX	479893
23	PLCX	18456	61	NAHX	480392
24	PLCX	18510	62	NAHX	480527
25	PLCX	18555	63	NAHX	480591
26	PLCX	18929	64	NAHX	480639
27	PLCX	19201	65	NAHX	490004
28	PLCX	19503	66	NAHX	490007
29	PLCX	19511	67	NAHX	490012
30	PLCX	19755	68	NAHX	490042
31	USLX	20374	69	NAHX	490086
32	PLCX	20507	70	NAHX	490090
33	PLCX	20777	71	NAHX	490091
34	PLCX	20843	72	NAHX	490479
35	PLCX	22025	73	TRNX	500541
36	PLCX	22355	74	NAHX	511560
37	PLCX	22356	75	NAHX	800100
38	PLCX	22357	76	NAHX	800132
			77	NAHX	890683

**Schedule 1
to Assignment and Assumption Agreement**

(List of Equipment)

J.R. Simplot Lease:

Seventy-seven (77) 4,750 – 4,780 cubic foot covered hoppers with gravity gates bearing the following car marks and car numbers:

<u>Unit</u>	<u>Car</u>	<u>Car</u>	<u>Unit</u>	<u>Car</u>	<u>Car</u>
<u>Count</u>	<u>Mark</u>	<u>Number</u>	<u>Count</u>	<u>Mark</u>	<u>Number</u>
1	USLX	7055	39	PLCX	22376
2	USLX	7119	40	PLWX	23134
3	PTLX	14177	41	PLWX	23154
4	PTLX	14860	42	PLWX	23250
5	PTLX	15147	43	PLWX	23285
6	PLCX	16470	44	PLCX	24175
7	PLCX	16512	45	USLX	26014
8	PLCX	16693	46	USLX	26235
9	PLCX	17019	47	USLX	26244
10	PLCX	17021	48	USLX	26362
11	PTLX	17149	49	PLCX	27061
12	PTLX	17240	50	PLCX	27306
13	PTLX	17304	51	PLCX	27401
14	PTLX	17308	52	PLCX	28007
15	PTLX	17320	53	PLCX	28059
16	PTLX	17340	54	PTLX	33715
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18	PTLX	17391	56	ITLX	41646
19	PTLX	17736	57	ITLX	44001
20	PLCX	18151	58	ITLX	44004
21	PLCX	18218	59	NAHX	65515
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26	PLCX	18929	64	NAHX	480639
27	PLCX	19201	65	NAHX	490004
28	PLCX	19503	66	NAHX	490007
29	PLCX	19511	67	NAHX	490012
30	PLCX	19755	68	NAHX	490042
31	USLX	20374	69	NAHX	490086
32	PLCX	20507	70	NAHX	490090
33	PLCX	20777	71	NAHX	490091
34	PLCX	20843	72	NAHX	490479
35	PLCX	22025	73	TRNX	500541
36	PLCX	22355	74	NAHX	511560
37	PLCX	22356	75	NAHX	800100
38	PLCX	22357	76	NAHX	800132
			77	NAHX	890683

CERTIFICATION

I, Edward M. Luria, an attorney licensed to practice in the District of Columbia, the State of Delaware and the Commonwealth of Pennsylvania, 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: 12/28/12

Edward M Luria
Edward M. Luria