

JAN 04 '10

8-00 AM

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

January 4, 2010

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 January 1, 2010, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the documents previously filed with the Board under Recordation Number 21316 and specifically to the documents identified on Exhibit B attached to the Assignment.

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

Assignor: The CIT Group/Equipment Financing, Inc.
30 South Wacker, Suite 3000
Chicago, IL 60606

Assignee: BBRX Five LLC
885 Second Avenue 49th Floor
New York, NY 10017

Section Chief
January 4, 2010
Page 4

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

440 railcars within the series IBT 18400 - IBT 18849 (excluding casualties) 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 \$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,



Robert W. Alvord

RWA/sem
Enclosures

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement dated as of January 1, 2010 (this "Agreement"), is between The CIT Group/Equipment Financing, Inc., a Delaware corporation (the "Assignor"), and BBRX Five LLC, a Delaware limited liability company (the "Assignee"). Capitalized terms used herein shall have the meanings ascribed thereto herein.

RECITALS:

A. The Assignee is the owner of the railcars described on Exhibit A hereto (the "Equipment").

B. The Assignee and the Assignor are parties to that certain Master Railcar Lease and Schedule No. 01 thereto dated July 25, 2002 and Lease Extension Agreement No. 01 dated July 20, 2007 between the Assignor (as ultimate assignee of Bombardier Capital Rail Inc.) as lessee and the Assignee (as ultimate assignee of Babcock & Brown Rail Funding LLC) as lessor (the "Headlease") pursuant to which the Assignor leases the Equipment from the Assignee.

C. The Assignor is the lessor under that certain Master Railcar Lease dated as of October 29, 2007 (the "Master Sublease") and Schedule No. 01 thereto dated as of July 21, 2008 and entered into retroactive to August 1, 2007 (the "Sublease Schedule") between the Assignor, as lessor, and Greenbrier Leasing Company LLC, as lessee. The Sublease Schedule and the Master Sublease, to the extent related to or referenced by the Sublease Schedule, are hereinafter referred to as the "Sublease".

D. The Assignor and the Assignee wish (i) to terminate the Headlease and their respective obligations and rights thereunder, and (ii) to have the Assignor assign, and the Assignee assume, the Assignor's obligations and rights under the Sublease subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows.

1. Assignment. Effective as to each item of Equipment from and after January 1, 2010 (the "Effective Date"), the Assignor assigns to the Assignee all of the Assignor's rights and obligations under the Sublease and the other documents listed on Exhibit B hereto (collectively, the "Assigned Operative Agreements"). Assignor is not assigning, and Assignee is not assuming, any rights or obligations in any schedule to the Master Sublease other than the Sublease Schedule.

Notwithstanding the foregoing, each of the Assignor and the Assignee shall continue to be entitled to the benefit of any applicable 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 Effective Date, as specified in the Headlease.

2. Acceptance of Assignment; Effect of Assignment. The Assignee accepts the assignment contained in Section 1 and agrees to be bound to the same extent as the Assignor by all the terms of the Assigned Operative Agreements. Effective on and after the Effective Date, after giving effect to the transaction described herein, the Assignee shall be deemed to stand in the place of the Assignor for all purposes under the Assigned Operative Agreements and each reference in the Assigned Operative Agreements to the Assignor shall be deemed to mean the Assignee.

3. Allocation of Sublease Revenues and Expenses. All revenues and expenses with respect to the Equipment that are earned or incurred under the Sublease (i) prior to the Effective Date shall be for the account of the Assignor and (ii) on or after the Effective Date shall be for the account of the Assignee. Upon receipt of notice from the Assignor with appropriate back-up materials, the Assignee will promptly reimburse the Assignor for any such expenses paid by the Assignor on or after the Effective Date except to the extent such expenses relate to the period prior to the Effective Date. Each party shall promptly remit to the other party any Sublease rent or other amounts received by such party after the Effective Date which are for the account of the other party.

4. Termination of Headlease. On the Effective Date, the Headlease shall automatically terminate with respect to the Equipment without any further action on the part of the Assignor and the Assignee. Notwithstanding any such termination (i) the parties shall remain liable for the payment and performance of all their respective obligations under the Headlease up to the Effective Date and (ii) Assignor shall remain liable for all of its obligations as "Lessee" under the Headlease which by their terms survive such termination.

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 the Headlease.

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 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 Assignee and the Assignor agree to record this Agreement and a memorandum of lease termination with respect to the Headlease with the Surface Transportation Board and with the Registrar General of Canada to evidence (a) the assignment by the Assignor to the Assignee of the Assignor's rights under the Sublease, and (b) the termination of the Headlease.

11. Legal Expenses. The Assignor hereby acknowledges that it will pay all costs associated with the transactions contemplated herein, including, without limitation, reasonable fees and disbursements of Assignee's counsel.

12. Further Assurances. Each of the parties hereto covenants and agrees that, at any time and from time to time after the date hereof, at the request and expense of the other party hereto, it will promptly and duly execute and deliver, or cause to be executed and delivered, to the requesting party all such further instruments and take all such further action as may be reasonably requested by such party to more effectively sell, transfer, assign, and convey each item of Equipment.

13. Binding Agreement. This Agreement shall be binding upon the Assignor and the Assignee, their respective successors and permitted assigns, for the use and purposes set forth and referred to herein, effective as of the date hereof.

14. Assigned Operative Agreements. There are no documents other than the Assigned Operative Agreements that affect in any material respect the rights, benefits, obligations or liabilities of the Assignor or the other parties thereto, under or in respect of the Assigned Operative Agreements and the transactions referred to therein.

[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.

THE CIT GROUP/EQUIPMENT FINANCING,
INC.,
as Assignor

By: Nancy A. Nardella
Name: NANCY A NARDELLA
Title: Vice President

BBRX FIVE LLC, as Assignee

By: _____
Name:
Title:

State of Connecticut)
County of Fairfield)

On this, the 24th day of December, 2007 before me, a Notary Public in and for said County and State, personally appeared Nancy Nardella, the Vice President of The CIT Group/Equipment Financing, Inc., who acknowledged himself/herself to be a duly authorized officer of The CIT Group/Equipment Financing, 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: Kim A Goodrich
Notary Public Kim A. Goodrich

My Commission Expires: 3/31/11

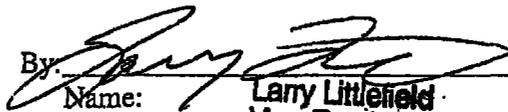
Residing in: Stamford, CT

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

THE CIT GROUP/EQUIPMENT FINANCING,
INC.,
as Assignor

By: _____
Name:
Title:

BBRX FIVE LLC, as Assignee

By:  _____
Name: **Larry Littlefield**
Title: **Vice President**

State of New York)
County of New York) ss.

On this, the 22nd day of December, 2009, before me, a Notary Public in and for said County and State, personally appeared Larry Littlefield, the Vice President of BBRX Five LLC, who acknowledged himself/herself to be a duly authorized officer of BBRX Five LLC, 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: [Signature]
Notary Public

My Commission Expires: 10/19/2010

Residing in: Queens, New York

INDRA BEDASIE
Notary Public, State of New York
No. 01BE6014602
Qualified in Queens County
Certificate Filed in New York County
Commission Expires October 19, 2012

Exhibit A
(to Assignment
and Assumption Agreement)

# of Units	Year Built/ Manufacturer	Description	Reporting Marks	Casualty Marks
440	2002 by Gunderson, Inc.	50' Plate F Boxcars	IBT 18400 through IBT 18849, excluding IBT 18501, IBT 18530, IBT 18605, IBT 18628, IBT 18750, IBT 18752, IBT 18784 and IBT 18804	IBT 18418, IBT 18537

EXHIBIT B
(to Assignment
and Assumption Agreement)

Assigned Operative Agreements

1. Master Railcar Lease dated as of October 29, 2007 (the "Master Sublease") and Schedule No. 01 thereto dated as of July 21, 2008 and entered into retroactive to August 1, 2007 (the "Sublease Schedule"), between The CIT Group/Equipment Financing, Inc., as lessor, and Greenbrier Leasing Company LLC, as lessee. The Sublease Schedule and the Master Sublease, to the extent related to or referenced by the Sublease Schedule, are hereinafter referred to as the "Sublease". [Note: the Sublease has not been filed with the Surface Transportation Board.]

2. The security interest in any subleases of the Equipment granted by Greenbrier Leasing Company to The CIT Group/Equipment Financing, Inc. under Section 14(6) of the Sublease Schedule, including, but not limited to, the Master Lease Agreement dated as of November 19, 1997 (as amended by Amendment to Master Lease Agreement dated December 10, 1999, the "Master Sub-Sublease") and Rider No. 10 thereto dated as of July 15, 2001 (the "Sub-Sublease Schedule"), between Greenbrier Leasing Corporation, as lessor, and Minnesota, Dakota & Western Railway Company, as lessee. The Sub-Sublease Schedule and the Master Sub-Sublease, to the extent related to or referenced by the Sub-Sublease Schedule, are hereinafter referred to as the "Sub-Sublease". [Note: the Sub-Sublease has not been filed with the Surface Transportation Board.]

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: 1/4/2010



Robert W. Alvord