



ATEL
Financial Services, LLC*

STB E-FILE

December 6, 2012

Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re: Document for Recordation:

1. Assignment and Assumption Agreement

Dear Section Chief:

Attached please find for recordation one (1) copy of Assignment and Assumption Agreement, a primary document as defined in the Board's Rules for the Recordation of Documents.

The names and addresses to the Assignment and Assumption Agreement executed as of November 20, 2012 are:

Lessor: ATEL Leasing Corporation
600 California St., 6th Floor
San Francisco, CA 94108

Lessee: US Silica Company
8490 Progress Drive
Frederick, MD 21701

Secured Party: Not applicable

A description of the railroad equipment covered by the Assignment and Assumption Agreement is:

65 used covered hopper railcars

A short summary of the document to appear in the index as follows:

Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
December 6, 2012
Page 2

Assignment and Assumption Agreement: assignment of Rider 3B (as executed by Lessee on 01/27/2011), from General Electric Railcar Services Corporation to ATEL Leasing Corporation.

The fee of \$42.00 can be charged to our account.

Kindly return a stamped copy of the attached document to the undersigned at your earliest convenience.

Should you have any questions, please do not hesitate to contact me at 415/616-3406 or at [sstetson@atel.com](mailto:ssetson@atel.com).

Sincerely,

ATEL LEASING CORPORATION



Sheila A. Stetson
Senior Contract Administrator

Attachments

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of November 20, 2012 (this "Agreement"), is between General Electric Railcar Services Corporation, a Delaware corporation (the "Seller"), and ATEL Leasing Corporation, a California corporation (the "Buyer").

RECITALS

WHEREAS, the Buyer and the Seller have entered into that certain Purchase Agreement, dated as of November 20, 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 accruing on or after the Closing Date (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

37294

(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: means the closing of the transactions contemplated by the Purchase Agreement.

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”).

Lessee: U.S. Silica Company, a Delaware corporation.

Lease: Rider No. 3-B to Car Leasing Agreement No. 7237-97 (as amended, renewed or supplemented to date), between Seller and Lessee executed by Lessee on January 27, 2011, as amended by that certain Amendment No. 1 to Rider No. 3-B to Car Leasing Agreement 7237-97 dated October 24, 2012 between Seller and Lessee, which Rider No. 3-B, as amended, incorporates by reference the terms and conditions of the Master Lease.

Master Lease: Car Leasing Agreement No. 7237-97 dated May 9, 2000 and made effective as of May 23, 2000 between Seller and Lessee.

Operative Agreements: as defined in Section 2.

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 9.5 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 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.

11. Miscellaneous. This Agreement shall be effective upon the occurrence of the Closing. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

[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: Michelle DeMita
Title: Vice President

ATEL LEASING CORPORATION

By: _____
Name: Dean Cash
Title: President & C.E.O.

Attachments:

Exhibit I – Form of Bill of Sale
Schedule I – Equipment Description

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: Michelle DeMita
Title: Vice President

ATEL LEASING CORPORATION

By: _____
Name: Dean Cash
Title: President & C.E.O.

Attachments:

Exhibit I – Form of Bill of Sale
Schedule 1 – Equipment Description

ATEL LEGAL DEPARTMENT
APPROVED
AS TO FORM

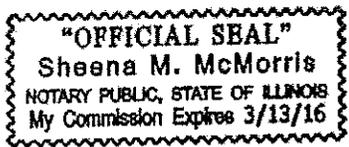
BY: 

State of Illinois)
)
County of Cook)

On this, the 20th day of November, 2012 before me, a Notary Public in and for said County and State, personally appeared Michelle DeMita, a Vice President of General Electric Railcar Services Corporation, who acknowledged herself to be a duly authorized officer of General Electric Railcar Services Corporation, and that, as such officer, being authorized to do so, 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.

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



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

State of CALIFORNIA)
)
City of SAN FRANCISCO)

On this, the 19 day of NOVEMBER, 2012, before me, a Notary Public in and for said County and State, personally appeared DEAN L. CASH, ~~as~~ THE PRESIDENT of ATEL Leasing Corporation, who acknowledged himself to be a duly authorized officer of ATEL Leasing 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.



Ellen A. Armour
Name: ELEN A. ARMOUR
Notary Public

My Commission Expires: Dec. 10, 2015
Residing in: SAN FRANCISCO

**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 assigns to ATEL Leasing Corporation, a California corporation (“Buyer”) and its successors and permitted assigns 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 November 20, 2012, between Seller and Buyer, and the Assignment and Assumption Agreement, dated as of November 20, 2012, between Seller and Buyer.

**GENERAL ELECTRIC RAILCAR SERVICES
CORPORATION**

By: _____

Name: Michelle DeMita

Title: Vice President

Date: _____

**SCHEDULE 1
TO BILL OF SALE**

List of Equipment

Sixty-five (65) gravity hopper railcars bearing the reporting marks and numbers as noted below:

<u>Count</u>	<u>Car Mark</u>	<u>Car Number</u>
1	NAHX	44
2	PLCX	351
3	PLCX	369
4	PLCX	373
5	ANAX	3778
6	ITLX	30017
7	ITLX	30038
8	ITLX	30042
9	ITLX	30051
10	ITLX	30052
11	ITLX	30060
12	ITLX	30067
13	ITLX	30068
14	ITLX	30069
15	ITLX	30083
16	ITLX	30097
17	ITLX	30101
18	ITLX	30129
19	ITLX	30134
20	ITLX	30139
21	ITLX	30140
22	ITLX	30177
23	ITLX	30219
24	ITLX	30220
25	ITLX	30221
26	ITLX	30222
27	ITLX	30240
28	ITLX	30250
29	ITLX	30251
30	ITLX	30260
31	ITLX	30262
32	ITLX	30272
33	ITLX	30294

<u>Count</u>	<u>Car Mark</u>	<u>Car Number</u>
34	ITLX	30305
35	ITLX	30306
36	ITLX	30307
37	ITLX	30363
38	ITLX	30366
39	ITLX	30373
40	ITLX	30374
41	ITLX	30419
42	ITLX	30426
43	ITLX	30433
44	ITLX	30720
45	ITLX	31009
46	ITLX	31025
47	ITLX	31035
48	ITLX	31041
49	ITLX	31042
50	ITLX	31051
51	NAHX	35905
52	ITLX	441249
53	ITLX	441332
54	ITLX	441377
55	ITLX	441409
56	ITLX	441412
57	ITLX	441450
58	ITLX	441500
59	ITLX	441503
60	ITLX	441544
61	ITLX	441546
62	ITLX	441554
63	ITLX	441588
64	ITLX	441590
65	ITLX	441594

**SCHEDULE 1
TO ASSIGNMENT AND ASSUMPTION AGREEMENT**

List of Equipment

Sixty-five (65) gravity hopper railcars bearing the reporting marks and numbers as noted below:

<u>Count</u>	<u>Car Mark</u>	<u>Car Number</u>
1	NAHX	44
2	PLCX	351
3	PLCX	369
4	PLCX	373
5	ANAX	3778
6	ITLX	30017
7	ITLX	30038
8	ITLX	30042
9	ITLX	30051
10	ITLX	30052
11	ITLX	30060
12	ITLX	30067
13	ITLX	30068
14	ITLX	30069
15	ITLX	30083
16	ITLX	30097
17	ITLX	30101
18	ITLX	30129
19	ITLX	30134
20	ITLX	30139
21	ITLX	30140
22	ITLX	30177
23	ITLX	30219
24	ITLX	30220
25	ITLX	30221
26	ITLX	30222
27	ITLX	30240
28	ITLX	30250
29	ITLX	30251
30	ITLX	30260
31	ITLX	30262
32	ITLX	30272
33	ITLX	30294

<u>Count</u>	<u>Car</u> <u>Mark</u>	<u>Car</u> <u>Number</u>
34	ITLX	30305
35	ITLX	30306
36	ITLX	30307
37	ITLX	30363
38	ITLX	30366
39	ITLX	30373
40	ITLX	30374
41	ITLX	30419
42	ITLX	30426
43	ITLX	30433
44	ITLX	30720
45	ITLX	31009
46	ITLX	31025
47	ITLX	31035
48	ITLX	31041
49	ITLX	31042
50	ITLX	31051
51	NAHX	35905
52	ITLX	441249
53	ITLX	441332
54	ITLX	441377
55	ITLX	441409
56	ITLX	441412
57	ITLX	441450
58	ITLX	441500
59	ITLX	441503
60	ITLX	441544
61	ITLX	441546
62	ITLX	441554
63	ITLX	441588
64	ITLX	441590
65	ITLX	441594