

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	MERGER
EFFECTIVE DATE:	06/30/2009

**CONVEYING PARTY DATA**

Name	Formerly	Execution Date	Entity Type
American Railcar Industries, Inc.		06/26/2009	CORPORATION: DELAWARE

**RECEIVING PARTY DATA**

Name:	American Railcar Industries, Inc.
Street Address:	100 Clark Street
City:	St. Charles
State/Country:	MISSOURI
Postal Code:	63301
Entity Type:	CORPORATION: NORTH DAKOTA

**PROPERTY NUMBERS Total: 6**

Property Type	Number	Word Mark
Registration Number:	2614206	ARI
Registration Number:	3434123	ARL
Registration Number:	0900643	CENTER FLOW
Registration Number:	1446254	
Registration Number:	1173113	PRESSUREAIDE
Registration Number:	2580095	SURE TREAD

**CORRESPONDENCE DATA**

Fax Number: (314)621-5065  
*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*  
 Phone: 314-621-5070  
 Email: iptm@armstrongteasdale.com  
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 Address Line 1: One Metropolitan Square, Suite 2600  
 Address Line 4: St. Louis, MISSOURI 63102

**CH \$165.00 2614206**

**TRADEMARK**

**900139363**

**REEL: 004030 FRAME: 0952**

ATTORNEY DOCKET NUMBER:	07815
NAME OF SUBMITTER:	Meredith P. Gammill, Attorney of Record
Signature:	/MPG-ATLLP/
Date:	07/23/2009
<b>Total Attachments: 10</b> source=Filed DE Art of Merger - ARI (DE) into ARI (ND)#page1.tif source=Filed DE Art of Merger - ARI (DE) into ARI (ND)#page2.tif source=Filed DE Art of Merger - ARI (DE) into ARI (ND)#page3.tif source=Filed DE Art of Merger - ARI (DE) into ARI (ND)#page4.tif source=Filed DE Art of Merger - ARI (DE) into ARI (ND)#page5.tif source=Filed DE Art of Merger - ARI (DE) into ARI (ND)#page6.tif source=Filed DE Art of Merger - ARI (DE) into ARI (ND)#page7.tif source=Filed DE Art of Merger - ARI (DE) into ARI (ND)#page8.tif source=Filed DE Art of Merger - ARI (DE) into ARI (ND)#page9.tif source=Filed DE Art of Merger - ARI (DE) into ARI (ND)#page10.tif	

**CERTIFICATE OF OWNERSHIP AND MERGER**

**MERGING**

**AMERICAN RAILCAR INDUSTRIES, INC., (a Delaware corporation)**

**WITH AND INTO**

**AMERICAN RAILCAR INDUSTRIES, INC., (a North Dakota corporation)**

American Railcar Industries, Inc., a corporation organized and existing under the laws of the State of Delaware (the "**Parent**")

**DOES HEREBY CERTIFY:**

**FIRST:** That the Parent was organized on the 16<sup>th</sup> day of November, 2005, pursuant to the provisions of the General Corporation Law of the State of Delaware.

**SECOND:** That the Parent owns 100% of the outstanding shares of the capital stock of American Railcar Industries, Inc., a North Dakota corporation (the "**Subsidiary**"), a corporation organized on the 30th day of April, 2009, pursuant to the provisions of the North Dakota Business Corporations Act.

**THIRD:** That the Board of Directors of Parent (the "**Corporation**") at a meeting held on April 16, 2009, adopted the following resolutions providing for the merger of Parent with and into the Subsidiary (the "**Merger**"), which resolutions have not been amended or rescinded and are in full force and effect:

**RESOLVED:** That the Board of Directors authorizes and approves, and recommends to the stockholders of the Corporation that the stockholders authorize and approve, a change in the Corporation's domicile from Delaware to North Dakota effected by the merger of the Corporation, a Delaware corporation, with and into American Railcar Industries, Inc., a newly formed wholly-owned subsidiary of the Corporation incorporated in North Dakota for the purpose of effecting the change of domicile.

**RESOLVED:** That the terms and conditions of such merger (the "**Merger**") shall be set forth in an Agreement and Plan of Merger, in substantially the form attached to these minutes as Exhibit A (the "**Agreement and Plan of Merger**"), including without limitation that, upon the effectiveness of the Merger:

- (i) the Corporation shall be merged with and into the Subsidiary, so that the separate corporate existence of this Corporation shall cease as soon as the Merger shall become effective, and thereupon this Corporation and the Subsidiary will become a single corporation (the "**Surviving Corporation**"), which shall continue to exist under and be governed by the laws of the State of North Dakota;
- (ii) the name by which the Surviving Corporation shall be known is: American Railcar Industries, Inc.;

**TRADEMARK**

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- (iii) the Articles of Incorporation of the Surviving Corporation shall be amended and restated in their entirety, such that they shall read as attached to these minutes as Exhibit B (the "**New Articles**"), which New Articles shall, among other things, provide that the Surviving Corporation shall be subject to the North Dakota Publicly Traded Corporations Act;
- (iv) the officers and directors of the Surviving Corporation shall be those of this Corporation immediately prior to the Effective Time;
- (v) each share of this Corporation's common stock (the "**Parent Common Stock**") issued and outstanding shall be converted into and be deemed to become one share of common stock of the Surviving Corporation (the "**Subsidiary Common Stock**");
- (vi) all of the shares of Subsidiary Common Stock held by this Corporation shall be surrendered and canceled;
- (vii) the Surviving Corporation shall assume and continue this Corporation's 2005 Equity Incentive Plan, as amended, and all other employee benefit plans of this Corporation, and (A) each outstanding and unexercised option or other right to purchase or receive or security convertible into Parent Common Stock shall be assumed by the Surviving Corporation and shall become an option or right to purchase or receive or a security convertible into Subsidiary Common Stock on the basis of one share of Subsidiary Common Stock for each share of Parent Common Stock issuable pursuant to any such option, right to purchase or convertible security, on the same terms and conditions and at an exercise price per share equal to the exercise price applicable to any such option, stock purchase right or convertible security and (B) each stock appreciation right shall be assumed by the Surviving Corporation and shall reference the same number of shares of Subsidiary Common Stock as such stock appreciation right referenced shares of Parent Common Stock prior to the Merger; and
- (viii) the holders of shares of Parent Common Stock shall have no further claims of any kind or nature.

**FOURTH:** That the Merger has been approved by a majority of the outstanding stock of the Parent entitled to vote thereon, pursuant to and in accordance with Section 253 of the General Corporation Law of the State of Delaware.

**FIFTH:** That the Subsidiary shall be the surviving corporation in the Merger and agrees that it may be served with process in the State of Delaware in any proceeding for enforcement of any obligation of the Parent as well as for enforcement of any obligation of the surviving corporation arising from the Merger and it irrevocably appoints the Secretary of State of Delaware as its agent to accept service of process in any such suit or other proceeding. The address to which a copy of such process shall be mailed by the Secretary of State of Delaware is: American Railcar Industries, Inc., 100 Clark Street, St. Charles, MO, 63301.

**SIXTH:** The Merger shall become effective on June 30, 2009.

**SEVENTH:** Anything herein or elsewhere to the contrary notwithstanding, this Merger may, in accordance with the terms of the Agreement and Plan of Merger and the General Corporation Law of the State of Delaware, be terminated and abandoned by the Board of Directors of the Parent at any time prior to the time that this Certificate of Ownership and Merger becomes effective, whether or not at the time of such termination and abandonment the Merger has been adopted by the stockholders of Parent.

[Signature Page Follows]

IN WITNESS WHEREOF, said Parent has caused this certificate to be signed by an authorized officer, the 26<sup>th</sup> day of June, 2009.

AMERICAN RAILCAR INDUSTRIES, INC.

By: *Dale C. Davies*  
Dale C. Davies  
Senior Vice President, Chief Financial Officer  
and Treasurer

[Signature Page to Delaware Certificate of Ownership and Merger]

**EXHIBIT A**

**Agreement and Plan of Merger**

## AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER ("**Agreement**") entered into this 26th day of June, 2009 by and between American Railcar Industries, Inc., a Delaware corporation ("**Parent**"), and American Railcar Industries, Inc., a North Dakota corporation ("**Subsidiary**" and, together with Parent, "**Constituent Corporations**").

### RECITALS:

WHEREAS, the authorized capital stock of Parent consists of: (i) 50,000,000 shares of Common Stock, \$.01 par value per share ("**Parent Common Stock**"), 21,302,296 shares of which are issued and outstanding as of the date hereof; (ii) 1,000,000 shares of Preferred Stock, \$.01 par value per share, no shares of which are issued and outstanding as of the date hereof.

WHEREAS, the authorized capital stock of Subsidiary consists of 10,000 shares of Common Stock, \$.01 par value per share ("**Subsidiary Common Stock**"), 100 shares of which are issued and outstanding and held by Parent as of the date hereof.

WHEREAS, the parties deem it advisable and in the best interests of the Constituent Corporations and their stockholders that Parent be merged with and into Subsidiary (the "**Merger**") in accordance with the provisions of the North Dakota Business Corporation Act ("**NDBCA**") and the Delaware General Corporation Law ("**DGCL**") and desire to state herein the mode of carrying the same into effect and certain other details and provisions of the Merger;

NOW, THEREFORE, in consideration of the premises and the agreements herein contained, the parties agree as follows:

1. Constituent Corporations and Merger. On the Effective Time, as defined in Section 3 below, Parent shall be merged into Subsidiary and Subsidiary shall be the surviving corporation (the "**Surviving Corporation**").

2. Surviving Corporation.

(a) The name by which the Surviving Corporation shall be known is: American Railcar Industries, Inc.

Upon the Effective Time, the Articles of Incorporation of the Surviving Corporation shall be amended and restated in their entirety as set forth on Exhibit A attached hereto (the "**New Articles**"), which New Articles: (i) shall supersede the original Articles of Incorporation of the Subsidiary, and any amendments thereto, in all respects; (ii) have been adopted pursuant to Section 10-19.1-21 of the NDBCA; and (iii) among other things (X) increase the authorized capital stock of the Subsidiary to consist of 50,000,000 shares of Subsidiary Common Stock and 1,000,000 shares of Preferred Stock, \$.01 par value per share, and (Y) provide that the Surviving Corporation shall be subject to the North Dakota Publicly Traded Corporations Act.

(b) Upon the Effective Time, the Bylaws of the Surviving Corporation shall be in the



form previously approved by the board of directors of each of the Constituent Corporations, which were included in the definitive proxy statement of Parent filed with the Securities and Exchange Commission on April 30, 2009. (the "New Bylaws");

(c) Upon the Effective Time, the officers and directors of the Surviving Corporation shall be those of the Parent immediately prior to the Effective Time.

3. Effective Time. The Merger shall become effective, assuming the prior filing of (i) a Certificate of Ownership and Merger and/or an executed counterpart of this Agreement with the Office of the Secretary of State of the State of Delaware and (ii) Articles of Merger and/or an executed counterpart of this Agreement with the Office of the Secretary of State of the State of North Dakota, respectively, on June 30, 2009 (the "Effective Time") (any such Certificate of Ownership and Merger, Articles of Merger and/or executed counterparts of this Agreement, collectively, the "Merger Documents").

4. Effect of Merger. From and after the Effective Time, the effect of the Merger shall be as provided in Sections 253 and 259 of the DGCL and Sections 10-19.1-100 and 10-19.1-102 of the NDBCA, including the following: (i) the separate corporate existence of Parent shall cease and all of its assets, property, rights and powers as well as all debts due it and all choses in action belonging to it shall be transferred to and vested in the Subsidiary as the Surviving Corporation without further act or deed; (ii) the Subsidiary as the Surviving Corporation shall continue in existence and retain all of its assets, property, leasehold interests, rights and powers as well as all debts due to it and all choses in action belonging to it without impairment; and further, the title to any real estate, or any interest therein, under the laws of the State of Delaware vested in the Subsidiary Corporation shall not revert or be in any way impaired by reason of the Merger; and further, the rights of creditors of Parent, lessors of property leased by Parent and parties contracting with Parent shall not in any manner be impaired by the Merger, and Subsidiary as the Surviving Corporation shall remain liable for all of its liabilities and obligations existing prior to the Effective Time and shall be deemed to have assumed the obligations of Parent existing prior to the Effective Time to the same extent as if Subsidiary had itself incurred such obligations; and further the aggregate amount of the net assets of the parties which was available for the payment of dividends immediately prior to the Merger shall continue to be available for the payment of dividends by the Surviving Corporation.

5. Further Assurance. From time to time, as and when required by the Surviving Corporation or by its successors or assigns, there shall be executed and delivered on behalf of Parent such deeds and other instruments, and there shall be taken or caused to be taken by it all such further and other action, as shall be appropriate, advisable or necessary in order to vest, perfect or conform, of record or otherwise, in the Surviving Corporation, the title to and possession of all property, interests, assets, rights, privileges, immunities, powers, franchises and authority of the Parent, and otherwise to carry out the purposes of this Agreement, and the officers and directors of the Surviving Corporation are fully authorized, in the name and on behalf of the Parent or otherwise, to take any and all such action and to execute and deliver any and all such deeds and other instruments.

6. Statutory Agent. From and after the Effective Time, until thereafter changed as permitted by law, the Secretary of State of the State of Delaware shall serve as the statutory agent of the Non-Surviving Corporation upon whom any process, notice or demand against either Parent or the Surviving Corporation may be served for any prior obligations for so long as any liability remains outstanding against Parent or the Surviving Corporation in the State of Delaware.

7. Conversion of Shares.

(a) At the Effective Time, by virtue of the Merger and without any action on the part of the holder thereof:

- i. each share of Parent Common Stock issued and outstanding shall be converted into and be deemed to become one share of Subsidiary Common Stock;
- ii. all of the shares of Subsidiary Common Stock held by Parent shall be surrendered and canceled;
- iii. the Surviving Corporation shall assume and continue Parent's 2005 Equity Incentive Plan, as amended, and all other employee benefit plans of Parent, and (A) each outstanding and unexercised option or other right to purchase or receive or security convertible into Parent Common Stock shall be assumed by the Surviving Corporation and shall become an option or right to purchase or receive or a security convertible into Subsidiary Common Stock on the basis of one share of Subsidiary Common Stock for each share of Parent Common Stock issuable pursuant to any such option, right to purchase or convertible security, on the same terms and conditions and at an exercise price per share equal to the exercise price applicable to any such Parent option, stock purchase right or convertible security and (B) each stock appreciation right shall be assumed by the Surviving Corporation and shall reference the same number of shares of Subsidiary Common Stock as such stock appreciation right referenced shares of Parent Common Stock prior to the Merger; and
- iv. the holders of shares of Parent Common Stock shall have no further claims of any kind or nature.

(b) From and after the Effective Time, (i) each certificate theretofore representing shares of issued and outstanding Parent Common Stock shall, upon surrender to Subsidiary, entitle the holder to receive in exchange therefor a certificate or certificates representing the number of shares of Subsidiary Common Stock into which the stock theretofore represented by the certificate so surrendered shall have been converted in accordance with the paragraphs above.

(c) Each share, if any, of capital stock held in Parent's treasury at the Effective Time shall automatically be canceled.

8. Abandonment. This Agreement may be terminated and the Merger abandoned by the mutual consent of the Boards of Directors of Parent and Subsidiary at any time (i) prior to the filing date(s) of the Merger Documents with the Secretaries of State of the States of Delaware and North Dakota, as applicable, whether or not at the time of such termination and abandonment this Agreement has been adopted by the stockholders of Parent, or (ii) following the filing of the Merger Documents with the Secretaries of State of the States of Delaware and North Dakota, as applicable, but prior to the Effective Time, whether or not at the time of such termination and abandonment this Agreement has been adopted by the stockholders of Parent.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute this Agreement and Plan of Merger effective as of the date first above written.

AMERICAN RAILCAR INDUSTRIES, INC.,  
a Delaware Corporation

By: Dale C. Davies  
Dale C. Davies  
Senior Vice President, Chief Financial  
Officer and Treasurer

ATTEST:

Michael Overtop  
Secretary

AMERICAN RAILCAR INDUSTRIES, INC.,  
a North Dakota Corporation

By: Dale C. Davies  
Dale C. Davies  
Treasurer

ATTEST:

Michael Overtop  
Secretary

[Signature Page to Agreement and Plan of Merger]