

LAW OFFICES OF
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ROBERT G. SHEPHERD, JR.
LOUIS E. GITOMER

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9-121A035

May 1, 1989

RECORDATION NO 9765-C FILED 1425

MAY 1 1989 -3 20 PM

INTERSTATE COMMERCE COMMISSION

Honorable Noreta R. McGee
Secretary
Interstate Commerce Commission
Washington, DC 20423

Dear Secretary McGee:

I have enclosed the original and one copy of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is an Assignment and Assumption Agreement, a secondary document dated April 28, 1989. The primary document to which this is connected is recorded under Recordation No. 9765.

We request that this assignment be cross-indexed to Recordation Nos. 9762, 9763, 9764, 16037, 16038, and 16062.

The names and addresses of the parties to the document are as follows:

Vendor:

SouthTrust Bank of Alabama, N.A.
P.O. Box 2554
Birmingham, AL 35290

Vendee:

GATX Leasing Corporation
Four Embarcadero Center
San Francisco, CA 94111

A description of the equipment covered by the document follows:

The equipment covered by the agreement consists of 98 70-ton, 50'6" Single Sheath Boxcars with 10" end-of-car Cushioning. Double 8' Sliding Doors Offset on Car, AAR Plane "C", Nailable

Counterpart - J. G. [Signature]

NOT RECORDED UNIT
MAY 1 3 20 PM '89

Honorable Noreta R. McGee
May 1, 1989
Page Two

Steel Flooring, manufactured by FMC Corporation and delivered in 1978. These cars carry the following running numbers:
YW-#'s 25118, 25131, 25133, 25156, 25169, 25174, 25177, 25179, 25187, 25194, and 25197;
TOE-#'s 5000-5048, 5050-5073, 6075-6085, 6087, and 6088; and
BN-# 223530

A fee of \$13.00 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to:

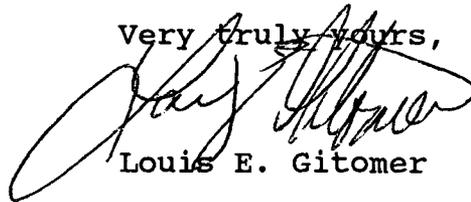
Louis E. Gitomer
Suite 400
1155 21st Street, NW
Washington, DC 20036

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

Assignment through an Assignment and Assumption Agreement between SouthTrust Bank of Alabama, N.A., P.O. Box 2554, Birmingham, AL 35290, and GATX Leasing Corporation, Four Embarcadero Center, San Francisco, CA 94111, dated April 28, 1989, and covering 98 70-ton, 50'6" Single Sheath Boxcars with 10" end-of-car Cushioning, Double 8' Sliding Doors Offset on Car, AAR Plane "C", Nailable Steel Flooring, manufactured by FMC Corporation and delivered in 1978. These cars carry the following running numbers:

YW-#'s 25118, 25131, 25133, 25156, 25169, 25174, 25177, 25179, 25187, 25194, and 25197;
TOE-#'s 5000-5048, 5050-5073, 6075-6085, 6087, and 6088; and
BN-# 223530

Very truly yours,



Louis E. Gitomer

LEG/cav

Interstate Commerce Commission

Washington, D.C. 20423

May 1, 1989

OFFICE OF THE SECRETARY

Louis E. Gitomer

Suite 400

1155 21st Street N.W.

Washington, D.C. 20036

Dear: **Sir**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **5-1-89**, at **3:20PM**, and assigned recordation number(s). **9765-C**

Sincerely yours,



Noreta R. McGee
Secretary

Enclosure(s)

MAY 1 1989 -3 20 PM

ASSIGNMENT AND ASSUMPTION AGREEMENT

INTERSTATE COMMERCE COMMISSION

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT is entered into on April 28, 1989, by and between SouthTrust Bank of Alabama, National Association, a national banking association ("Seller"), and GATX Leasing Corporation, a Delaware corporation ("Purchaser").

- W I T N E S S E T H -

WHEREAS, Seller and Purchaser are parties to an Asset Purchase Agreement, dated April 28, 1989 (the "Purchase Agreement"); and

WHEREAS, the Purchase Agreement provides, among other things, for the execution and delivery of an assignment and assumption in substantially the form hereof to effect the sale by Seller to Purchaser of all right, title and interest of Seller in and to the Lease Assets referred to below, and the assumption by Purchaser of certain of the obligations of Seller under the Lease Documents referred to below.

NOW, THEREFORE, in consideration of the premises, the payment of Ten Dollars (\$10.00) and the mutual covenants and agreements herein contained, the parties hereto do hereby agree as follows:

1. Definitions. Unless otherwise defined herein, capitalized terms used herein shall have the meanings given to them in the Purchase Agreement.

2. Assignment. Seller does hereby GRANT, BARGAIN, ASSIGN, TRANSFER, SELL, DELIVER AND CONVEY unto Purchaser, its successors and assigns, all of Seller's right, title and interest in and to the following assets (the "Lease Assets"):

- (a) the Lease Documents set forth on Schedule 5.1(f) attached hereto and made a part hereof, including, but not limited to, the entire beneficial ownership in and to the Trust Estate, and
- (b) the Lease Property set forth on Schedule 5.1(j) attached hereto and made a part hereof (the "Lease Property"); excluding, however, in each case, any claim, cause of action, liability or obligation of any nature or description or other right to payment (other than pursuant to Sections 3.1, 7.1(a) and 8.2 of the Purchase Agreement) accruing, arising or relating to any period prior to the date hereof or payable by reason of any act, event or omission occurring or existing prior to the date hereof, whether known or unknown, contingent or otherwise, as of the date hereof; TO HAVE AND TO HOLD THE SAME UNTO PURCHASER, ITS SUCCESSORS AND ASSIGNS, FOREVER.

NOTWITHSTANDING ANY PROVISION OF ANY SALE DOCUMENT, THE SALE OF THE LEASED PROPERTY IS MADE "AS IS, WHERE IS," AND NONE OF SELLER OR ANY AFFILIATES THEREOF SHALL BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, NOW OR HEREAFTER AS TO THE VALUE, CONDITION (WHETHER OR NOT DISCOVERABLE), DESIGN, OPERATION, MERCHANTABILITY, QUALITY OF MATERIAL OR WORKMANSHIP, FITNESS FOR USE OR FOR A PARTICULAR PURPOSE, MAINTENANCE OR MARKETABILITY OF ANY LEASE PROPERTY.

Seller for itself, its successors and assigns, does hereby warrant and agree with Purchaser, its successors and assigns, that it is the lawful owner of an undivided 65% beneficial interest in the Trust Estate and an undivided 65% beneficial interest in the Lease Property and Lease Documents and has good right to sell the same to Purchaser, subject to the rights of the other parties to the Lease Documents, and Seller, for itself and its successors and assigns, does hereby covenant with Purchaser and its successors and assigns that Seller and its successors and assigns will defend the same unto Purchaser, its successors and assigns, against all and every person whomsoever lawfully claiming or laying claim to or making demands in respect of, the same by, through or under Seller (other than, except as provided in the Purchase Agreement, lawful claims arising from such rights of the other parties to the Lease Documents.)

3. Assumption. Purchaser hereby confirms that it shall be deemed a party to the Trust Agreement on completion of the Closing, and it agrees to be bound by all of the terms of the Trust Agreement and undertakes all of the obligations of the Seller, as Trustor, contained in the Trust Agreement occurring or arising on and after the date hereof. Seller shall not be responsible to any person for the discharge or performance of any duty or obligation of Purchaser, as Trustor, pursuant to or in connection with the Lease Documents occurring or arising on and after the date hereof. Purchaser shall not be responsible to any person for the discharge or performance of any duty or obligation of the Owner Participant in connection with the Lease Documents occurring or arising prior to the date hereof.

4. Indemnity. The terms and provisions of the Purchase Agreement respecting indemnities of the parties are hereby incorporated herein by reference.

5. Further Assurances. Seller agrees to execute and deliver such further documents, and to do such further things, as Purchaser may reasonably request, and at Purchaser's expense, in order to more fully effect this Assignment and Assumption Agreement and the transactions contemplated by the Purchase Agreement. Purchaser agrees to execute and deliver such further documents, and to do such further things, as Seller may reasonably request and at Seller's expense, in order to more

fully effect this Assignment and Assumption Agreement and the transactions contemplated hereby and by the Purchase Agreement.

6. Purchaser Representations. Purchaser represents, warrants and confirms:

(a) Purchaser, as transferee, is acquiring the entire beneficial interest of Seller, as Trustor, in and to the Trust Estate;

(b) Purchaser, as transferee, is an "institutional investor" within the meaning of Section 8.01 of the Trust Agreement in that Purchaser is a finance company;

(c) Upon the transfer of the Lease Assets to Purchaser, Purchaser shall: (i) be deemed a party to the Trust Agreement, (ii) be bound by all of the terms of the Trust Agreement and (iii) undertake all the obligations of the Seller, as Trustor, under the Trust Agreement;

(d) It has full right, power and authority to enter into this Assignment and Assumption Agreement and to perform the Trust Agreement;

(e) It is a Citizen of the United States; and

(f) It is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware.

7. Governing Law. This instrument shall be governed by, and construed and interpreted in accordance with, the laws of the State of Alabama.

8. Counterparts. This Agreement may be executed in separate counterparts, each of which when so executed and delivered shall be an original for all purposes, but all such counterparts shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be duly executed as of the day and year first above written.

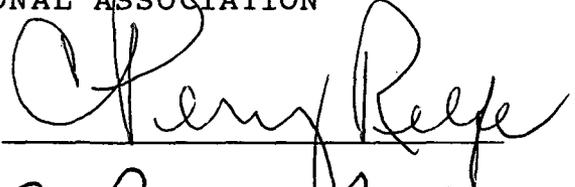
SELLER:

SOUTHTRUST BANK OF ALABAMA,
NATIONAL ASSOCIATION

Attest:


Assistant Secretary
Senior Vice President

By:



Name:

C. Perry Relfe

Title:

Executive Vice President

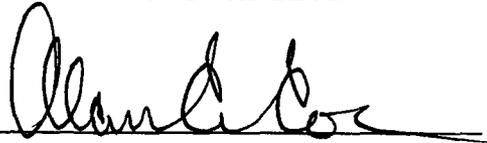
PURCHASER:

GATX LEASING CORPORATION

Attest:


Assistant Secretary

By:



Name:

ALAN C. COE

Title:

SENIOR VICE PRESIDENT

1598SA
4/24/89

STATE OF Alabama)
COUNTY OF Jefferson) SS:

On this 28th day of April, 1989, before me personally appeared C. Perry Relfe, to me personally known, who, being by me duly sworn, did depose and say that he is a Vice President of SouthTrust Bank of Alabama, National Association, the banking association described in and which executed the above instrument; that he knows the seal of said corporation; that of said corporation the seal affixed to the foregoing instrument is such corporate seal; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and that he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Executive

(Seal)

Shirley C. Toust
Notary Public

My Commission Expires: _____

MY COMMISSION EXPIRES AUG. 14, 1991

STATE OF CALIFORNIA)
COUNTY OF SAN FRANCISCO) SS:

On this 26th day of APRIL, 1989, before me personally appeared ALAN C. COE, to me personally known, who, being by me duly sworn, says that he is a Vice President of GATX Leasing Corporation, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; that said instrument was signed and sealed on behalf of said corporation, by authority of its Board of Directors; and that he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(Seal)

Julie A. Cross
Notary Public

My Commission Expires: 3/6/92



1598SA