

Taylor, Morell & Gitomer

June 15, 1993

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RECORDATION NO. 9749 H FILED 1425

Honorable Sidney L. Strickland, Jr.
Secretary
Interstate Commerce Commission
Washington, DC 20423

JUN 15 1993 7-35 PM
INTERSTATE COMMERCE COMMISSION

Dear Secretary Strickland:

I have enclosed the original and three certified copies of the document described below, to be recorded pursuant to 49 U.S.C. § 11303.

The document is an Assignment and Assumption Agreement, a secondary document, dated as of March 31, 1993. The primary documents to which this document is connected are recorded under Recordation Nos. 9722 and 9749. We request that this document be recorded under Recordation Nos. 9722-H and 9749-H.

The names and addresses of the parties to the Assignment and Assumption Agreement are as follows:

Assignors:

GATX Capital Corporation
Four Embarcadero Center
Suite 2200
San Francisco, CA 94111

Overseas Partners Leasing, Inc.
1201 Market Street
Wilmington, DE 19801

Assignee:

OPGAT Venture II
1201 Market Street
Wilmington, DE 19801

A description of the equipment covered by the document consists of 32 2,000 horsepower GP 38-2 diesel electric locomotives numbered CR 8224-8255, inclusive and 34 3,000 horsepower SD40-2 diesel electric locomotives numbered CR 6441-6474, inclusive.

A fee of \$32.00 is enclosed. Please return the original and one certified copy to:

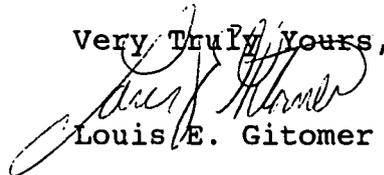
JUN 15 2 30 AM '93
MOTOR OPERATING UNIT

Honorable Sidney L. Strickland, Jr.
June 15, 1993
Page 2

Louis E. Gitomer
Taylor, Morell & Gitomer
Suite 210
919 18th Street, N.W.
Washington, DC 20006

A short summary of the document to appear in the index follows: an Assignment and Assumption Agreement between GATX Capital Corporation, Four Embarcadero Center, Suite 2200, San Francisco, CA 94111, Overseas Partners Leasing, Inc., 1201 Market Street, Wilmington, DE 19801, and OPGAT Venture II, 1201 Market Street, Wilmington, DE 19801, covering 32 2,000 horsepower GP 38-2 diesel electric locomotives numbered CR 8224-8255, inclusive and 34 3,000 horsepower SD40-2 diesel electric locomotives numbered CR 6441-6474, inclusive.

Very Truly Yours,



Louis E. Gitomer

JUN 15 1993 2:35 PM

ASSIGNMENT AND ASSUMPTION AGREEMENT INTERSTATE COMMERCE COMMISSION

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Assignment Agreement"), is made and entered into as of March 31, 1993 by Overseas Partners Leasing, Inc. a Delaware corporation, ("Assignee") and GATX CAPITAL CORPORATION, a Delaware corporation ("Assignor");

WITNESSETH:

WHEREAS, Assignor and Assignee have entered into a Purchase Agreement dated as of March 31, 1993 (the "Purchase Agreement"); and

WHEREAS, the Purchase Agreement provides, among other things, for the execution and delivery of an Assignment and Assumption Agreement in substantially the form hereof to effect the sale by Assignor to Assignee of a 75% undivided interest in the Lease Assets referred to below, and the assumption by Assignor of certain of the obligations of Assignor under the Lease Documents referred to below.

NOW, THEREFORE, in consideration of the premises, and the mutual covenants and agreements herein contained, and subject to the terms and conditions herein set forth, the parties hereto agree as follows:

1. Definitions. Capitalized terms used but not defined herein shall have the meanings specified in the Purchase Agreement.

2. Assignment. Assignor does hereby GRANT, BARGAIN, ASSIGN, TRANSFER, SELL, DELIVER AND CONVEY unto Assignee, its successors and assigns, a 75% undivided interest in and to and under the following assets (hereinafter called the "Lease Assets"): (a) the lease documents identified on the attached Schedule A (the "Lease Documents"), and (b) the Trust Estate and (c) the Lease Property set forth on the attached Schedule B (the "Lease Property"); but excluding, in each case, any claim, cause of action, liability or obligation of any nature or description or other rights to payment accruing, arising or relating to any period on or prior to the date hereof or payable by reason of any act, event or omission occurring or existing on or 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 ASSIGNEE, ITS SUCCESSORS AND ASSIGNS, FOREVER.

3. Assumption. Assignee hereby accepts the foregoing assignment, and with respect to periods commencing after the Closing Date, hereby consents and agrees that, to the extent applicable, it shall be a party to the Lease Documents and Assignee hereby assumes, to the extent of Purchaser's Interest, with respect to the period commencing after the Closing Date, Assignor's obligations under the Lease Documents and agrees, to such extent, to be bound by all of the terms of the Lease Documents and to undertake, to the extent of Buyer's Interest, the obligations of a Trustor under the Trust Agreement.

4. Allocation. All revenues and expenses with respect to the Lease Property shall be allocated in the manner provided for in Sections 6.1 and 6.2 of the Purchase Agreement.

5. Counterparts. This Assignment Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6. Successors and Assigns. The terms of this Assignment Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns.

7. Net Worth. Assignee hereby represents and warrants that it is a domestic corporation with net assets in excess of \$50,000,000 (fifty million dollars).

8. Governing Law. This Assignment Agreement shall be construed and enforced in accordance with the laws of the State of California without regard to its conflict of laws doctrine.

9. Further Assurances. Each party agrees that from time to time after the date hereof, it shall execute and deliver or cause to be executed and delivered such instruments, documents and papers, and take all such further action as may be reasonably required in order to consummate more effectively the purposes of this Assignment Agreement and to implement the transactions contemplated hereby. Assignor covenants and agrees to cooperate with Assignee in connection with any litigation arising with respect to the Lease Assets.

1192-93-29582a
CONRAIL

IN WITNESS WHEREOF, the parties hereto have caused this Assignment Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the day and year first above written.

ASSIGNOR:

GATX CAPITAL CORPORATION

By: Jeru K. Lewis
Title: SENIOR VICE PRESIDENT

ASSIGNEE:

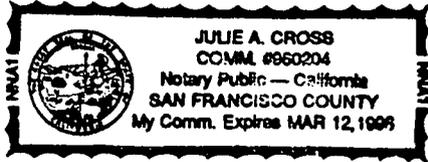
OVERSEAS PARTNERS LEASING, INC.

By: _____
Title: _____

State of CALIFORNIA)
County of SAN FRANCISCO)

On April 14, 1993 before me, Julie A. Cross,
Notary Public, personally appeared Jesse V. Crews,
personally known to me or proved to me on the basis of satisfactory
evidence to be the person whose name is subscribed to the within
instrument and acknowledged to me that he executed the same in
his/her authorized capacity, and that by his/her signature on the
instrument the person, or the entity upon behalf of which the
person acted, executed the instrument.

Witness my hand and official seal.



Julie A. Cross
Notary Public

State of)
County of)

On _____ before me, _____,
Notary Public, personally appeared _____,
personally known to me or proved to me on the basis of satisfactory
evidence to be the person whose name is subscribed to the within
instrument and acknowledged to me that he executed the same in
his/her authorized capacity, and that by his/her signature on the
instrument the person, or the entity upon behalf of which the
person acted, executed the instrument.

Witness my hand and official seal.

Notary Public

1192-93-29582
CONRAIL

IN WITNESS WHEREOF, the parties hereto have caused this Assignment Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the day and year first above written.

ASSIGNOR:

GATX CAPITAL CORPORATION

By: _____
Title: _____

ASSIGNEE:

OVERSEAS PARTNERS LEASING, INC.

By: *[Signature]*
Title: Vice President/Treasurer

State of GEORGIA)
)
County of FULTON)

On March 26, 1993 before me, Merrie L. Meier,
Notary Public, personally appeared Bruce M. Barone,
personally known to me or proved to me on the basis of satisfactory
evidence to be the person whose name is subscribed to the within
instrument and acknowledged to me that he executed the same in
his/her authorized capacity, and that by his/her signature on the
instrument the person, or the entity upon behalf of which the
person acted, executed the instrument.

Witness my hand and official seal.

Merrie L. Meier
Notary Public

Notary Public, State of Georgia
My Comm. Expires August 15, 1994

State of)
)
County of)

On _____ before me, _____,
Notary Public, personally appeared _____,
personally known to me or proved to me on the basis of satisfactory
evidence to be the person whose name is subscribed to the within
instrument and acknowledged to me that he executed the same in
his/her authorized capacity, and that by his/her signature on the
instrument the person, or the entity upon behalf of which the
person acted, executed the instrument.

Witness my hand and official seal.

Notary Public

Schedule A
to
Assignment and Assumption
Agreement

- 1) Participation Agreement No. 1 dated as of September 1, 1978 (Conformed copies) among Consolidated Rail Corporation (Lessee); Mellon Bank, N.A., (Agent); United States Trust Company of New York (Trustee); American Security Bank, N.A., AEIC Investors Co. #9, CUIIC Investors Co. #9, EFIC Investors Co. #9, and NACA Investors Co. #9 (Trustors).
- 2) Amendment Agreement of Participation Agreement No. 1 and to Participation Agreement No. 2, dated as of June 1, 1985.
- 3) Lease of Railroad Equipment No. 1 dated as of September 1, 1978 between Consolidated Rail Corporation (Lessee) and United States Trust Company of New York (Trustee).
- 4) Assignment of Lease and Agreement dated as of September 1, 1978
- 5) Trust Agreement dated as of August 30, 1978 among American Security Bank, N.A.; CUIIC Investors Co. #9; AEIC Investors Co. #9, EFIC Investors Co. #9; NACO Investors Co. #9 (Trustors) and United States Trust Company of New York (Trustee).
- 6) Amended and Restated Trust Agreement No. 1978-4 dated as of September 1, 1978 among American Security Bank, N.A.; CUIIC Investors Co. #9; AEIC Investors Co. #9, EFIC Investors Co. #9; NACO Investors Co. #9 (Trustors) and United States Trust Company of New York (Trustee).
- 7) Conditional Sale Agreement No. 1 dated September 1, 1978 between General Motors Corporation (Builder) and United States Trust Company of New York (Trustee).
- 8) Agreement and Assignment No. 1 dated as of September 1, 1978 between General Motors Corporation (Builder) and Mellon Bank, N.A. (Agent).
- 9) Letter Agreement dated September 1, 1978 related to CSA Assignments from Mellon Bank, N.A. (Agent).
- 10) Amendment Agreement No. 1, dated February 1, 1979 among United States Trust Company of New York (Trustee), American Security Bank, N.A., AEIC Investors Co. #9, CUIIC Investors Co. #9, EFIC Investors Co. #9 and NACA Investors Co. #9 (Trustors), Consolidated Rail Corporation (Lessee), Mellon Bank, N.A. (Agent) and General Motors Corporation (Builder).
- 11) Memorandum of Closing Documents dated September 26, 1978.

- 12) Consolidated Rail Corporation (Lessee) Assistant Secretary's Certificate.
- 13) Consolidated Rail Corporation (Lessee) Certificate with Respect to Business Prospects and Financial Condition dated September 29, 1978.
- 14) Certificate of Chief Mechanical Officer of Consolidated Rail Corporation (Lessee).
- 15) Certificate with Respect to Use of Equipment of Consolidated Rail Corporation (Lessee).
- 16) Consolidated Rail Corporation (Lessee) Certificate of Insurance expires 10/1/78.
- 17) Consolidated Rail Corporation (Lessee) Certificate of Insurance (\$50mm liability).
- 18) Opinion of Lessee's Counsel dated September 29, 1978.
- 19) Opinion of Lessee's Canadian Counsel dated October 13, 1978.
- 20) Corporate Resolutions of Builder (General Motors) dated September 29, 1978.
- 21) Letter Assigning Builders Interest to Mellon Bank, N.A. (Assignee) dated September 29, 1978.
- 22) Secretary's Certificate for 4 Equity Participants (CUIC Investors Co. #9, AEIC Investor's Co. #9, EFIC Investors Co. #9, NACA Investors Co. #9) dated September 29, 1978.
- 23) Opinion of Counsel for 4 Equity Participants dated November 2, 1978.
- 24) Certificate of 4 Equity Participants dated September 29, 1978.
- 25) Letter from ASB (Owner Participant) attesting to good title dated September 28, 1978.
- 26) ASB Certificates of Valid Signature dated September 28, 1978.
- 27) Secretary's Certificate of ASB dated September 28, 1978.
- 28) ASB Opinion of Counsel dated September 28, 1978.
- 29) Secretary's Certificate of Mellon Bank N.A. (Agent) dated September 29, 1978.
- 30) Certificate of Assistant Secretary of U.S. Trust Co. of New York (Owner Trustee) dated September 28, 1978.

- 31) Appointment of Authorized Representative of Owner Trustee dated September 28, 1978.
- 32) Opinion of Owner Trustee Counsel dated September 29, 1978.
- 33) 7 Bills of Sale, Invoices, Opinion of Builder Counsel for 74 locomotives, total invoice cost \$44,189,830 and 20 Certificates of Acceptance for 74 locomotives signed by representative of Trustee and Lessee (U.S. Trust and Conrail).
- 34) Tax Opinion of Owner Participant's Counsel dated September 28, 1978.
- 35) Purchase Agreement dated as of August 15, 1991 between American Security Bank (Seller) and GATX Capital Corporation (Purchaser).
- 36) Assignment and Assumption Agreement dated as of August 23, 1991 between American Security Bank (Seller) and GATX Capital Corporation (Purchaser) (recorded on the records of the Interstate Commerce Commission on August 28, 1991 under Recordation Number 9722-E).
- 37) Consent and Release of Trustors between AEIC Investors Co. #9, CUIC Investors Co. #9, EFIC Investors Co. #9, and NACA Investors Co. #9, as Trustors, and American Security Bank and GATX Capital Corporation.
- 38) Legal Opinion of Kimberly Graus, counsel to American Security Bank.
- 39) Officer's Certificate of American Security Bank as to Lease Documents
- 40) Secretary's Certificate of American Security Bank as to Articles of Incorporation and By-laws.
- 41) Certificate of Insurance
- 42) Notice to Owner Trustee from American Security Bank dated August 23, 1991
- 43) Notice to Consolidated Rail Corporation, as Lessee, dated September 20, 1991.
- 44) Notice to United States Trust Company, as Owner Trustee, dated August 27, 1991.
- 45) Notice to Mercantile Safe Deposit and Trust Company, as Agent, dated September 20, 1991.
- 46) Side Letter dated August 23, 1991 between American Security Bank and GATX Capital Corporation.

- 47) Purchase Agreement dated as of December 20, 1991 among GATX Capital Corporation (Purchaser), CUIIC Investors Co. #8, CUIIC Investors Co. #9, CUIIC Investors Co. #11, AEIC Investors Co. No.8, AEIC Investors Co. #9, AEIC Investors Co. #11, EFIC Investors Co. #8, EFIC Investors Co. #9, EFIC Investors Co. #11, NACA Investors Co. #8, NACA Investors Co. #9, and NACA Investors Co. #11 (Sellers) and Commercial Union of America.
- 48) Bill of Sale (Beneficial Interest) dated December 27, 1991.
- 49) Assignment and Assumption Agreement dated December 27, 1991, among GATX Capital Corporation (Purchaser), CUIIC Investors Co. #9, AEIC Investors Co. #9, EFIC Investors Co. #9 and NACA Investors Co. #9 (Sellers) as recorded with the Interstate Commerce Commission on December 31, 1991 under recordation number 9722-F.
- 50) ICC Search dated December 20, 1991.
- 51) Opinion of counsel to Commercial Union of America, dated December 27, 1991.
- 52) Guarantee of Commercial Union of America to parties consenting to transaction as required by Section 11 of the Trust Agreement.
- 53) Good Standing Certificates
- 54) Officer's Certificate
- 55) Clerk's Certificate of Commercial Union of America
- 56) Secretary's Certificate of Sellers
- 57) Request for Consent (with signed consents) dated December 12, 1991.
- 58) Secretary's Certificate of GATX Capital Corporation
- 59) Equipment Option Agreement dated April 15, 1992 between GATX Capital Corporation and Consolidated Rail Corporation (Optionee).
- 60) Opinion of Counsel of Consolidated Rail Corporation.
- 61) Opinion of Counsel of GATX Capital Corporation.

Schedule B to Assignment and Assumption Agreement ^{1B}

MAY 12 '93 12:51PM GATX CAPITAL LEGAL

05.14.93 01:54 PM *SCHNADER HARRISON POS

EQUIPMENT DESCRIPTION					LESSOR'S COST		
<u>Builder</u>	<u>Type</u>	<u>Specifications</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Lessee ID #'s (Inclusive)</u>	<u>Average Unit Base Price</u>	<u>Total Base Price</u>
General Motors Corporation Electro-Motive Division	2000 h.p. Model GP38-2	8090	La Grange, IL	32	CR8224 to CR8255	\$523,115	\$16,739,680
General Motors Corporation Electro-Motive Division	3000 h.p. Model SD40-2	8087	La Grange, IL	34	CR6441 to CR6474	653,575	<u>22,221,550</u>
TOTAL LESSOR'S COST							<u><u>\$38,961,230</u></u>

*Contract
Schedule
4.1K*

P.6/9

CERTIFICATION

I, LOUIS E. GITOMER, have compared this copy of the original Assignment and Assumption Agreement dated as of March 31, 1993, and found the copy to be complete and identical in all respects to the original document. I declare under penalty of perjury that the foregoing is true and correct.



Louis E. Gitomer
June 15, 1993