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ELLSWORTH C. ALVORD (1964)

RECORDATION NO. 14523-E FILED

APR 17 '03 1:41 PM

**SURFACE TRANSPORTATION BOARD**

OF COUNSEL  
URBAN A. LESTER

April 17, 2003

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

Dear Mr. Williams:

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 April 17, 2003, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Security Agreement-Trust Deed which was previously filed with the Commission under Recordation Number 14523.

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

Assignor:	FINOVA Capital Corporation One Crossroad Center, Bldg A. Bedminster, NJ 07921
Assignee:	Cypress Tankcar Leasing I, LLC One Sansome Street, Suite 1900 San Francisco, California 94194

Mr. Vernon A. Williams  
April 17, 2003  
Page Two

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

464 tankcars bearing GATX reporting marks and road numbers  
and  
32 covered hoppers bearing GACX (formerly ATW) reporting marks and  
road numbers.

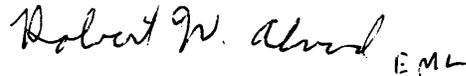
A short summary of the document to appear in the index is:

Assignment and Assumption Agreement

Also enclosed is a check in the amount of \$30.00 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,

 EML

Robert W. Alvord

RWA/anr  
Enclosures

## ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "**Agreement**"), dated as of April \_\_, 2003 (the "**Effective Date**"), between FINOVA Capital Corporation, a Delaware corporation ("**Assignor**"), and Cypress Tankcar Leasing I, LLC, a California limited liability company ("**Assignee**").

### RECITALS

1. Pursuant to a Purchase Agreement ("**Purchase Agreement**"), dated April \_\_, 2003, the parties hereto desire to effect (a) the transfer by Assignor to Assignee all of Assignor's right, title and interest in, to and under the Operative Agreements described in Schedule 1 hereto, together with the proceeds therefrom, and (b) the assumption by Assignee of the obligations of Assignor arising from and after the date hereof contained in the Operative Agreements.

### AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. *Definitions.* For purposes of this Agreement, capitalized terms used herein but not otherwise defined herein shall have the meanings given to such term in the Purchase Agreement.

2. *Assignment.* For good and valuable consideration, receipt of which is hereby acknowledged, Assignor does hereby irrevocably assign, transfer, sell and convey unto Assignee all of its right, title and interest in, to and under the Operative Agreements, together with the proceeds therefrom (the "**Assigned Documents**"), free and clear of all liens of whatsoever kind or nature, provided, that Assignor hereby reserves and does not transfer its right, title and interest in any indemnities or liability insurance proceeds under or contemplated by the Assigned Documents in favor of the Assignor to the extent such indemnities or liability insurance proceeds were paid, accrued in favor of, relate to events occurring, or became payable to Assignor, prior to the date hereof.

3. *Assumption.* Assignee hereby assumes and agrees to be bound by all of the terms of, and agrees to undertake, all of the obligations, liabilities and duties of Assignor hereafter accruing or arising under the Assigned Documents. Assignee confirms that as of the Effective Date, it shall be deemed a party to the Assigned Documents, provided, however, that Assignee does not assume and Assignor shall remain obligated with respect to, and shall pay or perform when due, all obligations of Assignor under the Assigned Documents arising prior to the Effective Date hereof.

4. *Further Assurances.* Assignee and Assignor hereby covenant and agree to execute and to deliver from time to time such other documents and instruments and to take such further action as may be reasonably requested in order to obtain the full benefits of this Agreement and of the rights and powers herein granted.

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SURFACE TRANSPORTATION BOARD

5. *Representations and Warranties.*

5.1 *Organization; Authority.* Assignee is a limited liability company duly organized, validly existing and in good standing under the laws of the State of California and has full power and authority to execute, deliver and perform this Agreement and to perform its obligations under the Assigned Documents.

5.2 *Due Authorization, Execution and Delivery; Enforceability.* The execution, delivery and performance of this Agreement and the performance by Assignee of its obligations under the Assigned Documents have been duly authorized by all necessary action on the part of Assignee; this Agreement has been duly executed and delivered by Assignee and constitutes, and upon consummation of the transactions contemplated hereby, each of the Assigned Documents will constitute, the legal, valid and binding obligation of Assignee enforceable against Assignee in accordance with its terms except as such enforcement may be limited by the effects of applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally and equitable principles of general applicability.

5.3 *No Violation.* The assumption and performance by Assignee of each Assigned Document is not in violation of its Articles of Organization or of any indenture, mortgage, contract or other agreement to which Assignee is a party or by which it is bound or of any order or judgment applicable to Assignee or any law, government rule or regulation of the United States or any state thereof applicable to its business generally and does not require the consent or approval of, or the giving of notice to, the registration with or the taking of any other action in respect of any governmental authority.

5.4 *No Litigation.* There is no litigation or proceeding pending or, to the best of Assignee's knowledge, threatened against Assignee which would prohibit or materially frustrate the consummation by Assignee of the transactions contemplated by the Assigned Documents.

6. *Representations and Warranties of Assignor.* Assignor hereby represents and warrants as of the date of this Agreement that:

6.1 *Incorporation; Authority.* Assignor is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware and has full corporate power and authority to execute, deliver and perform this Agreement.

6.2 *Due Authorization, Execution and Delivery; Enforceability.* The execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate action on the part of Assignor; this Agreement has been duly executed and delivered by Assignor and constitutes the legal, valid and binding obligation of Assignor enforceable against Assignor in accordance with its terms except as such enforcement may be limited by the effects of applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally and equitable principles of general applicability.

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7. *Governing Law.* The terms of this Agreement and all rights and obligations hereunder shall be governed by the law of the State of New York applicable to contracts executed and delivered, and to be fully performed in the State of New York, with regard to its principles of conflicts of law which would cause the laws of another jurisdiction to apply.

8. *Counterparts.* This Agreement may be executed by the parties hereto in separate counterparts (or upon separate signature pages bound together into one or more counterparts), each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. This Agreement shall become effective as of the Effective Date.

//Signatures appear on the following page//

IN WITNESS WHEREOF, the parties hereto have each caused this Assignment and Assumption Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the Effective Date.

ASSIGNOR:

FINOVA CAPITAL CORPORATION

By: Pamela M. Hart  
Name: Pamela M. Hart  
Title: Vice President

ASSIGNEE:

CYPRESS TANKCAR LEASING I, LLC

By: CYPRESS EQUIPMENT MANAGEMENT  
CORPORATION II, Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF ARIZONA )  
 )ss.  
COUNTY OF MARICOPA )

On this 10 day of April, 2003, before me personally appeared Pamela M. HAIT, personally known to me/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 authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed instrument.

WITNESS my hand and official seal.



My commission expires:

Tracy Grizzle  
NOTARY PUBLIC

STATE OF CALIFORNIA )  
 )ss.  
COUNTY OF SAN FRANCISCO )

On this \_\_\_\_\_ day of April, 2003, before me personally appeared Stephen R. Harwood, personally known to me, whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have each caused this Assignment and Assumption Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the Effective Date.

**ASSIGNOR:**

**FINOVA CAPITAL CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ASSIGNEE:**

**CYPRESS TANKCAR LEASING I, LLC**

By: CYPRESS EQUIPMENT MANAGEMENT CORPORATION II, Manager

By:  \_\_\_\_\_  
Name: S. HARWOOD  
Title: PRES.

STATE OF \_\_\_\_\_ )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of April, 2003, before me personally appeared \_\_\_\_\_, personally known to me/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 authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

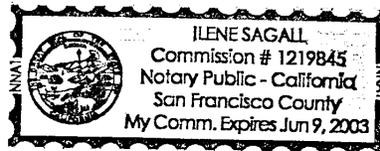
STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN FRANCISCO )

On this 7<sup>TH</sup> day of April, 2003, before me personally appeared Stephen R. Harwood, personally known to me, whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed instrument.

WITNESS my hand and official seal.

*Ilene Sagall*  
NOTARY PUBLIC

My commission expires: *June 9, 2003*



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## SCHEDULE 1 TO THE ASSIGNMENT AND ASSUMPTION AGREEMENT

### OPERATIVE AGREEMENTS

1. Participation Agreement, dated as of December 20, 1984, among GATX Financial Corporation (formerly known as General American Transportation Corporation), FINOVA Capital Corporation, as successor owner to The Bank of New York, The Bank of New York (successor to Mercantile-Safe Deposit and Operative Company) and Connecticut General Life Insurance Company and Principal Mutual Life Insurance Company (formerly known as Bankers Life Company).
2. Security Agreement-Trust Deed, dated as of December 20, 1984, between FINOVA Capital Corporation, as successor debtor to The Bank of New York, and The Bank of New York (successor to Mercantile-Safe Deposit and Operative Company, as trustee), as recorded with the Interstate Commerce Commission on December 28, 1984 and assigned Recordation No. 14523.
3. Restated and Amended Equipment Lease, dated as of December 20, 1984, between GATX Financial Corporation (formerly known as General American Transportation Corporation) and FINOVA Capital Corporation, as successor lessor to The Bank of New York, as recorded with the ICC on December 28, 1984 and assigned Recordation No. 14522; Lease Supplement No. 1, dated as of November 1, 1985, between FINOVA Capital Corporation, as successor lessor, and GATX Financial Corporation, as recorded on February 11, 1986 and assigned Recordation No. 14522-A; Lease Supplement No. 2, dated as of November 15, 1987 between FINOVA Capital Corporation, as successor lessor and GATX Financial Corporation as successor lessee, as recorded on January 19, 1988 and assigned Recordation No. 14522-B; and Certificate of Acceptance under Equipment Lease, dated December 28, 1985, executed by GATX Financial Corporation.
4. Tax Indemnity Agreement, dated as of December 20, 1984 between GATX Financial Corporation (formerly known as General American Transportation Corporation) and FINOVA Capital Corporation, as successor lessor to The Bank of New York.
5. Restated Assignment of Warranties, dated as of December 20, 1984, between FINOVA Capital Corporation, as successor lessor to the Bank of New York, and GATX Financial Corporation (formerly known as General American Transportation Corporation).
6. 13.875% Secured Note Non-Recourse in the original principal amount of \$7,652,887.32 delivered by Assignor, as successor debtor to The Bank of New York, in favor of Connecticut General Life Insurance Company, dated December 28, 1984.
7. 13.875% Secured Note Non-Recourse in the original principal amount of \$6,802,568.28 by Assignor, as successor debtor to The Bank of New York, in favor of Bankers Life Company, dated December 28, 1984.

**SCHEDULE I**

**DESCRIPTION OF THE EQUIPMENT**

<b>Identifying Marks and Numbers</b>	<b>Number of Cars</b>	<b>Description</b>	<b>Basic Group</b>	<b>Original Purchase Price Per Car</b>
<b>I. TANK CARS</b>				
GATX 26360-26382	23	DOT105J100-W-1 20,000 Gal. Ethylene Oxide	C	\$58,901
GATX 16140	1	DOT 111A100-W-1 13,550 Gal Mohen Sulfur	D	\$48,935
GATX 22927-22931	5	DOT 111A100-W-1 10,750 Gal. Latex	B	\$49,634
GATX 21365-21366, GATX 21368 and GATX 21373	4	DOT 111AJ00-W-2 13,350 Gal. Sulfuric Acid	K	\$45,317
GATX 21380-21397	18	DOT 111A100-W-2 13,600 Gal. Sulfuric Acid	K	\$42,692
GATX 15521-15525	5	DOT 111A100-W-1 17,200 Gal. Sorbitol	G	\$46,708
GATX 73735-73737 GATX 73739-73742 and GATX 73744	8	DOT 111A100-ALW-2 20,000 Gal. Hydrogen Peroxide	J	\$71,948
GATX 17840-17842	3	DOT 111A100-W-1 29,200 Gal. Methanol	A	\$44,699
GATX 17845-17847	3	DOT 111A100-W-1 29,200 Gal. Methanol	A	\$46,319
GATX 65716-65738	23	DOT 111A100-W-1 10,750 Gal. Methyl Methacrylate	B	\$40,741
GATX 16917-16921	5	DOT 111A100-W-1 20,000 Gal. Resin	A	\$42,001
GATX 17816-17839	24	DOT 111A100-W-1 29,200 Gal. Acrylonitrile	A	\$45,762
GATX 22001-22004 GATX 22006-22062	61	DOT 111A100-W-1 14,150 Gal. Clay Slurry	F	\$43,417
GATX 21104-21112	9	DOT 111A100-W-1	A	\$46,024

Identifying Marks and Numbers	Number of Cars	Description	Basic Group	Original Purchase Price Per Car
		29,200 Gal. Alcohol		
GATX 21113-21118	6	DOT 111A100-W-1 29,200 Gal. Diisobutylene	A	\$44,419
GATX 11120-11139	20	DOT 111A100-W-1 24,640 Gal. Styrene	A	\$44,128
GATX 21356-21359	4	DOT 111A100-W-2 13,328 Gal. Sulfuric Acid	K	\$38,700
GATX 23361-23367 GATX 23369-23375	14	DOT 111A100-W-1 13,818 Gal. Plasite Linjng Clay Slurry	F	\$43,291
GATX 16626-16675	50	DOT 111A100-W-3 17,252 Gal. Com Syrup	G	\$43,777
GATX 18389-18391	3	DOT 111A100-W-2 13,328 Gal. Sulfuric Acid	K	\$37,810
GATX 16784-16787	4	DOT 111A100-W-1 20,580 Gal. Sulfuric Acid	K	\$46,137
GATX 17771-17783	13	DOT 111A100-1 26,000 Gal. Crude Oil	A	\$43,877
GATX 16788-16792	5	DOT 111A100-W-1 20,580 Gal. Resins	A	\$46,979
GATX 65712-65715	4	DOT 111A100-W-1 10,803 Gal. Lithcote Lining Lacquer	B	\$49,406
GATX 22063-22064 GATX 22066-22090 GATX 22092	28	DOT 111A100-W-1 13,818 Gal. Talicor Lining Slurry	F	\$44,898
GATX 16793-16795	3	DOT 111A100-W-1 21,000 Gal: Toluene	A	\$49,979
GATX 18364-18386	23	DOT 111A100-W-2 13,328 Gal. Sulphuric	K	\$36,813

Identifying Marks and Numbers	Number of Cars	Description	Basic Group	Original Purchase Price Per Car
GATX 17701-17760	60	DOT 111A100-W-1 23,150 Gal. Benzene	I	\$63,600
GATX 17848-17867	20	DOT 111A100-W-1 26,000 Gal. Naphtha	A	\$40,182
GATX 21248-21252	5	DOT 111A100-W-1 29,200 Gal. Ethanol	A	\$42,347
GATX 22124-22127	4	DOT111A100-W-1 14,150 Gal. Clay Slurry	F	\$42,065
GATX 65706-65711	6	DOT 111A100-W-1 10,800 Gal. Caustic Soda	B	\$43,385
<b>TOTAL NUMBER OF TANK CARS</b>	464			
<b>II. COVERED HOPPERS</b>				
ATW 56303-56330*	28	LO. Airslide 4,566 Cu. Ft. Flour	L	\$50,652
ATW 56331-56333* ATW 56335*	4	LO. Airslide 4,566 Cu. Ft. Flour	L	\$50,549
<b>TOTAL NUMBER OF COVERED HOPPER CARS</b>	32			
<b>TOTAL CARS</b>	496			

\*ATW cars have been remarked GACX