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INTERSTATE COMMERCE COMMISSION

COUNTERPART NO. 2
OF 9 COUNTERPARTS

BALTIMORE AND OHIO RAILROAD
EQUIPMENT TRUST OF 1971

Equipment Trust Agreement

DATED AS OF AUGUST 1, 1971

BETWEEN

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,

TRUSTEE

AND

THE BALTIMORE AND OHIO RAILROAD COMPANY

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THIS EQUIPMENT TRUST AGREEMENT, dated as of August 1, 1971, between MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, a corporation duly organized and existing under the laws of the State of Maryland, as Trustee (hereinafter called the "Trustee"), and THE BALTIMORE AND OHIO RAILROAD COMPANY, a corporation duly organized and existing under the laws of the State of Maryland (hereinafter called the "Company");

WITNESSETH THAT:

WHEREAS, the Company has contracted or will contract for the construction and transfer to the Trustee of the railroad equipment described herein; and

WHEREAS, title to such railroad equipment is to be vested in and is to be retained by the Trustee, and such railroad equipment is to be leased to the Company hereunder until title is transferred under the provisions hereof; and

WHEREAS, the Trust Certificates hereinafter mentioned are to be issued and sold in an aggregate principal amount not exceeding \$16,740,000, and the net proceeds (excluding premium and accrued dividends, if any) of such sale together with such other cash, if any, as may be required to be deposited by the Company as hereinafter provided are to constitute a fund equal to the aggregate principal amount of Trust Certificates so issued and sold to be known as BALTIMORE AND OHIO RAILROAD EQUIPMENT TRUST OF 1971, to be applied by the Trustee from time to time in part payment of the cost of the Trust Equipment, the remainder of the cost thereof to be paid out of advance rentals to be paid by the Company as provided herein; and

WHEREAS, the texts of the Trust Certificates, the dividend warrants to be attached to Trust Certificates with dividend warrants, and the guaranty to be endorsed on the Trust Certificates by the Company are to be substantially in the following forms:

[FORM OF FULLY REGISTERED TRUST CERTIFICATE]

\$

\$

BALTIMORE AND OHIO RAILROAD
EQUIPMENT TRUST OF 1971

Serial Equipment Trust Certificate

Total Authorized Issue Not Exceeding \$16,740,000

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY, Trustee

Dividends at the Rate of% Per Annum
Payable February 1 and August 1

No. R

No. R

Principal hereof payable August 1, 19.....

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Trustee under an Equipment Trust Agreement dated as of August 1, 1971, between MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, Trustee, and THE BALTIMORE AND OHIO RAILROAD COMPANY, a Maryland corporation (hereinafter called the "Company"), hereby certifies that or registered assigns, is entitled to an interest in the principal amount of \$ in BALTIMORE AND OHIO RAILROAD EQUIPMENT TRUST OF 1971, payable on August 1, 19....., upon presentation and surrender of this Certificate to the undersigned at its corporate trust office in the City of Baltimore, State of Maryland, and to payment, until such last mentioned date, of dividends on said principal amount at the rate of% per annum from the date hereof, semi-annually on February 1 and August 1 in each year, with interest at the dividend rate on any unpaid principal and on any unpaid dividends to the extent that it shall be legally enforceable, principal, dividends, and interest being payable to the registered holder hereof at said office of the undersigned all in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, but payable only out of rentals or other moneys received by the undersigned and applicable to such payment under the provisions of said Agreement.

This Certificate is one of an issue of Certificates issuable in one or more installments and having an aggregate principal amount not exceeding \$16,740,000, all of which are substantially similar except as to serial number and date of maturity, and which may have a different dividend rate, all issued or to be issued under and subject to the terms of said Agreement, under which certain railroad equipment leased to the Company (or cash or obligations defined in said Agreement as "Government Securities" in lieu thereof, as provided in said Agreement) is held by the undersigned in trust for the benefit of the holders of the interests represented by said Certificates, to which Agreement (a copy of which is on file with the undersigned at its said office) reference is made for a full statement of the rights and obligations of the Company, the duties and immunities of the undersigned, and the rights of the registered holder hereof thereunder, to all of which the registered holder hereof, by accepting this Certificate, assents.

The Certificates are issuable as Certificates with dividend warrants attached, registrable as to principal, in the denomination of \$1,000, and as fully registered Certificates in the denominations of \$1,000 and any multiple of \$1,000. The Certificates with dividend warrants and the fully registered Certificates and the several denominations of fully registered Certificates are interchangeable upon presentation thereof at the said office of the undersigned, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in said Agreement.

This Certificate is transferable by the registered holder hereof in person or by duly authorized attorney on the books of the undersigned upon surrender hereof to the undersigned at its said office accompanied by a written instrument of transfer, duly executed by the registered holder in person or by such attorney, in form satisfactory to the undersigned, and thereupon a new fully registered Certificate or Certificates in authorized denominations for the same aggregate principal amount and having the same date of maturity will be issued to the transferee in exchange herefor. Prior to due presentment for registration of transfer of this Certificate the undersigned and the Company may treat the

person in whose name this Certificate is registered as the absolute owner hereof for the purpose of receiving payment of principal and dividends and for all other purposes and shall not be affected by any notice to the contrary.

In case of default in the performance or observance of any of the covenants of the Company in said Agreement contained, the principal amount represented by this Certificate may be declared due and payable as provided in said Agreement.

This Certificate shall not be deemed in anywise a promise to pay of the undersigned.

IN WITNESS WHEREOF, MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, Trustee, has caused this Certificate to be signed by the facsimile signature of one of its Vice Presidents and a facsimile of its corporate seal to be hereon imprinted and to be attested by one of its Authorized Officers, as of, 19.....

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
Trustee,

By

Vice President

ATTEST:

Authorized Officer

[FORM OF GUARANTY FOR FULLY REGISTERED TRUST CERTIFICATE]

THE BALTIMORE AND OHIO RAILROAD COMPANY, for a valuable consideration, hereby unconditionally guarantees to the registered holder of the within Certificate the prompt payment of the principal of said Certificate, and of the dividends thereon specified in said Certificate, with interest at the dividend rate specified in said Certificate on any unpaid principal and on any unpaid dividends to the extent that it shall be legally enforce-

able, in accordance with the terms of said Certificate and the Equipment Trust Agreement referred to therein.

THE BALTIMORE AND OHIO RAILROAD COMPANY,

By

Vice President

[FORM OF TRUST CERTIFICATE WITH DIVIDEND WARRANTS]

\$1,000

\$1,000

BALTIMORE AND OHIO RAILROAD
EQUIPMENT TRUST OF 1971

Serial Equipment Trust Certificate

Total Authorized Issue Not Exceeding \$16,740,000

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY, Trustee

Dividends at the Rate of% Per Annum
Payable February 1 and August 1

No.

No.

Principal hereof payable August 1, 19.....

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Trustee under an Equipment Trust Agreement dated as of August 1, 1971, between MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, Trustee, and THE BALTIMORE AND OHIO RAILROAD COMPANY, a Maryland corporation (hereinafter called the "Company"), hereby certifies that the bearer or, if this Certificate is registered as to principal, the registered holder hereof, is entitled to an interest in the principal amount of \$1,000 in BALTIMORE AND OHIO RAILROAD EQUIPMENT TRUST OF 1971, payable on August 1, 19....., upon presentation and surrender of this Certificate to the undersigned at its corporate trust office in the City of Baltimore, State of Maryland, and to payment, until said last mentioned date, of dividends on said principal amount at the rate of% per annum from August 1, 1971, semi-annually on February 1 and August 1 in each year, according to the tenor of the dividend

warrants hereto annexed, upon presentation and surrender of such warrants, as they severally mature, to the undersigned at its said office, with interest at the dividend rate on any unpaid principal and on any unpaid dividends to the extent that it shall be legally enforceable, all in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, but payable only out of rentals or other moneys received by the undersigned and applicable to such payment under the provisions of said Agreement.

This Certificate is one of an issue of Certificates issuable in one or more installments and having an aggregate principal amount not exceeding \$16,740,000, all of which are substantially similar except as to serial number and date of maturity, and which may have a different dividend rate, all issued or to be issued under and subject to the terms of said Agreement, under which certain railroad equipment leased to the Company (or cash or obligations defined in said Agreement as "Government Securities" in lieu thereof, as provided in said Agreement) is held by the undersigned in trust for the benefit of the holders of the interests represented by said Certificates, to which Agreement (a copy of which is on file with the undersigned at its said office) reference is made for a full statement of the rights and obligations of the Company, the duties and immunities of the undersigned, and the rights of the bearer or registered holder hereof thereunder, to all of which the bearer or registered holder hereof, by accepting this Certificate, assents.

The Certificates are issuable as Certificates with dividend warrants attached, registrable as to principal, in the denomination of \$1,000 and as fully registered Certificates in the denominations of \$1,000 and any multiple of \$1,000. The Certificates with dividend warrants and the fully registered Certificates and the several denominations of fully registered Certificates are interchangeable upon presentation thereof at the said office of the undersigned, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in said Agreement.

This Certificate may be registered as to principal at the said office of the undersigned, in the name of the holder hereof, and such registration noted hereon by or on behalf of the undersigned. Thereafter title to the interest represented by this Certificate shall pass only by transfer registered at said office unless and until a transfer to bearer shall have been similarly registered and noted hereon. Such registration shall apply only to the principal of this Certificate and not to the dividend warrants hereunto attached, which shall continue to be payable to bearer and transferable by delivery.

Every bearer or registered holder of this Certificate and every bearer of the attached warrants, by accepting the same, agrees with the undersigned, with the Company, and with every subsequent bearer or registered holder hereof and thereof that this Certificate (unless registered in the name of the holder) and such warrants shall be transferable with the same effect as in the case of a negotiable instrument payable to bearer, by delivery by any person having possession of the same, however such possession may have been acquired; and the undersigned and any agent of the undersigned and the Company may treat the bearer of this Certificate, or, prior to due presentment for registration of transfer, the registered holder hereof if this Certificate be registered in his name as above provided, and the bearer of any dividend warrant attached hereto whether or not this Certificate be so registered, as the absolute owner of this Certificate or of said warrants, as the case may be, for all purposes, and shall not be affected by any notice to the contrary.

In case of default in the performance or observance of any of the covenants of the Company in said Agreement contained, the principal amount represented by this Certificate may be declared due and payable, as provided in said Agreement.

Neither this Certificate nor the dividend warrants attached hereto shall be deemed in any wise a promise to pay of the undersigned.

IN WITNESS WHEREOF, MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, Trustee, has caused this Certificate to be signed by the facsimile signature of one of its Vice Presidents and a facsimile

of its corporate seal to be hereon imprinted and to be attested by one of its Authorized Officers, and dividend warrants bearing the facsimile signature of one of its Vice Presidents to be attached hereto, as of the 1st day of August, 1971.

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
Trustee,

By

Vice President

ATTEST:

Authorized Officer

[FORM OF DIVIDEND WARRANT]

\$ No.

Due to the bearer hereof on the first day of, 19....., on surrender hereof at the corporate trust office of the undersigned in the City of Baltimore, State of Maryland, \$....., being the semi-annual dividend then due on Certificate No. of BALTIMORE AND OHIO RAILROAD EQUIPMENT TRUST OF 1971, payable only out of rentals or other moneys received by the undersigned and applicable to such payment under the provisions of the Equipment Trust Agreement dated as of August 1, 1971, referred to in said Certificate and as therein provided.

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
Trustee,

By

Vice President

[FORM OF GUARANTY FOR TRUST CERTIFICATE WITH
DIVIDEND WARRANTS]

THE BALTIMORE AND OHIO RAILROAD COMPANY, for a valuable consideration, hereby unconditionally guarantees to the bearer or registered holder of the within Certificate, and to the bearer or

bearers of the dividend warrants appertaining thereto the prompt payment of the principal of said Certificate, and of the dividends thereon specified in the dividend warrants thereto attached, with interest at the dividend rate on any unpaid principal and on any unpaid dividends to the extent that it shall be legally enforceable, in accordance with the terms of said Certificate and the Equipment Trust Agreement referred to therein.

THE BALTIMORE AND OHIO RAILROAD COMPANY,

By

Vice President

and

WHEREAS, it is desired to secure to the holders of the Trust Certificates the payment of the principal thereof in 15 equal annual installments payable serially on the 1st day of August in each year beginning August 1, 1972, and ending August 1, 1986, both inclusive, as hereinafter more particularly provided, with dividends to said dates of maturity at the rate or rates determined as hereinafter provided, payable semi-annually on February 1 and August 1 in each year, and to evidence the rights of the holders of the Trust Certificates in substantially the forms hereinbefore set forth;

Now, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties hereto hereby agree as follows:

ARTICLE I.

DEFINITIONS.

For all purposes of this Agreement, unless the context otherwise requires:

Affiliate of the Company shall mean any person or corporation, which, directly or indirectly, controls or is controlled by, or is under common control with, the Company. For the purposes of this definition, *control* (including *controlled by* and *under common control with*), as used with respect to any person or corporation, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of

such person or corporation, whether through the ownership of voting securities or by contract or otherwise.

Company shall mean The Baltimore and Ohio Railroad Company, its successors or assigns.

Cost, when used with respect to Trust Equipment, shall mean the actual cost thereof and shall include only such items as may properly be included in such cost under the Interstate Commerce Commission's Uniform System of Accounts for Railroad Companies as in effect at the time in question, or the accounting rules of such other Federal governmental authority having jurisdiction over the accounts of the Company, or to the extent not determined thereby, or, in case there be no such accounting rules of the Interstate Commerce Commission or other Federal authority in effect at such time, sound accounting practice.

Deposited Cash shall mean the aggregate of (a) cash on deposit with the Trustee as provided in the first sentence of Section 2.1 hereof, (b) any advance rentals on deposit with the Trustee pursuant to Section 4.4(A)(1) hereof, (c) any sums restored to Deposited Cash from rentals pursuant to Section 4.4(B)(1) hereof and on deposit with the Trustee, and (d), when required or indicated by the context, any Government Securities purchased by the use of Deposited Cash pursuant to the provisions of Section 7.8 hereof and held by the Trustee.

Equipment shall mean standard-gauge railroad equipment, other than passenger or work equipment of types other than locomotives, that is new or is sold by the manufacturer with the same warranties as to workmanship and materials as in the case of new equipment.

The *Estimated Cost* of any Trust Equipment shall mean the estimated cost thereof specifically set forth herein or in any supplement hereto.

The *Fair Value* of any unit of Trust Equipment shall be deemed to be the Cost thereof less 1/12th of 5% of said Cost for each full month during which the unit was subject to this Agreement prior to the date at which the fair value is so to be determined.

Government Securities shall mean bonds, notes, or other direct obligations of the United States of America or obligations for which the faith of the United States of America is pledged to provide for the payment of the interest and principal.

The word *holder*, unless otherwise indicated by the context, shall mean and include the registered owner of a fully registered Trust Certificate, the bearer of a Trust Certificate with dividend warrants not registered as to principal, the bearer of a dividend warrant, and the registered owner of a Trust Certificate with dividend warrants registered as to principal, and shall include the plural as well as the singular number.

...*Officer's Certificate* shall mean a certificate signed by the Chief Executive Officer, the President, a Vice President, the Treasurer, or the Comptroller of the Company.

Opinion of Counsel shall mean a written opinion of counsel (who may be counsel for the Company) satisfactory to the Trustee.

Request shall mean a written request for the action therein specified signed on behalf of the Company by the Chief Executive Officer, the President, a Vice President, the Treasurer, or the Comptroller of the Company.

Trust Certificates shall mean Baltimore and Ohio Railroad Equipment Trust of 1971 Serial Equipment Trust Certificates, issued hereunder, and *dividend warrants* shall mean dividend warrants attached or appertaining to Trust Certificates.

Trust Equipment shall mean all Equipment at the time subject to the terms of this Agreement.

Trustee shall mean Mercantile-Safe Deposit and Trust Company, and any successor as trustee hereunder.

All references herein to *Articles*, *Sections*, and other subdivisions refer to the corresponding Articles, Sections, and other subdivisions of this Agreement; and the words *herein*, *hereof*, *hereby*, *hereto*, *hereunder*, and words of similar import refer to this Agreement as a whole and not to any particular Article, Section, or subdivision hereof.

ARTICLE II.

TRUST CERTIFICATES AND ISSUANCE THEREOF.

SECTION 2.1. The net proceeds (excluding premium and accrued dividends, if any) of the sale of any of the Trust Certificates shall forthwith upon issuance thereof be deposited in cash with the Trustee. At the same time the Company shall, if necessary, deposit with the Trustee any advance rental payable by the Company to the Trustee under Section 4.4(A)(1) hereof. Thereupon, without waiting for the recording or filing of this Agreement or of any other instrument respecting the Trust Equipment, the Trustee shall issue and deliver, as the Company shall direct by Request, Trust Certificates substantially in the forms set forth herein, and in the aggregate principal amount so sold, bearing dividends at the rate specified in such request. Any premium and accrued dividends received upon the sale of the Trust Certificates shall forthwith be paid to the Company.

SECTION 2.2. Each of the Trust Certificates shall represent an interest, in the principal amount therein specified, in the trust created hereunder and shall bear dividends on said principal amount in each case at a rate to be specified by the Company at the time of delivery thereof by the Trustee, payable semi-annually on the 1st days of February and August in each year.

The aggregate principal amount of Trust Certificates which shall be executed and delivered by the Trustee hereunder shall not exceed the sum of \$16,740,000, except as provided in Section 2.6 hereof.

The due date of each Trust Certificate shall appear upon its face. The Trust Certificates with dividend warrants shall be in the denomination of \$1,000 each and shall be numbered from 1 consecutively upward. The fully registered Trust Certificates shall be in denominations of \$1,000 and any multiple of \$1,000, and shall be numbered from R1 consecutively upward.

The principal amount of the Trust Certificates shall become due in 15 equal annual installments payable serially on the 1st day of August in each year beginning August 1, 1972, and ending August 1, 1986.

which shall previously have been filed with the Trustee by the Company and duly filed and recorded in accordance with Section 6.4 hereof.

The Trust Equipment may be lettered "Baltimore and Ohio Railroad", "Baltimore and Ohio", or "B & O", or may be lettered with the name or initials of any Affiliate which is permitted to use the Trust Equipment as herein provided, or in some other appropriate manner, for convenience of identification of the leasehold interest of the Company therein. Except as provided in Section 4.8 hereof, during the continuance of the lease provided for herein, the Company shall not allow the name of any person, association, or corporation to be placed on any of the Trust Equipment as a designation which might be interpreted as a claim of ownership thereof by the Company or by any person, association, or corporation other than the Trustee.

SECTION 4.7. The Company agrees that it will maintain and keep all the Trust Equipment in good order and proper repair at its own cost and expense, unless and until worn out, unsuitable for use, not needed or lost, or destroyed. Whenever any of the Trust Equipment shall be worn out, lost, or destroyed, or become unsuitable for use, or not needed, the Company shall forthwith deliver to the Trustee an Officer's Certificate describing such Trust Equipment and stating the then Fair Value thereof and shall, subject to the provision in Section 4.9 hereof for application of any credit resulting from a prior acquisition of additional Equipment, deposit with the Trustee an amount in cash equal to such Fair Value. The rights and remedies of the Trustee to enforce or to recover any of the rental payments shall not be affected by reason of such wearing out, unsuitability for use, loss, or destruction. Cash deposited with the Trustee pursuant to this Section 4.7 shall be held and applied as provided in Section 4.9 hereof.

The Company covenants and agrees to furnish to the Trustee, whenever required by the Trustee, and at least once in every calendar year following the calendar year in which occurs the first delivery of any of the Trust Equipment and during the continuance of the lease provided for herein, an Officer's Certificate stating (1) the amount, description, and numbers of the Trust Equipment then covered hereby and showing the Trust Equip-

ment then in actual service, (2) the amount, description, and numbers of all that may have become worn out or that may have become unsuitable for use, not needed, or lost, or destroyed by accident or otherwise since the date of the last preceding statement (or the date of this Agreement in the case of the first statement), (3) that in the case of all the Trust Equipment repainted or repaired since the date of the last preceding statement (or the date of this Agreement in the case of the first statement), the marks required by Section 4.6 hereof have been preserved, or that the same when repainted or repaired have been again marked as required thereby, and (4) such other information as to the condition and state of repair of the Trust Equipment as the Trustee may reasonably request. The Trustee, by its agents, shall have the right once in each calendar year, but shall be under no duty, to inspect at the Company's expense, the Trust Equipment, and the Company covenants in that event to furnish to the Trustee all reasonable facilities for the making of such inspection.

SECTION 4.8. The Company, so long as it is not in default hereunder, shall be entitled to the possession of the Trust Equipment from and after delivery thereof to the Company, and the use thereof upon the lines of railroad owned or operated by the Company (either alone or jointly with others) or by any Affiliate, or upon lines over which the Company or any Affiliate shall have trackage or other operating rights, and the Company shall also be entitled to permit the use of the Trust Equipment upon connecting and other railroads in the usual interchange of traffic and upon connecting and other railroads over which through service may from time to time be afforded, but only upon and subject to all the terms and conditions of this Agreement.

The Company shall not, without the written consent of the Trustee first had and obtained, assign or transfer its rights hereunder, or transfer or sublet the Trust Equipment or any part thereof, except to an Affiliate (and then only subject to this Agreement and without releasing the Company from its obligation hereunder); and the Company shall not, without such written consent, except as provided in this Section 4.8, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment. An assignment or transfer

to a railroad company or other purchaser which shall acquire all or substantially all the lines of railroad of the Company, and which, by execution of an appropriate instrument satisfactory to the Trustee, shall assume and agree to perform each and all of the obligations and covenants of the Company hereunder and under the guaranty endorsed on the Trust Certificates, shall not be deemed a breach of this covenant. The appointment of a receiver or receivers in equity or reorganization or a trustee or trustees in bankruptcy or reorganization for the Company or for its property shall not be deemed an unauthorized assignment if, prior to any action by the Trustee to exercise the remedies herein provided, such receiver or receivers or trustee or trustees shall be discharged or such receiver or receivers or trustee or trustees shall, pursuant to court order or decree, in writing duly assume and agree to pay or perform each and all of the obligations and covenants of the Company hereunder and under the guaranty endorsed on the Trust Certificates, in such manner that such obligations shall have the same status as obligations incurred by such receiver or receivers or trustee or trustees. The Trustee shall have the right to declare the lease provided for herein terminated in case of any unauthorized assignment or transfer of its rights hereunder or in case of any unauthorized transfer or sublease of any of the Trust Equipment. The election of the Trustee to terminate the lease provided for herein shall have the same effect as the retaking of the Trust Equipment by the Trustee as hereinafter provided.

SECTION 4.9. Any units of the Trust Equipment which shall have become worn out or unsuitable in any respect for the use of the Company may be released, and it is hereby mutually agreed that at any time hereafter until title thereto shall become vested in the Company the Trustee will release any such units of the Trust Equipment upon the filing with it of a Request and an Officer's Certificate which shall describe such units, shall state that they have become worn out or unsuitable for the use of the Company, shall state the selling price thereof, and shall specify the Cost and the then Fair Value thereof. No such release shall be made unless and until the Company shall have paid to the

Trustee such selling price or Fair Value, whichever shall be greater; subject, however, to the provision in this Section 4.9 for application of any credit resulting from a prior acquisition of additional Equipment.

Any moneys paid to the Trustee pursuant to this Section 4.9 or Section 4.7 hereof, hereinafter called "Replacement Funds", shall be received and held by the Trustee in trust hereunder pending delivery of additional Equipment; *provided, however*, that if at any time such Replacement Funds shall exceed the total amount of the remaining installments of rental payable by the Company to the Trustee under subparagraphs (3)(a) and (4) of Section 4.4(B) hereof, and if at the time there shall be no default under the terms of this Agreement or of any supplement hereto, the Trustee shall upon Request pay the amount of such excess to the Company. Upon the filing with it of a Request and an Officer's Certificate, which shall specify the kind and number of units of Equipment to be purchased and the Cost thereof, such Replacement Funds shall, upon receipt by the Trustee of Officer's Certificates, bills of sale, invoices, and Opinions of Counsel, all in like manner as provided in Section 3.4 hereof, be applied to the purchase of such Equipment.

If the Cost of such additional Equipment shall be in excess of such Replacement Funds, then such excess, less depreciation thereon calculated in the manner provided in the definition of "Fair Value" contained in Article I hereof, shall constitute a credit toward any further replacement of any Trust Equipment which thereafter may become worn out, unsuitable for use, lost, or destroyed.

SECTION 4.10. The Company covenants and agrees to indemnify the Trustee against any and all claims arising out of or connected with the ownership or use of any of the Trust Equipment, and particularly against any and all claims arising out of the use of any patented inventions in and about the Trust Equipment, and to comply in all respects with the laws of the United States of America and of all the States thereof in which the Trust Equipment, or any thereof, may be operated, and with all lawful acts, rules, regulations, and orders of the Interstate Commerce Commission, the Department of Transportation and of all other

commissions, boards, and other legislative, executive, administrative, or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including without limitation all lawful acts, rules, regulations, and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes, or other appliances; *provided, however,* that the Company may in good faith contest the validity of any such law, act, rule, regulation, or order, or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates or dividend warrants. The Company shall not be relieved from any of its obligations hereunder by reason of the assertion or enforcement of any such claims or the commencement or prosecution of any litigation in respect thereof.

ARTICLE V.

REMEDIES IN EVENT OF DEFAULT.

SECTION 5.1. The Company covenants and agrees that in case

(a) the Company shall default in the payment of any part of the rental payable hereunder (including advance rental) for more than thirty (30) days after the same shall have become due and payable, or

(b) the Company shall make or suffer any unauthorized assignment or transfer of its rights hereunder or shall make any unauthorized transfer or sublease of any of the Trust Equipment, or, except as herein authorized, shall part with the possession of any of the Trust Equipment, and shall fail or refuse either to cause such assignment, transfer, or sublease to be cancelled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within thirty (30) days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said thirty (30) days to deposit with the Trustee a sum in cash equal to the Fair Value of the Trust Equipment so assigned or transferred or subleased or the possession of which shall have been parted with otherwise than as herein authorized (any sum so deposited to be re-

turned to the Company upon the cancellation of such assignment, transfer, or sublease and the recovery of possession by the Company of such Trust Equipment), or

(c) the Company shall, for more than ninety (90) days after the Trustee shall have demanded in writing performance thereof, fail or refuse to comply with any other of the terms and covenants hereof on its part to be kept and performed, or to make provision satisfactory to the Trustee for such compliance,

then, in any such case (herein sometimes called an event of default), the Trustee in its discretion may, and upon the written request of the holders of not less than 25% in principal amount of the then outstanding Trust Certificates shall, by notice in writing delivered to the Company, declare to be due and payable forthwith the entire amount of the rentals (including any unpaid advance rental, but not including rentals required for the payment of dividends accruing after the date of such declaration) payable by the Company as set forth in Section 4.4 hereof and not theretofore paid, whereupon the entire amount of such rentals shall forthwith become and shall be due and payable immediately without further demand, together with interest, to the extent legally enforceable, at the dividend rate or rates, respectively, specified in the Trust Certificates, on any portion thereof overdue; and the Trustee shall be entitled to recover judgment for the total amount so becoming payable by the Company, together with interest thereon, to the extent legally enforceable, at the dividend rate or rates, respectively, specified in the Trust Certificates, and to collect such judgment out of any property of the Company wherever situated. Any and all moneys so collected by the Trustee shall be applied by it as hereinafter in Section 5.3 hereof provided.

In addition, in case one or more of the events of default described in this Section 5.1 shall happen, the Trustee in its discretion may, and upon the written request of the holders of not less than 25% in principal amount of the then outstanding Trust Certificates shall, by notice in writing delivered to the Company, declare the principal of all the Trust Certificates then outstanding to be due and payable, and thereupon the same shall become and be immediately due and payable.

SECTION 5.2. In case of the happening of any such event of default, the Trustee may by its agents enter upon the railroad and premises of the Company and of any Affiliate and take possession of all or any part of the Trust Equipment and withdraw the same from said railroad and premises, retaining all payments which up to that time may have been made on account of rental for the Trust Equipment and otherwise, and shall be entitled to collect, receive, and retain all unpaid *per diem*, mileage, or other charges of any kind earned by the Trust Equipment or any part thereof, and may lease the Trust Equipment or any part thereof, or with or without retaking possession thereof (but only after making the declaration or declarations provided for in Section 5.1 hereof) may sell the same or any part thereof, free from any and all claims of the Company at law or in equity, in one lot and as an entirety or in separate lots, insofar as may be necessary to perform and fulfill the trust hereunder, at public or private sale, for cash or upon credit, in its discretion, and may proceed otherwise to enforce its rights and the rights of the holders of interests hereunder in the manner herein provided. Upon any such sale, the Trustee itself may bid for the property offered for sale or any part thereof. Any such sale may be held or conducted at such place and at such time as the Trustee may specify, or as may be required by law, and without gathering at the place of sale the Trust Equipment to be sold, and in general in such manner as the Trustee may determine, but so that the Company may and shall have a reasonable opportunity to bid at any such sale. Upon such taking possession or withdrawal or lease or sale of the Trust Equipment, the Company shall cease to have any rights or remedies in respect of the Trust Equipment hereunder, but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Company, and no payments theretofore made by the Company for the rent or use of the Trust Equipment or any of it shall, in case of the happening of any such event of default and such taking possession, withdrawal, lease, or sale by the Trustee, give to the Company any legal or equitable interest or title in or to the Trust Equipment or any of it or any cause or right of action at law or in equity in respect of the Trust Equipment against the Trustee or the holders of interests hereunder. No such taking possession, withdrawal, lease, or sale of the Trust Equipment by the Trustee shall be a bar to the recovery

by the Trustee from the Company of rentals then or thereafter due and payable, and the Company shall be and remain liable for the same until such sums shall have been realized as, with the proceeds of the lease or sale of the Trust Equipment, shall be sufficient for the discharge and payment in full of all the items mentioned in Section 4.4 hereof (other than dividends or interest not then accrued), whether or not they shall have then matured. The holders of a majority in principal amount of the then outstanding Trust Certificates shall have the right from time to time, if and when the Trustee shall have been indemnified as provided in Section 7.4 hereof, to direct which of the proceedings above provided for shall be taken for the enforcement of the remedies contained herein.

SECTION 5.3. If, in case of the happening of any such event of default, the Trustee shall exercise any of the powers conferred upon it by Sections 5.1 and 5.2 hereof, all payments made by the Company to the Trustee hereunder after such event of default, and the proceeds of any judgment collected from the Company by the Trustee hereunder, and the proceeds of every sale or lease by the Trustee hereunder of any of the Trust Equipment, together with any other sums which may then be held by the Trustee under any of the provisions hereof (other than sums held in trust for the payment of specific Trust Certificates and/or dividends) shall be applied by the Trustee to the payment in the following order of priority: (a) of all proper charges, expenses, or advances made or incurred by the Trustee in accordance with the provisions of this Agreement, and (b) of the dividends then due, and of the principal of all the outstanding Trust Certificates whether such Trust Certificates shall have then matured by their terms or not, with interest at the rate or rates, respectively, specified in the Trust Certificates, on overdue dividends and on principal from the last preceding dividend payment date to the extent legally enforceable, all such payments to be in full if such proceeds shall be sufficient, and if not sufficient, then *pro rata* without preference between principal and dividends.

After all such payments shall have been made in full, the title to any of the Trust Equipment remaining unsold shall be conveyed by the Trustee to the Company free from any further liabilities or obligations to the Trustee hereunder. If after apply-

ing all such sums of money realized by the Trustee as aforesaid there shall remain any amount due to the Trustee under the provisions hereof, the Company agrees to pay the amount of such deficit to the Trustee. If after applying as aforesaid the sums of money realized by the Trustee there shall remain a surplus in the possession of the Trustee, such surplus shall be paid to the Company.

SECTION 5.4. If at any time after the principal of all the Trust Certificates shall have been declared and have become due and payable, or if at any time after the entire amount of rentals shall have been declared and become due and payable, all as in Section 5.1 hereof provided, but before August 1, 1986, all arrears of rent (with interest at the dividend rate or rates, respectively, specified in the Trust Certificates, upon any overdue installments to the extent legally enforceable), the expenses and reasonable compensation of the Trustee, together with all expense of the trust occasioned by the Company's default, and all other sums which shall have become due and payable by the Company hereunder (other than the principal of Trust Certificates and any other rental installments which shall not at the time have matured according to their terms) shall be paid by the Company before any sale or lease by the Trustee of any of the Trust Equipment, and every other default in the observance or performance of any covenant or condition hereof shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then, and in every such case, the Trustee, if so requested by the holders of a majority in principal amount of the Trust Certificates then outstanding and which shall not have matured (other than by declaration) according to their terms, shall by written notice to the Company waive the default by reason of which there shall have been such declaration or declarations and the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

SECTION 5.5. No retaking of possession of the Trust Equipment by the Trustee, or any withdrawal, lease, or sale thereof, nor any action or failure or omission to act against the Company or in respect of the Trust Equipment, on the part of the Trustee or on the part of the holder of any Trust Certificate or dividend

warrant, nor any delay or indulgence granted to the Company by the Trustee or by any such holder, shall affect the obligations of the Company hereunder or under the guaranty endorsed on the Trust Certificates. The Company hereby waives presentation and demand in respect of any of the Trust Certificates and dividend warrants and waives notice of presentation, of demand, and of any default in the payment of the principal of and dividends upon the Trust Certificates. The Trustee may at any time upon notice in writing to the Company apply to any court of competent jurisdiction for instructions as to the application and distribution of the property held by it.

SECTION 5.6. In case the Trustee shall demand possession of the Trust Equipment pursuant to the provisions hereof, and shall reasonably designate a point or points upon the railroad of the Company or of any Affiliate for the delivery of the Trust Equipment to it, the Company shall at its own expense forthwith and in the usual manner cause the Trust Equipment to be moved to such point or points on such railroad as shall be designated by the Trustee and shall there deliver or cause to be delivered the same to the Trustee, or the Trustee may at its option keep the Trust Equipment on any of the lines of railroad or premises of the Company or of any Affiliate until the Trustee shall have leased, sold, or otherwise disposed of the same, and for such purpose the Company agrees to furnish without charge for rent or storage the necessary facilities at any convenient point or points selected by the Trustee. It is hereby expressly covenanted and agreed that the performance of this covenant is of the essence of this Agreement and that, upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company requiring the specific performance thereof.

SECTION 5.7. The remedies in this Agreement provided in favor of the Trustee and the holders of the Trust Certificates or dividend warrants, or any of them, shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity; *provided, however*, that the rights, powers and remedies in this Agreement provided are subject to applicable provisions of any bankruptcy or insolvency law or laws affecting enforcement of creditors' rights.

ARTICLE VI.

ADDITIONAL COVENANTS AND AGREEMENTS
BY THE COMPANY.

SECTION 6.1. The Company hereby covenants and agrees to make payment of the reasonable expenses and compensation of the Trustee, and of all taxes, assessments, and governmental charges herein mentioned for which the Trustee, as such, may be liable and of the rentals and of the other amounts provided for herein.

SECTION 6.2. The Company covenants, agrees, and guarantees that the holder of each of the Trust Certificates shall receive the principal amount thereof, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, when and as the same shall become due and payable, in accordance with the provisions thereof or of this Agreement (and, if not so paid, with interest thereon at the dividend rate specified in such Trust Certificate, to the extent legally enforceable), and shall receive dividends thereon in like money at the rate specified therein from the date of such Trust Certificate to the date of maturity thereof, at the times and place and otherwise as expressed in the Trust Certificates and in the dividend warrants (and, if not so paid, with interest thereon at the dividend rate specified in such Trust Certificate, to the extent legally enforceable), and the Company further covenants and agrees to endorse upon each of the Trust Certificates, without the corporate seal of the Company which is hereby expressly waived, at or before the issuance and delivery thereof by the Trustee, its guaranty of the prompt payment of the principal thereof and of the dividends thereon, in substantially the forms hereinbefore set forth. Said guaranty so endorsed shall be signed in the name and on behalf of the Company by the manual or facsimile signature of its Chief Executive Officer or its President or any of its Vice Presidents or its Treasurer. In case any officer of the Company whose signature shall appear on said guaranty shall cease to be such officer of the Company before the Trust Certificates shall have been issued and delivered by the Trustee, or shall not have been acting in such

capacity on the date of the Trust Certificates, such guaranty shall nevertheless be as effective and binding upon the Company as though the person who signed said guaranty had not so ceased to be such officer of the Company or had been acting in such capacity on such date.

SECTION 6.3. The Company covenants and agrees that it will pay and discharge, or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of, any debt, tax, charge, assessment, obligation, or claim which if unpaid might become a lien or charge upon or against any of the Trust Equipment, except upon the leasehold interest of the Company therein; but this provision shall not require the payment of any such debt, tax, charge, assessment, obligation, or claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings, unless such contest will in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates.

SECTION 6.4. The Company covenants and agrees to pay the expenses incident to the preparation and execution of the Trust Certificates and dividend warrants to be issued hereunder, or connected with the preparation, execution, recording, and filing hereof and of any instruments executed under the provisions hereof with respect to the Trust Equipment. The Company with all convenient speed will cause this Agreement and all supplements thereto to be duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Company will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, and record any and all further instruments required by law or reasonably requested by the Trustee for the purposes of proper protection of the title of the Trustee and the rights of the holders of the Trust Certificates and of fully carrying out and effectuating this Agreement and the intent hereof; and the Company will promptly furnish to the Trustee certificates or other evidences of filing and recording pursuant to the last preceding sentence, and of any other such filing, registration, and recording, and an Opinion or Opinions of Counsel with respect thereto.

which shall previously have been filed with the Trustee by the Company and duly filed and recorded in accordance with Section 6.4 hereof.

The Trust Equipment may be lettered "Baltimore and Ohio Railroad", "Baltimore and Ohio", or "B & O", or may be lettered with the name or initials of any Affiliate which is permitted to use the Trust Equipment as herein provided, or in some other appropriate manner, for convenience of identification of the leasehold interest of the Company therein. Except as provided in Section 4.8 hereof, during the continuance of the lease provided for herein, the Company shall not allow the name of any person, association, or corporation to be placed on any of the Trust Equipment as a designation which might be interpreted as a claim of ownership thereof by the Company or by any person, association, or corporation other than the Trustee.

SECTION 4.7. The Company agrees that it will maintain and keep all the Trust Equipment in good order and proper repair at its own cost and expense, unless and until worn out, unsuitable for use, not needed or lost, or destroyed. Whenever any of the Trust Equipment shall be worn out, lost, or destroyed, or become unsuitable for use, or not needed, the Company shall forthwith deliver to the Trustee an Officer's Certificate describing such Trust Equipment and stating the then Fair Value thereof and shall, subject to the provision in Section 4.9 hereof for application of any credit resulting from a prior acquisition of additional Equipment, deposit with the Trustee an amount in cash equal to such Fair Value. The rights and remedies of the Trustee to enforce or to recover any of the rental payments shall not be affected by reason of such wearing out, unsuitability for use, loss, or destruction. Cash deposited with the Trustee pursuant to this Section 4.7 shall be held and applied as provided in Section 4.9 hereof.

The Company covenants and agrees to furnish to the Trustee, whenever required by the Trustee, and at least once in every calendar year following the calendar year in which occurs the first delivery of any of the Trust Equipment and during the continuance of the lease provided for herein, an Officer's Certificate stating (1) the amount, description, and numbers of the Trust Equipment then covered hereby and showing the Trust Equip-

ment then in actual service, (2) the amount, description, and numbers of all that may have become worn out or that may have become unsuitable for use, not needed, or lost, or destroyed by accident or otherwise since the date of the last preceding statement (or the date of this Agreement in the case of the first statement), (3) that in the case of all the Trust Equipment repainted or repaired since the date of the last preceding statement (or the date of this Agreement in the case of the first statement), the marks required by Section 4.6 hereof have been preserved, or that the same when repainted or repaired have been again marked as required thereby, and (4) such other information as to the condition and state of repair of the Trust Equipment as the Trustee may reasonably request. The Trustee, by its agents, shall have the right once in each calendar year, but shall be under no duty, to inspect at the Company's expense, the Trust Equipment, and the Company covenants in that event to furnish to the Trustee all reasonable facilities for the making of such inspection.

SECTION 4.8. The Company, so long as it is not in default hereunder, shall be entitled to the possession of the Trust Equipment from and after delivery thereof to the Company, and the use thereof upon the lines of railroad owned or operated by the Company (either alone or jointly with others) or by any Affiliate, or upon lines over which the Company or any Affiliate shall have trackage or other operating rights, and the Company shall also be entitled to permit the use of the Trust Equipment upon connecting and other railroads in the usual interchange of traffic and upon connecting and other railroads over which through service may from time to time be afforded, but only upon and subject to all the terms and conditions of this Agreement.

The Company shall not, without the written consent of the Trustee first had and obtained, assign or transfer its rights hereunder, or transfer or sublet the Trust Equipment or any part thereof, except to an Affiliate (and then only subject to this Agreement and without releasing the Company from its obligation hereunder); and the Company shall not, without such written consent, except as provided in this Section 4.8, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment. An assignment or transfer

to a railroad company or other purchaser which shall acquire all or substantially all the lines of railroad of the Company, and which, by execution of an appropriate instrument satisfactory to the Trustee, shall assume and agree to perform each and all of the obligations and covenants of the Company hereunder and under the guaranty endorsed on the Trust Certificates, shall not be deemed a breach of this covenant. The appointment of a receiver or receivers in equity or reorganization or a trustee or trustees in bankruptcy or reorganization for the Company or for its property shall not be deemed an unauthorized assignment if, prior to any action by the Trustee to exercise the remedies herein provided, such receiver or receivers or trustee or trustees shall be discharged or such receiver or receivers or trustee or trustees shall, pursuant to court order or decree, in writing duly assume and agree to pay or perform each and all of the obligations and covenants of the Company hereunder and under the guaranty endorsed on the Trust Certificates, in such manner that such obligations shall have the same status as obligations incurred by such receiver or receivers or trustee or trustees. The Trustee shall have the right to declare the lease provided for herein terminated in case of any unauthorized assignment or transfer of its rights hereunder or in case of any unauthorized transfer or sublease of any of the Trust Equipment. The election of the Trustee to terminate the lease provided for herein shall have the same effect as the retaking of the Trust Equipment by the Trustee as hereinafter provided.

SECTION 4.9. Any units of the Trust Equipment which shall have become worn out or unsuitable in any respect for the use of the Company may be released, and it is hereby mutually agreed that at any time hereafter until title thereto shall become vested in the Company the Trustee will release any such units of the Trust Equipment upon the filing with it of a Request and an Officer's Certificate which shall describe such units, shall state that they have become worn out or unsuitable for the use of the Company, shall state the selling price thereof, and shall specify the Cost and the then Fair Value thereof. No such release shall be made unless and until the Company shall have paid to the

Trustee such selling price or Fair Value, whichever shall be greater; subject, however, to the provision in this Section 4.9 for application of any credit resulting from a prior acquisition of additional Equipment.

Any moneys paid to the Trustee pursuant to this Section 4.9 or Section 4.7 hereof, hereinafter called "Replacement Funds", shall be received and held by the Trustee in trust hereunder pending delivery of additional Equipment; *provided, however*, that if at any time such Replacement Funds shall exceed the total amount of the remaining installments of rental payable by the Company to the Trustee under subparagraphs (3)(a) and (4) of Section 4.4(B) hereof, and if at the time there shall be no default under the terms of this Agreement or of any supplement hereto, the Trustee shall upon Request pay the amount of such excess to the Company. Upon the filing with it of a Request and an Officer's Certificate, which shall specify the kind and number of units of Equipment to be purchased and the Cost thereof, such Replacement Funds shall, upon receipt by the Trustee of Officer's Certificates, bills of sale, invoices, and Opinions of Counsel, all in like manner as provided in Section 3.4 hereof, be applied to the purchase of such Equipment.

If the Cost of such additional Equipment shall be in excess of such Replacement Funds, then such excess, less depreciation thereon calculated in the manner provided in the definition of "Fair Value" contained in Article I hereof, shall constitute a credit toward any further replacement of any Trust Equipment which thereafter may become worn out, unsuitable for use, lost, or destroyed.

SECTION 4.10. The Company covenants and agrees to indemnify the Trustee against any and all claims arising out of or connected with the ownership or use of any of the Trust Equipment, and particularly against any and all claims arising out of the use of any patented inventions in and about the Trust Equipment, and to comply in all respects with the laws of the United States of America and of all the States thereof in which the Trust Equipment, or any thereof, may be operated, and with all lawful acts, rules, regulations, and orders of the Interstate Commerce Commission, the Department of Transportation and of all other

commissions, boards, and other legislative, executive, administrative, or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including without limitation all lawful acts, rules, regulations, and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes, or other appliances; *provided, however,* that the Company may in good faith contest the validity of any such law, act, rule, regulation, or order, or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates or dividend warrants. The Company shall not be relieved from any of its obligations hereunder by reason of the assertion or enforcement of any such claims or the commencement or prosecution of any litigation in respect thereof.

ARTICLE V.

REMEDIES IN EVENT OF DEFAULT.

SECTION 5.1. The Company covenants and agrees that in case

(a) the Company shall default in the payment of any part of the rental payable hereunder (including advance rental) for more than thirty (30) days after the same shall have become due and payable, or

(b) the Company shall make or suffer any unauthorized assignment or transfer of its rights hereunder or shall make any unauthorized transfer or sublease of any of the Trust Equipment, or, except as herein authorized, shall part with the possession of any of the Trust Equipment, and shall fail or refuse either to cause such assignment, transfer, or sublease to be cancelled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within thirty (30) days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said thirty (30) days to deposit with the Trustee a sum in cash equal to the Fair Value of the Trust Equipment so assigned or transferred or subleased or the possession of which shall have been parted with otherwise than as herein authorized (any sum so deposited to be re-

turned to the Company upon the cancellation of such assignment, transfer, or sublease and the recovery of possession by the Company of such Trust Equipment), or

(c) the Company shall, for more than ninety (90) days after the Trustee shall have demanded in writing performance thereof, fail or refuse to comply with any other of the terms and covenants hereof on its part to be kept and performed, or to make provision satisfactory to the Trustee for such compliance,

then, in any such case (herein sometimes called an event of default), the Trustee in its discretion may, and upon the written request of the holders of not less than 25% in principal amount of the then outstanding Trust Certificates shall, by notice in writing delivered to the Company, declare to be due and payable forthwith the entire amount of the rentals (including any unpaid advance rental, but not including rentals required for the payment of dividends accruing after the date of such declaration) payable by the Company as set forth in Section 4.4 hereof and not theretofore paid, whereupon the entire amount of such rentals shall forthwith become and shall be due and payable immediately without further demand, together with interest, to the extent legally enforceable, at the dividend rate or rates, respectively, specified in the Trust Certificates, on any portion thereof overdue; and the Trustee shall be entitled to recover judgment for the total amount so becoming payable by the Company, together with interest thereon, to the extent legally enforceable, at the dividend rate or rates, respectively, specified in the Trust Certificates, and to collect such judgment out of any property of the Company wherever situated. Any and all moneys so collected by the Trustee shall be applied by it as hereinafter in Section 5.3 hereof provided.

In addition, in case one or more of the events of default described in this Section 5.1 shall happen, the Trustee in its discretion may, and upon the written request of the holders of not less than 25% in principal amount of the then outstanding Trust Certificates shall, by notice in writing delivered to the Company, declare the principal of all the Trust Certificates then outstanding to be due and payable, and thereupon the same shall become and be immediately due and payable.

SECTION 5.2. In case of the happening of any such event of default, the Trustee may by its agents enter upon the railroad and premises of the Company and of any Affiliate and take possession of all or any part of the Trust Equipment and withdraw the same from said railroad and premises, retaining all payments which up to that time may have been made on account of rental for the Trust Equipment and otherwise, and shall be entitled to collect, receive, and retain all unpaid *per diem*, mileage, or other charges of any kind earned by the Trust Equipment or any part thereof, and may lease the Trust Equipment or any part thereof, or with or without retaking possession thereof (but only after making the declaration or declarations provided for in Section 5.1 hereof) may sell the same or any part thereof, free from any and all claims of the Company at law or in equity, in one lot and as an entirety or in separate lots, insofar as may be necessary to perform and fulfill the trust hereunder, at public or private sale, for cash or upon credit, in its discretion, and may proceed otherwise to enforce its rights and the rights of the holders of interests hereunder in the manner herein provided. Upon any such sale, the Trustee itself may bid for the property offered for sale or any part thereof. Any such sale may be held or conducted at such place and at such time as the Trustee may specify, or as may be required by law, and without gathering at the place of sale the Trust Equipment to be sold, and in general in such manner as the Trustee may determine, but so that the Company may and shall have a reasonable opportunity to bid at any such sale. Upon such taking possession or withdrawal or lease or sale of the Trust Equipment, the Company shall cease to have any rights or remedies in respect of the Trust Equipment hereunder, but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Company, and no payments theretofore made by the Company for the rent or use of the Trust Equipment or any of it shall, in case of the happening of any such event of default and such taking possession, withdrawal, lease, or sale by the Trustee, give to the Company any legal or equitable interest or title in or to the Trust Equipment or any of it or any cause or right of action at law or in equity in respect of the Trust Equipment against the Trustee or the holders of interests hereunder. No such taking possession, withdrawal, lease, or sale of the Trust Equipment by the Trustee shall be a bar to the recovery

by the Trustee from the Company of rentals then or thereafter due and payable, and the Company shall be and remain liable for the same until such sums shall have been realized as, with the proceeds of the lease or sale of the Trust Equipment, shall be sufficient for the discharge and payment in full of all the items mentioned in Section 4.4 hereof (other than dividends or interest not then accrued), whether or not they shall have then matured. The holders of a majority in principal amount of the then outstanding Trust Certificates shall have the right from time to time, if and when the Trustee shall have been indemnified as provided in Section 7.4 hereof, to direct which of the proceedings above provided for shall be taken for the enforcement of the remedies contained herein.

SECTION 5.3. If, in case of the happening of any such event of default, the Trustee shall exercise any of the powers conferred upon it by Sections 5.1 and 5.2 hereof, all payments made by the Company to the Trustee hereunder after such event of default, and the proceeds of any judgment collected from the Company by the Trustee hereunder, and the proceeds of every sale or lease by the Trustee hereunder of any of the Trust Equipment, together with any other sums which may then be held by the Trustee under any of the provisions hereof (other than sums held in trust for the payment of specific Trust Certificates and/or dividends) shall be applied by the Trustee to the payment in the following order of priority: (a) of all proper charges, expenses, or advances made or incurred by the Trustee in accordance with the provisions of this Agreement, and (b) of the dividends then due, and of the principal of all the outstanding Trust Certificates whether such Trust Certificates shall have then matured by their terms or not, with interest at the rate or rates, respectively, specified in the Trust Certificates, on overdue dividends and on principal from the last preceding dividend payment date to the extent legally enforceable, all such payments to be in full if such proceeds shall be sufficient, and if not sufficient, then *pro rata* without preference between principal and dividends.

After all such payments shall have been made in full, the title to any of the Trust Equipment remaining unsold shall be conveyed by the Trustee to the Company free from any further liabilities or obligations to the Trustee hereunder. If after apply-

ing all such sums of money realized by the Trustee as aforesaid there shall remain any amount due to the Trustee under the provisions hereof, the Company agrees to pay the amount of such deficit to the Trustee. If after applying as aforesaid the sums of money realized by the Trustee there shall remain a surplus in the possession of the Trustee, such surplus shall be paid to the Company.

SECTION 5.4. If at any time after the principal of all the Trust Certificates shall have been declared and have become due and payable, or if at any time after the entire amount of rentals shall have been declared and become due and payable, all as in Section 5.1 hereof provided, but before August 1, 1986, all arrears of rent (with interest at the dividend rate or rates, respectively, specified in the Trust Certificates, upon any overdue installments to the extent legally enforceable), the expenses and reasonable compensation of the Trustee, together with all expense of the trust occasioned by the Company's default, and all other sums which shall have become due and payable by the Company hereunder (other than the principal of Trust Certificates and any other rental installments which shall not at the time have matured according to their terms) shall be paid by the Company before any sale or lease by the Trustee of any of the Trust Equipment, and every other default in the observance or performance of any covenant or condition hereof shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then, and in every such case, the Trustee, if so requested by the holders of a majority in principal amount of the Trust Certificates then outstanding and which shall not have matured (other than by declaration) according to their terms, shall by written notice to the Company waive the default by reason of which there shall have been such declaration or declarations and the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

SECTION 5.5. No retaking of possession of the Trust Equipment by the Trustee, or any withdrawal, lease, or sale thereof, nor any action or failure or omission to act against the Company or in respect of the Trust Equipment, on the part of the Trustee or on the part of the holder of any Trust Certificate or dividend

warrant, nor any delay or indulgence granted to the Company by the Trustee or by any such holder, shall affect the obligations of the Company hereunder or under the guaranty endorsed on the Trust Certificates. The Company hereby waives presentation and demand in respect of any of the Trust Certificates and dividend warrants and waives notice of presentation, of demand, and of any default in the payment of the principal of and dividends upon the Trust Certificates. The Trustee may at any time upon notice in writing to the Company apply to any court of competent jurisdiction for instructions as to the application and distribution of the property held by it.

SECTION 5.6. In case the Trustee shall demand possession of the Trust Equipment pursuant to the provisions hereof, and shall reasonably designate a point or points upon the railroad of the Company or of any Affiliate for the delivery of the Trust Equipment to it, the Company shall at its own expense forthwith and in the usual manner cause the Trust Equipment to be moved to such point or points on such railroad as shall be designated by the Trustee and shall there deliver or cause to be delivered the same to the Trustee, or the Trustee may at its option keep the Trust Equipment on any of the lines of railroad or premises of the Company or of any Affiliate until the Trustee shall have leased, sold, or otherwise disposed of the same, and for such purpose the Company agrees to furnish without charge for rent or storage the necessary facilities at any convenient point or points selected by the Trustee. It is hereby expressly covenanted and agreed that the performance of this covenant is of the essence of this Agreement and that, upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company requiring the specific performance thereof.

SECTION 5.7. The remedies in this Agreement provided in favor of the Trustee and the holders of the Trust Certificates or dividend warrants, or any of them, shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity; *provided, however*, that the rights, powers and remedies in this Agreement provided are subject to applicable provisions of any bankruptcy or insolvency law or laws affecting enforcement of creditors' rights.

ARTICLE VI.

ADDITIONAL COVENANTS AND AGREEMENTS
BY THE COMPANY.

SECTION 6.1. The Company hereby covenants and agrees to make payment of the reasonable expenses and compensation of the Trustee, and of all taxes, assessments, and governmental charges herein mentioned for which the Trustee, as such, may be liable and of the rentals and of the other amounts provided for herein.

SECTION 6.2. The Company covenants, agrees, and guarantees that the holder of each of the Trust Certificates shall receive the principal amount thereof, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, when and as the same shall become due and payable, in accordance with the provisions thereof or of this Agreement (and, if not so paid, with interest thereon at the dividend rate specified in such Trust Certificate, to the extent legally enforceable), and shall receive dividends thereon in like money at the rate specified therein from the date of such Trust Certificate to the date of maturity thereof, at the times and place and otherwise as expressed in the Trust Certificates and in the dividend warrants (and, if not so paid, with interest thereon at the dividend rate specified in such Trust Certificate, to the extent legally enforceable), and the Company further covenants and agrees to endorse upon each of the Trust Certificates, without the corporate seal of the Company which is hereby expressly waived, at or before the issuance and delivery thereof by the Trustee, its guaranty of the prompt payment of the principal thereof and of the dividends thereon, in substantially the forms hereinbefore set forth. Said guaranty so endorsed shall be signed in the name and on behalf of the Company by the manual or facsimile signature of its Chief Executive Officer or its President or any of its Vice Presidents or its Treasurer. In case any officer of the Company whose signature shall appear on said guaranty shall cease to be such officer of the Company before the Trust Certificates shall have been issued and delivered by the Trustee, or shall not have been acting in such

capacity on the date of the Trust Certificates, such guaranty shall nevertheless be as effective and binding upon the Company as though the person who signed said guaranty had not so ceased to be such officer of the Company or had been acting in such capacity on such date.

SECTION 6.3. The Company covenants and agrees that it will pay and discharge, or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of, any debt, tax, charge, assessment, obligation, or claim which if unpaid might become a lien or charge upon or against any of the Trust Equipment, except upon the leasehold interest of the Company therein; but this provision shall not require the payment of any such debt, tax, charge, assessment, obligation, or claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings, unless such contest will in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates.

SECTION 6.4. The Company covenants and agrees to pay the expenses incident to the preparation and execution of the Trust Certificates and dividend warrants to be issued hereunder, or connected with the preparation, execution, recording, and filing hereof and of any instruments executed under the provisions hereof with respect to the Trust Equipment. The Company with all convenient speed will cause this Agreement and all supplements thereto to be duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Company will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, and record any and all further instruments required by law or reasonably requested by the Trustee for the purposes of proper protection of the title of the Trustee and the rights of the holders of the Trust Certificates and of fully carrying out and effectuating this Agreement and the intent hereof; and the Company will promptly furnish to the Trustee certificates or other evidences of filing and recording pursuant to the last preceding sentence, and of any other such filing, registration, and recording, and an Opinion or Opinions of Counsel with respect thereto.

SECTION 6.5. The Company covenants and agrees from time to time to do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Agreement and the intent hereof.

SECTION 6.6. The Company covenants that it will make payment of the rentals on account of the Trust Equipment as provided in this Agreement notwithstanding that any of the Trust Certificates and dividend warrants shall have been acquired by the Company or shall not have been presented for payment.

ARTICLE VII.

THE TRUSTEE.

SECTION 7.1. The Trustee hereby accepts the trusts imposed upon it by this Agreement, and shall perform the same as herein expressed.

SECTION 7.2. The Trustee shall apply and distribute the rentals received by it under Section 4.4(B) hereof (other than sums restored to Deposited Cash or Replacement Funds, as the case may be, pursuant to Section 7.8 from rentals received under the provisions of Section 4.4(B)(1)(b) hereof) when and as the same shall be received, and to the extent that such rentals shall be sufficient therefor, for the purposes specified in said Section 4.4(B).

SECTION 7.3. The Trustee shall cause to be kept at its corporate trust office in the City of Baltimore, State of Maryland, books for the registration, exchange, and transfer of the Trust Certificates; and upon presentation for such purpose the Trustee will register or cause to be registered, exchange or cause to be exchanged, or transfer or cause to be transferred, as the case may be, as hereinbefore provided, under such reasonable regulations as it may prescribe, any of the Trust Certificates.

SECTION 7.4. The Trustee shall not be required to undertake any act or duty in the way of insuring, taking care of, or taking possession of the Trust Equipment or to undertake any other act or duty under this Agreement until fully indemnified to

its satisfaction by the Company or by one or more of the holders of the Trust Certificates against all liability and expenses. The Trustee shall not be responsible for the filing or recording or refiling or re-recording of this Agreement or of any supplement hereto. The Trustee may issue and deliver Trust Certificates in advance of such filing or recording. In accepting delivery of and making payment for the Trust Equipment hereunder, or in accepting any cash payable hereunder in respect of Trust Equipment pursuant to Sections 4.7 or 4.9 hereof, the Trustee may rely upon and shall be fully protected by the documents to be furnished to it under Sections 3.4, 4.7, or 4.9 hereof, as the case may be, and shall not be required to make any further investigation of or inquiry concerning the matters covered thereby.

SECTION 7.5. The Trustee shall be under no obligation to take any action for the execution or enforcement of the trust hereby created unless requested thereunto in writing by the holders of not less than 25% in principal amount of the then outstanding Trust Certificates and unless fully indemnified to its satisfaction against expense and liability with respect thereto, and unless also furnished with proof satisfactory to it as to the ownership of the Trust Certificates in respect of which any such request may be made; but this provision, in the absence of such request, shall not affect any discretion herein given to the Trustee to determine whether it shall take action in respect of any default hereunder or what action it shall take.

SECTION 7.6. No holder of any Trust Certificate or dividend warrant shall have any right to institute any suit, action, or proceeding for the execution and enforcement of the trust hereby created unless, after the aforesaid request in writing by the holders of not less than 25% in principal amount of the then outstanding Trust Certificates shall have been made to the Trustee, and after indemnity satisfactory to it shall have been provided, and after ninety (90) days shall have elapsed after receipt by the Trustee of such request, it shall decline, fail or neglect to institute any proceedings pursuant thereto, nor shall any holder have any such right if a majority in principal amount of the outstanding Trust Certificates shall have directed that no action be taken. Neither the provisions of this Section 7.6 nor the

provisions of Section 7.5 hereof shall affect or limit in any way the obligations of the Company under its guaranty hereinabove provided or the rights of the holders of Trust Certificates or dividend warrants to institute suit for the enforcement of payments due under said guaranty in respect of the Trust Certificates or dividend warrants.

SECTION 7.7. The Trustee may for all purposes conclusively assume that the Company is not in default under the terms hereof until notified in writing to the contrary by the holders of at least 10% in principal amount of the then outstanding Trust Certificates, which notice shall distinctly specify the event of default desired to be brought to the attention of the Trustee. As to any fact or matter the manner of determining which is not specifically prescribed herein, the Trustee may for all purposes rely upon an Officer's Certificate as to such fact or matter. The Trustee shall not incur any liability to anyone in relying conclusively on, and in acting upon, any notice, consent, order certificate, warrant, or other paper or instrument believed by it to be genuine or authentic and to be signed by the proper party or parties.

SECTION 7.8. Any moneys at any time paid to or held by the Trustee hereunder until paid out by the Trustee as herein provided may be carried by the Trustee on deposit with itself, without liability for interest thereon save as may be agreed upon between the Trustee and the Company.

At any time, and from time to time, if at the time there shall be no default under the terms of this Agreement or of any supplement hereto, the Trustee, upon Request, shall invest and reinvest Deposited Cash and Replacement Funds held by it in Government Securities, at such prices, including any premium and accrued interest, as are set forth in such Request, such Government Securities to be held by the Trustee in trust for the benefit of the holders of the Trust Certificates and dividend warrants.

The Trustee shall upon Request, or the Trustee may in the event funds are required for payment against delivery of Trust Equipment, sell such Government Securities, or any portion thereof, and restore to Deposited Cash or Replacement Funds, as the

case may be, the proceeds of any such sale up to the amount paid for such Government Securities, including accrued interest.

The Trustee shall restore to Deposited Cash or Replacement Funds, as the case may be, out of rental received by it for that purpose under the provisions of Section 4.4(B)(1)(b) hereof, an amount equal to any expenses incurred in connection with any purchase or sale of Government Securities and also an amount equal to any loss of principal incident to the sale or redemption of any Government Securities for a sum less than the amount paid therefor, including accrued interest. The Company, if not in default under the terms of this Agreement or of any supplement hereto, shall be entitled to receive any profit which may be realized from any sale or redemption of Government Securities.

SECTION 7.9. The Trustee shall not be liable to anyone for any delay in the delivery of any of the Trust Equipment or for any default on the part of the manufacturer or manufacturers thereof or of the Company or for any defect in any of the Trust Equipment or in the title thereto, nor shall anything herein be construed as a warranty on the part of the Trustee in respect thereof or as a representation in respect of the value thereof or in respect of the title thereto.

The Trustee may perform its powers and duties hereunder by or through such attorneys, agents, and servants as it shall appoint, and shall be entitled to rely upon the advice of counsel (who may be counsel for the Company), and shall be answerable for only its own acts, negligence, and wilful defaults and not for the default or misconduct of any attorney, agent, or servant appointed by it with reasonable care. The Trustee shall not be responsible in any way for the recitals herein contained or for the execution or validity of this Agreement or of the Trust Certificates and dividends warrants (except for its own execution thereof) or for the guaranty by the Company or for any mistake of fact or law.

The Trustee shall be entitled to receive payment of its liabilities and all of its expenses and disbursements hereunder, including reasonable counsel fees, and to receive reasonable compensation for all services rendered by it in the execution of the

trust hereby created, all of which shall be paid by the Company, or, in default of such payment, out of the rentals or proceeds or avails of the Trust Equipment. The liabilities of the Trustee wherever referred to herein shall include all liabilities incurred by the Trustee arising out of or in connection with this Agreement or the ownership or use of any of the Trust Equipment other than those liabilities resulting from its own negligence or wilful default, as well as the costs and expenses of defending against any claim of liability in the premises.

The Trustee in its individual capacity may own, hold, and dispose of Trust Certificates and dividend warrants with the same rights which it would have if it were not Trustee.

Any moneys at any time held by the Trustee hereunder shall, until paid out or invested by the Trustee as herein provided, be held by it in trust as herein provided for the benefit of the holders of the Trust Certificates and dividend warrants.

SECTION 7.10. If at any time the Trustee or any successor to it in the trust hereby created shall desire to divest itself of title to the Trust Equipment, and to terminate its duties and obligations and rights hereunder and under the Trust Certificates, it shall so notify the Company in writing, and the Company shall thereupon designate in writing to the Trustee a national bank or a trust company, qualified as below specified, to serve until a successor is appointed by the holders of Trust Certificates as hereinafter provided, to which may be assigned the entire right, title, and interest of the Trustee or such successor in the Trust Equipment, and in which may be vested the rights, powers, duties, and obligations of the Trustee hereunder and under the Trust Certificates. Upon the transfer and delivery of all moneys, Government Securities, if any, and Trust Equipment held by the retiring trustee, and payment of its compensation, expenses, and liabilities, and the execution by the retiring trustee of such instruments of transfer as may be reasonably requested by the successor trustee, and upon acceptance by the successor trustee of the assignment and of the trust, the retiring trustee shall be relieved and discharged of all the title, rights, powers, duties, and obligations of the trust hereunder and under the Trust Certificates, and

the same shall become vested in such successor trustee, and every provision hereof applicable to the retiring trustee shall apply to such successor trustee with like effect as if such successor trustee had been originally named herein in the place and stead of the Trustee. In the event that the Company shall fail to designate such a successor trustee by instrument in writing delivered to the retiring trustee within two weeks from the time of receiving such notice in writing from the retiring trustee, the retiring trustee may thereupon designate such successor trustee (or apply to any court of competent jurisdiction for the appointment of a successor trustee). The foregoing provisions are, however, subject to the right of the holders of the majority in principal amount of the then outstanding Trust Certificates by an instrument in writing to appoint any successor trustee, if such appointment is made within one year from the date of giving of such notice to the Company. The Company shall execute all writings recognizing the transfer of title as aforesaid and all instruments of further assurance or otherwise as reasonably may be requested by the successor trustee in the premises, and will do and perform any and all acts necessary to establish and maintain the title and rights of the successor trustee in and to the Trust Equipment. Every successor trustee shall be a national bank or a trust company doing business in the City of Baltimore, State of Maryland, or in the Borough of Manhattan, City and State of New York, having a capital and surplus aggregating at least \$30,000,000, if there be such a national bank or trust company willing and able to accept the trust upon reasonable and customary terms and duly qualified to act as such trustee.

SECTION 7.11. Any corporation resulting from any merger or consolidation to which the Trustee or any successor to it shall be a party, or any corporation in any manner succeeding to all or substantially all of the business of the Trustee or any successor trustee, provided such corporation shall meet the requirements of the last sentence of Section 7.10 hereof, shall be the successor trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

SECTION 7.12. In determining whether the holders of the requisite aggregate principal amount of Trust Certificates have concurred in any direction, notice, request, consent, or waiver under this Agreement, Trust Certificates which are owned by the Company or an Affiliate shall be disregarded and deemed not to be outstanding for the purpose of any such determinations, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, notice, request, consent, or waiver only Trust Certificates which the Trustee knows are so owned shall be so disregarded.

ARTICLE VIII.

MISCELLANEOUS.

SECTION 8.1. Any request or other instrument provided by this Agreement to be signed or executed by holders of Trust Certificates may be in any number of concurrent instruments of similar tenor, and may be executed by such holders in person or by an agent or attorney appointed by an instrument in writing. Proof of the execution of any such request or other instrument, or of a writing appointing any such agent or attorney, or of the holding by any person of Trust Certificates, shall be sufficient for any purpose hereof and shall be conclusive in favor of the Trustee with regard to any action taken by the Trustee under such request or other instrument if made in the following manner, *viz.*:

(a) The fact and date of the execution by any person of any such request or of any other instrument in writing may be proved by the affidavit of a witness to such execution, or by the certificate of any notary public or of any other officer authorized to take acknowledgments of deeds to be recorded in the State where the acknowledgment may be taken, under his official seal, certifying that the person signing such request or other instrument acknowledged to him the execution thereof. Where such execution is by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association, or partnership, such certificate or affidavit shall also constitute sufficient proof of his authority.

(b) The amount and serial numbers of Trust Certificates with dividend warrants not registered as to principal

held by any person executing any such request or other instrument as a holder of Trust Certificates, and the date of his holding the same, may be proved by a certificate executed by any trust company, bank, or other depository, where-soever situated, whose certificate shall be deemed by the Trustee to be satisfactory, showing that at the date therein mentioned such person had on deposit with or exhibited to such depository the Trust Certificates numbered and described in such certificate. The Trustee may presume the continuance of any such holding unless and until it shall receive proof satisfactory to it to the contrary.

(c) The ownership of fully registered Trust Certificates and Trust Certificates with dividend warrants, registered as to principal, shall be determined by the registry books to be kept as provided in Section 7.3 hereof.

SECTION 8.2. Nothing expressed or implied herein is intended or shall be construed to confer upon or to give to any person, firm, or corporation, other than the parties hereto and the holders of the Trust Certificates and dividend warrants, any right, remedy, or claim under or by reason of this Agreement or of any term, covenant, or condition hereof, and all the terms, covenants, conditions, promises, and agreements contained herein shall be for the sole and exclusive benefit of the parties hereto and their successors and of the holders of the Trust Certificates and dividend warrants.

SECTION 8.3. Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns.

SECTION 8.4. All demands, notices, and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or mailed by registered mail (a) in the case of the Company, at 2 North Charles Street, Baltimore, Maryland 21201, or at such other address as may hereafter be furnished to the Trustee in writing by the Company, and (b) in the case of the Trustee, at Two Hopkins Plaza, Baltimore, Maryland 21201, or at such other address as may hereafter be furnished to

the Company in writing by the Trustee. An affidavit by any person representing or acting on behalf of the Company or the Trustee as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice, or communication.

SECTION 8.5. This Agreement has been simultaneously executed in several counterparts each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

SECTION 8.6. This Agreement shall be deemed to have been executed on the date of the acknowledgment thereof by the officer of the Trustee who signed it on behalf of the Trustee.

SECTION 8.7. The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of Maryland; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

IN WITNESS WHEREOF, MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, as Trustee, and THE BALTIMORE AND OHIO RAILROAD COMPANY, pursuant to due corporate authority, have caused their names to be signed hereto by their officers hereunto duly authorized and their corporate seals, duly attested, to be hereunto affixed as of the day and year first above written.

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
Trustee,

By *Robert F. Zimoch*
ASSISTANT Vice-President

ATTEST: *C. A. Dwyer*
Assistant Corporate Trust Officer

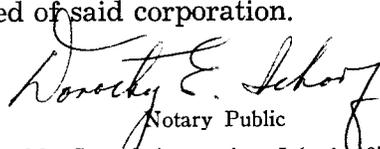
THE BALTIMORE AND OHIO RAILROAD COMPANY,

By *A. C. Bright*
Treasurer

ATTEST: *R. J. Schwartz*
Assistant Secretary

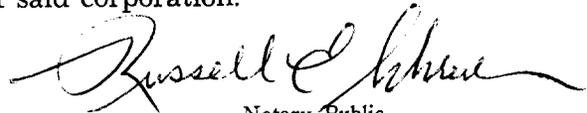
STATE OF MARYLAND }
CITY OF BALTIMORE } SS:

On this ~~30th~~ ^{August} day of ~~September~~, 1971, before me personally appeared ROBERT F. ZIEMSKI, to me personally known, who, being by me duly sworn, says that he is a ~~Vice-President~~ ^{ASSISTANT} of MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, that one of the seals 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 he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


Dorothy E. Schorff
Notary Public
My Commission expires July 1, 1974.

STATE OF MARYLAND }
CITY OF BALTIMORE } SS:

On this 7th day of September, 1971, before me personally appeared L. C. ROIG, JR., to me personally known, who, being by me duly sworn, says that he is the Treasurer of THE BALTIMORE AND OHIO RAILROAD COMPANY, that one of the seals 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 President and Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


Russell E. Schreiber
Notary Public
My Commission expires July 1, 1974.
RUSSELL E. SCHREIBER
NOTARY PUBLIC
My Commission Expires July 1, 1974