CRAVATH, SWAINE & MOORE

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C-361A080

Date DEC 27 1978

Fee $ 50.00

ICC Washington, D.

December 22, 1978

American Rail Box Car Company
Equipment Trust Financing
Dated as of November 1, 1978
9.45% Equipment Trust Certificates due March 15, 1994
Series 4

Dear Sir:

Herewith for recordation pursuant to 49 U.S.C. §11303(a) (formerly Section 20c of the Interstate Commerce Act), on behalf of American Rail Box Car Company, are counterparts of the Equipment Trust Agreement dated as of November 1, 1978, relating to the issuance of Equipment Trust Certificates, Series 4, of American Rail Box Car Company.

The parties to the enclosed agreement are:

Trustee-Lessor
Mercantile-Safe Deposit and Trust Company
Two Hopkins Plaza (P. O. Box 2258)
Baltimore, Maryland 21203

Company-Lessee-Guarantor
American Rail Box Car Company
300 South Wacker Drive
Chicago, Illinois 60606

RECEIVED
DEC 27 2 11 PM '78
I.C.C.
FEE OPERATION BR.

The equipment covered by the aforementioned agreement consists of 780 50'6" 70-ton capacity general service box cars with 10' door bearing the road numbers of the Company 31400 through 31853 and 32250 through 32575, inclusive and 682 50'6" 70-ton capacity, general service box car with 16' combination door bearing the road numbers of the Company 51135 through 51816, inclusive.

Enclosed is our check for $50 for the required recordation fee. Please accept for recordation one counterpart of the enclosed agreement, stamp the remaining counterparts with your recordation number and return them to the delivering messenger along with you fee receipt, addressed to the undersigned.

Very truly yours,

Laurance V. Goodrich

Laurance V. Goodrich
as agent for American Rail
Box Car Company

H. G. Homme, Jr., Acting Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423

Encls.

51

BY HAND

Interstate Commerce Commission
Washington, D.C. 20423

12/27/78

OFFICE OF THE SECRETARY

Laurance V. Goodrich
Cravath, Swaine & Moore
One Chase Manhattan Plaza
New York, N.Y. 1005

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 12/27/78 at 2:15pm, and assigned recordation number(s) 9947

Sincerely Yours,

H.G. Homme, Jr.,
Secretary

Enclosure(s)

SE-30-T
(2/78)

RECORDATION NO. ..... Filed 1425

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INTERSTATE COMMERCE COMMISSION

AMERICAN RAIL BOX CAR COMPANY
EQUIPMENT TRUST

Series 4

EQUIPMENT TRUST AGREEMENT

by and between

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY,
Trustee

and

AMERICAN RAIL BOX CAR COMPANY

Dated as of November 1, 1978
[454 Pullman, 682 FMC and 326 ACF
70-Ton General Service Boxcars]

TABLE OF CONTENTS*

		Page
ARTICLE ONE.	Form of Trust Certificate and Guarantee	T-2
ARTICLE TWO.	Definitions	T-5
ARTICLE THREE.	Trust Certificates and Issuance Thereof	T-9
Section 3.01.	Issuance of Trust Certificates	T-9
Section 3.02.	Interests Represented by Trust Certificates; Dividends; Maturity	T-9
Section 3.03.	Form, Execution and Characteristics of Trust Certificates	T-11
Section 3.04.	Replacement of Lost Trust Certificates	T-13
ARTICLE FOUR.	Acquisition of Trust Equipment by Trustee; Deposited Cash	T-14
Section 4.01.	Acquisition of Equipment by Trustee	T-14
Section 4.02.	Payment of Deposited Cash	T-14
Section 4.03.	Payment of Deficiency	T-14
Section 4.04.	Supporting Papers	T-15
ARTICLE FIVE.	Lease of Trust Equipment to the Company	T-17
Section 5.01.	Lease of Trust Equipment	T-17
Section 5.02.	Equipment Automatically Subjected	T-17
Section 5.03.	Additional and Substituted Equipment Subject Hereto	T-17
Section 5.04.	Rental Payments	T-17
Section 5.05.	Termination of Trust	T-19

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* This Table of Contents has been included in this document for convenience only and does not form a part of, or affect any construction or interpretation of, this document.

Section 5.06. Idemnity T-20
Section 5.07. Substitution and Replacement of Trust Equipment T-20
Section 5.08. Maintenance of Trust Equipment; Casualty Occurrences T-23
Section 5.09. Possession of Trust Equipment T-24
Section 5.10. Marking of Trust Equipment T-26

ARTICLE SIX. Events of Default and Remedies T-27

Section 6.01. Events of Default T-27
Section 6.02. Remedies T-30
Section 6.03. Application of Proceeds T-32
Section 6.04. Waivers of Default T-32
Section 6.05. Obligations of Company Not Affected by Remedies T-33
Section 6.06. Company to Deliver Trust Equipment to Trustee T-33
Section 6.07. Trustee to Give Notice of Default T-34
Section 6.08. Control by Holders of Trust Certificates T-34
Section 6.09. Limitations on Suits By Holders of Trust Certificates T-34
Section 6.10. Unconditional Right of Holders of Trust Certificates To Sue for Principal and Dividends T-35
Section 6.11. Remedies Cumulative; Subject to Mandatory Requirements of Law .. T-35

ARTICLE SEVEN. Additional Covenants and Agreements by the Company T-36

Section 7.01. Guarantee of Company T-36
Section 7.02. Discharge of Liens T-36
Section 7.03. Further Assurances T-37
Section 7.04. Merger or Consolidation T-37
Section 7.05. Recording T-37

ARTICLE EIGHT. Concerning the Holders of Trust Certificates T-38

Section 8.01. Evidence of Action Taken By Holders of Trust Certificates .. T-38
Section 8.02. Proof of Execution of Instruments and of Holding of Trust Certificates T-38

Section 8.03. Trust Certificates Owned by Company T-39
Section 8.04. Right of Revocation of Action Taken T-39
Section 8.05. Amendment of Waiver T-39

ARTICLE NINE. The Trustee T-40

Section 9.01. Acceptance of Trust T-40
Section 9.02. Duties and Responsibilities of the Trustee T-40
Section 9.03. Application of Rentals T-42
Section 9.04. Funds May Be Held by Trustee; Investments T-42
Section 9.05. Trustee Not Liable for Delivery Delays or Defects in Equipment or Title T-43
Section 9.06. Resignation and Removal; Appointment of Successor Trustee T-44
Section 9.07. Acceptance of Appointment by Successor Trustee T-45
Section 9.08. Merger or Consolidation of Trustee T-45
Section 9.09. Return of Certain Moneys to Company T-46

ARTICLE TEN. Prepayment of Trust Certificates T-46

Section 10.01. Right of Prepayment T-46
Section 10.02. Selection of Trust Certificates for Prepayment; Notice of Prepayment T-46
Section 10.03. Payment of Trust Certificates Selected for Prepayment T-48

ARTICLE ELEVEN. Miscellaneous T-48

Section 11.01. Rights Confined to Parties and Holders T-48
Section 11.02. No Recourse T-48
Section 11.03. Binding upon Assigns T-49
Section 11.04. Notices T-49
Section 11.05. Effect of Headings; Date Executed; Governing Law; and Counterparts T-49

TESTIMONIUM T-50

SIGNATURES T-50

ACKNOWLEDGMENTS T-51

SCHEDULE I--List of Equipment T-52

EQUIPMENT TRUST AGREEMENT dated as of November 1, 1978, by and between MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, a Maryland banking corporation (the "Trustee"), and AMERICAN RAIL BOX CAR COMPANY, a Delaware corporation (the "Company").

WHEREAS the Company has agreed to cause to be sold, transferred and delivered to the Trustee the railroad equipment described herein; and

WHEREAS the Company and the manufacturers of the railroad equipment described herein have entered into agreements (collectively the "Manufacturing Agreement") providing for the purchase of such railroad equipment by the Company; 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 American Rail Box Car Company Equipment Trust Certificates, Series 4 (the "Trust Certificates"), are to be issued and sold in an aggregate principal amount not exceeding the Total Authorized Issue specified in the form of Trust Certificate included herein; and

WHEREAS the Trust Certificates shall be in the form of the Trust Certificate hereinafter set forth and the proceeds of the issuance thereof are to be deposited with the Trustee to constitute a fund, to be known as AMERICAN RAIL BOX CAR COMPANY EQUIPMENT TRUST, SERIES 4, to be applied by the Trustee in payment of the Cost of the Trust Equipment (as defined in Section 2.01 hereof), the remainder of the Cost thereof to be paid out of advance rentals to be paid by the Company as provided herein; and

WHEREAS it is desired to secure to the holders of the Trust Certificates the payment of the principal thereof and dividends thereon as hereinafter provided;

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

ARTICLE ONE

Form of Trust Certificate and Guarantee

SECTION 1.01. Form of Trust Certificate. The Trust Certificates and the guarantee to be endorsed thereon by the Company are to be substantially in the following forms, respectively:

[FORM OF TRUST CERTIFICATE]

THIS CERTIFICATE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933.

$ No.

AMERICAN RAIL BOX CAR COMPANY

EQUIPMENT TRUST CERTIFICATE
Series 4
Total Authorized Issue $44,000,000

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, Trustee

MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, Trustee (hereinafter called the Trustee), under an Equipment Trust Agreement (the "Agreement") dated as of November 1, 1978, by and between the Trustee and AMERICAN RAIL BOX CAR COMPANY, a Delaware corporation (the "Company"), hereby certifies that

,

or registered assigns, is entitled to an interest in the principal amount of $ in American Rail Box Car Company Equipment Trust, Series 4, due and payable in

installments as hereinafter provided, and to dividends on the unpaid principal amount represented by this Certificate due and payable semiannually on March 15 and September 15 in each year, commencing on March 15, 1979, at the rate of 9.45% per annum from the date hereof until such principal amount becomes due and payable, with interest on any overdue installment of principal and dividends, to the extent legally enforceable, at the rate of 10.45% per annum. Payments of installments of principal, dividends and interest shall be made by the Trustee to the registered holder hereof at the corporate trust office of the Trustee in Baltimore, Maryland, 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. Each such payment shall be made only from and out of rentals or other moneys received by the Trustee and applicable to such payment under the provisions of the Agreement. This Certificate is prepayable on March 15, 1979, out of any Deposited Cash (as defined in the Agreement) held by the Trustee and not applied to the cost of railroad equipment to be subject to the trust created by the Agreement. Any such prepayment of this Certificate shall be at 100% of the principal amount hereof to be prepaid, together with dividends accrued to the date fixed for prepayment. The remaining principal amount of this Trust Certificate is due and payable in 15 substantially equal annual installments on March 15 in each year from March 15, 1980, through March 15, 1994, both inclusive. Dividends and interest shall be computed hereunder on the basis of a 360-day year of twelve 30-day months.

This Certificate is one of an authorized issue of Trust Certificates in an aggregate principal amount not exceeding the Total Authorized Issue set forth above, and issued or to be issued under the Agreement, under which certain railroad equipment leased to the Company (or cash or obligations defined in the Agreement as "Investments" in lieu thereof, as provided in the Agreement) is held by the Trustee in trust for the equal and ratable benefit of the holders of the Trust Certificates issued thereunder. Reference is made to the Agreement (a copy of which is on file with the Trustee at its said office) for a more complete statement of the terms and provisions thereof, to all of which the registered holder hereof, by accepting this Certificate, assents.

The registered holder hereof has represented that it has acquired this Certificate for investment and not for resale, but subject, nevertheless, to any requirement that

the disposition of its property shall at all times be within its control. This Certificate has not been registered under the Securities Act of 1933, and may not be sold, transferred, pledged or hypothecated except in compliance with such Act.

Subject to the preceding paragraph and the provisions of Section 3.03 of the Agreement, this Certificate is transferable in whole or in part by the registered holder hereof in person or by duly authorized attorney on the books of the Trustee upon surrender to the Trustee, at its office, of this Certificate accompanied by a written instrument of transfer, duly executed by the registered holder in person or by such attorney, in form satisfactory to the Trustee, and thereupon a new fully registered Trust Certificate or Certificates for the then unpaid aggregate principal amount hereof (and payable as herein provided) will be issued to the transferee in exchange herefor and, if less than the entire unpaid principal amount hereof is transferred, a balance piece therefor will be issued to the transferor. Prior to due presentment for registration of transfer, the Trustee and the Company may deem and treat the person in whose name this Certificate is registered as the absolute owner hereof for the purpose of receiving payment of principal, dividends and interest, if any, and for all purposes and shall not be affected by any notice to the contrary.

In case of the happening of an Event of Default (as defined in the Agreement) all installments of principal (and dividends accrued thereon) represented by this Certificate may become or be declared due and payable in the manner and with the effect provided in the Agreement.

IN WITNESS WHEREOF, the Trustee has caused this Certificate to be signed by one of its Assistant Vice Presidents, by his signature or a facsimile thereof, and its corporate seal or facsimile thereof to be hereunto affixed or hereon imprinted and to be attested by one of its Corporate Trust Officers by his signature.

Dated as of

MERCANTILE-SAFE DEPOSIT AND
TRUST COMPANY, Trustee,

by

_____
Assistant Vice President

Attest:

_____
Corporate Trust Officer

[FORM OF GUARANTEE]

GUARANTEE

American Rail Box Car Company, for a valuable consideration, hereby unconditionally guarantees to the registered holder of the within Certificate the prompt payment when due of the principal of said Certificate, and of the dividends thereon specified in said Certificate, with interest on any overdue principal and dividends, to the extent legally enforceable, at the rate of 10.45% per annum, all in accordance with the terms of said Certificate and the Equipment Trust Agreement referred to therein.

AMERICAN RAIL BOX CAR COMPANY,

by

_____
President

ARTICLE TWO

Definitions

SECTION 2.01. Definitions. The following terms (except as otherwise expressly provided or unless the context otherwise requires) for all purposes of this Agreement shall have the respective meanings hereinafter specified:

Affiliate of any corporation shall mean any corporation which, directly or indirectly, controls or is controlled by, or is under common control with, such corporation. For the purposes of this definition, control (including controlled by and under common control with), as used with respect to any corporation, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities or by contract or otherwise.

Company shall mean American Rail Box Car Company,

300 South Wacker Drive, Chicago, Illinois 60606, and any successor or successors to it complying with the provisions of Sections 5.09 or 7.04.

Corporate Trust Office shall mean the principal office of the Trustee in Baltimore, Maryland, at which the corporate trust business of the Trustee shall, at the time in question, be administered, which office is, on the date of execution of this Agreement, located at Two Hopkins Plaza, Baltimore, Maryland 21203, the mailing address of which is P. O. Box 2258, Baltimore, Maryland 21203, attention of Corporate Trust Department.

Cost, when used with respect to Equipment, shall mean the actual cost thereof (including freight charges, if any, from the manufacturer's plant to a point of delivery to the Company and applicable local or state sales taxes, if any), as evidenced by the manufacturer's invoice with respect to such Equipment less any deduction therefrom due to a quantity discount, refund or other allowance as provided in the second paragraph of Section 5.04.

Default shall mean

(1) any Event of Default; and

(2) the occurrence and continuance of an event which, with the giving of notice or the passage of time or both, would constitute an Event of Default.

The Company shall "be in Default" if a Default shall have occurred and be continuing.

Deposited Cash shall mean the aggregate of (a) the proceeds from the sale of the Trust Certificates deposited with the Trustee pursuant to Section 3.01 and, when required or indicated by the context, any Investments purchased by the use of such proceeds pursuant to the provisions of Section 9.04, and (b) any sums restored to Deposited Cash from rentals pursuant to Section 5.04(B)(1)(b) and on deposit with the Trustee.

Equipment shall mean standard-gauge boxcars acquired for general service use or, if approved by the holders of 60% in principal amount of the then outstanding Trust Certificates, other railroad equipment (other than passenger or work equipment) in each case first put into

service no earlier than October 1, 1978, but shall not include any special devices, racks or assemblies, at any time attached or affixed to any such equipment, the cost or purchase price of which is not included in the Cost of such equipment and the title to which is in a person, firm or corporation other than the Company or the Trustee.

Event of Default shall mean any event specified in Section 6.01 to be an Event of Default.

The word holder, when used with respect to Trust Certificates, shall mean a registered holder of Trust Certificates and shall include the plural as well as the singular number.

Investments shall mean (i) bonds, notes or other direct obligations of the United States of America or obligations for which the full faith and credit of the United States is pledged to provide for the payment of the interest and principal, in each case maturing within one year after the date of investment therein, (ii) open market commercial paper of any company incorporated and doing business under the laws of the United States of America or one of the states thereof given a rating "A-1" or "A-2" by Standard & Poor's Corporation or "prime-1" or "prime-2" by Moody's Investors Service or an equivalent rating by a successor thereto or by a similar rating service substituted therefor which is acceptable to both the Company and the Trustee and (iii) certificates of deposit of or time deposits in banks or trust companies (which may include the Trustee) incorporated and doing business under the laws of the United States of America or one of the States thereof having a capital and surplus aggregating at least $100,000,000.

Officer's Certificate shall mean a certificate signed by the President, any Vice President, the Controller, the Secretary, any Assistant Secretary, the Treasurer or any Assistant Treasurer of the Company.

Opinion of Counsel shall mean an opinion in writing signed by legal counsel who shall be satisfactory to the Trustee and who may, unless in a particular instance the Trustee shall otherwise require, be an employee of or counsel to the Company. The acceptance by the Trustee

of, and its action on, an Opinion of Counsel shall be sufficient evidence that such counsel is satisfactory to the Trustee.

Penalty Rate shall mean the rate per annum specified for interest on overdue principal and dividends in the form of guarantee set forth in Section 1.01 hereof.

Purchase Price, when used with respect to Equipment, shall mean the purchase price to the Trustee, as evidenced by an invoice or invoices from the manufacturer or manufacturers of such Equipment.

Request shall mean a written request for the action therein specified, delivered to the Trustee, dated not more than 10 days prior to the date of delivery to the Trustee and signed on behalf of the Company by the President, any Vice President, the Treasurer or any Assistant Treasurer of the Company.

Surplus Deposit Date shall mean March 15, 1979.

Trust Certificates shall mean the Trust Certificates issued hereunder.

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, a corporation duly organized and existing under the laws of the State of Maryland, and, subject to the provisions of Article Nine, any successor as trustee hereunder.

Value, as used herein, shall mean an amount determined as follows:

(1) The Value of any Trust Equipment assigned or transferred by the Trustee as provided in Section 5.07, and as used in Sections 5.08, 6.01 and 7.05 in respect of Trust Equipment, shall be deemed to be the Cost thereof as theretofore certified to the Trustee less 1/180th of such Cost for each full period of one month elapsed between (y) the later of the date hereof and the date such Trust Equipment was first put into use as certified to the Trustee and (z) the date as of which Value is to be deter-

mined; provided, however, that the Value of any Trust Equipment assigned or transferred by the Trustee as provided in Section 5.07 shall in no event be less than the actual fair value thereof.

(2) The Value of any Trust Equipment conveyed to the Trustee as provided in Section 5.07 shall be deemed to be the lesser of (a) the actual fair value thereof to the Company or (b) the Cost thereof, if new, or, in case of any Trust Equipment not new, the Cost thereof less 1/180th of such Cost for each full period of one month elapsed between (y) the later of the date hereof and the date such Trust Equipment was first put into use and (z) the date of the transfer thereof to the Trustee.

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, paragraph or subdivision hereof.

ARTICLE THREE

Trust Certificates and Issuance Thereof

SECTION 3.01. Issuance of Trust Certificates. Upon the sale of any of the Trust Certificates, an amount equal to the principal amount of the Trust Certificates so sold shall, forthwith upon the issuance thereof, be deposited in cash with the Trustee.

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 in the aggregate principal amount so sold.

The aggregate principal amount of Trust Certificates which shall be executed and delivered by the Trustee under this Section shall not exceed the Total Authorized Issue specified in the form of Trust Certificate, and the aggregate principal amount represented by all the Trust Certificates shall be payable as hereinafter set forth.

SECTION 3.02. Interests Represented by Trust Certificates; Dividends; Maturity. Each of the Trust Cer-

tificates shall represent an interest in the amount therein specified in the trust created hereunder. Subject to the provisions of Article Ten hereof respecting prepayment of Trust Certificates, the aggregate principal amount of the Trust Certificates will be payable in substantially equal annual installments of 1/15 of the aggregate principal amount of Trust Certificates issued pursuant to Section 3.01 on March 15, in each of the years 1980 through 1994. Each Trust Certificate will bear dividends on the unpaid principal amounts thereof, payable on March 15 and September 15 of each year, commencing March 15, 1979. Such dividends shall be at the rate specified thereon, with interest payable on overdue installments of principal and dividends at the Penalty Rate; provided, however, that Trust Certificates registered in the name of the Company will not bear dividends during the period so registered if the Company shall so request.

The principal of and dividends on the Trust Certificates shall be payable at the Corporate Trust Office 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 only from and out of rentals or other moneys received by the Trustee and applicable to such payment under the provisions hereof. Notwithstanding the provisions of the preceding sentence of this paragraph, in the case of payments of principal and dividends to be made on a Trust Certificate not then to be paid in full, upon request and deposit of an agreement by the holder of such Trust Certificate (the responsibility of such holder to be satisfactory to the Trustee) obligating such holder, prior to any transfer or other disposition thereof, to surrender the same to the Trustee for notation thereon of the installments of principal amount represented thereby theretofore paid in whole or in part, on the date each such payment is due the Trustee will mail its check, or on request of the holder the Trustee will wire by 11:00 a.m. Baltimore, Maryland time, funds immediately available on such date, to the account of such registered holder at such bank as it may designate by notice in writing to the Trustee, in the case of wire transfers, and in all other cases, to such registered holder at his address shown on the registry books maintained by the Trustee or at such other address as may be directed in writing by such holder (and the Company agrees to make its rental payments pursuant to Section 5.04 at such times and in such funds as will enable the Trustee to comply herewith); provided, however, that the deposit of

an agreement pursuant to this paragraph shall not be required of any original purchaser of the Trust Certificates or of any other purchasers approved by the Company, who, at the time payments of principal or dividends are to be made, are holders of Trust Certificates, and the Trustee shall without the deposit of such agreement make payments of principal and dividends to such original purchasers of Trust Certificates or to any other purchaser so approved by the Company at the address of each supplied to the Trustee by the Company.

SECTION 3.03. Form, Execution and Characteristics of Trust Certificates. (a) The Trust Certificates and the guarantee to be endorsed on the Trust Certificates by the Company as provided in Section 7.01 shall be in substantially the forms set forth in Article One.

(b) The Trust Certificates shall be signed in the name and on behalf of the Trustee by the manual or facsimile signature of its President, one of its Vice Presidents or one of its Assistant Vice Presidents and its corporate seal or a facsimile thereof shall be affixed or imprinted thereon and attested by the manual signature of one of its Corporate Trust Officers or one of its Assistant Trust Officers. In case any officer of the Trustee whose signature, whether facsimile or not, shall appear on any of the Trust Certificates shall cease to be such officer of the Trustee 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 Trust Certificates may be adopted by the Trustee and be issued and delivered as though such person had not ceased to be or had then been such officer of the Trustee.

(c) The Trust Certificates (i) shall be issuable in denominations of $1,000 or any integral multiple thereof; (ii) shall be registered, as to both principal and dividends, in the name of the holders; (iii) shall be transferable in whole or in part upon presentation and surrender thereof for transfer at the Corporate Trust Office, accompanied by appropriate instruments of assignment and transfer, duly executed by the registered holder of the surrendered Trust Certificate or Certificates or by duly authorized attorney, in form satisfactory to the Trustee; (iv) shall be dated as of the date of issue unless issued

in exchange for another Trust Certificate or Certificates bearing unpaid dividends from an earlier date, in which case they shall be dated as of such earlier date; (v) shall entitle the registered holder to dividends from the date thereof; and (vi) shall be exchangeable for an equal aggregate principal amount of Trust Certificates of authorized denominations of like tenor and maturity.

(d) Anything contained herein to the contrary notwithstanding, the parties hereto may deem and treat the registered holder of any Trust Certificates as the absolute owner of such Trust Certificates for all purposes and shall not be affected by any notice to the contrary.

(e) The Trustee shall cause to be kept at the Corporate Trust Office books for the registration and transfer of the Trust Certificates and, upon presentation of the Trust Certificates for such purpose, the Trustee shall register any transfer as hereinabove provided, and under such reasonable regulations as it may prescribe.

(f) For any registration, transfer or exchange, the Trustee shall require the payment of a sum sufficient to reimburse it for any governmental charge connected therewith.

(g) Each Trust Certificate delivered pursuant to any provision of this Agreement in exchange or substitution for, or upon the transfer of the whole or any part, as the case may be, of one or more other Trust Certificates shall carry all the rights to principal and to dividends accrued and unpaid and to accrue, which were carried by the whole or such part, as the case may be, of such one or more other Trust Certificates, and, notwithstanding anything contained in this Agreement, such Trust Certificate shall be so dated that neither gain nor loss in dividends or principal shall result from such exchange, substitution or transfer.

(h) The Trustee shall not be required (i) to issue, register the transfer of or exchange Trust Certificates for a period of ten days next preceding any dividend payment date, (ii) to issue, register the transfer of or exchange any Trust Certificate during a period beginning at the opening of business 15 days before any selection of Trust Certificates to be prepaid and ending at the close of business on the day

of the mailing of the relevant notice of prepayment or (iii) to register the transfer of or exchange any Trust Certificate so selected for prepayment in whole or in part until after the date fixed for prepayment.

(i) The Trustee shall not be required to register any transfer of Trust Certificates unless the Trustee has received approval of the Company or the Trustee is satisfied that such transfer is exempt from the registration requirements of the Securities Act of 1933, as amended.

SECTION 3.04. Replacement of Lost Trust Certificates. In case any Trust Certificate shall become mutilated or defaced or be lost, destroyed or stolen, then on the terms herein set forth, and not otherwise, the Trustee shall execute and deliver a new Trust Certificate of like tenor, date and maturity, and bearing such identifying number or designation as the Trustee may determine, in exchange and substitution for, and upon cancelation of, the mutilated or defaced Trust Certificate, or in lieu of and in substitution for the same if lost, destroyed or stolen. The Company shall execute its guarantee on any Trust Certificates to be so delivered. The applicant for a new Trust Certificate pursuant to this Section shall furnish to the Trustee and to the Company evidence to their satisfaction of the loss, destruction or theft of such Trust Certificate alleged to have been lost, destroyed or stolen and of the ownership and authenticity of such mutilated, defaced, lost, destroyed or stolen Trust Certificate, and also shall furnish such security or indemnity as may be required by the Trustee and by the Company in their discretion (which, in the case of any of the original purchasers of Trust Certificates, may at the option of such purchaser be in the form of an indemnification agreement executed by such purchaser), and shall pay all expenses and charges of such substitution or exchange. All Trust Certificates are held and owned upon the express condition that the foregoing provisions are exclusive in respect of the replacement of mutilated, defaced, lost, destroyed or stolen Trust Certificates and shall preclude any and all other rights and remedies, any law or statute now existing or hereafter enacted to the contrary notwithstanding.

ARTICLE FOUR

Acquisition of Trust Equipment by Trustee; Deposited Cash

SECTION 4.01. Acquisition of Equipment by Trustee. The Company, as speedily as may be, shall cause to be sold to the Trustee, as trustee for the holders of the Trust Certificates, all the Equipment described in Schedule I hereto; provided, however, that if the Cost of the Equipment settled for under this Article Four shall equal or exceed 125% of the aggregate principal amount of Trust Certificates issued or issuable under Section 3.01, upon Request, the Trustee shall execute and deliver to the Company a supplement hereto excluding from this Agreement any Equipment not theretofor settled for under this Article Four. Such Equipment shall be delivered to the person or persons designated by the Trustee as its agent or agents to accept such delivery (who may be one or more of the officers or agents of the Company) and the certificate of any such agent or agents as to such delivery and acceptance shall be conclusive evidence of such delivery.

In the event that the Company shall deem it necessary or desirable to procure for the use of the Company, and to include in the trust hereby created, other Equipment in lieu of any units of the Equipment specifically described in Schedule I hereto prior to the acceptance of such Equipment by the Trustee or its agent or agents, or in the event that any unit of the Equipment described in Schedule I hereto shall suffer a Casualty Occurrence as defined in Section 5.08, prior to such acceptance, the Company may cause to be sold to the Trustee other Equipment, to be substituted under the trust.

SECTION 4.02. Payment of Deposited Cash. From time to time, when and as any Equipment shall have been accepted by the Trustee or its agent or agents pursuant to Section 4.01, the Trustee shall (subject to the provisions of Sections 4.03 and 4.04) pay, upon Request, to the manufacturer of the accepted Equipment out of Deposited Cash then held by the Trustee an amount not exceeding 80% of the lesser of the aggregate Cost of such Trust Equipment or its fair value, as specified in the Officer's Certificate furnished to the Trustee pursuant to Section 4.04(b).

SECTION 4.03. Payment of Deficiency. The Company covenants that, contemporaneously with any payments by the Trustee pursuant to Section 4.02, it will, if

necessary, pay to the Trustee the advance rental provided in Section 5.04(A), and thereupon the Trustee shall, upon Request, pay to the manufacturer of the accepted Equipment, by the use of such advance rental, the portion of the aggregate Cost of the accepted Equipment not paid out of Deposited Cash as provided for in Section 4.02. The intention of this Section is that the Company shall ultimately pay not less than 20% of the Cost of all the Equipment accepted by the Trustee pursuant to this Article Four, and the Trustee and the Company shall at any time, if occasion arises, adjust their accounts and payments to the end that the Trustee shall pay with Deposited Cash not more than 80% of the lesser of the Cost or fair value thereof and the Company shall pay the remainder, to be not less than 20% of such Cost.

SECTION 4.04. Supporting Papers. The Trustee shall not pay out any Deposited Cash upon the acceptance of any unit of Equipment unless and until it shall have received:

(a) a certificate of the agent or agents designated by the Trustee to receive delivery of the Equipment, stating that the Equipment described and specified therein by number or numbers has been delivered to, and accepted by, such agent or agents;

(b) an Officer's Certificate, which shall state (i) that such Equipment is Equipment as herein defined, (ii) that the Cost of such Equipment is an amount therein specified, (iii) whether or not the Cost of any units of Equipment includes the Cost of Components (as defined in Section 5.07), which Cost shall be separately stated in the invoice or invoices in respect thereof, (iv) that the fair value of such Equipment is an amount therein specified or that the fair value of such Equipment is equal to or greater than the Cost, (v) that such Equipment has been marked as provided in Section 5.10 and (vi) the Company is not in Default;

(c) an invoice or invoices from the manufacturer of the Equipment;

(d) a bill or bills of sale from the manufacturer transferring all right, title and interest in and to the Equipment to the Trustee, warranting to the Trustee that at the time of delivery of such Equipment hereunder the manufacturer had legal title to such Equipment and good and lawful right to sell such Equipment and that

title to such Equipment was, at the time of such delivery, free from all claims, liens, security interests and other encumbrances of any nature except as created by this Agreement and any Manufacturing Agreement, and releasing any security interest retained by the Manufacturer under any such Manufacturing Agreement; and

(e) an opinion of counsel for the manufacturer to the effect that (i) the units of such Equipment, at the time of delivery thereof hereunder, were free of all claims, liens, security interests and other encumbrances of any nature except as created by the Manufacturing Agreement, if any, and (ii) such bill or bills of sale have been duly authorized, executed and delivered and are valid and effective to transfer all right, title and interest of the manufacturer in and to such Equipment to the Trustee, free of all claims, liens, security interests or other encumbrances of any nature of, or arising from, through or under the manufacturer; together with an Opinion of Counsel that in the case of any Equipment not specifically described in this Agreement, a proper supplement hereto in respect of such Equipment has been duly executed by the Trustee and the Company and has been duly filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303 and as otherwise required by Section 7.05.

Any Officer's Certificate delivered pursuant to this Section may state that the Cost or fair value of the Equipment therein referred to is tentatively determined, subject to final adjustment to be evidenced in a final Officer's Certificate to be delivered to the Trustee.

If the aggregate Cost or fair value, whichever is less, as specified in the certificates theretofore delivered to the Trustee pursuant to this Section, of the Equipment delivered to the Trustee or its agent or agents pursuant to this Article shall be less than 125% of the aggregate principal amount of Trust Certificates issued pursuant to Section 3.01, the Company on or prior to the Surplus Deposit Date, may, at its sole option, cause to be assigned and transferred to the Trustee additional new Equipment in such amount and of such Cost that the aggregate Cost or fair value, whichever is less, of the Trust Equipment will be equal to 125% of the aggregate principal amount of said Trust Certificates, and, in such event, will concurrently deliver to the Trustee the documents specified in the first paragraph of this Section 4.04.

In the event that on the Surplus Deposit Date, any Deposited Cash shall remain in the possession of the Trustee, the Trustee shall (a) sell all Investments then held by it and (b) apply Deposited Cash and any amount payable in respect of such Investments pursuant to Section 5.04(B)(1)(b) to the prepayment of Trust Certificates on the Surplus Deposit Date, as provided in Article Ten hereof; and the Company will deposit with the Trustee on or prior to the Surplus Deposit Date all dividends accrued and unpaid to the Surplus Deposit Date on that portion of the Trust Certificates to be prepaid.

ARTICLE FIVE

Lease of Trust Equipment to the Company

SECTION 5.01. Lease of Trust Equipment. The Trustee does hereby let and lease to the Company all the Trust Equipment from and after the date such Trust Equipment is acquired by the Trustee to the date on which the final payment of principal and dividends on any Trust Certificate is due.

SECTION 5.02. Equipment Automatically Subjected. As and when any Equipment shall from time to time be settled for hereunder by the Trustee or its agent or agents, the same shall, ipso facto and without further instrument of lease or transfer, become subject to all the terms and provisions hereof.

SECTION 5.03. Additional and Substituted Equipment Subject Hereto. In the event that the Company shall, as provided in Sections 4.01, 4.04 or 5.07, cause to be transferred to the Trustee other Equipment in addition to or in substitution for any of the Equipment herein specifically described or subjected hereto, such other Equipment shall be included as part of the Trust Equipment by supplement hereto to be executed by the Trustee and the Company and shall be subject to all the terms and conditions hereof in all respects as though it had been part of the Equipment herein specifically described.

SECTION 5.04. Rental Payments. The Company hereby accepts the lease of all the Trust Equipment, and agrees to accept delivery and possession hereunder of the Trust Equipment; and the Company agrees to pay to the Trustee at the Corporate Trust Office (or, in the case of

taxes, to the proper taxing authority), 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, rental hereunder which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable (whether or not any of such items shall become due and payable prior to the acceptance of delivery of any unit of the Trust Equipment):

(A) The Company shall, at the time of making a Request pursuant to Section 4.02, pay to the Trustee, as advance rental hereunder, an amount equal to the excess of the aggregate Purchase Price of the Trust Equipment over the portion of such Purchase Price to be paid out of Deposited Cash as provided in Section 4.02.

(B) In addition to such advance rental the Company shall pay to the Trustee, as rental for the Trust Equipment (notwithstanding that any of the Trust Certificates shall have been acquired by the Company or shall not have been presented for payment), the following:

(1) (a) the expenses of the trust hereby created, including, without limitation, reasonable compensation to the Trustee and all expenses provided for herein, and (b) an amount equal to any expenses incurred or loss of principal (including interest accrued thereupon at time of purchase) in connection with any purchase, sale or redemption by the Trustee of Investments;

(2) any and all taxes, assessments and governmental charges which the Trustee as such may be required to pay, including, without limitation, all taxes, assessments and governmental charges upon or on account of the income or property of the trust, or upon or on account of this Agreement;

(3) (a) the amounts of the dividends payable on the Trust Certificates, when and as the same shall become payable, and (b) interest at the Penalty Rate from the due date, upon the amount of any installments of rental payable in respect of the principal of and dividends on the Trust Certificates which shall not be paid when due, to the extent legally enforceable; and

(4) the installments of principal of the Trust Certificates, when and as the same shall become payable, whether upon the date of maturity thereof, by prepayment or by declaration or otherwise.

If the Company is granted a quantity discount, refund or other allowance, any portion of which is applicable to the Trust Equipment (other than special devices, racks or assemblies, the cost or purchase price of which is not included in the Cost of the Trust Equipment or any unit thereof) and is not reflected in the invoices therefor delivered to the Trustee pursuant to Section 4.04(c), the Company will, upon receipt of the same, promptly allocate to the Trust Equipment 80% of the portion thereof applicable to the Trust Equipment, promptly deposit with the Trustee an amount in cash equal to 80% of such portion, and deliver to the Trustee an Officer's Certificate setting forth the basis for the determination of such deposit. Cash deposited with the Trustee pursuant to this paragraph shall be held and applied as provided in the fourth paragraph of Section 5.07.

Nothing contained herein or in the Trust Certificates shall be deemed to impose on the Trustee or on the Company any obligation to pay to the registered holder of any Trust Certificate any tax, assessment or governmental charge required by any present or future law of the United States of America, or of any state, county, municipality or other taxing authority thereof, to be paid in behalf of, or withheld from the amount payable to, the holder of any Trust Certificate.

The Company shall not be required to pay any tax, assessment or governmental charge so long as it shall in good faith and by appropriate legal proceedings contest the validity thereof; provided, however, that in the judgment of the Trustee and as set forth in an Opinion of Counsel which shall have been furnished to the Trustee by the Company, the rights or interests of the Trustee or of the holders of the Trust Certificates will not be materially endangered thereby.

SECTION 5.05. Termination of Trust. After all payments due or to become due from the Company hereunder shall have been completed and fully made to the Trustee (1) such payments shall be deemed to represent payment of the full purchase price for the Company's purchase at

such time of the Trust Equipment from the Trustee, (2) any moneys remaining in the hands of the Trustee after providing for all outstanding Trust Certificates and after paying the expenses of the Trustee, including its reasonable compensation, shall be paid to the Company, (3) title to all the Trust Equipment shall vest in the Company and (4) the Trustee shall execute for record in public offices, at the expense of the Company, such instrument or instruments in writing as reasonably shall be requested by the Company in order to make clear upon public records the Company's title to all the Trust Equipment under the laws of any jurisdiction; provided, however, that until that time title to the Trust Equipment shall not pass to or vest in the Company, but title to and ownership of all the Trust Equipment shall be and remain in the Trustee, notwithstanding the delivery thereof to and the possession and use thereof by the Company pursuant to this Agreement.

SECTION 5.06. Indemnity. The Company covenants and agrees to indemnify the Trustee and the holders of the Trust Certificates 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 and other jurisdictions in which the Trust Equipment, or any unit thereof, may be operated, and with all lawful acts, rules, regulations and orders of any 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. 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.

SECTION 5.07. Substitution and Replacement of Trust Equipment. Upon Request, the Trustee shall, at any

time and from time to time, execute and deliver a bill of sale assigning and transferring to a transferee named by the Company all the right, title and interest of the Trustee in and to any of the units of Trust Equipment or Components (as defined at the end of this paragraph) as provided herein; provided, however, that (a) there shall be paid to the Trustee cash in an amount not less than the Value, as of the date of such Request, of the units of Trust Equipment or Components to be assigned or transferred by the Trustee, (b) there shall be conveyed to the Trustee at the time of assignment or transfer of any units of Trust Equipment, other units of Equipment of a Value not less than the Value, as of the date of such Request, of the units of Trust Equipment to be assigned or transferred or (c) there shall be conveyed to the Trustee at the time of assignment or transfer of any Components either other Components (which shall be affixed by the Company to units of Equipment) or units of Equipment, or both, of a Value not less than the Value, as of the date of such Request, of the Components to be assigned or transferred; provided, further, that no Components shall be removed from a unit of Trust Equipment, or a substitution of Components made, if such removal, or removal and substitution, will impair the use in the business of the Company of the unit of Trust Equipment; and provided, further, that no substitution contemplated under this Section shall be made if an Event of Default is then in effect or if the Value of Equipment and Components to be transferred by the Trustee, together with the Value of Equipment and Components theretofore transferred by the Trustee pursuant to this Section, shall exceed an amount equal to 20% of the aggregate principal amount of Trust Certificates originally issued, unless written consent to make such substitution is obtained from the holders of not less than a majority in principal amount of Trust Certificates then outstanding. For the purposes of this Section the terms "Trust Equipment" and "Equipment" mean complete units of standard-gauge boxcars, or if approved by the holders of 60% in principal amount of the then outstanding Trust Certificates, other railroad equipment (other than passenger or work equipment) or any safety chains, riser planks, couplers, draft gears, tie downs, bulkheads, winches, channels, collapsible pedestals, interior complements or other components (herein called "Components") if the Cost thereof is separately stated in the invoice delivered to the Trustee when such Components are first subjected to the trust created hereby; provided, however, that in the case of a substitution of a boxcar, such boxcar shall at the time of such substitution be needed by the Company for revenue service; the term "unit" when used with reference to Trust Equipment or Equipment being deemed

to mean, however, a complete unit of railroad rolling stock.

At the time of delivery of any Request pursuant to the first paragraph of this Section, the Company shall, if other Equipment is to be conveyed to the Trustee in substitution for the Trust Equipment to be assigned or transferred by the Trustee, deliver to the Trustee the following papers:

(1) an Officer's Certificate stating (i) the Value, as of the date of said Request, of the Trust Equipment so to be assigned or transferred by the Trustee and the date such Trust Equipment was first put into use (or that such Trust Equipment was first put into use not later than a specified date), (ii) that the requested assignment or transfer by the Trustee will not impair (a) the security under this Agreement in contravention of the provisions hereof and (b) in the case of a Component, the use of the unit of Trust Equipment on which such substitution is to be made, (iii) the Value of such substituted Equipment as of such date and the date such substituted Equipment was first put into use (or that such substituted Equipment was first put into use not earlier than a specified date), (iv) if such substitution consists of one or more Components, that each such Component is to be substituted on a specified unit of the Trust Equipment for another Component used for the same purpose concurrently being removed from such unit and assigned or transferred by the Trustee hereunder, (v) that each unit of Equipment so to be substituted has been marked as provided in Section 5.10, (vi) that each such unit so to be substituted is Equipment as herein defined and (vii) that the Company is not in Default;

(2) a certificate, an invoice or invoices and a bill or bills of sale in respect of such substituted Equipment, as provided for in subparagraphs (a), (c) and (d) of the first paragraph of Section 4.04; and

(3) an Opinion of Counsel to the effect that (i) such bill or bills of sale are valid and effective, either alone or together with any other instruments referred to in and accompanying such opinion, to vest in the Trustee title to such substituted Equipment free from all claims, liens, security interests and other encumbrances and (ii) that a proper supplement hereto in respect of each substituted unit of Equipment has been duly executed by the Trustee and the Company and

has been duly filed in accordance with Section 20c of the Interstate Commerce Act and as otherwise required by Section 7.05.

At the time of delivery of any Request pursuant to the first paragraph of this Section, the Company shall, if cash is to be paid to the Trustee in respect of the Trust Equipment to be assigned or transferred by the Trustee, deliver to the Trustee an Officer's Certificate to the effect as set forth in clauses (i), (ii) and (vi) of subparagraph (1) of the preceding paragraph.

Cash deposited with the Trustee pursuant to the second paragraph of Section 5.04, this Section or Section 5.08 shall, from time to time, be paid over by the Trustee to the Company upon Request, against conveyance to the Trustee of units of Equipment having a Value, as of the date of said Request, not less than the amount of cash so paid, and upon delivery to the Trustee of papers corresponding to those set forth in the second paragraph of this Section, with such appropriate modifications as may be approved by the Trustee.

SECTION 5.08. Maintenance of Trust Equipment; Casualty Occurrences. 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 it becomes worn out, unsuitable for use, lost or destroyed (hereinafter called a Casualty Occurrence). Whenever any unit of the Trust Equipment shall suffer a Casualty Occurrence the Company shall, within 30 days after it shall have been informed of such Casualty Occurrence, deliver to the Trustee an Officer's Certificate describing such Trust Equipment and stating the Value thereof as of the date of such Casualty Occurrence. When the total Value of all units of the Trust Equipment having suffered a Casualty Occurrence (exclusive of units having suffered a Casualty Occurrence in respect of which a payment shall have been made to the Trustee pursuant to this Section) shall exceed $250,000 (or such lesser amount as the Company may elect), the Company, within 30 days of such event, shall deposit with the Trustee an amount in cash equal to the Value of such units as of the date of the Casualty Occurrence in respect of each thereof. Thereafter, 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 Casualty Occurrence. Cash deposited with the Trustee pursuant to this Section shall be held and applied as provided in the fourth paragraph of Section 5.07.

The Company will at all times, at its own expense, cause to be carried and maintained property insurance in respect of the Trust Equipment, and public liability insurance, in amounts and against risks customarily insured against by the Company in respect of similar equipment owned by it.

The Company agrees to furnish to the Trustee, prior to May 15 in each year commencing with the calendar year occurring after the delivery of the first unit of Equipment hereunder, an Officer's Certificate, dated as of the preceding December 31, stating (1) the description and numbers of all units of the Trust Equipment that have suffered a Casualty Occurrence since the date of the last preceding statement (or the date of this Agreement in the case of the first statement) and (2) 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 5.10 have been preserved, or that such Trust Equipment when repainted or repaired has been again marked as required thereby. The Trustee, by its agents, shall have the right once in each calendar year, but shall be under no duty, to inspect the Trust Equipment at the then existing locations thereof; provided, however, that the Company shall not be liable for any injury to, or the death of, any agent or employee of the Trustee incurred while exercising any such right to inspect the Trust Equipment under the preceding provision of this sentence, unless the Company's own negligence is the direct cause of such injury or death.

SECTION 5.09. Possession of Trust Equipment. Except as provided in this Section, the Company will not assign or transfer its rights hereunder, or transfer or sublet the Trust Equipment or any part thereof, without the written consent of the Trustee first had and obtained; and the Company shall not, without such written consent, except as herein provided, 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 corporation which shall acquire all or substantially all of the property 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 guar-

antee endorsed on the Trust Certificates shall not be deemed a breach of this covenant; provided, however, that after giving effect to such assignment or transfer and assumption, the assignee or transferee is a solvent corporation organized under the laws of the United States of America or a state thereof or the District of Columbia and there shall exist no Event of Default hereunder; and provided, further, that no such transfer or assumption shall have the effect of releasing the Company from its obligations hereunder or from its obligations as guarantor of the Trust Certificates. 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 unless the same shall constitute an Event of Default.

So long as the Company shall not be in Default, the Company shall be entitled to the possession of the Trust Equipment and also to sublease the Trust Equipment to, or to permit its use under the terms of car contracts by, a sublessee or user incorporated in the United States of America (or any state thereof or the District of Columbia), in Mexico (or any State or the Federal District thereof) or in the Dominion of Canada (or any Province or Territory thereof), upon lines of railroad owned or operated by such sublessee or user, or over which such sublessee or user has trackage right or rights for operation of its trains, and upon connecting and other carriers in or between the United States, Mexico or Canada in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this Agreement; provided that, if the Company subleases or permits the use of the Trust Equipment in Canada (or any Province or Territory thereof) or in Mexico (or any State or the Federal District thereof), the Company shall, except as otherwise provided in Section 7.05, first have (a) taken all necessary action to protect the right, title and interest of the Trustee in the Trust Equipment to be so subleased or used and (b) furnished the Trustee with an opinion of Canadian or Mexican counsel, as the case may be, satisfactory to the Trustee to the effect that such action is all that is necessary to protect the right, title and interest of the Trustee in such Trust Equipment.

Any such sublease may provide that the sublessee, so long as it shall not be in default under such sublease, shall be entitled to the possession of the Trust Equipment included in such sublease and the use thereof subject to the rights and remedies of the Trustee in respect of the Trust Equipment covered by such sublease upon the occurrence of an Event of Default.

The Trustee shall have the right to declare the lease provided for herein terminated in case of any unauthorized assignment or transfer of the Company's 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 5.10. Marking of Trust Equipment. The Company agrees that, at the time of delivery to the Trustee pursuant to this Agreement of each unit of Equipment, there shall be plainly, distinctly, permanently and conspicuously marked on each side of such unit, in letters not less than one inch in height:

"OWNERSHIP SUBJECT TO A SECURITY
AGREEMENT FILED UNDER THE INTERSTATE
COMMERCE ACT, SECTION 20c"

or

"OWNERSHIP SUBJECT TO A SECURITY
AGREEMENT FILED WITH THE INTERSTATE
COMMERCE COMMISSION"

or other similar words approved in an Opinion of Counsel delivered to the Trustee; provided, however, that if any unit of Equipment shall be in service at the time such unit is transferred to the Trustee hereunder, the Company agrees to cause such unit to be so marked within a reasonable time, and in any case within six months. Within one year after the delivery to the Trustee pursuant to this Agreement of each unit of Trust Equipment, the Company agrees to furnish to the Trustee a certificate of an agent or agents designated by the Trustee to receive delivery of the Trust Equipment stating that such unit described and specified therein by number or numbers has been marked in accordance with the provisions of this Section.

In case, prior to the termination of the lease provided for in this Article Five, any of such marks shall at any time be removed, defaced, obliterated or destroyed, the Company shall cause the same to be restored or replaced. The Company shall not change, or permit to be changed, the numbers of any of the Trust Equipment at any time covered hereby (or any numbers which may have been substituted as herein provided) except in accordance with a statement of new numbers to be substituted therefor which previously shall have been filed with the Trustee and which shall be filed and recorded by the Company in like manner as this Agreement.

The Trust Equipment may be lettered in any appropriate manner for convenience of identification of the leasehold interest of the Company therein, and may also be lettered, in case of a sublease of any Trust Equipment made pursuant to Section 5.09, in such manner as may be appropriate for convenience of identification of the sub-leasehold interest therein; but the Company, during the continuance of the lease provided for herein, will not allow the name of any person, firm, 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, firm, association or corporation other than the Trustee.

ARTICLE SIX

Events of Default and Remedies

SECTION 6.01. Events of Default. The Company covenants and agrees that in case:

(a) the Company shall default in the timely payment of any part of the rental payable under Section 5.04 hereof for more than five days after receipt of notice of such default from the Trustee, 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 (including, for the purpose of this clause, contracts for the use thereof) 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 or transfer or sublease to be canceled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within 30 days after the Trustee shall have demanded in writing such cancelation and recovery of possession, or within said 30 days to deposit with the Trustee a sum in cash equal to the Value, as of the date of such unauthorized action, of such Trust Equipment (any sum so deposited to be returned to the Company upon the cancelation 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 30 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, or

(d) the lease provided for herein shall be terminated by operation of law, or

(e) any proceedings shall be commenced by or against the Company for any relief which includes, or might result in, any modification of the obligations of the Company hereunder, under the guarantee endorsed on the Trust Certificates or under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments or indebtedness, reorganizations, arrangements, compositions or extensions, and, unless such proceeding shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Company under this Agreement, under the guarantee endorsed on the Trust Certificates and under any instrument made in connection with the purchase of the Trust Certificates by the initial holders thereof, shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Company or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 60 days after such proceedings shall have been commenced,

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 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 thereafter (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 5.04 and not theretofore paid. Thereupon

the entire amount of such rentals shall forthwith become and shall be due and payable immediately without further demand, together with interest at the Penalty Rate, to the extent legally enforceable, on any portion thereof overdue.

In case one or more Events of Default shall happen, the Trustee in its discretion also may, and upon the written request of the holders of 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.

In case the Company shall fail to pay any installment of rental payable pursuant to Section 5.04 in respect of the principal of, or dividends or interest on, the Trust Certificates when and as the same shall have become due and payable hereunder, and such Default shall have continued for a period of ten days, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the rentals so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Company or other obligor upon the Trust Certificates and collect in the manner provided by law out of the property of the Company or other obligor upon the Trust Certificates wherever situated the moneys adjudged or decreed to be payable.

In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or any other obligor upon the Trust Certificates under the Bankruptcy Act or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of the Company or such other obligor, or in case of any other judicial proceedings relative to the Company or such other obligor, or to the creditors or property of the Company or such other obligor, the Trustee, irrespective of whether the rental payments hereunder or the principal amount of the Trust Certificates shall then be due and payable as herein or therein expressed whether by declaration or otherwise and irrespective of whether the Trustee shall have made any demand or declaration pursuant to the provisions of this Section, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim

or claims for the entire amount of the rentals then or thereafter payable (including any unpaid advance rental, but not including rentals required for the payment of dividends accruing after the date of such declaration) and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee, its agents, attorneys and counsel, and for reimbursement of all expenses and liabilities incurred, and all advances made, by the Trustee except as a result of its gross negligence or wilful misconduct) and of the holders of the Trust Certificates allowed in such proceedings and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the holders of the Trust Certificates and of the Trustee on their behalf; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized by each of the holders of the Trust Certificates to make payments to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to the holders of the Trust Certificates, to pay to the Trustee such amount as shall be sufficient to cover reasonable compensation to the Trustee, its agents, attorneys and counsel, and all other expenses and liabilities incurred, and all advances made, by the Trustee except as a result of its gross negligence or wilful misconduct.

All rights of action and to assert claims under this Agreement, or under any of the Trust Certificates, may be enforced by the Trustee without the possession of any of the Trust Certificates or the production thereof on any trial or other proceedings relative thereto, and any such action or proceedings instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall be for the ratable benefit of the holders of the Trust Certificates. In any proceedings brought by the Trustee (and also any proceedings involving the interpretation of any provision of this Agreement to which the Trustee shall be a party) the Trustee shall be held to represent all the holders of the Trust Certificates, and it shall not be necessary to make any holders of the Trust Certificates parties to such proceedings.

SECTION 6.02. Remedies. In case of the happening and continuance of any Event of Default, the Trustee may by its agents enter upon the premises of the Company and any of its Affiliates or sublessees (or other persons having acquired

the use of the Trust Equipment) where any of the Trust Equipment may be and take possession of all or any part of the Trust Equipment and withdraw the same from said 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 or otherwise contract for the use of the Trust Equipment or any part thereof, or with or without retaking possession thereof (but only after declaring due and payable the entire amount of rentals payable by the Company and the principal of all the then outstanding Trust Certificates, as provided in Section 6.01) 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, 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 the then outstanding Trust Certificates, all subject to any mandatory requirements of law applicable thereto. 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 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, or of principal and dividends in respect of the Trust Certificates, and the Company shall be and remain liable for the same until such sums 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 obligations of the Company under this Agreement.

SECTION 6.03. Application of Proceeds. If the Trustee shall exercise any of the powers conferred upon it by Sections 6.01 and 6.02, all payments made by the Company to the Trustee, and the proceeds of any judgment collected from the Company by the Trustee, and the proceeds of every sale or lease by the Trustee 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 or a part thereof, or dividends thereon), 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, with interest on overdue dividends at the Penalty Rate, to the extent legally enforceable, and of the principal of all the outstanding Trust Certificates, with interest thereon at the Penalty Rate, to the extent legally enforceable, from the last preceding dividend payment date, whether such Trust Certificates shall have then matured by their terms or not, all such payments to be in full if such proceeds shall be sufficient, and if not sufficient, then first to dividends and then to principal.

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 applying 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 6.04. Waivers of Default. Prior to the declaration of the acceleration of the maturity of the rentals and of the maturity of all the Trust Certificates as provided in Section 6.01, the holders of 60% in principal amount of the then outstanding Trust Certificates may on behalf of the holders of all the Trust Certificates waive any past Default and its consequences, except a Default in the payment of any installment of rental then due and payable

pursuant to Section 5.04 in respect of the principal of, or dividends or interest on, the Trust Certificates, but no such waiver shall extend to or affect any subsequent Default or impair any right consequent thereon.

If at any time after the principal of all the Trust Certificates shall have been declared and 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 provided in Section 6.01, all arrears of rent (with interest at the Penalty Rate upon any overdue installments, to the extent legally enforceable), the expenses and reasonable compensation of the Trustee, together with all expenses of the trust occasioned by the Company's Default, and all other sums which shall have become due and payable by the Company hereunder shall be paid by the Company before any sale or lease by the Trustee of any of the Trust Equipment, and every other Default shall be made good or secured to the satisfaction of the Trustee and the holders of the Trust Certificates, 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 60% in principal amount of the then outstanding Trust Certificates, 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 6.05. Obligations of Company Not Affected by Remedies. 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, 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 the obligations of the Company under the guarantee endorsed on the Trust Certificates. The Company hereby waives presentation and demand in respect of any of the Trust Certificates and waives notice of presentation, of demand and of any Default in the payment of the principal of and dividends on the Trust Certificates.

SECTION 6.06. Company To Deliver Trust Equipment to Trustee. In case the Trustee shall rightfully demand posses-

sion of any of the Trust Equipment in pursuance of this Agreement, the Company will, at its own expense, forthwith and in the usual manner and at usual speed, cause such Trust Equipment to be drawn to such point or points as shall reasonably be designated by the Trustee and will there deliver or cause to be delivered the same to the Trustee; or, at the option of the Trustee, the Trustee may keep such Trust Equipment, at the expense of the Company, on any lines of railroad or premises approved by the Trustee until the Trustee shall have leased, sold or otherwise disposed of the same. The performance of the foregoing covenant is of the essence of this Agreement and 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 6.07. Trustee To Give Notice of Default. The Trustee shall give to the holders of the Trust Certificates notice of each Default hereunder known to the Trustee within 20 days after it has knowledge thereof, unless remedied or cured before the giving of such notice.

SECTION 6.08. Control by Holders of Trust Certificates. The holders of 60% in principal amount of the then outstanding Trust Certificates, by an instrument or instruments in writing executed and delivered to the Trustee, shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee; provided, however, that the Trustee shall have the right to decline to follow any such direction if the Trustee shall be advised by counsel that the action so directed may not lawfully be taken.

SECTION 6.09. Limitations on Suits by Holders of Trust Certificates. No holder of any Trust Certificate shall have any right by virtue or by availing of any provision of this Agreement to institute any action or proceeding at law or in equity or in bankruptcy or otherwise, upon or under or with respect to this Agreement, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless such holder previously shall have given to the Trustee written notice of a Default and of the continuance thereof, as herein provided, and unless also the holders of 60% in principal amount of the then outstanding Trust Certificates shall have made written request to the Trustee to institute such action or proceeding in its own name as

trustee hereunder and shall have offered to the Trustee such reasonable indemnity as it may require against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee for 60 days after its receipt of such notice, request and offer of indemnity shall have failed to institute any such action or proceeding and no direction inconsistent with such written request shall have been given to the Trustee pursuant to Section 6.08; and no one or more holders of Trust Certificates shall have any right in any manner whatever to affect or prejudice the rights of any other holder of Trust Certificates, or to obtain or seek to obtain priority over any other such holder or to enforce any right under this Agreement, except in the manner herein provided and for the equal, ratable and common benefit of all holders of Trust Certificates. For the protection and enforcement of the provisions of this Section, each and every holder of a Trust Certificate and the Trustee shall be entitled to such relief as can be given either at law or in equity.

SECTION 6.10. Unconditional Right of Holders of Trust Certificates To Sue for Principal and Dividends. Notwithstanding any other provision in this Agreement, the right of any holder of any Trust Certificate to receive payment of the principal of and dividends on such Trust Certificate, on or after the respective due dates expressed in such Trust Certificate, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such holder, except no such suit shall be instituted if and to the extent that the institution or prosecution thereof or the entry of judgment therein would, under applicable law, result in the surrender, impairment, waiver or loss of the title reserved under this Agreement upon any property subject hereto.

SECTION 6.11. Remedies Cumulative; Subject to Mandatory Requirements of Law. The remedies in this Agreement provided in favor of the Trustee and the holders of the Trust Certificates 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; and such remedies shall be subject in all respects to any mandatory requirements of law at the time applicable thereto, to the extent such requirements may not be waived on the part of the Company.

ARTICLE SEVEN

Additional Covenants and Agreements by the Company

SECTION 7.01. Guarantee of Company. The Company 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 until paid at the Penalty Rate, to the extent legally enforceable), and shall receive dividends thereon in like money at the rate specified therein, at the times and place and otherwise as expressed in the Trust Certificates and this Agreement (and, if not so paid, with interest thereon until paid at the Penalty Rate, to the extent legally enforceable); and the Company agrees to endorse upon each of the Trust Certificates, at or before the issuance and delivery thereof by the Trustee, its guarantee of the prompt payment of the principal thereof and of the dividends thereon, in substantially the form herein set forth. Said guarantee so endorsed shall be signed in the name and on behalf of the Company by the manual or facsimile signature of its President, a Vice President or the Treasurer. In case any officer of the Company whose signature shall appear on said guarantee shall cease to be such officer 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 guarantee shall nevertheless be as effective and binding upon the Company as though the person who signed said guarantee had not ceased to be or had then been such officer.

SECTION 7.02. Discharge of Liens. The Company agrees that it will pay and discharge, or make adequate provision for the payment 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; 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; provided, however, that such contest will not materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates and the Company shall have furnished the

Trustee with an Opinion of Counsel to such effect.

If the Company does not forthwith pay and discharge, or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of, any such debt, tax, charge, assessment, obligation or claim as required by this Section, the Trustee may, but shall not be obligated to, pay and discharge the same and any amounts so paid shall be secured by and under this Agreement until reimbursed by the Company.

SECTION 7.03. Further Assurances. The Company agrees 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 7.04. Merger or Consolidation. The Company agrees not to merge or consolidate with any other corporation unless the survivor of such merger or consolidation shall be a solvent corporation organized under the laws of the United States of America or a state thereof or the District of Columbia having a net worth equal to or greater than the Company (unless the holders of a majority in aggregate unpaid principal amount of the then outstanding Trust Certificates shall otherwise agree) and such survivor (if not the Company) shall assume all the obligations and liabilities of the Company hereunder and as guarantor of the Trust Certificates.

SECTION 7.05. Recording. The Company will, promptly after the execution and delivery of this Agreement (and prior to the delivery of any Trust Equipment to the Trustee hereunder) and each supplement hereto, respectively, cause this Agreement and each such supplement to be duly filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303. 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 the law of any jurisdiction in which use of the Equipment is permitted by Section 5.09 hereof or reasonably requested by the Trustee for the purpose 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; provided,

however, that the Company shall not be required to take any such action in respect of any jurisdiction outside the United States if (1) the Company deems such action to be unduly burdensome, (2) after giving effect to the failure to take such action, the Company has taken all action required by law to protect the title of the Trustee to units of Equipment having a Value of not less than 85% of the aggregate Value of all the Trust Equipment and (3) any unit of Trust Equipment at any time located in such jurisdiction shall have been marked with the markings specified in Section 5.10.

Promptly after the execution and delivery of this Agreement and each supplement hereto, the Company will furnish to the Trustee an Opinion of Counsel stating that, in the opinion of such counsel, this Agreement or such supplement, as the case may be, has been properly recorded and filed so as to effectively protect the title of the Trustee to the Trust Equipment and its rights and the rights of the holders of the Trust Certificates thereunder and hereunder as provided in the next preceding paragraph and reciting the details of such action.

ARTICLE EIGHT

Concerning the Holders of Trust Certificates

SECTION 8.01. Evidence of Action Taken by Holders of Trust Certificates. Whenever in this Agreement it is provided that the holders of a specified percentage in aggregate unpaid principal amount of the Trust Certificates may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action the holders of such specified percentage have joined therein may be evidenced by any instrument or any number of instruments of similar tenor executed by holders of Trust Certificates in person or by agent or proxy appointed in writing.

SECTION 8.02. Proof of Execution of Instruments and of Holding of Trust Certificates. The execution of any instrument by a holder of Trust Certificates or his agent or proxy may be approved by the certificate of any notary public or other officer of any jurisdiction within the United States of America authorized to take acknowledgments of deeds to be recorded in such jurisdiction that the person executing such

instrument acknowledged to him the execution thereof, or by an affidavit of a witness to such execution sworn to before any such notary or other such officer.

The ownership of Trust Certificates may be proved by the register of such Trust Certificates or by a certificate of the registrar thereof.

SECTION 8.03. Trust Certificates Owned by Company. In determining whether the holders of the requisite principal amount of the Trust Certificates have concurred in any direction, request or consent under this Agreement, Trust Certificates which are owned by the Company or by any other obligor on the Trust Certificates or by an Affiliate of the Company or any other such obligor shall be disregarded, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, request or consent, only Trust Certificates which the Trustee knows are so owned shall be disregarded.

SECTION 8.04. Right of Revocation of Action Taken. At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 8.01, of the taking of any action by the holders of the required percentage in principal amount of the then outstanding Trust Certificates specified in this Agreement, any holder of a Trust Certificate may, by filing written notice with the Trustee at its Corporate Trust Office and upon proof of holding as provided in Section 8.02, revoke such action insofar as concerns such Trust Certificate. Except as aforesaid, any such action taken by the holder of any Trust Certificate shall be conclusive and binding upon such holder and upon all future holders and owners of such Trust Certificate and of any Trust Certificate issued in exchange or substitution therefor, irrespective of whether or not any notation in regard thereto is made upon such Trust Certificate. Any action taken by the holders of the required percentage in principal amount of the then outstanding Trust Certificates specified in this Agreement shall be conclusive and binding upon the Company, the Trustee and the holders of all the Trust Certificates.

SECTION 8.05. Amendment or Waiver. Any provision of this Agreement may be amended or waived with the written consent of the holders of not less that 66-2/3% in principal amount of the then outstanding Trust Certificates; provided, however, that without the consent of the holders of 100% in principal amount of the then outstanding Trust Certificates

no such amendment or waiver shall (1) reduce the amount of principal, change the amount or dates of payment of installments of principal or reduce the rate or extend the time of payment of dividends with respect to the Trust Certificates without the consent of the holders of each Trust Certificate so affected, (2) reduce the amount of or extend the time of payment of any rentals payable under this Agreement or release or provide for the release of any of the Trust Equipment or any other property or cash held by the Trustee in trust, otherwise than as expressly permitted by the present terms of this Agreement, or (3) reduce the percentage of the aggregate unpaid principal amount of Trust Certificates then outstanding, the holders of which are required to approve any amendment or to effect any waiver.

ARTICLE NINE

The Trustee

SECTION 9.01. Acceptance of Trust. The Trustee hereby accepts the trust imposed upon it by this Agreement and agrees to perform the same as herein expressed.

SECTION 9.02. Duties and Responsibilities of the Trustee. In case an Event of Default has occurred (which has not been cured), the Trustee shall exercise such of the rights and powers vested in it by this Agreement, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

No provision of this Agreement shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own wilful misconduct, except that

(a) prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred:

(1) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Agreement, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in

this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Trustee; and

(2) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Agreement; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement;

(b) the Trustee shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts or that its action or inaction was contrary to the express provisions of this Agreement;

(c) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of the required percentage of principal amount of the then outstanding Trust Certificates specified in this Agreement, relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Agreement;

(d) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, Trust Certificate, guarantee or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(e) the Trustee may consult with counsel, and any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with such Opinion of Counsel and not contrary to any express provisions of this Agreement;

(f) the Trustee shall be under no obligation to exercise any of its rights or powers vested in it by this Agreement at the request, order or direction of any of the holders of the Trust Certificates, pursuant to the provisions of this Agreement, unless such holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred therein or thereby; and

(g) the Trustee shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Agreement.

SECTION 9.03. Application of Rentals. The Trustee agrees to apply the rentals received by it under Section 5.04(B) when and as the same shall be received, and to the extent that such rentals shall be sufficient therefor, for the purposes specified in Section 5.04(B).

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 by the Company or by one or more of the holders of the Trust Certificates against all liability and expenses; and the Trustee shall not be responsible for the filing or recording or refiling or rerecording of this Agreement or of any supplement hereto or statement of new numbers.

SECTION 9.04. Funds May Be Held by Trustee; Investments. Any funds 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 allowing interest thereon.

At any time, and from time to time, if at the time no Event of Default shall have occurred and be continuing, the Trustee, on Request, shall invest and reinvest Deposited Cash held by it or cash deposited with it pursuant to Section 5.07 or Section 5.08 (hereinafter in this Section called Replacement Funds) in Investments, at such prices, not in excess of fair market value at the time of investment, including any premium and accrued interest, as are set forth in such Request, such Investments to be held by the Trustee in trust for the benefit of the holders of the Trust Certificates.

The Trustee shall, on Request, or the Trustee may, in the event funds are required for payment against delivery of Trust Equipment or for payment of the principal of or dividends on any Trust Certificate, sell such Investments, 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 Investments, including accrued interest, or apply such proceeds for payment against delivery of Trust Equipment or for payment of said principal or dividends if and to the extent such proceeds are needed therefor pursuant to the provisions of this Agreement.

The Trustee shall restore to Deposited Cash or Replacement Funds, as the case may be, out of rent received by it for that purpose under the provisions of Section 5.04(B)(1), an amount equal to any expenses incurred in connection with any purchase or sale of Investments and also an amount equal to any loss of principal incident to the sale or redemption of any Investments for a sum less than the amount paid therefor, including accrued interest.

The Company, if not to the knowledge of the Trustee in Default, shall be entitled to receive any interest allowed as provided in the first paragraph of this Section and any interest (in excess of accrued interest paid from Deposited Cash or Replacement Funds at the time of purchase) or other profit which may be realized from any sale or redemption of Investments.

SECTION 9.05. Trustee Not Liable for Delivery Delays or Defects in Equipment or Title. 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 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 on the part of the Trustee in respect of the value thereof or in respect of the title thereto or otherwise.

The Trustee may perform its powers and duties with respect to the delivery and acceptance of the Trust Equipment by or through such attorney, agents and servants as it shall appoint, and shall be answerable only for its own acts, negligence and wilful defaults and not for the default or misconduct of any attorney, agent or servant appointed by it in respect thereof with reasonable care.

The Trustee shall be entitled to receive payment of 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.

The Trustee in its individual capacity may own, hold and dispose of Trust Certificates.

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

SECTION 9.06. Resignation and Removal; Appointment of Successor Trustee. (a) The Trustee may resign and be discharged of the trust created by this Agreement by giving 60 days' written notice to the Company and the registered holders of the then outstanding Trust Certificates and such resignation shall take effect 60 days after the delivery thereof to the Company and the holders of the then outstanding Trust Certificates or upon receipt by the Trustee of an instrument of acceptance executed by a successor trustee as hereinafter provided in Section 9.07.

(b) The Trustee may be removed at any time by an instrument in writing signed by the holders of 60% in principal amount of the then outstanding Trust Certificates, delivered to the Trustee and to the Company.

(c) If at any time the Trustee shall resign or be removed or otherwise become incapable of acting or, if at any time a vacancy shall occur in the office of the Trustee for any other cause, a successor trustee may be appointed by the holders of a majority of the aggregate principal amount of the then outstanding Trust Certificates by an instrument in writing delivered to the Company and the Trustee. Until a successor trustee shall be appointed by the holders of the Trust Certificates as herein authorized, the Company by an instrument in writing executed by order of its Board of Directors shall appoint a trustee to fill such vacancy.

A successor trustee so appointed by the Company shall immediately and without further act be superseded by a successor trustee appointed by the holders of the Trust Certificates in the manner provided above. Every successor trustee appointed pursuant to this Section shall be a national bank, or a bank or trust company organized under the laws of the United States of America or any state thereof and having capital and surplus of not less than $50,000,000, if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

(d) The Company shall give notice of each resignation, removal or incapacity of the then Trustee or of a vacancy occurring in the office of the Trustee for any other cause and of each appointment by the Company of a successor trustee pursuant to paragraph (c) of this Section by mailing written notice of such event by first-class mail, postage prepaid, to the holders of all outstanding Trust Certificates.

SECTION 9.07. Acceptance of Appointment by Successor Trustee. Any successor trustee appointed as provided in Section 9.06 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as Trustee herein; but, nevertheless, on the written request of the Company or of the successor trustee, upon payment of its charges then unpaid, the trustee ceasing to act shall execute and deliver an instrument transferring to such successor trustee all the rights and powers of the trustee so ceasing to act. Upon request of any such successor trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a lien upon all property or funds held or collected by such trustee to secure any amounts then due it pursuant to the provisions of Section 9.05.

SECTION 9.08. Merger or Consolidation of Trustee. Any corporation qualified under the provisions of Section

9.06 into which the Trustee may be merged or with which it may be consolidated or any such corporation resulting from any merger or consolidation to which the Trustee shall be a party shall be the successor of the 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 9.09. Return of Certain Moneys to Company. Notwithstanding any provision of this Agreement, any moneys paid to the Trustee which are applicable to the payment of the principal of or dividends on any Trust Certificates which remain unclaimed for two years after the day when such moneys were due and payable shall then be repaid to the Company upon Request, and the holders of such Trust Certificates shall thereafter be entitled to look only to the Company for payment thereof and all liability of the Trustee with respect to such moneys shall thereupon cease; provided, however, that before the repayment of such moneys to the Company as aforesaid, the Trustee may first publish a notice, in such form as may be deemed appropriate by the Trustee, in respect of the Trust Certificates so payable and not presented and in respect of the provisions hereof relating to the repayment to the Company of the moneys held for the payment thereof.

ARTICLE TEN

Prepayment of Trust Certificates

SECTION 10.01. Right of Prepayment. The Trust Certificates are required to be prepaid in part on the Surplus Deposit Date through the application of Deposited Cash to be applied thereto pursuant to the last paragraph of Section 4.04 hereof, at 100% of the principal amount thereof to be prepaid, together with accrued interest to the date fixed for prepayment. Except as provided in this Article Ten and Article Six hereof, Trust Certificates may not be prepaid prior to the maturity thereof.

SECTION 10.02. Selection of Trust Certificates for Prepayment; Notice of Prepayment. (a) On or at any time prior to the Surplus Deposit Date, the Trustee shall select for prepayment, subject to the provisions of the next sentence, a principal amount of Trust Certificates so as to exhaust any Deposited Cash to be applied thereto pursuant to the last paragraph of Section 4.04 hereof. The Trustee

shall select for prepayment on the Surplus Deposit Date a principal amount of Trust Certificates registered in the name of each holder which bears the same ratio to the aggregate principal amount of Trust Certificates to be prepaid on the Surplus Deposit Date as (y) the aggregate principal amount of Trust Certificates registered in the name of such holder on a date selected by the Trustee not more than 15 days prior to the selection by the Trustee of Trust Certificates for prepayment on the Surplus Deposit Date bears to (z) the aggregate principal amount of Trust Certificates outstanding on such date.

(b) The Trustee shall send a statement of prepayment by first-class mail, postage prepaid, on or prior to the Surplus Deposit Date to the holders of Trust Certificates to be prepaid in whole or in part, at their last addresses as they shall appear upon the registry books. Failure to furnish such statement, or any defect therein, as to any Trust Certificate shall not affect the validity of the proceedings for the prepayment of any other Trust Certificate. Any statement which is mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the holder receives the statement.

(c) The statement of prepayment to each holder shall (i) specify the Surplus Deposit Date as the date for prepayment, (ii) state that prepayment of the principal amount of the Trust Certificates or portions thereof to be prepaid will be made by the Trustee only from and out of Deposited Cash or moneys paid to the Trustee by the Company and applicable thereto and, subject to the second sentence of the second paragraph of Section 3.02 hereof, such prepayment will be made at the Corporate Trust Office, upon presentation and surrender of Trust Certificates so to be prepaid, (iii) state the aggregate principal amount of Trust Certificates to be prepaid in whole or in part and the distinctive numbers of the Trust Certificates of such holder to be prepaid and, in the case of any such Trust Certificates to be prepaid in part, the principal amount thereof to be so prepaid, and (iv) state that from and after such prepayment date dividends on such Trust Certificates or on the portions thereof to be prepaid will cease to accrue. The holders of Trust Certificates prepaid in part may, at their option and upon surrender thereof, receive new Trust Certificates for the principal amounts remaining unpaid without charge to such holders, or may note such prepayment on their Trust Certificates without surrender thereof.

SECTION 10.03. Payment of Trust Certificates Selected for Prepayment. The Trust Certificates or portions thereof to be prepaid shall become due and payable on the Surplus Deposit Date and from and after such date dividends on such Trust Certificates or portions thereof shall cease to accrue, and, there having been deposited with the Trustee on or before such date, an amount in cash equal to the aggregate principal amount of all the Trust Certificates or portions thereof to be prepaid and dividends accrued thereon, such Trust Certificates or portions thereof shall no longer be deemed to be outstanding hereunder and shall cease to be entitled to the benefits of this Agreement except to receive payment from the moneys reserved therefor in the hands of the Trustee. The Trustee shall hold the prepayment moneys in trust for the holders of the Trust Certificates or portions thereof to be prepaid and (subject to the provisions of the second sentence of the second paragraph of Section 3.02 hereof) shall pay the same to such holders respectively upon presentation and surrender of such Trust Certificates.

Except as provided in Sections 3.02 and 10.02 hereof, all Trust Certificates prepaid under this Article Ten shall be canceled by the Trustee and no Trust Certificates shall be issued hereunder in place thereof.

ARTICLE ELEVEN

Miscellaneous

SECTION 11.01. Rights Confined to Parties and Holders. Nothing expressed or implied herein shall be construed to confer upon any person, firm or corporation, other than the parties hereto and the holders of the Trust Certificates, any right, remedy or claim under or by reason of this Agreement or of any term, agreement or condition herein, and all the terms, covenants and conditions herein shall be for the sole and exclusive benefit of the parties hereto and their successors and of the holders of the Trust Certificates.

SECTION 11.02. No Recourse. No recourse under this Agreement, or of the guarantee endorsed on any Trust Certificate, shall be had against any person, solely by reason of the fact that he is a stockholder, officer or director of the Company, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any

statute or otherwise; it being expressly agreed that this Agreement and said guarantee are solely corporate obligations, and that no personal liability whatever shall attach to or be incurred by any person, solely by reason of the fact that he is a stockholder, officer or director of the Company, under or by reason of any of the terms, agreements or conditions contained in this Agreement or in said guarantee, or implied therefrom, and that any and all such personal liability, either at common law or in equity, or by statute or constitution, is hereby expressly waived as a condition of and consideration for the execution of this Agreement and said guarantee.

SECTION 11.03. Binding upon Assigns. 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 respective successors and assigns.

SECTION 11.04. Notices. All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered at or mailed by registered mail to (a) in the case of the Company, the address set forth for the Company in Section 2.01 hereof, or such other address as may hereafter be furnished to the Trustee in writing by the Company and (b) in the case of the Trustee, the Corporate Trust Office, or 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 11.05. Effect of Headings; Date Executed; Governing Law; and Counterparts. (a) The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

(b) 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.

(c) The provisions of this Agreement shall be

governed by the laws of the State of Illinois.

(d) This Agreement is being executed in several counterparts, each of which is an original and all of which are identical. Each counterpart of this Agreement is to be deemed an original hereof and all counterparts collectively are to be deemed but one instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than one counterpart.

IN WITNESS WHEREOF, the Company and the Trustee have caused their names to be signed hereto by their respective officers thereunto duly authorized and their respective 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

Assistant Vice President

[Corporate Seal]

Attest:

Corporate Trust Officer

AMERICAN RAIL BOX CAR COMPANY,

by

Treasurer

[Corporate Seal]

Attest:

Assistant Secretary

STATE OF MARYLAND,)
) ss.:
CITY OF BALTIMORE,)

On this 22nd day of December 1978, before me personally appeared G. J. Johnston, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President 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.

Patricia A. Shilow
Notary Public

[Notarial Seal]

My Commission expires 7-1-82

STATE OF ILLINOIS,)
) ss.:
COUNTY OF COOK,)

On this 20th day of December 1978, before me personally appeared R. E. Zimmerman, to me personally known, who, being by me duly sworn, says that he is the Treasurer of AMERICAN RAIL CAR BOX 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.

Margaret R. Golz
Notary Public

[Notarial Seal]

My Commission expires

My Commission Expires July 7, 1982

SCHEDULE I

Description	Manufacturer	Quantity	Company's Car Numbers (all inclusive)	AAR Mechanical Designation
50'6", 70-ton capacity, general service box car with 10' door	Pullman Incorporated (Pullman Standard Division)	454	31400-31853	XM
50'6" 70-ton capacity, general service box car with 16' combination door	FMC Corporation	682	51135-51816	XM
50'6" 70-ton capacity, general service box car with 10' door	ACF Industries, Incorporated	326	32250-32575	XM
		1,462		