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INTERSTATE COMMERCE COMMISSION

EQUIPMENT TRUST DUE SEPTEMBER 1, 1985

Unconditionally Guaranteed as to Principal and Dividends by

ILLINOIS CENTRAL RAILROAD COMPANY

Equipment Trust Agreement

Dated as of September 1, 1970

AMONG

**MORGAN GUARANTY TRUST COMPANY OF NEW YORK,
TRUSTEE,
C.I.T. CORPORATION,**

AND

ILLINOIS CENTRAL RAILROAD COMPANY

EQUIPMENT TRUST AGREEMENT dated as of September 1, 1970, among MORGAN GUARANTY TRUST COMPANY OF NEW YORK, a corporation duly organized and existing under the laws of the State of New York, as Trustee (hereinafter called the Trustee), C.I.T. CORPORATION, a corporation duly organized and existing under the laws of the State of New York (hereinafter called the Company), acting through its agent C.I.T. Leasing Corporation, a corporation duly organized and existing under the laws of the State of Delaware, and ILLINOIS CENTRAL RAILROAD COMPANY, a corporation duly organized and existing under the laws of the State of Illinois (hereinafter called the Guarantor or the Lessee).

WHEREAS the Company has agreed to cause to be transferred to the Trustee the railroad equipment described in Annex A hereto subject to the provisions hereof; and

WHEREAS security 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 full title is transferred to the Company under the provisions hereof; and

WHEREAS Equipment Trust Certificates, due September 1, 1985 (hereinafter called Trust Certificates), bearing the unconditional guaranty of the Guarantor, are to be issued and sold hereunder in an aggregate principal amount not exceeding \$26,150,000, at a price not less than 100% of the principal amount thereof (plus accrued dividends), and the net proceeds (excluding accrued dividends) of such sale are to constitute a fund equal to the aggregate principal amount of Trust Certificates so issued and sold to be applied by the Trustee from time to time in part payment of the cost of the Trust Equipment (as hereinafter defined), the remainder of the cost thereof to be paid out of advance rentals to be paid by the Company as provided herein; and

WHEREAS the Company proposes to enter into a Lease of Equipment to be dated as of September 1, 1970 (hereinafter called the Lease) with the Lessee pursuant to which the Company will lease such railroad equipment to the Lessee; and

WHEREAS the texts of the Trust Certificates and the guaranty to be endorsed thereon by the Guarantor are to be substantially in the following forms, respectively:

[FORM OF TRUST CERTIFICATE]

\$.....

No.....

EQUIPMENT TRUST DUE SEPTEMBER 1, 1985

Unconditionally Guaranteed as to Principal and Dividends by

ILLINOIS CENTRAL RAILROAD COMPANY

EQUIPMENT TRUST CERTIFICATE

Total Authorized Issue

\$26,150,000

MORGAN GUARANTY TRUST COMPANY OF NEW YORK, Trustee

Dividends at the Rate of 9½% Per Annum Payable

March 1 and September 1

MORGAN GUARANTY TRUST COMPANY OF NEW YORK, as Trustee under an Equipment Trust Agreement (hereinafter called the Agreement) dated as of September 1, 1970, among MORGAN GUARANTY TRUST COMPANY OF NEW YORK, Trustee (hereinafter called the Trustee), C.I.T. CORPORATION (hereinafter called the Company) and ILLINOIS CENTRAL RAILROAD COMPANY (hereinafter called the Guarantor), hereby certifies that, or registered assigns, is entitled to an interest in the principal amount of \$ in the EQUIPMENT TRUST DUE SEPTEMBER 1, 1985, UNCONDITIONALLY GUARANTEED AS TO PRINCIPAL AND DIVIDENDS BY ILLINOIS CENTRAL RAILROAD COMPANY, payable on September 1, 1985, upon presentation and surrender of this Certificate to the Trustee at its corporate trust office in the Borough of Manhattan, City and State of New York, and to payment of dividends on the unpaid principal amount of this Certificate from the date hereof until the principal amount hereof is due and payable, at the rate of 9½% per annum from the date hereof, payable semiannually on March 1 and September 1 in each year, with interest at the rate of 10% per annum on any overdue principal and dividends to the extent that it shall be legally enforceable, all in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, but pay-

able only out of rentals or other moneys received by the Trustee and applicable to such payment under the provisions of the Agreement.

This Certificate is one of an issue of Certificates all having a final maturity of September 1, 1985, and having an aggregate principal amount of \$26,150,000, all issued or to be issued under and subject to the terms of the Agreement under which certain railroad equipment leased to the Company and in turn leased to the Guarantor (or, in lieu thereof, Authorized Investments, as defined in said Agreement) is held by the Trustee in trust for the benefit of the holders of the interests represented by said Certificates, to which Agreement (a copy of which is on file with the Trustee at its corporate trust office in the Borough of Manhattan, City and State of New York) reference is made for a full statement of the rights and obligations of the Company and the Guarantor, the duties and immunities of the Trustee and the rights of the holder hereof thereunder. The Company has no personal liability to the holders of the Certificates and its obligations under the Agreement are limited as provided therein.

As a sinking fund for the Certificates, the Agreement provides for the payment by the Company to the Trustee, but only out of moneys received by the Company as contemplated by the Agreement, on or before March 1 and September 1 in each year, commencing March 1, 1976, and continuing to and including March 1, 1985, of rental calculated as provided in the Agreement so that the aggregate of the dividends and sinking fund rental payments payable on each such date (and the aggregate of dividends and principal payable on September 1, 1985) shall be substantially equal, subject to proportionate reduction in the event of prepayment as mentioned below out of moneys deposited with the Trustee on account of Casualty Occurrences (as defined in the Agreement). As more fully provided in the Agreement, Trust Certificates in an aggregate principal amount equal to sinking fund rental payments are subject to prepayment on March 1, 1976, and on each September 1 and March 1 thereafter to and including March 1, 1985, on not less than 30 days' prior notice given as provided in the Agreement. The Certificates are also prepayable on March 1, 1971, out of any Deposited Cash (as defined in the Agreement) held by the Trustee not required to be applied to the cost of railroad equipment to be subject to the trust, and on any March 1 or September 1, out of

moneys deposited with the Trustee on account of Casualty Occurrences. Any such prepayment of Trust Certificates shall be at 100% of the principal amount thereof to be prepaid, together with accrued dividends to the date fixed for prepayment.

All payments of dividends on this Certificate will be made by check mailed by the Trustee to the order of the registered holder of this Certificate to the address of such holder as shown by the books of the Trustee unless this Certificate is to be paid in full, in which case such payment shall be made upon presentation and surrender of this Certificate at the corporate trust office of the Trustee in the Borough of Manhattan, City and State of New York.

The Certificates are issuable only as fully registered Certificates in the denominations of \$1,000 and any integral multiple of \$1,000. The several denominations of Certificates are interchangeable without charge upon presentation thereof at said office of the Trustee, but only in the manner and subject to the limitations provided in the Agreement.

This Certificate is transferable 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 said 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 Certificate or Certificates in authorized denominations for the same aggregate unpaid principal amount will be issued to the transferee in exchange herefor. The Trustee, the Company and the Guarantor may treat the person in whose name this Certificate is registered as the absolute owner hereof for the purpose of receiving payment of principal and dividends and for all other purposes, and shall not be affected by any notice to the contrary.

In case of an Event of Default (as defined in the Agreement), the principal amount represented by this Certificate may be declared due and payable, as provided in the Agreement.

IN WITNESS WHEREOF, the Trustee has caused this Certificate to be signed by the facsimile signature of one of its Vice Presidents and its corporate seal, in facsimile, to be hereunto affixed and to be attested by one of its Assistant Trust Officers.

Dated as of:

MORGAN GUARANTY TRUST COMPANY
OF NEW YORK,

Trustee,

by
Vice President.

ATTEST:

.....
Assistant Trust Officer.

[FORM OF GUARANTY]

ILLINOIS CENTRAL RAILROAD COMPANY, for a valuable consideration, hereby unconditionally guarantees to the registered holder of the within Certificate the prompt payment of the principal of said Certificate and of the dividends thereon specified in said Certificate, with interest at the rate per annum specified in said Certificate on any overdue principal and dividends to the extent that such interest shall be legally enforceable, all in accordance with the terms of said Certificate and the Equipment Trust Agreement referred to therein.

ILLINOIS CENTRAL RAILROAD COMPANY,

by
Treasurer.

WHEREAS it is desired to secure to the holders of the Trust Certificates the payment of the principal thereof when due thereon, with dividends thereon as hereinafter provided, payable semiannually on March 1 and September 1 in each year, and to evidence the rights of the holders of the Trust Certificates in substantially the form hereinbefore set forth;

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

ARTICLE I

DEFINITIONS

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

Authorized Investments shall mean (a) bonds, notes or other direct obligations of the United States of America or obligations for which the faith of the United States is pledged to provide for the payment of the interest and principal, (b) commercial paper given a rating of at least "prime" or its equivalent by the National Credit Office or a successor thereto or a similar rating service substituted therefor and (c) certificates of deposit of or time deposits in banks or trust companies 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 \$50,000,000; all of which shall mature within one year or less.

Business Day shall mean any calendar day, excluding Saturday, Sunday and legal holidays or days on which banking institutions are authorized by law to close in The City of New York.

Corporate Trust Office shall mean the principal office of the Trustee in the City and State of New York, at which the corporate trust business of the Trustee shall, at the time in question, be administered, which office is, at the date of execution of this Agreement, located at 23 Wall Street, New York, New York 10015.

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

Deposited Cash shall mean the aggregate of (a) cash on deposit with the Trustee as provided in the first sentence of Section 2.1 hereof, (b) any sums restored to Deposited Cash from rentals pursuant to Section 5.4(a)(ii) hereof and on deposit with the Trustee and (c),

when required or indicated by the context, any Authorized Investments purchased by the use of Deposited Cash pursuant to the provisions of Section 8.8 hereof and held by the Trustee.

Equipment shall mean new standard gauge railroad equipment, other than passenger equipment or work equipment, delivered by the Owner and first put into service no earlier than January 1, 1970.

Event of Default shall mean any event specified in Section 6.1 hereof to be an Event of Default.

The *Fair Value* of any unit of Trust Equipment on any date shall be deemed to be an amount computed to the nearest integral multiple of \$1,000 by multiplying the unpaid principal amount of the Trust Certificates outstanding on such date (after giving effect to any prepayment thereof on such date pursuant to Section 3.1(a) hereof) by a fraction of which the numerator shall be the Cost of such unit and the denominator shall be the Cost of all units (including such unit) subject to the trust on such date.

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

Lease shall mean the Lease of Equipment dated as of September 1, 1970, between the Company and the Lessee substantially in the form of Annex B hereto.

Lessee's Certificate shall mean a certificate signed by the President or a Vice President or the Treasurer or the Comptroller of the Lessee.

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

Opinion of Counsel shall mean an opinion of counsel (who may be counsel to the Company or the Lessee).

Owner shall mean the manufacturer or other person transferring title to any of the Equipment to the Trustee.

Penalty Rate shall mean a rate per annum in the amount of $\frac{1}{2}$ of 1% above the dividend rate specified in the Trust Certificates.

Request shall mean a written request for the action therein specified signed on behalf of the Company by the President or a Vice

President or any Assistant Vice President of the Company and delivered to the Trustee.

Trust Certificates shall mean 9½% Equipment Trust Certificates, due September 1, 1985, Unconditionally Guaranteed as to Principal and Dividends by Illinois Central Railroad Company, issued hereunder.

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

Trustee shall mean Morgan Guaranty Trust Company of New York, a corporation duly organized and existing under the laws of the State of New York, and any successor as trustee hereunder.

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

ARTICLE II

TRUST CERTIFICATES AND ISSUANCE THEREOF

SECTION 2.1. The net proceeds (including accrued dividends) of the sale of any of the Trust Certificates shall forthwith upon the issuance thereof be deposited in cash with the Trustee; it being understood and agreed that such net proceeds (excluding accrued dividends) will equal \$26,150,000. 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 aforesaid accrued dividends shall be held by the Trustee and applied against the first rental payment due under Section 5.4(c) (i) hereof.

SECTION 2.2. Each of the Trust Certificates shall represent an interest in the principal amount therein specified in the trust created hereunder and shall bear dividends on said principal amount at the rate per annum specified in the form thereof hereinabove set forth, payable semiannually on March 1 and September 1 in each year, with interest payable on any overdue principal and dividends at the Penalty Rate.

The aggregate principal amount of Trust Certificates which shall be executed and delivered by the Trustee hereunder shall be \$26,150,000, except as provided in Sections 2.5 and 2.6 hereof. The Trust Certificates shall mature on September 1, 1985, subject, however, to the provisions of Article III hereof respecting prepayment of Trust Certificates prior to such maturity date.

SECTION 2.3. The Trust Certificates and the guaranty to be endorsed thereon by the Guarantor as hereinafter in Section 7.2 hereof provided shall be in substantially the forms hereinbefore set forth.

SECTION 2.4. The Trust Certificates shall be signed in the name and on behalf of the Trustee by the facsimile signature of one of its Vice Presidents and its corporate seal, in facsimile, shall be attested by an Assistant Trust Officer. 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 such Trust Certificates shall have been issued and delivered by the Trustee, such Trust Certificates shall be adopted by the Trustee and be issued and delivered as though such person had not ceased to be such officer of the Trustee.

SECTION 2.5. The Trust Certificates shall be in the denominations of \$1,000 or any integral multiple thereof; shall be registered, as to both principal and dividends, in the name of the holder; shall be transferable 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; and shall be dated as of September 1, 1970, or, if issued on or after March 1, 1971, as of the dividend payment date next preceding the date of issue, unless issued on a dividend payment date, in which event they shall be dated as of the date of issue, or 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, and in any case shall entitle the registered holder to dividends from the date thereof.

The several denominations of Trust Certificates may be exchanged for a like aggregate principal amount of Trust Certificates of authorized

denominations. The Trust Certificates to be exchanged shall be surrendered at the Corporate Trust Office.

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

For any exchange or transfer of Trust Certificates the Trustee shall require the payment of a sum sufficient to cover reimbursement for any stamp tax or other governmental charge connected therewith.

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 of one or more other Trust Certificates, shall be issued in principal amount equal to the unpaid principal amount or amounts of such one or more other Trust Certificates, shall carry all the rights to dividends accrued and unpaid, and to accrue, which were carried by the whole or such part 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 shall result from such exchange, substitution or transfer.

The Trustee shall not be required (i) to transfer or exchange any Trust Certificate for a period of ten days next preceding any dividend payment date or (ii) to issue, transfer or exchange any Trust Certificate during a period beginning at the opening of business ten 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 transfer or exchange any Trust Certificate being prepaid in whole or in part until after the prepayment date.

SECTION 2.6. In case any Trust Certificate shall become mutilated or defaced or be lost, stolen or destroyed, then on the terms herein set forth, and not otherwise, the Trustee shall execute and deliver a new Trust Certificate, and the Guarantor shall execute its guaranty thereon, of like tenor and date as the one mutilated, defaced, lost, stolen or destroyed, in exchange and substitution for, and upon cancellation of, the mutilated or defaced Trust Certificate, or in lieu of or in substitution for the same if lost, stolen or destroyed. The applicant for a new Trust Certificate shall furnish to the Trustee, the Company and the Guarantor evidence to their satisfaction of the loss, theft or destruction of such Trust Certificate alleged to have been lost, stolen or destroyed, and of the ownership and authenticity of such mutilated, defaced, lost, stolen

or destroyed Trust Certificate, and also such security and indemnity as may be required by the Trustee, the Company and the Guarantor, in their discretion, and shall pay all expenses and charges of such substitution or exchange. All Trust Certificates shall be issued, held and owned upon the express condition that the foregoing provisions are exclusive in respect of the replacement of mutilated, defaced, lost, stolen or destroyed 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.

SECTION 2.7. Payments of principal, dividends and interest on the Trust Certificates shall be made by the Trustee 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.

All payments of dividends on the Trust Certificates will be made by check to the order of the registered holders thereof mailed to the addresses of such holders as shown by the books of the Trustee except in the case of Trust Certificates the unpaid principal amount of which is then to be paid in full, in which case such payment shall be made only upon presentation and surrender of such Trust Certificates at the Corporate Trust Office.

SECTION 2.8. If the date fixed for payment of principal of or dividends on any Trust Certificates is not a Business Day, then such payment may be made on the next succeeding Business Day and no dividends or interest shall accrue for the period after such nominal payment date.

ARTICLE III

PREPAYMENT OF TRUST CERTIFICATES

SECTION 3.1. The Trust Certificates are subject to prepayment in whole or in part (a) on March 1, 1976, and on each September 1 and March 1 thereafter to and including March 1, 1985, through the application of the rental payable to the Trustee pursuant to Section 5.4(d) hereof, (b) on any March 1 or September 1, through the application of moneys paid to the Trustee pursuant to Section 5.7 hereof and (c) on March 1, 1971, through the application of any Deposited Cash to be applied thereto pursuant to the last paragraph of Section 4.1 hereof, at 100% of the principal amount thereof, together with accrued dividends to the date fixed for prepayment.

SECTION 3.2. (a) On or before the July 15th or the January 15th, as the case may be, next preceding a date on which Trust Certificates are to be prepaid in part pursuant to Section 3.1 hereof, the Trustee shall select for prepayment, in such manner as in its discretion it shall deem appropriate and fair (subject to the provisions of the next succeeding sentence) a principal amount of Trust Certificates so as to exhaust (i) the amount of rental to be paid by the Company to it in cash pursuant to Section 5.4(d) hereof, (ii) any amount in cash to be paid to it pursuant to Section 5.7 hereof and (iii) any Deposited Cash to be applied thereto pursuant to the last paragraph of Section 4.1 hereof, on the next succeeding March 1 or September 1, as the case may be. Any holder of Trust Certificates in whose name are registered Trust Certificates in an aggregate principal amount of \$100,000 or more may, by written notice to the Trustee delivered at least 55 days prior to a date on which Trust Certificates are to be prepaid, direct the Trustee to select for prepayment on such prepayment date and on each prepayment date thereafter, a principal amount of Trust Certificates registered in the name of such holder which bears the same proportion to the aggregate principal amount of all the Trust Certificates to be prepaid on such prepayment 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 ten days prior to the selection by the Trustee of Trust Certificates for prepayment on such prepayment date bears to (z) the aggregate principal amount of Trust Certificates outstanding on such date. In such event, (i) the principal amount of Trust Certificates to be selected by the Trustee, as provided in the first sentence of this paragraph, shall be proportionately reduced and (ii) there shall not be included in the selection made, as provided in such sentence in respect of such prepayment date, any Trust Certificates registered in the name of any holder of Trust Certificates whose Trust Certificates are selected for prepayment as provided in the second sentence of this paragraph. Any notice given by any holder of Trust Certificates as provided in the second sentence of this paragraph shall remain in effect unless and until revoked by written notice delivered by such holder to the Trustee at least 55 days prior to the prepayment date or dates in respect of which such revocation is expressed to be applicable. In any selection of Trust Certificates for prepayment pursuant to this Section 3.2, the Trustee shall, according to such method as it shall

deem to be proper, make such adjustments, by increasing or decreasing by up to \$1,000, the principal amount of Trust Certificates of each holder to be prepaid as may be necessary to the end that the principal amount of Trust Certificates of such holder to be prepaid shall be \$1,000 or an integral multiple thereof.

(b) The Trustee shall send by first class mail postage prepaid a notice of prepayment, at least 30 days prior to each prepayment 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.

(c) The notice of prepayment to each holder shall (i) specify the date for prepayment, (ii) specify whether prepayment is being made pursuant to Section 5.4(d), 5.7 or 4.1 hereof, (iii) state the distinctive number of each Trust Certificate to be prepaid in whole or in part and the principal amount of such Trust Certificate to be prepaid, (iv) state that such prepayment will be made by the Trustee only from and out of rentals or other moneys paid to the Trustee by the Company or the Guarantor and applicable thereto at the Corporate Trust Office, upon presentation and surrender of such Trust Certificate, and (v) state that from and after such prepayment date dividends on such Trust Certificate or on the portion thereof to be prepaid will cease to accrue. The notice of prepayment shall also state that on and after the prepayment date, upon surrender of such Trust Certificate, the holder will receive the principal amount thereof to be prepaid and, if prepaid in part, without charge, a new Trust Certificate for the principal amount thereof remaining unpaid.

SECTION 3.3. Notice of prepayment having been given as above provided, and on or before the prepayment date specified in the notice of prepayment there having been deposited with the Trustee an amount in cash equal to the aggregate principal amount of all the Trust Certificates or portions thereof then to be prepaid and accrued dividends, the Trust Certificates or portions thereof to be prepaid shall become due and payable on such prepayment date and from and after such prepayment date dividends on such Trust Certificates or portions thereof shall cease to accrue and 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.

ARTICLE IV

ACQUISITION OF TRUST EQUIPMENT BY TRUSTEE;
DEPOSITED CASH

SECTION 4.1. The Company proposes to cause to be constructed and sold, assigned, transferred and set over unto the Trustee as trustee for the holders of the Trust Certificates all the Equipment described in Annex A hereto. Such Equipment shall be delivered to the Lessee, which is hereby designated by the Trustee as its agent to receive such delivery, and a Lessee's Certificate as to such delivery shall be conclusive evidence of such delivery.

Pursuant to the provisions of the Lessee's Consolidated Mortgage, dated November 1, 1949, as amended and supplemented (said Consolidated Mortgage, as so amended and supplemented, being hereinafter called the Consolidated Mortgage), to Morgan Guaranty Trust Company of New York (formerly Guaranty Trust Company of New York), Trustee (hereinafter called the Mortgage Trustee), said Mortgage Trustee has contemporaneously with the execution of this Agreement, executed an instrument subordinating the lien of the Consolidated Mortgage to the rights of the Trustee and the Company in and to the Trust Equipment.

In the event that it may be deemed 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 of the Equipment specifically described herein, the Company may, in its discretion, cause such other Equipment to be constructed, sold, assigned, transferred and set over to the Trustee, to be substituted under said trust; *provided, however*, that any Equipment not delivered and settled for pursuant to this Article IV on or before December 15, 1970 (herein called the Cut-Off Date), shall be excluded from this Agreement and not included in the term "Trust Equipment". In the event of any such exclusion or substitution, the Company, the Guarantor and the Trustee shall execute an agreement supplemental hereto limiting this Agreement to the Trust Equipment theretofore accepted and settled for hereunder. In the event of any such exclusion the instrument of subordination referred to in the second paragraph of this Section 4.1 may be amended appropriately to reflect such exclusion.

In the event that on the Cut-Off Date any Deposited Cash shall remain in the possession of the Trustee, the Trustee shall (a) sell, prior to March 1, 1971, all Authorized Investments then held by it and (b) apply Deposited Cash (excluding accrued dividends) and any amount

payable in respect of such Authorized Investments pursuant to Section 5.4(a)(ii) to the prepayment of Trust Certificates on March 1, 1971, as provided in Article III hereof.

SECTION 4.2. For the purpose of settlement therefor, the Equipment shall be divided into not more than three groups of units of Equipment (each such group being hereinafter called a Group), each Group to consist of such units of the Equipment delivered to and accepted by the Company as the Guarantor may specify in the written notice delivered as provided in the next succeeding sentence. The term "Settlement Date" with respect to any Group shall mean such date (not earlier than the date of deposit of the net proceeds of the sale of the Trust Certificates pursuant to Section 2.1 hereof, and not later than the Cut-Off Date), occurring not earlier than five Business Days after presentation by the Owner or Owners to the Company and the Guarantor of the invoice or invoices and Lessee's Certificate or Certificates for such Group, as shall be fixed by the Guarantor by written notice delivered to the Owner or Owners, the Company and the Trustee at least five Business Days prior to the Settlement Date designated therein. From time to time, when and as any Group of Trust Equipment shall have been delivered to the Lessee, as agent for the Trustee, pursuant to Section 4.1 hereof the Trustee shall, subject to the provisions of Sections 4.3 and 4.4 hereof, pay on the Settlement Date, upon Request, to the Owner or Owners of the delivered Trust Equipment out of Deposited Cash (excluding accrued dividends) an amount constituting, in the aggregate, the highest integral multiple of \$1,000 which, together with all payments previously made out of Deposited Cash upon deliveries of Trust Equipment does not exceed the lesser of (y) 70% of the aggregate Cost of Trust Equipment then and theretofore delivered to the Trustee and (z) \$26,150,000.

SECTION 4.3. The Company covenants that, contemporaneously with any payment by the Trustee pursuant to Section 4.2 hereof, but subject to the provisions of Section 4.5 hereof, it will pay to the Owner or Owners of the delivered Trust Equipment the portion of the Cost of the delivered Trust Equipment not paid out of Deposited Cash as provided for in Section 4.2 hereof; the intention being that the Company shall ultimately pay that portion of the aggregate Cost of all the Trust Equipment not required to be paid out of Deposited Cash pursuant to Section 4.2 hereof, 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 that portion of such aggre-

gate Cost required to be paid pursuant to Section 4.2 hereof and the Company shall pay as advance rental the remainder of such aggregate Cost. It is understood and agreed, however, that the total Cost of the Trust Equipment shall not exceed \$37,359,115.

SECTION 4.4. The Trustee shall not pay out any Deposited Cash against the delivery of any of the Trust Equipment unless and until it shall have received:

(a) A Lessee's Certificate stating that the Trust Equipment described and specified therein by number or numbers has been delivered and has been plated or marked in accordance with the provisions of Section 5.6 hereof;

(b) An invoice or invoices from the Owner or Owners and a Lessee's Certificate which shall state that such Trust Equipment is Equipment as herein defined (having been delivered by the Owner or Owners and first put into service no earlier than January 1, 1970) and that the Cost of such Trust Equipment is an amount therein specified, together with evidence of payment of the amounts to be paid to the Owner or Owners pursuant to Sections 4.2 and 4.3 hereof;

(c) A bill or bills of sale of such Trust Equipment from the Owner or Owners to the Trustee, which bill or bills of sale shall contain a warranty or guaranty to the Trustee and to the Company that at the time of sale the Owner or Owners had legal title to the Trust Equipment described therein and good and lawful right to sell such Trust Equipment and that the title to such Trust Equipment is free from all claims, liens, security interests and other encumbrances of any nature except as created by this Agreement or as permitted by Section 7.3 hereof and except for the rights of the Lessee under the Lease;

(d) An Opinion of Counsel of the Lessee to the effect that such bill or bills of sale are valid and effective, either alone or in connection with any other instrument referred to in such opinion, to vest in the Trustee security title to such Trust Equipment free from all claims, liens, security interests and other encumbrances of any nature other than as provided in subparagraph (c) above;

(e) In the case of any Trust Equipment not specifically described in Annex A hereto, an Opinion of Counsel of the Lessee that a proper supplement hereto in respect of such Trust Equip-

ment has been duly executed by the Trustee, the Company and the Guarantor, that a proper supplement to the Lease in respect of such Trust Equipment has been duly executed by the Company and the Lessee and that each of such supplements has been duly filed and recorded in accordance with Section 7.4 hereof; and

(f) In the case of any Trust Equipment not specifically described in Annex A hereto, an instrument executed by the Mortgage Trustee amending appropriately the instrument of subordination referred to in the second paragraph of Section 4.1 hereof to refer to such Trust Equipment.

SECTION 4.5. The obligation of the Company to pay to the Owner or Owners of the delivered Trust Equipment any amount required to be paid pursuant to Section 4.3 hereof with respect to any Group of the Trust Equipment is specifically subject to the following conditions:

(a) no Event of Default specified herein which relates to the Guarantor nor an Event of Default (as defined in the Lease), nor any event which with the lapse of time and/or notice provided for herein or in the Lease would constitute such an Event of Default hereunder or under the Lease shall have occurred and be continuing, and the Company shall have received a Lessee's Certificate dated the date of such payment to that effect;

(b) the Company shall have received copies of the documents specified in Section 4.4 hereof, the Opinions of Counsel specified in paragraphs (d) and (e) of said Section 4.4 to be addressed to Company as well as the Trustee;

(c) the Company shall have received the opinions of counsel required by §§ 14 and 15 of the Lease; and

(d) the Company shall have received such other documents relating to the transactions contemplated hereby as the Company may reasonably request.

ARTICLE V

LEASE OF TRUST EQUIPMENT TO THE COMPANY

SECTION 5.1. The Trustee does hereby let and lease all the Trust Equipment to the Company, for the term of 15 years from and after September 1, 1970.

SECTION 5.2. In the event that the Company shall, as provided in Section 4.1 hereof, cause to be constructed and transferred to the Trus-

tee other Equipment in substitution for any of the Equipment herein specifically described, such other Equipment shall be included as part of the Trust Equipment by supplement hereto and shall be subject to all the terms and conditions hereof in all respects as though it had been part of the Trust Equipment herein specifically described.

SECTION 5.3. As and when any Equipment shall from time to time be transferred and delivered to the Lessee as agent for the Trustee, the same shall, *ipso facto* and without further instrument of lease or transfer, pass under and become subject to all the terms and provisions hereof.

SECTION 5.4. The Company hereby accepts the lease of all the Trust Equipment and covenants and agrees to accept delivery and possession hereunder of the Trust Equipment as hereinbefore provided; and the Company covenants and agrees to pay to the Trustee (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, rent 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 delivery and lease to the Company of any of the Trust Equipment and whether or not at the time any thereof shall have been delivered) :

(a) (i) the necessary and reasonable expenses of the trust hereby created, including compensation and expenses provided for herein, and (ii) 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, redemption or payment at maturity by the Trustee of Authorized Investments;

(b) any and all taxes, assessments and governmental charges upon or on account of the income or property of the trust, or of this Agreement, which the Trustee as such may be required to pay;

(c) (i) the amounts of the dividends payable on the Trust Certificates, when and as the same shall become payable, and (ii) interest at the Penalty Rate from the due date, upon the amount of any instalments of rental payable under this subparagraph (c) and the following subparagraphs (d) and (e) which shall not be paid when due, to the extent legally enforceable;

(d) as a sinking fund for the Trust Certificates, on or before March 1 and September 1 in each year, commencing March 1, 1976, and continuing to and including March 1, 1985, an amount in cash calculated to the nearest integral multiple of \$1,000 on such a basis that the aggregate of dividends and sinking fund rental payments payable on each such date (and the aggregate of dividends and principal payable on September 1, 1985) shall be substantially equal (subject to proportionate reduction in the event of prepayment of Trust Certificates pursuant to Section 3.1(b) hereof) and will (together with the aggregate amount of dividends payable prior to March 1, 1976) completely amortize the principal of and dividends on the Trust Certificates; and

(e) the principal of the Trust Certificates, when and as the same shall become payable, whether upon the respective stated dates of maturity or prepayment thereof or otherwise under the provisions thereof or of this Agreement.

Nothing herein or in the Trust Certificates contained shall be deemed to impose on the Trustee or on the Company any obligation to pay to the 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 pursuant to subparagraph (b) of this Section 5.4 so long as it shall in good faith and by appropriate legal proceedings contest the validity thereof, unless in the judgment of the Trustee the rights or interests of the Trustee or of the holders of the Trust Certificates may be materially endangered thereby.

Notwithstanding any other provisions of this Agreement, including, without limitation, Articles VI and VII hereof, it is understood and agreed by the Trustee on behalf of itself and the holders of the Trust Certificates that liability of the Company for all payments to be made by it under and pursuant to this Agreement (other than the payments called for by Section 4.3 hereof), shall not exceed an amount equal to the income and proceeds from the Trust Equipment. As used herein the term "income and proceeds from the Trust Equipment" shall mean (i) if an Event of Default (as defined in Section 6.1 hereof) shall have occurred and while it shall be continuing so much of the following amounts as are indefeasibly received by the Company at any time

after any such Event of Default and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences (as hereinafter defined in Section 5.7 hereof) paid for or with respect to the Trust Equipment pursuant to the Lease and (b) any and all payments or proceeds received by the Company pursuant to clause (i) of subparagraph (b) of the first paragraph of § 9 of the Lease or for or with respect to the Trust Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) or otherwise payable to the Company pursuant to the Lease as are indefeasibly received by the Company and as shall equal the rental payments specified in the first paragraph of this Section 5.4 due and payable by the Company on the date such amounts received by the Company were required to be paid to it pursuant to the Lease or as shall equal any other payment (including payments in respect of Casualty Occurrences) then due and payable under this Agreement; it being understood that "income and proceeds from the Trust Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) which were received by the Company prior to the existence of such an Event of Default which exceeded the amounts required to make the rental payments specified in the first paragraph of this Section 5.4 due and payable by the Company on the date on which amounts with respect thereto received by the Company were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease. Nothing contained herein shall constitute an assignment of, or lien, charge or encumbrance against, the "income and proceeds from the Trust Equipment" or any right, title or interest of the Company under or arising out of the Lease, or of or against any payments received or to be received by the Company under or in connection with the Lease. It is further specifically understood and agreed that nothing contained herein limiting the liability of the Company shall derogate from the right of the Trustee to proceed against the Equipment or the Guarantor as provided for herein for the full unpaid principal amount of the Trust Certificates and dividends thereon. The Trustee agrees, however, that it will not seek to obtain a judgment against the Company for an amount in excess of the amounts payable by the Company pursuant to the limitations set forth in this paragraph, and that if it does obtain such a judgment, it will, accordingly, limit its execution of such judgment to such amount.

SECTION 5.5. At the termination of the lease provided for herein and 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 applied and treated as purchase money and as the full purchase price of the Trust Equipment, (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) full 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 Lessee, 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 full title to all the Trust Equipment under the laws of any jurisdiction.

SECTION 5.6. The Company agrees that at or before the delivery to the Lessee, as agent for the Trustee, of each unit of the Trust Equipment, there shall be plainly, distinctly, permanently and conspicuously placed and fastened upon each side of such unit a metal plate bearing the following words, or such words shall be otherwise plainly, distinctly, permanently and conspicuously marked on each side of such unit, in either case in letters not less than one-half inch in height:

“OWNED BY A BANK OR TRUST COMPANY UNDER A SECURITY AGREEMENT FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20C.”

Such plates or marks shall be such as to be readily visible. In case, prior to the termination of the lease provided for herein, any of such plates or marks shall at any time be removed, defaced or destroyed, the Company shall immediately 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 by the Company with the Trustee and filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act.

The Trust Equipment may be lettered “Illinois Central Railroad Company”, “Illinois Central”, “I.C.”, or in some other appropriate

manner, for convenience of identification of the interests of the Company and the Lessee therein. During the continuance of the lease provided for herein, the Company shall not allow the name of any person, association or corporation to be placed on any of the Trust Equipment as a designation which might be interpreted as a claim of ownership thereof inconsistent with the security interest of the Trustee.

SECTION 5.7. The Company agrees that it will maintain or cause to be maintained and keep or cause to be kept each unit of the Trust Equipment in good order and proper repair at its own cost and expense, unless and until worn out, lost, stolen, destroyed or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (hereinafter called a Casualty Occurrence). Whenever any unit of the Trust Equipment shall suffer a Casualty Occurrence, the Company shall, promptly after it is informed of such Casualty Occurrence under the Lease, deliver to the Trustee an Officer's Certificate or a Lessee's Certificate describing such Trust Equipment and stating the amount to be deposited with the Trustee as provided in the next succeeding sentence and the determination of Fair Value. On the dividend payment date next succeeding the delivery of such Officer's Certificate or Lessee's Certificate (or, in the event such dividend payment date will occur within 60 days after such delivery, on the following dividend payment date), the Company shall deposit with the Trustee an amount in cash equal to the Fair Value of such Trust Equipment suffering a Casualty Occurrence. Thereupon, full title to such Trust Equipment having suffered a Casualty Occurrence shall become vested in the Company and, upon Request, the Trustee shall execute for recording in public offices, at the expense of the Company, such instrument or instruments in writing as reasonably shall be specified by the Company and accompanying such Request in order to make clear upon public records the Company's full title to such Trust Equipment under the laws of any jurisdiction. The rights and remedies of the Trustee to enforce or to recover any of the rental payments shall not be affected by reason of any Casualty Occurrence.

Any moneys deposited with the Trustee pursuant to the next preceding paragraph shall be applied by the Trustee, on the dividend payment date in respect of which such moneys are required to be deposited, to the prepayment of Trust Certificates on said date as provided in Article III hereof.

The Company covenants and agrees to furnish to the Trustee, on or before April 1 in each year, commencing with the year 1971, an Officer's Certificate or a Lessee's Certificate, as of the preceding December 31, stating (1) the amount, description and numbers of all units of Trust Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Agreement in the case of the first such Officer's Certificate or Lessee's Certificate) and (2) that in the case of all the Trust Equipment repainted or repaired during the period covered thereby the plates or marks required by Section 5.6 hereof have been preserved or replaced. The Trustee, by its agents, shall have the right once in each calendar year, but shall be under no duty, to inspect, at the expense of the Company, the Trust Equipment, and the Company covenants in that event to furnish to the Trustee all reasonable facilities for the making of such inspection.

SECTION 5.8. The Company, so long as no Event of Default exists hereunder, shall be entitled to the possession and use of the Trust Equipment from and after delivery thereof to the Company, and also to enter into the Lease which shall be subject and subordinate to this Agreement and to permit the use of the Equipment as provided in the Lease.

The Company will not sell, assign or transfer its rights under this Agreement or, except as provided in this Section 5.8, transfer the right to possession of any unit of the Trust Equipment unless such assignment or transfer is made expressly subject in all respects to the rights and remedies of the Trustee hereunder. Any such assignment or transfer may be made by the Company without the assignee or transferee assuming any of the obligations of the Company hereunder, but subject to the rights and remedies of the Trustee hereunder (including, without limitation, rights against the Guarantor).

SECTION 5.9. The Company covenants and agrees to indemnify the Trustee against any and all claims arising out of or connected with the ownership or use of any of the Trust Equipment, and particularly against any and all claims arising out of the use of any patented inventions in and about the Trust Equipment, and to comply in all respects with the laws of the United States of America and of all the states and other jurisdictions in which the Trust Equipment, or any part thereof, may be operated, and with all lawful acts, rules, regulations and orders of the Department of Transportation, the Interstate Commerce Com-

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

ARTICLE VI

REMEDIES IN EVENT OF DEFAULT

SECTION 6.1. The Company covenants and agrees that in case

(a) the Company shall default in the payment of any part of the rental payable under Sections 5.4(c), (d) and (e) hereof for more than 30 days after the same shall have become due and payable, or

(b) the Company shall, for more than 60 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

(c) any proceeding shall be commenced by or against the Company or the Guarantor for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations hereunder of the Company or the Guarantor, as the case may be) and, unless such proceedings 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 or the Guarantor, as the case may be, under this Agreement (and, in the case of the Guarantor, all obligations of the Guarantor under its guaranty endorsed on the Trust Certificates) 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 (whether or not subject to ratification) for the Company or the Guarantor or for the property of the Company or the Guarantor in connection with any such proceedings in such manner that such obligations have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier, or

(d) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Guarantor and, unless such petition 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 Guarantor under this Agreement and under the guaranty endorsed on the Trust Certificates shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier, or

(e) the Lessee shall default in the observance or performance of any of the covenants and agreements on its part contained in the Lease for the benefit of the Trustee or the holders of the Trust Certificates and such default shall continue for 60 days after the Trustee shall have demanded in writing performance thereof *unless* during such 60-day period the Company or the Lessee shall have cured or caused to be cured such default

then, in any such case (herein sometimes called an Event of Default), the Trustee in its discretion may, and upon the written request of the holders of not less than 25% in principal amount of the then outstanding Trust Certificates shall, by notice in writing delivered to the Company and the Guarantor, declare to be due and payable forthwith the entire amount of the rentals (including any unpaid rental then due, 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 5.4 hereof 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; and the Trustee shall be entitled to recover judgment for the total amount so becoming payable by the Company, together with interest thereon at the Penalty Rate to the extent legally enforceable, and to collect such judgment out of any property of the Company wherever situated.

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

In case the Company shall fail to pay any instalment of rental payable pursuant to Section 5.4(c), (d) or (e) hereof when and as the same shall have become due and payable hereunder, and such default shall have continued for a period of 30 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 and collect in the manner provided by law out of the property of the Company 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 the Guarantor under the Bankruptcy Act (including but not limited to Section 77 thereof) or

any other applicable law, or in case a receiver or trustee shall have been appointed for the property of the Company or the Guarantor, or in case of any other judicial proceedings relative to the Company or the Guarantor, or to the creditors or property of the Company or the Guarantor, 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 6.1, 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 (including any unpaid rental then due, 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 judg-

ment 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 6.2. In case of the happening of any Event of Default, the Trustee may by its agents enter upon the premises of the Company or the Lessee 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 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 as provided in Section 6.1 hereof) may sell the same or any part thereof, free from any and all claims of the Company and the Lessee at law or in equity, in one lot and as an entirety or in separate lots, in so far as may be necessary to perform and fulfill the trust hereunder, at public or private sale, for cash or upon credit, in its discretion, and may proceed otherwise to enforce its rights and the rights of the holders of the outstanding Trust Certificates in the manner herein provided. Upon any such sale, the Trustee itself may bid for the property offered for sale or any part thereof. Any such sale may be held or conducted at such place and at such time as the Trustee may specify, or as may be required by law, and without gathering at the place of sale the Trust Equipment to be sold, and in general in such manner as the Trustee may determine, but so that the Company and the Lessee 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 and the Lessee 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 the Lessee, and no payments theretofore made by the Company for the rent or use of the Trust Equipment or any of it shall, in

case of the happening of any Event of Default and such taking possession, withdrawal, lease or sale by the Trustee, give to the Company any legal or equitable interest or title in or to the Trust Equipment or any of it or any cause or right of action at law or in equity in respect of the Trust Equipment against the Trustee or the holders of the outstanding Trust Certificates. No such taking possession, withdrawal, lease or sale of the Trust Equipment by the Trustee shall be a bar to the recovery by the Trustee from the Company of rentals then or thereafter due and payable, and the Company shall be and remain liable for the same until such sums shall have been realized as, with the proceeds of the lease or sale of the Trust Equipment, shall be sufficient for the discharge and payment in full of all the items mentioned in Section 5.4 hereof (other than dividends or interest not then accrued), whether or not they shall have then matured. The holders of a majority in principal amount of the then outstanding Trust Certificates shall have the right from time to time to direct which of the proceedings above provided for shall be taken for enforcement of the remedies contained herein.

SECTION 6.3. If, in case of the happening of any Event of Default, the Trustee shall exercise any of the powers conferred upon it by Sections 6.1 and 6.2 hereof, all payments made by the Company to the Trustee hereunder after such Event of Default, and the proceeds of any judgment collected hereunder 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 and Authorized Investments 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), 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 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 *pro rata* without preference between principal and dividends.

After all such payments shall have been made in full, the title to any of the Trust Equipment remaining unsold shall be conveyed by the Trustee to the Company free from any further liabilities or obligations to the Trustee hereunder. If after 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 6.4. 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 in Section 6.1 hereof provided, but before September 1, 1985, all arrears of rent (with interest at the Penalty Rate upon any overdue instalments 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 (other than the principal of Trust Certificates and any other rental instalments which shall not at the time have matured according to their terms), shall be paid by the Company before any sale or lease by the Trustee of any of the Trust Equipment, and every other default in the observance or performance of any covenant or condition hereof shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then, and in every such case, the Trustee, if so requested by the holders of a majority in principal amount of the Trust Certificates then outstanding 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 6.5. No retaking of possession of the Trust Equipment by the Trustee, or any withdrawal, lease or sale thereof, nor any action or failure or omission to act against the Company or in respect of the Trust Equipment, on the part of the Trustee or on the part of the

holder of any Trust Certificate, 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 Guarantor under the guaranty endorsed on the Trust Certificates or under the Lease. 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 of the Trust Certificates.

SECTION 6.6. In case the Trustee shall demand possession of the Trust Equipment pursuant to the provisions hereof, the Company and the Lessee shall at their own expense promptly cause the Trust Equipment to be transported to such point or points as shall reasonably be designated by the Trustee and shall there deliver or cause to be delivered the same to the Trustee, or the Trustee may at its option keep the Trust Equipment, without expense to the Trustee, on any lines of railroad or premises of the Lessee approved by the Trustee until the Trustee shall have leased, sold or otherwise disposed of the same. It is hereby expressly covenanted and agreed that the performance of this covenant is of the essence of this Agreement and that upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company and the Lessee requiring the specific performance thereof.

SECTION 6.7. 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 that 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 6.8. The remedies in this Agreement provided in favor of the Trustee and the holders of the Trust Certificates or any of them, shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity.

ARTICLE VII

ADDITIONAL COVENANTS AND AGREEMENTS

BY THE COMPANY AND THE GUARANTOR

SECTION 7.1. The Company hereby covenants and agrees to make payment of (a) the expenses, disbursements and compensation of the Trustee specified in the third paragraph of Section 8.9 hereof, (b) all taxes, assessments and governmental charges herein mentioned for which the Trustee, as such, may be liable and (c) the rentals and other amounts provided for herein.

SECTION 7.2. The Guarantor covenants, agrees and guarantees that the holder of each of the Trust Certificates shall receive the principal amount thereof, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, when and as the same shall become due and payable, in accordance with the provisions thereof or of this Agreement (and, if not so paid, with interest thereon at the Penalty Rate to the extent legally enforceable), and shall receive dividends thereon in like money at the rate specified therein from the date thereof, to the date of maturity of such Trust Certificate, at the times and places and otherwise as expressed in the Trust Certificates and this Agreement (and, if not so paid, with interest thereon at the Penalty Rate to the extent legally enforceable); and the Guarantor covenants and agrees to endorse upon each of the Trust Certificates, at or before the issuance and delivery thereof by the Trustee, its guaranty of the prompt payment of the principal thereof and of the dividends thereon, in substantially the form hereinbefore set forth. Said guaranty so endorsed shall be signed in the name and on behalf of the Guarantor by the facsimile signature of its Treasurer. In case the Treasurer of the Guarantor whose signature shall appear on said guaranty 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 guaranty shall nevertheless be as effective and binding upon the Guarantor as though the person who signed said guaranty had at all times been such officer.

The Guarantor further unconditionally guarantees to the Trustee and the holders of the Trust Certificates the due and punctual performance of all obligations of the Company under this Agreement and unconditionally guarantees to the Trustee and the holders of the Trust Certifi-

cates that all amounts payable by the Company under this Agreement will be promptly paid when due in accordance with the provisions of this Agreement and in case of default by the Company in any such obligations or payments the Guarantor agrees punctually to perform or pay the same, irrespective of any enforcement against the Company of any of the rights of the Trustee and the holders of the Trust Certificates under this Agreement. The Guarantor hereby agrees that its obligations hereunder and under the aforesaid guaranty on the Trust Certificates shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever), irrespective of the genuineness, validity, regularity or enforceability of this Agreement or any other circumstance which might otherwise constitute a legal or equitable discharge of a surety or guarantor or any other circumstance which might limit the recourse of the Trustee to the Company. The Guarantor hereby waives diligence, presentment, demand of payment, protest, any notice of any default hereunder or under the Trust Certificates and all notices with respect to this Agreement and all demands whatsoever hereunder. No waiver by the Trustee or the holders of any of the Trust Certificates of any of their rights hereunder or under the Trust Certificates and no action by the Trustee or the holders of any of the Trust Certificates to enforce any of their rights or failure to take, or delay in taking, any such action shall affect the obligations of the Guarantor hereunder or under said guaranty of the Trust Certificates.

In the event that the Guarantor shall make any payments to the Trustee on account of its guaranty hereunder, the Guarantor hereby covenants and agrees that it shall not acquire any rights, by subrogation or otherwise, against the Company or with respect to any of the units of the Trust Equipment by reason of such payments, all such rights being hereby irrevocably released, discharged and waived by the Guarantor; *provided, however*, that after the payment by the Guarantor to the Trustee of all amounts payable under the first paragraph of this Section 7.2, the Guarantor shall, by subrogation, be entitled to the rights of the Trustee against the Company by reason of such payment, to the extent, but only to the extent, that the Company has received "income and proceeds from the Trust Equipment" (as defined in Section 5.4 hereof) and has not applied amounts equal to such income and proceeds to the payment, in accordance with this Agreement, and subject to the limitations contained in said Section 5.4, of amounts payable by the Company to the Trustee hereunder.

If the Guarantor makes any payment hereunder or performs any **obligation hereunder within the time periods set forth in Section 6.1** hereof required to be made or performed by the Company, no Event of Default shall be deemed to have occurred by reason of the Company's not having made such payment or performed such obligation.

SECTION 7.3. The Company covenants and agrees that it will pay and discharge, or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of, any debt, tax, charge, assessment, obligation or claim which if unpaid might become a lien or charge upon or against any of the Trust Equipment, except upon the leasehold interest of the Company or the Lessee therein; but this provision shall not require the payment of any such debt, tax, charge, assessment, obligation or claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings, unless such contest will in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates.

SECTION 7.4. The Guarantor covenants and agrees to pay the expenses incident to the preparation and execution of the Trust Certificates to be issued hereunder, or connected with the preparation, execution, recording and filing hereof and of any instruments executed under the provisions hereof with respect to the Trust Equipment. The Guarantor with all convenient speed will cause this Agreement, the Lease, all supplements hereto or thereto and all statements of new numbers of the Trust Equipment to be duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Company and the Guarantor will from time to time do and perform any other act and will execute, acknowledge, deliver and the Guarantor will file, register and record any and all further instruments required by law or reasonably requested by the Trustee for the purposes of proper protection of the title of the Trustee and the rights of the holders of the Trust Certificates and of fully carrying out and effectuating this Agreement and the intent hereof; and the Guarantor will promptly furnish to the Trustee certificates or other evidences of filing, registration and recording pursuant to the last preceding sentence, and of any other such filing, registration and recording, and an Opinion or Opinions of Counsel with respect thereto.

Nothing in this Agreement shall be deemed to restrict the right of the Guarantor to merge or consolidate into or with any corporation

or to transfer the property of the Guarantor as an entirety or substantially as an entirety to any corporation and then dissolve and liquidate, provided that the surviving or transferee corporation is a corporation incorporated under the laws of any state of the United States of America or the District of Columbia and is, immediately following such merger, consolidation or transfer of property, engaged in the transportation of persons or property in interstate commerce and shall have duly assumed all the obligations of the Guarantor under this Agreement and under the guaranty of the Guarantor on all of the Trust Certificates.

SECTION 7.5. The Company and the Guarantor covenant and agree from time to time to do all such acts and execute all such instruments of further assurance as they 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 7.6. The Company covenants that it will make payment of the rentals on account of the Trust Equipment as provided in this Agreement notwithstanding that any of the Trust Certificates shall have been acquired by the Company or shall not have been presented for payment.

ARTICLE VIII

THE TRUSTEE

SECTION 8.1. The Trustee hereby accepts the trusts imposed upon it by this Agreement, and covenants and agrees to perform the same as herein expressed.

SECTION 8.2. The Trustee covenants and agrees to apply and distribute the rentals received by it under Section 5.4 hereof (other than sums restored to Deposited Cash from rentals pursuant to Section 5.4(a)(ii) hereof) when and as the same shall be received, and to the extent that such rentals shall be sufficient therefor, for the purposes specified in said Section 5.4.

SECTION 8.3. The Trustee shall cause to be kept at its Corporate Trust Office, books for the registration, exchange and transfer of the Trust Certificates.

SECTION 8.4. The Trustee shall not be required to undertake any act or duty in the way of insuring, taking care of or taking possession

of the Trust Equipment or to undertake any other act or duty under this Agreement until fully indemnified by the Company or the Guarantor or by one or more of the holders of the Trust Certificates against all liability and expenses. The Trustee shall not be responsible for the filing or recording or refiling or rerecording of this Agreement or of any supplement hereto. The Trustee may issue and deliver Trust Certificates in advance of such filing or recording. In accepting delivery of and making payment for the Trust Equipment hereunder, or in accepting any cash payable hereunder in respect of Trust Equipment, the Trustee may rely upon and shall be fully protected by the certificates, bills of sale and Opinions of Counsel to be furnished to it under Section 4.4 hereof, and shall not be required to make any further investigation of or inquiry concerning the matters covered thereby.

SECTION 8.5. 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 a majority in aggregate unpaid principal amount of the then outstanding Trust Certificates 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, guaranty 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 provision 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 8.6. No holder of any Trust Certificate shall have any right to institute any suit, action or proceeding for the execution and enforcement of the trust hereby created unless, after the aforesaid request in writing by the holders of not less than 25% in principal amount of the then outstanding Trust Certificates shall have been made

to the Trustee, and after indemnity satisfactory to it shall have been provided, and after 90 days shall have elapsed after receipt by the Trustee of such request, it shall decline, fail or neglect to institute any proceedings pursuant thereto. Neither the provisions of this Section 8.6 nor the provisions of Section 8.5 hereof shall affect or limit in any way the obligations of the Guarantor under its guaranty hereinabove provided or the rights of the holders of Trust Certificates to institute suit for the enforcement of payments due under said guaranty in respect of the Trust Certificates.

SECTION 8.7. The Trustee may for all purposes conclusively assume that the Company is not in default under the terms hereof until notified in writing to the contrary by the holders of at least 10% in principal amount of the then outstanding Trust Certificates, which notice shall distinctly specify the default desired to be brought to the attention of the Trustee.

SECTION 8.8. Any moneys at any time paid to or held by the Trustee hereunder until paid out by the Trustee as herein provided may be carried as a general deposit and need not be segregated from other funds except to the extent required by law. The Trustee shall not be under any liability for interest on any moneys received by it hereunder except such as it may agree with the Company to pay thereon.

At any time, and from time to time, if at the time an Event of Default or any event (of which the Trustee has actual notice) which with notice and/or lapse of time would constitute an Event of Default shall not have occurred and be continuing hereunder, the Trustee, on Request joined in by the Guarantor, shall invest and reinvest Deposited Cash held by it in such Authorized Investments as are set forth in such Request, such Authorized Investments to be held by the Trustee in trust for the benefit of the holders of the Trust Certificates.

The Trustee may, and on Request shall, in the event funds are required for payment against delivery of any Equipment or the payment of dividends on or the prepayment of the Trust Certificates, sell such Authorized Investments, or any portion thereof, and restore to Deposited Cash the proceeds of any such sale up to the amount paid for such Authorized Investments, including accrued interest.

The Trustee shall restore to Deposited Cash out of rent received by it for that purpose under the provisions of Section 5.4(a)(ii) hereof, an amount equal to any expenses incurred in connection with any purchase or sale of Authorized Investments and also an amount equal to any loss of principal incident to the sale, redemption or payment at

maturity of any Authorized Investments for a sum less than the amount paid therefor, including accrued interest. The Company, if no Event of Default or event (of which the Trustee has actual notice) which with notice and/or lapse of time would constitute an Event of Default shall have occurred and be continuing, shall be entitled to receive any interest or profit which may be realized from any sale, redemption or payment at maturity of Authorized Investments or any portion thereof.

SECTION 8.9. The Trustee shall not be liable to anyone for any delay in the delivery of any of the Trust Equipment, or for any default on the part of the Owners thereof or of the Company, or for any defect in any of the Trust Equipment or in the title thereto, nor shall anything herein be construed as a warranty on the part of the Trustee in respect thereof or as a representation in respect of the value thereof or in respect of the title thereto.

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

The Trustee shall be entitled to receive payment of all 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 with the same rights which it would have if it were not Trustee.

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

SECTION 8.10. If at any time the Trustee or any successor to it in the trust hereby created shall desire to divest itself of title to the Trust Equipment, and to terminate its duties and obligations and rights hereunder and under the Trust Certificates, it shall so notify the Com-

pany in writing, and the Company shall thereupon designate in writing to the Trustee a bank or a trust company, qualified as below specified, to serve until a successor is appointed by the holders of Trust Certificates as hereinafter provided, to which may be assigned the entire right, title and interest of the Trustee or such successor in the Trust Equipment, and in which may be vested the rights, powers, duties and obligations of the Trustee hereunder and under the Trust Certificates. Upon the transfer and delivery of all moneys, Authorized Investments and Trust Equipment held by the retiring trustee, and the execution by the retiring trustee of such instruments of transfer as may be reasonably requested by the successor trustee, and upon acceptance by the successor trustee of the assignment and of the trust, the retiring trustee shall be relieved and discharged of all the title, rights, powers, duties and obligations of the trust hereunder and under the Trust Certificates, and the same shall become vested in such successor trustee, and every provision hereof applicable to the retiring trustee shall apply to such successor trustee with like effect as if such successor trustee had been originally named herein in the place and stead of the retiring trustee. In the event that the Company shall fail to designate such a successor trustee by instrument in writing delivered to the retiring trustee within two weeks from the time of receiving such notice in writing from the retiring trustee, the retiring trustee may thereupon designate such successor trustee. The foregoing provisions are, however, subject to the right of the holders of the majority in principal amount of the then outstanding Trust Certificates by an instrument in writing to appoint any successor trustee, if such appointment is made within one year from the date of the giving of such notice to the Company. The Company and the Guarantor shall execute all writings recognizing the transfer of title as aforesaid and all instruments of further assurance or otherwise as reasonably may be requested by the successor trustee in the premises, and will do and perform any and all acts necessary to establish and maintain the title and rights of the successor trustee in and to the Trust Equipment. Every successor trustee shall be a bank or a trust company doing business in the Borough of Manhattan, City and State of New York, having a capital and surplus aggregating at least \$50,000,000, if there be such a bank or trust company willing and able to accept the trust upon reasonable and customary terms and duly qualified to act as such trustee.

SECTION 8.11. Any corporation resulting from any merger or consolidation to which the Trustee or any successor to it shall be a party,

or any corporation in any manner succeeding to all or substantially all of the business of the Trustee or any successor trustee, provided such corporation shall be a bank or a trust company doing business in the Borough of Manhattan, City and State of New York, and shall have a capital and surplus aggregating at least \$50,000,000, shall be the successor trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

ARTICLE IX

MISCELLANEOUS

SECTION 9.1. Any request or other instrument provided by this Agreement to be signed or executed by holders of Trust Certificates may be in any number of concurrent instruments of similar tenor, and may be executed by such holders in person or by an agent or attorney appointed by an instrument in writing. Proof of the execution of any such request or other instrument, or of a writing appointing any such agent or attorney, or of the holding by any person of Trust Certificates, shall be sufficient for any purpose hereof and shall be conclusive in favor of the Trustee with regard to any action taken by the Trustee under such request or other instrument if made in the following manner, viz.:

(a) The fact and date of the execution by any person of any such request or of any other instrument in writing may be proved by the affidavit of a witness to such execution, or by the certificate of any notary public or of any other officer authorized to take acknowledgments of deeds to be recorded in the state where the acknowledgment may be taken, certifying that the person signing such request or other instrument acknowledged to him the execution thereof.

(b) The ownership of Trust Certificates shall be determined by the registry books to be kept as provided in Section 8.3 hereof.

SECTION 9.2. Nothing expressed or implied herein is intended or shall be construed to confer upon or to give to any person, firm or corporation, other than the parties hereto and the holders of the Trust Certificates, any right, remedy or claim under or by reason of this Agreement or of any term, covenant or condition hereof, and all the terms, covenants, conditions, promises and agreements contained herein shall be for the sole and exclusive benefit of the parties hereto and their successors and of the holders of the Trust Certificates.

SECTION 9.3. Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

All obligations of the Company hereunder, including, without limitation, the obligations under Sections 5.4, 5.6, 5.7, 5.9, 6.6, 7.1 and 7.3, and the third paragraph of Section 8.9 hereof, but excluding the obligations under Section 4.3 hereof and any provisions requiring the execution of any instrument by the Company, shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Guarantor shall be liable in respect of its guaranty hereunder for all such obligations of the Company whether or not the Lease is in effect. The Company shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they may constitute the basis for an Event of Default hereunder.

SECTION 9.4. All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or mailed by registered mail (a) to the Company, c/o C.I.T. Leasing Corporation, 650 Madison Avenue, New York, New York 10022, *attention of* the President, or to such other address as may hereafter be furnished to the Trustee in writing by the Company, (b) to the Guarantor, at 135 East Eleventh Place, Chicago, Illinois 60605, *attention of* the President, or at such other address as may hereafter be furnished to the Trustee in writing by the Guarantor and (c) to the Trustee at the Corporate Trust Office, or at such other address as may hereafter be furnished to the Company and the Guarantor in writing by the Trustee. An affidavit by any person representing or acting on behalf of the Company, the Guarantor or the Trustee, as the case may be, as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 9.5. This Agreement has been executed in several counterparts each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

SECTION 9.6. This Agreement shall be deemed to have been executed on the date of the acknowledgment thereof by the officer of the Trustee who signed it on behalf of the Trustee.

SECTION 9.7. The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

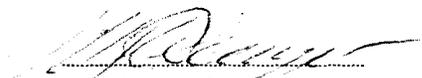
MORGAN GUARANTY TRUST COMPANY
OF NEW YORK,

Trustee,

[CORPORATE SEAL]

by 
Trust Officer.

ATTEST:


Assistant Secretary.

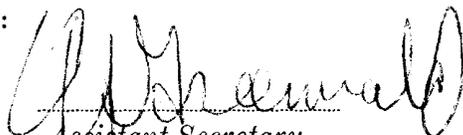
C.I.T. CORPORATION,

by C.I.T. Leasing Corporation,
as Agent, ,

[CORPORATE SEAL]

by 
Vice President.

ATTEST:


Assistant Secretary.

ILLINOIS CENTRAL RAILROAD COMPANY,

[CORPORATE SEAL]

by 
Vice President.

ATTEST:


Secretary.

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 1st day of September, 1970, before me personally appeared [redacted], to me personally known, who being by me duly sworn, says that he is a Trust Officer of MORGAN GUARANTY COMPANY OF NEW YORK, 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.

Lorraine Fowler
Notary Public

[NOTARIAL SEAL]

LORRAINE FOWLER
Notary Public, State of New York
No. 24-6368100
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1972

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 5th day of September, 1970, before me personally appeared *Thomas J. McPhillips*, to me personally known, who being by me duly sworn, says that he is a Vice President of C.I.T. LEASING CORPORATION, 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.

Arnold O'lena
Notary Public

[NOTARIAL SEAL]

ARNOLD O'LENA
Notary Public, State of New York
No. 41-2953645
Qualified in Queens County
Commission Expires March 30, 1971

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this th 4 day of September, 1970, before me personally appeared
..... ~~Richard de...~~, to me personally known, who being by
me duly sworn, says that he is a Vice President of ILLINOIS CENTRAL
RAILROAD COMPANY, that one of the seals affixed to the foregoing instru-
ment 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 fore-
going instrument was the free act and deed of said corporation.

Eugene Bennett
Notary Public

[NOTARIAL SEAL]

Commission expires July 13, 1974

ANNEX A TO EQUIPMENT TRUST AGREEMENT

<u>Number of Units</u>	<u>Description</u>	<u>Estimated Cost</u>	
		<u>Per Unit</u>	<u>Total</u>
20	GP-38, 2,000 H.P. EMD Diesel Electric Locomotives Nos. 9500 to 9519, inclusive	\$234,650.00	\$ 4,693,000
5	GP-40, 3,000 H.P. EMD Diesel Electric Locomotives, Nos. 3070 to 3074, inclusive	257,757.00	1,288,785
5	SD-40, 3,000 H.P. EMD Diesel Electric Locomotives, Nos. 6019 to 6023, inclusive	296,891.00	1,484,455
300	100-ton Covered Hopper Cars, Nos. 765,000 to 765,299, inclusive	15,357.20	4,607,160
1,000	70-ton 50' Box Cars, Nos. 560,000 to 560,999, inclusive	15,250.00	15,250,000
25	70-ton 60' Box Cars, cushion un- derframe, Nos. 610,001 to 610,025, inclusive	21,000.00	525,000
400	70-ton 50' Box Cars, cushion un- derframe, Nos. 580,000 to 580,399, inclusive	15,900.00	6,360,000
100	100-ton Flat Cars, Nos. 945,000 to 945,099, inclusive	17,500.00	1,750,000
50	Steel Caboose Cars, Nos. 9450 to 9499, inclusive	28,014.30	1,400,715
	Total Estimated Cost		\$37,359,115

Annex B to Equipment Trust Agreement

Lease of Railroad Equipment

BY AND BETWEEN

C.I.T. CORPORATION

AND

ILLINOIS CENTRAL RAILROAD COMPANY

Dated as of September 1, 1970

LEASE OF RAILROAD EQUIPMENT dated as of September 1, 1970, between C.I.T. CORPORATION, a New York corporation (hereinafter called the Lessor), acting herein through its agent C.I.T. LEASING CORPORATION, a Delaware corporation, and ILLINOIS CENTRAL RAILROAD COMPANY, an Illinois corporation (hereinafter called the Lessee).

WHEREAS the Lessee has agreed to lease from the Lessor all the units of the equipment described in Annex A hereto (hereinafter sometimes called the Annex A Equipment) and Annex B hereto (hereinafter sometimes called the Annex B Equipment), or such lesser number as are delivered and accepted and settled for under the Equipment Trust Agreement (as hereinafter defined) on or prior to December 15, 1970 (each hereinafter called a Unit and collectively the Units or the Equipment), at the rentals and for the term and upon the conditions hereinafter provided; and

WHEREAS the Lessor and the Lessee have entered into an Equipment Trust Agreement dated as of September 1, 1970 (herein called the Equipment Trust Agreement), with Morgan Guaranty Trust Company of New York, as Trustee (hereinafter called the Trustee), under which security title to the Units will be reserved to the Trustee until the Lessor fulfills all its obligations under the Equipment Trust Agreement;

Now, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions, but subject and subordinate to all the rights and remedies of the Trustee under the Equipment Trust Agreement.

§ 1. *Delivery and Acceptance of Units.* The Lessor will cause each Unit to be tendered to the Lessee at such point or points within the United States of America as may be mutually agreed upon. Immediately upon such tender, the Lessee will cause its authorized inspectors or representatives to inspect the same, and if such Unit is found to be in good operating order and repair, to accept delivery of such Unit and to execute and deliver to the Lessor and to the Trustee a Lessee's Certificate (as defined in the Equipment Trust Agreement and complying with the provisions of Section 4.4(a) thereof); whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee under this Lease and shall be subject thereafter to all the terms and conditions

of this Lease and such Lessee's Certificate shall be absolutely binding upon the Lessee.

§ 2. *Rentals.* The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, 30 consecutive semiannual payments, payable on March 1 and September 1 in each year commencing March 1, 1971. In the case of the Annex A Equipment, the first such semiannual payment shall be in an amount equal to .0184722% of the Cost (as such term is defined in the Equipment Trust Agreement) of each Unit thereof subject to this Lease for each day elapsed from and including the Settlement Date (as defined in Section 4.2 of the Equipment Trust Agreement) for such Unit to March 1, 1971; the next nine such semiannual payments shall each be in an amount equal to 3.325% of the Cost of each such Unit; and the last 20 of which shall each be in an amount equal to 7.9543% of the Cost of each such Unit. In the case of the Annex B Equipment, the first such semiannual payment shall be in an amount equal to .0184722% of the Cost (as so defined) of each Unit thereof subject to this Lease for each day elapsed from and including the Settlement Date (as so defined) for such Unit to March 1, 1971; the next nine such semiannual payments shall each be in an amount equal to 3.325% of the Cost of each such Unit; and the last 20 of which shall each be in an amount equal to 6.9612% of the Cost of each such Unit. In addition, the Lessee shall pay to the Lessor on March 1, 1971, additional rental in an amount equal to 9.5% per annum of the amount from time to time remaining on deposit with the Trustee as Deposited Cash (as defined in the Equipment Trust Agreement but excluding accrued dividends) from the original date of issue of the Trust Certificates to the date of application of such Deposited Cash or March 1, 1971, as the case may be. If any of the payment dates referred to above is not a Business Day (as defined in the Equipment Trust Agreement), the payment shall be payable on the next succeeding Business Day (without interest).

Notwithstanding anything to the contrary contained herein, any and all sums paid by the Lessee pursuant to its guaranty set forth in the first paragraph of Section 7.2 of the Equipment Trust Agreement in respect of the obligations set forth in Sections 5.4(c), (d) and (e) thereof not attributable to an Event of Default (as hereinafter defined) hereunder or to late payment shall be thereupon deemed to have been paid in reduction or satisfaction, to the extent thereof, of

any rental payments then due and payable by the Lessee to the Lessor under this § 2.

The Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease, during the original term hereof, in immediately available funds in New York City for the account of the Lessor, in care of the Trustee at its office at 23 Wall Street, New York, N. Y. 10015, attention of Corporate Trust Department, with instructions to the Trustee first to apply such payments to satisfy the obligations of the Lessor under the Equipment Trust Agreement known to the Trustee to be due and payable on the date such payments are due and payable hereunder and second, so long as no Event of Default under the Equipment Trust Agreement shall have occurred and be continuing, to pay any balance promptly to the Lessor in immediately available funds in New York City to the credit of C.I.T. Corporation, c/o Chemical Bank, Madison Avenue and 59th Street Branch, New York, New York 10022, Special Account Number 116-013117, or to such other place as the Lessor shall specify in writing. After the original term of this Lease, all payments provided for herein shall be made to the Lessor in immediately available funds in New York City to the credit of C.I.T. Corporation, c/o Chemical Bank, Madison Avenue and 59th Street Branch, New York, New York 10022, Special Account Number 116-013117, or to such other place as the Lessor shall specify in writing. The Lessee agrees to make payments provided for herein as contemplated by this paragraph.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or set-off against rent, including, but not limited to, abatements, reductions or set-offs due or alleged to be due to, or by reason of, any past, present or future claims of the Lessee against the Lessor under this Lease or otherwise or against the Trustee; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use of or destruction of all or any of the Units from whatsoever cause, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease or lack of right, power or authority of the Lessor to enter into this Lease,

or by reason of any failure by the Lessor to perform any of its obligations herein contained, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease.

§ 3. *Term of Lease.* The term of this Lease as to each Unit shall begin on the date of the acceptance thereof by the Lessee pursuant to § 1 hereof and, subject to the provisions of §§ 6, 9 and 12 hereof, shall terminate on the date on which the final semiannual payment of rent in respect thereof is due hereunder.

§ 4. *Identification Marks.* The Lessee will cause each Unit to be kept numbered with its identifying number as set forth in Annex A or Annex B hereto, as the case may be, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of such Unit, in letters not less than one-half inch in height, the following words: "OWNED BY A BANK OR TRUST COMPANY UNDER A SECURITY AGREEMENT FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20c", or other appropriate words designated by the Lessor or the Trustee, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the title of the Lessor and the security title of the Trustee to such Unit and the rights of the Lessor under this Lease and the Equipment Trust Agreement and of the Trustee under the Equipment Trust Agreement. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked on both sides thereof and will replace promptly any such words which may be removed, defaced or destroyed. The Lessee will not change or permit to be changed, the numbers of any such Units, except in accordance with a statement of new numbers to be substituted therefor which previously shall have been filed with the Trustee and the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease will have been filed, recorded or deposited.

Each Unit may be lettered "Illinois Central Railroad Company", "Illinois Central", "I.C." or in some other appropriate manner for convenience of identification of the interests of the Lessor and the Lessee therein. Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on any of the Trust Equipment as a designation which might be interpreted as a claim of ownership thereof.

§ 5. *Taxes.* All payments to be made by the Lessee hereunder will be free of expense to the Lessor and the Trustee for collection or other charges and will be free of expense to the Lessor and the Trustee with respect to the amount of any local, state, federal or foreign taxes (other than any United States federal income tax [and, to the extent that the Lessor is entitled to credit therefor against its United States federal income tax liability, any foreign income tax] payable by the Lessor in consequence of the receipt of payments provided for herein and other than the aggregate of all state or city income taxes or franchise taxes measured by net income based on such receipt, up to the amount of any such taxes which would be payable to the state and city in which the Lessor has its principal place of business without apportionment to any other state or city, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided, and other than any taxes payable by the Trustee in consequence of the receipt by the Trustee of fees or compensation for services rendered under the Equipment Trust Agreement), or license fees, assessments, charges, fines or penalties (all such taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions) hereafter levied or imposed upon or in connection with or measured by this Lease, the Equipment Trust Agreement or any of the instruments or agreements referred to herein or therein or contemplated hereby or thereby, or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof, the Equipment Trust Agreement or any such instruments or agreements, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which

may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor solely by reason of its ownership thereof or upon the Trustee solely by reason of its security title thereto and any impositions upon or on account of the trust created by the Equipment Trust Agreement or the transactions contemplated thereby (whether or not such transactions shall actually be consummated) or the instruments or agreements referred to therein or contemplated thereby, and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the interests of the Lessor and the Trustee (or the holders of the Equipment Trust Certificates issued under the Equipment Trust Agreement) therein or result in a lien or security interest upon any such Unit (other than the Equipment Trust Agreement and this Lease) and will supply the Lessor and the Trustee with a receipt or other evidence of such payment satisfactory to the Lessor and the Trustee; *provided, however*, that the Lessee shall be under no obligation to pay any impositions so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor or the Trustee, adversely affect the title, property or rights of the Lessor or the Trustee hereunder or under the Equipment Trust Agreement. If any imposition shall have been charged or levied against the Lessor or the Trustee directly and paid by the Lessor or the Trustee, the Lessee shall reimburse the Lessor or the Trustee, as the case may be, on presentation of an invoice therefor. The Lessor agrees that if, in the opinion of independent tax counsel selected by the Lessor and acceptable to the Lessee, a bona fide claim exists to all or a portion of any imposition in respect of which the Lessee has made payment to the Lessor as aforesaid, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by said independent counsel in order to sustain such claim. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested. The Lessee shall be entitled to the proceeds of the successful prosecution of any such claim.

In the event any reports with respect to impositions are required to be made the Lessee will either make such reports in such manner

as to show the interests of the Lessor and the Trustee in the Units, if such is necessary or appropriate, or will notify the Lessor and the Trustee of such requirement and will make such reports in such manner as shall be satisfactory to the Lessor and the Trustee.

In the event that, during the continuance of this Lease, the Lessee shall become liable for the payment or reimbursement of any impositions pursuant to this § 5, such liability shall continue, notwithstanding the termination of this Lease, until all such impositions are paid or reimbursed by the Lessee.

§ 6. *Payment for Casualty Occurrences.* Whenever any Unit shall be or become worn out, lost, stolen, destroyed or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called Casualty Occurrences) during the term of this Lease or any extended term thereof, the Lessee shall, promptly after it shall have been determined that such Unit has suffered a Casualty Occurrence, deliver to the Lessor and the Trustee a Lessee's Certificate (as defined in the Equipment Trust Agreement) fully informing them with respect thereto and complying with the provisions of Section 5.7 of the Equipment Trust Agreement. On the rental payment date next succeeding the delivery of such Lessee's Certificate (or in the event such rental payment date will occur within 60 days after such delivery, on the following rental payment date or, if this Lease, or any extended term thereof, as the case may be, shall expire before or within 60 days after such delivery on the termination date of this Lease, or any such extended term, or any other date thereafter, within 60 days of such delivery) the Lessee shall pay to the Lessor an amount equal to the accrued rental for such Unit to the date of such payment plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of such payment date in accordance with the schedule set out below. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue as of the date of such payment, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit. If the date upon which the making of such payment by the Lessee in respect of any Unit is required as aforesaid shall be after the original or any extended

term of this Lease in respect of such Unit, no rental for such Unit shall accrue after the end of such term but the Lessee in addition to paying the Casualty Value for such Unit shall pay interest thereon at the prime rate of interest charged by the Trustee for ninety-day loans to borrowers of the highest credit standing, from the end of such term to the date of such payment. The Lessor shall, upon request of the Lessee, after payment by the Lessee of a sum equal to the Casualty Value of any Unit which shall have been lost, stolen or completely destroyed, execute and deliver to or upon the order of the Lessee a bill of sale (without warranties) for such Unit.

The Casualty Value of each Unit as of any rental payment date shall be the greater of (x) the Fair Value thereof as determined pursuant to Section 5.7 of the Equipment Trust Agreement or (y) that percentage of the Cost of such Unit as is set forth in the following schedule opposite the number of such rental payment date:

CASUALTY VALUE

Rental Payment Date No.	Percentage		Rental Payment Date No.	Percentage	
	Annex A Equip- ment	Annex B Equip- ment		Annex A Equip- ment	Annex B Equip- ment
1	105%	104%	16	95%	89%
2	105	104	17	86	80
3	110	106	18	86	80
4	110	106	19	76	71
5	113	109	20	76	71
6	113	109	21	64	61
7	117	110	22	64	61
8	117	110	23	52	51
9	119	111	24	52	51
10	119	111	25	39	38
11	112	104	26	39	38
12	112	104	27	25	24
13	104	97	28	25	24
14	104	97	29	15	15
15	95	89	30 and thereafter	15	15

Except as hereinabove in this § 6 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear

the risk of, any Casualty Occurrence to any Unit after delivery to and acceptance thereof by the Lessee hereunder.

§ 7. *Annual Reports.* On or before April 1 in each year, commencing with the year 1971, the Lessee will furnish to the Lessor and the Trustee, in such number of counterparts or copies as may reasonably be requested, a Lessee's Certificate, as of the preceding December 31, (i) showing the amount, description and numbers of the Units then leased hereunder and the amount, description and numbers of all Units that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease in the case of the first such Lessee's Certificate), and such other information regarding the condition and state of repair of the Units as the Lessor or the Trustee may reasonably request, and (ii) stating that, in the case of all Units repaired or repainted during the period covered thereby, the markings required by § 4 hereof and Section 5.6 of the Equipment Trust Agreement have been preserved or replaced. The Lessor shall have the right at its sole cost, risk and expense, by its authorized representative, to inspect the Units and the records of the Lessee with respect thereto at such times as shall reasonably be necessary to confirm to the Lessor the existence and proper maintenance of the Units during the continuance of this Lease.

§ 8. *Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification; and Insurance.* **The Lessor makes no warranty or representation, either express or implied, as to the design or condition of, or as to the quality of the material, equipment or workmanship in, the Units delivered to the Lessee hereunder, and the Lessor makes no warranty of merchantability or fitness of the Units for any particular purpose or as to its title to the Units or any component thereof, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the manufacturer of the Units or of the components thereof. The Lessor shall have no responsibility or liability to the Lessee or any other per-**

son with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's acceptance of delivery of the Units shall be conclusive evidence as between the Lessee, the Lessor and the Trustee, that all Units described in any Lessee's Certificate confirming such acceptance are in all the foregoing respects satisfactory to the Lessee and the Lessee will not assert any claim of any nature whatsoever against the Lessor or the Trustee based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Trustee, to comply in all respects with all laws of the jurisdictions in which operations involving any Unit subject to this Lease may extend, with the Interchange Rules of the Association of American Railroads, if applicable, and with all lawful rules of the Interstate Commerce Commission, the Department of Transportation and any other legislative, executive, administrative or judicial body or officer exercising any power or jurisdiction over any such Unit, to the extent such laws and rules affect the operations or use of such Unit; and the Lessee shall and does hereby indemnify the Lessor and the Trustee and agrees to hold the Lessor and the Trustee harmless from and against any and all liability that may arise from any infringement or violation of any such laws or rules by the Lessee, the Lessee's employees or any other person. In the event that such laws or rules require the alteration of the Units or in case any equipment or appliance on any such Unit shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such Unit in order to comply with such laws and rules, the Lessee agrees to make such alterations, changes, additions and replacements at its own expense and to use, maintain and operate such Unit in full compliance with such laws and rules so long as such Unit is subject to this Lease; *provided, however*, that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Trustee,

adversely affect the property or rights of the Lessor or the Trustee hereunder or under the Equipment Trust Agreement.

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit which is subject to this Lease in good order and repair.

Any and all additions to any Unit and any and all parts installed on or replacements made to any Unit shall be considered accessions to such unit and, without cost or expense to the Lessor or the Trustee, there shall immediately be vested in the Lessor and the Trustee the same interest in such accessions as the interests of the Lessor and the Trustee in such Unit. The Lessee may make alterations or modifications in any Unit so long as it does not affect the value of such Unit adversely.

The Lessee agrees to indemnify and save harmless the Lessor and the Trustee against any charge or claim made against the Lessor or the Trustee and against any expense, loss or liability (including but not limited to counsel fees and expenses, patent liabilities, penalties and interest) which the Lessor or the Trustee may incur in any manner by reason of the issuance of the Trust Certificates or by reason of entering into or performing the Equipment Trust Agreement, this Lease, any of the instruments or agreements referred to therein or herein or contemplated thereby or hereby or the ownership of, or which may arise in any manner out of or as the result of the ordering, acquisition, purchase, use, operation, condition, delivery, rejection, storage or return of, any Unit while subject to this Lease or until no longer in the possession of or stored by the Lessee, whichever is later, and to indemnify and save harmless the Lessor and the Trustee against any charge, claim, expense, loss or liability on account of any accident in connection with the operation, use, condition, possession or storage of any Unit resulting in damage to property or injury or death to any person. The indemnities contained in this paragraph shall survive payment of all other obligations under this Lease and the termination of this Lease.

The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of, and furnish a copy to, the Lessor) any and all reports known by the Lessee to be required to be filed by the

Lessor, or requested by the Lessor to be filed, with any Federal, state or other regulatory authority by reason of the ownership by the Lessor of the Units, the security title of the Trustee to the Units or the leasing of the Units to the Lessee.

§ 9. *Default.* If, during the continuance of this Lease, one or more of the following events (hereinafter sometimes called Events of Default) shall occur:

A. default shall be made in the payment of any part of the rental provided in §§ 2, 12 or 17 hereof and such default shall continue for 15 days;

B. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Equipment Trust Agreement and such default shall continue for 30 days after written notice from the Lessor to the Lessee specifying the default and demanding that the same be remedied;

C. any proceedings shall be commenced by or against the Lessee for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations of the Lessee hereunder) and, unless such proceedings 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 Lessee under this Lease, under the Equipment Trust Agreement and under the guaranty endorsed on the Trust Certificates 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 (whether or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

D. a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, shall be filed by or against the Lessee and, unless such petition 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 Lessee under this Lease, under the Equipment Trust Agreement and under the guaranty endorsed on the Trust Certificates shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier;

then, in any such case, the Lessor, at its option, may:

(a) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and determine as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of the Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days

and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on a basis of a 6.70% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental, and (iii) an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States of America or any political subdivision thereof, shall, in the reasonable opinion of the Lessor, cause the Lessor's net return under this Lease to be equal to the net return that would have been available to the Lessor if it had been entitled to utilization of all or such portion of the Rapid Amortization Deduction (as hereinafter defined) which was lost, not claimed, not available for claim or disallowed in respect of a Unit as a result of the termination of this Lease, the Lessee's loss of the right to use such Unit, any action or inaction by the Lessor or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default.

Anything in this § 9 to the contrary notwithstanding, any default in the observance or performance of any covenant, condition or agreement on the part of the Lessee which results solely in the loss by the Lessor of, or the loss by the Lessor of the right to claim, or the disallowance with respect to the Lessor of, all or any portion of the amortization deduction with respect to a Unit provided for in Section 184 of the Internal Revenue Code of 1954, as amended to the date

hereof (herein called the Rapid Amortization Deduction), available to non-railroad lessors of railroad equipment shall be for all purposes of this Lease deemed to be cured if the Lessee shall, on or before the next rental payment date after written notice from the Lessor of the loss, or the loss of the right to claim, or the disallowance of the Rapid Amortization Deduction in respect of such Unit, agree to pay to the Lessor the revised rental rate in respect of such Unit determined as provided in the second paragraph of § 17 hereof.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. Subject to the provisions of the second paragraph of § 2 hereof, the Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder and agrees to make rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

§ 10. *Return of Units Upon Default.* If this Lease shall terminate pursuant to § 9 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit returned to the Lessor pursuant to this § 10 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

A. forthwith place such Units upon such storage tracks of the Lessee as the Lessor may reasonably designate,

B. permit the Lessor to store such Units on such tracks at the risk of the Lessee until such Units have been sold, leased or otherwise disposed of by the Lessor, and

C. transport the same to any place on the lines of railroad operated by the Lessee or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any Unit, to inspect the same; *provided, however*, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 10, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Unit. In connection therewith the Lessee will supply the Lessor with such documents as the Lessor may reasonably request.

§ 11. *Assignment; Possession and Use.* This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder (including but not limited to the rights under §§ 5, 8, 9 and 17 hereof) shall inure to the benefit of the Lessor's assigns as if named herein as Lessor.

So long as no Event of Default exists hereunder, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessee shall not assign, transfer or encumber its leasehold interest under this Lease in the Units or any of them (except to the extent that the provisions of any mortgage on any of the lines of railroad of the Lessee may subject such leasehold interest to the lien thereof); and, in addition, the Lessee, at its own expense, will as soon as possible cause to be duly discharged any lien, charge, security interest or other encumbrance (except as aforesaid and other than an encumbrance resulting from claims against the Lessor or the Trustee not related to the ownership or leasing of, or the security title of the Trustee to, the Units) which may at any time be imposed on or with respect to any Unit including any accession thereto or the interest of the Lessor, the Trustee or the Lessee therein. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the next succeeding paragraph hereof.

So long as no Event of Default exists hereunder, the Lessee shall be entitled to possession of the Units and to the use thereof by it upon its lines of railroad or upon lines of railroad over which the Lessee has trackage or other operating rights or over which railroad equipment of the Lessee is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other railroads in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this Lease. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this § 11 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia and engaged in the transportation of persons or property in interstate commerce immediately after such assignment or transfer (which shall have duly assumed the obligations of the

Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety.

The Lessee agrees that during the term of this Lease (i) it will not assign any Unit to service involving the regular operation and maintenance thereof outside the United States of America, (ii) any use of any Unit outside the United States of America will be limited to incidental and temporary use in Mexico and Canada, and (iii) it will not make or permit any use of a Unit which shall result in such Unit failing to qualify as "qualified railroad rolling stock" within the meaning of Section 184(d) of the Internal Revenue Code of 1954, as amended to the date hereof, or any regulations promulgated by the Internal Revenue Service thereunder.

§ 12. *Purchase and Renewal Options.* Provided that this Lease has not been earlier terminated, no Event of Default exists hereunder and the Lessee is not otherwise in default hereunder, the Lessee may (i) with respect to Units which are locomotives, by written notice delivered to the Lessor not less than six months prior to the end of the term of this Lease in respect of such Units, elect to purchase all, but not fewer than all, such Units then covered by this Lease at the end of such term of this Lease for a purchase price equal to the Fair Market Value of such Units as of the end of such term, and (ii) with respect to Units which are not locomotives, by written notice delivered to the Lessor not less than six months prior to the end of the original term of this Lease or any extended term hereof, as the case may be, elect (a) to purchase all, but not fewer than all, such Units then covered by this Lease at the end of the original or any extended term of this Lease for a purchase price equal to the Fair Market Value of such Units as of the end of such term, or (b) to extend the term of this Lease in respect of all, but not fewer than all, such Units then covered by this Lease, for up to three five-year periods commencing on the scheduled expiration of the original term of this Lease, provided that no such extended term shall extend beyond September 1, 2000, at a rental payable in 10 semiannual payments, each in an amount equal to the following percentages of the Cost of such Units: in the case of the Annex A Equipment (other than locomotives), during the first five-year period, 2.89155%, during the second five-year period, 1.92768%, and during the final five-year period, 1.44577%; and, in the case of the Annex B Equipment, during the first five-year period, 2.66775%, during

the second five-year period, 1.77848%, and during the final five-year period, 1.33387%. Such semiannual payments shall be made on March 1 and September 1 in each year of the applicable extended term.

Fair Market Value shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's length transaction between an informed and willing buyer-user (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. If on or before four months prior to the expiration of the term of this Lease or any extended term hereof, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Value of the Units, such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term Appraiser shall mean such independent appraiser as the Lessor and the Lessee may mutually agree upon, or failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. The expenses and fee of the Appraiser shall be borne by the Lessee.

§ 13. *Return of Units upon Termination of Term.* Unless a Unit is purchased by the Lessee as provided in § 12 hereof, as soon as practicable on or after the termination of the original or any extended term of this Lease applicable to such Unit, as the case may be, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit immediately prior to such termination to the Lessor upon such storage tracks of the Lessee as the Lessor may designate and permit the Lessor to store such Unit on such tracks for a period not exceeding three months, and transport the same, at any time within such three-month period, to any reasonable place on the tracks of the Lessee or to any connecting carrier for shipment, all as directed by the Lessor; the assembly, delivery, storage and transporting of such Unit to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person

designated by it, including the authorized representative or representatives of any prospective purchaser of such Unit, to inspect the same; *provided, however*, that the Lessee shall not be liable except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. Each Unit returned to the Lessor pursuant to this Section shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable. If the Lessor shall elect to abandon any Unit which has suffered a Casualty Occurrence or which, after expiration of this Lease the Lessor shall have deemed to have suffered a Casualty Occurrence, it may deliver written notice to such effect to the Lessee and the Lessee shall thereupon assume, and hold the Lessor harmless from, all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice. The Lessor shall execute and deliver to the Lessee a bill of sale or bills of sale transferring to the Lessee, or upon its order, the Lessor's title to and property in, any Unit abandoned by it pursuant to the immediately preceding sentence. The Lessee shall have no liability to the Lessor in respect of any Unit abandoned by the Lessor after termination of the Lease; *provided, however*, that the foregoing clause shall not in any way relieve the Lessee of its obligations pursuant to § 6 hereof to make payments provided for therein in respect of any Unit experiencing a Casualty Occurrence during the original or any extended term of this Lease.

§ 14. *Opinion of Counsel.* On the date on which Trust Certificates are issued pursuant to Section 2.1 of the Equipment Trust Agreement, the Lessee will deliver to the Lessor and the Trustee the written opinion of counsel of the Lessee, in such number of counterparts as may reasonably be requested, and addressed to the Lessor and the Trustee,

in scope and substance satisfactory to them and their counsel, to the effect that:

A. the Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of the State of Illinois, with full corporate power to enter into this Lease, the Equipment Trust Agreement, any equipment purchase agreement relating to the Units and any assignment thereof;

B. this Lease, the Equipment Trust Agreement and any equipment purchase agreement relating to the Units (and any assignment thereof) have been duly authorized, executed and delivered by the Lessee and constitute valid, legal and binding agreements, enforceable in accordance with their terms;

C. this Lease and the Equipment Trust Agreement have been duly filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act, and will protect the Lessor's title and interest in and to the Units and the Trustee's security title and interest in and to the Units, and no filing, recording or deposit (or giving of notice) with any other Federal, state or local government or agency or instrumentality thereof is necessary to protect the title and interest of the Lessor or the security title and interest of the Trustee in and to the Units in the United States of America;

D. all approvals, if any, required from all public regulatory bodies with respect to the entering into or performance of this Lease, the Equipment Trust Agreement relating to the Units or any equipment purchase agreement (and any assignment thereof) have been obtained;

E. the entering into and performance of this Lease, the Equipment Trust Agreement and any equipment purchase agreement relating to the Units (and any assignment thereof) will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Lessee is a party or by which it may be bound or contravene any provision of law, statute, rule or regulation to which the Lessee is subject or any judgment, decree, franchise, order or permit applicable to the Lessee; and

F. no mortgage, deed of trust, or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any property or interest therein of the Lessee, now attaches or hereafter will attach to the Units or in any manner affects or will affect adversely the Lessor's right, title and interest therein; *provided, however*, that such liens may attach to the rights of the Lessee hereunder in and to the Units.

§ 15. *Recording and Expenses.* Prior to the delivery and acceptance of any Unit, the Lessee will without expense to the Lessor cause this Lease and any assignments hereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will undertake the filing, recording and repositing required under Section 7.4 of the Equipment Trust Agreement and will from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, reregister, rerecord or reposit whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Trustee, for the purpose of proper protection, to the satisfaction of the Lessor and the Trustee, of the Lessor's and the Trustee's respective interests in the Units, or for the purpose of carrying out the intention of this Lease and the Equipment Trust Agreement. The Lessee will promptly furnish to the Lessor and the Trustee evidence of all such filing, registering, recording, depositing, refile, reregistering, rerecording and/or repositing and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Lessor and the Trustee.

The Lessee will pay the reasonable costs and expenses involved in the preparation and printing of this Lease and the Equipment Trust Agreement. The Lessor and the Lessee will each bear the respective fees and disbursements, if any, of their respective counsel.

§ 16. *Interest on Overdue Rentals.* Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay also an amount equal to the Penalty Rate (as defined in the Equipment Trust Agreement) on the overdue rentals and other obligations for the period of time during which they are overdue.

§ 17. *Federal Income Taxes.* The Lessor, as the owner of the Units, shall be entitled to such deductions, credits and other benefits as are provided in the Internal Revenue Code of 1954, as amended to the date hereof, to an owner of property, including (without limitation) an allowance for the Rapid Amortization Deduction (as defined in § 9 of this Lease) with respect to the Units, but the Lessee's liability under this § 17 shall be solely as set forth below:

If the Lessor shall lose, or shall not have or shall lose the right to claim, or there shall be disallowed with respect to the Lessor, all or any portion of the Rapid Amortization Deduction with respect to a Unit available to non-railroad lessors of railroad equipment because such Unit shall not be or continue to be "qualified railroad rolling stock" within the meaning of Section 184(d) of the Internal Revenue Code of 1954, as amended to the date hereof, or any regulations promulgated by the Internal Revenue Service thereunder, the rental rate applicable to such Unit set forth in §§ 2 and 12 of this Lease shall, on and after the next succeeding rental payment date after written notice to the Lessee by the Lessor that such Rapid Amortization Deduction has not been claimed, or if claimed and then disallowed on and after the next succeeding rental date after payment of the tax attributable thereto, be increased to such rental rate for such Unit as, in the reasonable opinion of the Lessor, will cause the Lessor's net return, after deduction of all taxes required to be paid by the Lessor in respect of the receipt of such increase under the laws of the United States of America or any political subdivision thereof, in respect of such Unit under this Lease to equal the net return that would have been available if the Lessor had been entitled to utilization of all or such portion of the Rapid Amortization Deduction which was not claimed or was disallowed and the Lessee shall forthwith pay to the Lessor the amount of any interest which is assessed by the United States against the Lessor attributable to the loss of all or any portion of the Rapid Amortization Deduction. The Lessor agrees that if, in the opinion of independent tax counsel selected by the Lessor and acceptable to the Lessee, a bona fide claim to all or a portion of the Rapid Amortization Deduction on any Unit exists in respect of which the Lessee is required to pay increased rental and interest as aforesaid to the Lessor as above provided, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by said counsel in order to sus-

tain such claim. The Lessor may take such action prior to making payment of the amounts claimed pursuant to a notice of disallowance or may make such payment and then sue for a refund. In the latter event, if the final determination shall be adverse to the Lessor, the Lessee shall pay to the Lessor interest on the amount of the tax paid attributable to the Rapid Amortization Deduction disallowed, computed at the rate of 10% per annum from the date of payment of such tax to the date the Lessee shall reimburse the Lessor for such tax in accordance with the provisions of this § 17. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested.

The Lessee's agreement to pay any sums which may become payable pursuant to this § 17 shall survive the expiration or other termination of this Lease.

§ 18. *Notices.* Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States registered mails, first-class postage prepaid, addressed as follows:

If to the Lessor, c/o C.I.T. Leasing Corporation, 650 Madison Avenue, New York, New York 10022, *attention of the President*;

If to the Lessee, at 135 East Eleventh Place, Chicago, Illinois 60605, *attention of the President*;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

§ 19. *Severability; Effect and Modification of Lease.* Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the Units and supersedes all other agreements, oral or written, with respect to the Units. No variation or modification of this Lease and no waiver of any of its provisions or

conditions shall be valid unless in writing and signed by duly authorized officers of the Lessor and the Lessee.

§ 20. *Execution.* This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. Although this Lease is dated as of September 1, 1970, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 21. *Law Governing.* The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of New York; *provided, however*, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof or out of the marking on the Units as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited or in which any Unit may be located.

§ 22. *Obligations of Lessor Under Equipment Trust Agreement.* In the event that the Lessor shall become obligated to make any payment (other than pursuant to Section 4.3 of the Equipment Trust Agreement) or to perform any other obligations pursuant to the Equipment Trust Agreement not covered by the provisions of this Lease, the Lessee shall pay such additional amounts to the Trustee and perform such obligations so that the Lessor's obligations (other than pursuant to Section 4.3 of the Equipment Trust Agreement) pursuant to the Equipment Trust Agreement shall be fully complied with. The Lessor will pay over to the Lessee any amounts received by it pursuant to the last sentence of Section 8.8 of the Equipment Trust Agreement.

§ 23. *No Recourse.* No recourse shall be had in respect of any obligation due under this Lease, or referred to herein, against any incorporator, stockholder, director or officer, past, present or future, of the Lessor or the Lessee, or against any principal or principals (disclosed or undisclosed) of the Lessor or assignee or assignees or transferee or transferees of the Lessor if the Lessor is acting in an agency or nominee capacity, whether by virtue of any constitutional provision, statute or rule of law or by enforcement of any assessment or penalty

or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of incorporators, stockholders, directors, officers, assignees, transferees or principals being forever released as a condition of and as consideration for the execution of this Lease.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

C.I.T. CORPORATION,

by C.I.T. LEASING CORPORATION,
as Agent,

[CORPORATE SEAL]

Attest:

by
Vice President.

.....
Assistant Secretary.

ILLINOIS CENTRAL RAILROAD
COMPANY,

[CORPORATE SEAL]

Attest:

by
Vice President.

.....
Secretary.

ANNEX A TO LEASE OF RAILROAD EQUIPMENT

<u>Number of Units</u>	<u>Description</u>	<u>Estimated Cost</u>	
		<u>Per Unit</u>	<u>Total</u>
20	GP-38, 2,000 H.P. EMD Diesel Electric Locomotives Nos. 9500 to 9519, inclusive	\$234,650.00	\$ 4,693,000
5	GP-40, 3,000 H.P. EMD Diesel Electric Locomotives, Nos. 3070 to 3074, inclusive	257,757.00	1,288,785
5	SD-40, 3,000 H.P. EMD Diesel Electric Locomotives, Nos. 6019 to 6023, inclusive	296,891.00	1,484,455
300	100-ton Covered Hopper Cars, Nos. 765,000 to 765,299, inclusive	15,357.20	4,607,160

ANNEX B TO LEASE OF RAILROAD EQUIPMENT

<u>Number of Units</u>	<u>Description</u>	<u>Estimated Cost</u>	
		<u>Per Unit</u>	<u>Total</u>
1,000	70-ton 50' Box Cars, Nos. 560,000 to 560,999, inclusive	\$ 15,250.00	\$15,250,000
25	70-ton 60' Box Cars, cushion un- derframe, Nos. 610,001 to 610,025, inclusive	21,000.00	525,000
400	70-ton 50' Box Cars, cushion un- derframe, Nos. 580,000 to 580,399, inclusive	15,900.00	6,360,000
100	100-ton Flat Cars, Nos. 945,000 to 945,099, inclusive	17,500.00	1,750,000
50	Steel Caboose Cars, Nos. 9450 to 9499, inclusive	28,014.30	1,400,715