

RECORDATION NO. 5867-13 Filed & Recorded

JAN 28 1971 - 3 30 PM

INTERSTATE COMMERCE COMMISSION

EL-PC LEASING CORPORATION
GENERAL MOTORS CORPORATION
AND
UNITED STATES TRUST COMPANY
OF NEW YORK,
TRUSTEE

Equipment Note Agreement

Dated as of December 15, 1970

\$30,000,000 Equipment Notes

TABLE OF CONTENTS*

	PAGE
PARTIES	1
RECITALS	1
ASSIGNMENT AND COVENANT	3

ARTICLE ONE.

DEFINITIONS.

SECTION 1.1. Certain terms defined	5
Terms defined in Recitals: Equipment, Equipment Notes, A Equipment Notes and B Equipment Notes, Lease, Lenders, Loan and Financing Agreement, Locomotive and Locomotives, Purchase Contract, Railroad, Tem- porary Lease	5
Agent	5
Business day	5
Closing Date	5
Company	5
Declaration	6
Deposited Cash	6
Event of Default	6
Guaranteed Principal Amount	6
Manufacturer	6
Officer's Certificate	6
Original Contract Price	6
Railroad Trustees	6
Reorganized Company	6
Request	7
Subordinate Claims	7
Subsidiary	7
Trust Equipment	7
Trust Estate	7
Trustee	7

* This Table of Contents is not part of the Equipment Note Agreement.

ARTICLE TWO.

THE EQUIPMENT NOTES.

	PAGE
SECTION 2.1. Making and delivery of temporary Equipment Notes	7
SECTION 2.2. Designation, Principal Amounts, Interest Rates and Principal Payments on Equipment Notes	8
SECTION 2.3. Consolidation of temporary Equipment Notes	8
SECTION 2.4. Computation of interest; principal in whole dollars	9
SECTION 2.5. Execution and authentication of Equipment Notes	9
SECTION 2.6. Exchange of Equipment Notes	10
SECTION 2.7. Prepayment of Equipment Notes	10
SECTION 2.8. Loss, theft, destruction or mutilation of Equipment Notes	10
SECTION 2.9. Payees of Equipment Notes deemed owners	11
SECTION 2.10. Home office payment	11

ARTICLE THREE.

TRUST EQUIPMENT.

SECTION 3.1. Payment for Equipment under Temporary Lease and Equipment hereafter purchased	11
SECTION 3.2. Company to deposit amounts in excess of Original Contract Price	12
SECTION 3.3. Conditions to paying out Deposited Cash	12
SECTION 3.4. All Equipment to be subject to this Agreement and the Lease	14
SECTION 3.5. Release of lost, worn out, destroyed or irreparably damaged Equipment	14

ARTICLE FOUR.

PAYMENT AND PREPAYMENT OF EQUIPMENT NOTES.

SECTION 4.1. Application of rentals	14
SECTION 4.2. Application of Deposited Cash and other funds to prepayment of Equipment Notes	15

ARTICLE FIVE.

ADDITIONAL COVENANTS OF THE COMPANY.

	PAGE
SECTION 5.1. Payment of principal of and interest on the Equipment Notes	15
SECTION 5.2. Restrictions on Company unless Equipment Notes fully guaranteed by Manufacturer	16
SECTION 5.3. Plating and numbering each Locomotive	17
SECTION 5.4. Recordation of this Agreement and the Lease	17
SECTION 5.5. Payment of expenses and taxes	18
SECTION 5.6. Financial statements and other information	18
SECTION 5.7. Instruments of further assurance	18
SECTION 5.8. Performance of obligations of Company by Manufacturer or Railroad Trustees	19
SECTION 5.9. Annual compliance certificate	19

ARTICLE SIX.

COVENANTS AND GUARANTEES OF
MANUFACTURER.

SECTION 6.1. Restrictions on Company unless Equipment Notes fully guaranteed by Manufacturer	19
SECTION 6.2. Taxes, fees, indebtedness and other expenses of Company	20
SECTION 6.3. Rental deficiencies; election as to other payments for principal of and interest on Equipment Notes	21
SECTION 6.4. Certain indemnities of Manufacturer	21
SECTION 6.5. Limited guarantee of payment of principal of and interest on Equipment Notes	22
SECTION 6.6. Application of amounts paid under Section 6.5	24
SECTION 6.7. Other undertakings of Manufacturer	25
SECTION 6.8. Subordinate Claims of Manufacturer	26

ARTICLE SEVEN.

REMEDIES ON DEFAULT.

	PAGE
SECTION 7.1. Events of Default defined	28
Acceleration of maturity	29
Waiver of Event of Default	29
Remedies of Trustee upon Event of Default	30
Remedies not exclusive	31
SECTION 7.2. Application of funds after Event of Default	31
SECTION 7.3. Trustee may perform on behalf of Company	32
No waiver due to acceptance of certain payments	33
Remedies to be exercised only if according to law	33
SECTION 7.4. Rights of holders of majority of Equipment Notes of each series to direct Trustee	33
SECTION 7.5. Certain events not to affect obligations of Company or Manufacturer	34
SECTION 7.6. Unconditional right of holder of Equipment Note to sue ..	34
SECTION 7.7. Company obligation to pay expenses	34

ARTICLE EIGHT.

THE TRUSTEE.

SECTION 8.1. Acceptance of trusts by Trustee	34
SECTION 8.2. Trustee not responsible for recordation of this Agreement or the Lease; reliance of Trustee on documents	34
SECTION 8.3. Obligation of Trustee to act; request by holders of 25% of Equipment Notes and indemnification	35
SECTION 8.4. Trustee may hold money on deposit with itself	35
SECTION 8.5. Trustee not liable for delays or defaults	35
Trustee may act through agents	35
Trustee to receive compensation	36
Trustee to have lien on Trust Estate	36
Trustee may own Equipment Notes	36
Moneys held by Trustee to be held in trust	36
SECTION 8.6. Trustee to give notice of known defaults	36
SECTION 8.7. Resignation and removal of Trustee	37
SECTION 8.8. Successors by merger, consolidation, etc.	39

ARTICLE NINE.

DEFEASANCE.

	PAGE
SECTION 9.1. All rights to vest in Company after payment of expenses of Trustee, obligations on Equipment Notes and Subordinate Claims	39

ARTICLE TEN.

MISCELLANEOUS.

SECTION 10.1. Amendments with consent of holders of 66 $\frac{2}{3}$ % of Equipment Notes of each series; not to affect certain rights of holders of Equipment Notes without consent	39
SECTION 10.2. Equipment Notes owned by Company, Manufacturer or Railroad Trustees to be disregarded in case of directions, consents or waivers	40
SECTION 10.3. Execution of documents by holders of Equipment Notes; proof of execution	41
SECTION 10.4. Agreement for exclusive benefit of parties and holders of Equipment Notes	41
SECTION 10.5. No payment of taxes of holders of Equipment Notes	42
SECTION 10.6. Agreement binding on successors and assigns	42
SECTION 10.7. Notices	42
SECTION 10.8. Execution in counterparts	42
SECTION 10.9. Date of execution by Trustee	42
SECTION 10.10. Payment due on Equipment Notes on Sunday, Saturday or day banking institutions closed	43
SECTION 10.11. New York laws to govern	43
TESTIMONIUM	43
SIGNATURES AND SEALS	43
ACKNOWLEDGMENTS	44
SCHEDULES :	
A. Forms of A Equipment Notes, B Equipment Notes and Trustee's certificate of authentication	46
B. Form of Bill of Sale	50
C. Form of Interim Supplement to Equipment Note Agreement	52
D. Form of Consolidating Supplement to Equipment Note Agreement	55

THIS EQUIPMENT NOTE AGREEMENT, dated as of December 15, 1970, among EL-PC LEASING CORPORATION, a corporation duly organized and existing under the laws of the State of Delaware, with an office at Room 2600, 767 Fifth Avenue, New York, New York 10022 (the Company), GENERAL MOTORS CORPORATION, a corporation duly organized and existing under the laws of the State of Delaware, with an office at 3044 West Grand Boulevard, Detroit, Michigan 48202 (Manufacturer) and UNITED STATES TRUST COMPANY OF NEW YORK, a corporation duly organized and existing under the laws of the State of New York, with an office at 130 John Street, New York, New York 10038 (the Trustee),

WITNESSETH :

WHEREAS, the Company has entered into a Purchase Contract dated as of November 1, 1970 and an amendment thereof dated as of the date hereof (said Purchase Contract as so amended being hereinafter called the Purchase Contract) with Manufacturer, pursuant to which the Company has agreed to purchase from Manufacturer and Manufacturer has agreed to construct and sell to the Company 137 Diesel-Electric Locomotives (collectively the Equipment, and individually a Locomotive or Locomotives), more particularly described in Schedule A (As Amended) to the Purchase Contract; and

WHEREAS, the Company has entered into a Lease of Railroad Equipment dated as of the date hereof (said Lease and all supplements thereto being hereinafter called the Lease) with George P. Baker, Richard C. Bond, Jervis Langdon, Jr. and Willard Wirtz, Trustees of the property of Penn Central Transportation Company, Debtor (said Trustees being hereinafter called the Railroad Trustees and said Company being hereinafter called the Railroad) providing for the lease of the Equipment upon the terms and conditions therein set forth and for the rentals therein provided, and by these presents the Company intends to assign to the Trustee all of its right, title and interest in and to (i) the Lease, (ii) the Equipment subject to and to become subject to the Lease as therein provided and (iii) all cash held from time to time hereunder and any other property which may be assigned to or pledged with the Trustee hereunder, to be held in trust

hereunder for the benefit of the holders of the hereinafter-described Equipment Notes of the Company and (subject to the rights of such holders hereunder) of Manufacturer as holder of any hereinafter-described Subordinate Claims; and

WHEREAS, the Company entered into a Temporary Railroad Equipment Lease dated as of November 1, 1970 (the Temporary Lease) with the Railroad Trustees pursuant to which certain of the Equipment heretofore delivered by Manufacturer under the Purchase Contract has been leased to the Railroad Trustees; and

WHEREAS, upon recordation of the Lease under Section 20c of the Interstate Commerce Act the Temporary Lease is to terminate and all of the Equipment then subject to the Temporary Lease shall automatically become subject to the Lease; and

WHEREAS, the Company, pursuant to a Loan and Financing Agreement dated as of the date hereof (the Loan and Financing Agreement) between the Company, Manufacturer, the Lenders named therein (the Lenders) and United States Trust Company of New York as agent for the Lenders (the Agent), proposes to obtain loans to be evidenced by the Equipment Notes and to deposit the proceeds thereof with the Trustee to be applied by the Trustee to satisfy the Company's obligations to pay for, or to discharge short-term borrowings heretofore incurred by the Company to pay for, the Equipment; and

WHEREAS, the Company has duly authorized the making and delivery of its A Equipment Notes (the A Equipment Notes) and its B Equipment Notes (the B Equipment Notes), said respective series of A Equipment Notes and B Equipment Notes being hereinafter collectively called the Equipment Notes, and the Equipment Notes of each series are to bear interest, are to be limited in aggregate principal amounts and are to mature in installments as provided in Section 2.2 hereof; and

WHEREAS, the Equipment Notes are to be substantially in the forms set forth in Schedule A hereto, with appropriate insertions or modifications to indicate dates of payment of interest and amounts and dates of principal installment payments, and are to have endorsed thereon a

Trustee's certificate of authentication substantially in the form further set forth in said Schedule A hereto; and

WHEREAS, the Company is a wholly-owned subsidiary of Manufacturer and Manufacturer is willing to undertake certain obligations and guarantees for the benefit of the holders of the Equipment Notes; and

WHEREAS, the Company and Manufacturer, respectively, represent that all acts and things necessary to make the Equipment Notes, when made and delivered by the Company and authenticated and delivered by the Trustee as in this Agreement provided, the legal, valid and binding obligations of the Company, to make the obligations and guarantees undertaken by Manufacturer hereunder the legal, valid and binding obligations of Manufacturer, all as in this Agreement provided, and that all acts and things necessary to make this Agreement a legal, valid and binding obligation of the Company and Manufacturer, respectively, have been done and performed;

Now, THEREFORE:

In order to secure equally and ratably to the holders of the Equipment Notes the payment of principal thereof and interest thereon according to the tenor, purport and effect thereof, and in order to declare the terms and conditions upon which the Equipment Notes are to be made, delivered and received and to evidence the respective obligations of the Company and Manufacturer in respect thereof, and in consideration of the premises and of the purchase and acceptance of the Equipment Notes by the holders thereof,

FIRST: The Company hereby sells, assigns, mortgages, transfers and sets over unto the Trustee, for the equal and proportionate benefit of the holders from time to time of the Equipment Notes and (subject to the rights of such holders hereunder) of Manufacturer as holder of any Subordinate Claims:

(i) all of the right, title and interest of the Company in and to the Equipment subject to, and to become subject to, the terms and conditions of the Lease;

(ii) all of the right, title and interest of the Company in and under the Lease, including, without limitation, the rights of the Company to receive all payments required by the Lease to be made by the Railroad Trustees of any nature whatsoever in and under the Lease, together with all of the Company's rights, powers, privileges and remedies under the Lease in respect of the Equipment or otherwise; provided, however, that the provisions hereof shall not subject the Trustee to, or transfer or pass or in any way modify or affect the liabilities of the Company in respect of, the obligations of the Company to the Railroad Trustees set forth in the Lease; and

(iii) any cash held under this Agreement from time to time and all property of every kind and description which now or hereafter may be assigned to or pledged with the Trustee hereunder by the Company, Manufacturer or any other person;

To HAVE AND TO HOLD to the Trustee, its successors in trust, and its and their assigns, forever,

ALL SUBJECT, HOWEVER, to the provisions of Article Nine hereof that after the payment in full of principal of and interest on all of the Equipment Notes, the payment of all Subordinate Claims of Manufacturer hereunder and the payment of all reasonable expenses incurred by and compensation of the Trustee, the right, title and interest of the Trustee in and to the Equipment and the Lease shall vest in the Company, free and clear of any rights of the Trustee or of the holders of Equipment Notes or Manufacturer under this Agreement,

AND IN FURTHERANCE of the foregoing assignment and transfer the Company hereby irrevocably authorizes and empowers the Trustee in the Trustee's own name or in the name of the Trustee's nominees or in the name of and as attorney (hereby irrevocably constituted) for the Company, to ask, demand, seize or collect, receive and enforce (i) payment of any and all amounts to which the Trustee is or may become entitled hereunder and (ii) compliance by the Railroad Trustees with the terms and conditions on their part to be performed and kept under the Lease, and

SECOND: The Company and Manufacturer, respectively, covenant and agree with the Trustee, for the equal and proportionate benefit of holders from time to time of the Equipment Notes, as follows:

ARTICLE ONE.

Definitions.

SECTION 1.1. The terms defined and referred to in this Section (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Agreement and of any agreement supplemental hereto shall have the respective meanings specified in this Section.

The following terms shall have the meanings specified or indicated in the recitals hereto:

Equipment
Equipment Notes, A Equipment Notes and B Equipment Notes
Lease
Lenders
Loan and Financing Agreement
Locomotive and Locomotives
Purchase Contract
Railroad
Temporary Lease

Agent shall mean United States Trust Company of New York and its successors and assigns, as Agent for the Lenders as provided in the Loan and Financing Agreement.

Business day shall mean any day other than a Sunday, a Saturday or any other day on which banking institutions in the City of New York are authorized by law to be closed.

Closing Date shall have the meaning provided in Section 4.1 of the Loan and Financing Agreement.

Company shall mean EL-PC Leasing Corporation and its successors and assigns.

Declaration shall mean a notice duly given pursuant to Section 7.1 hereof declaring the unpaid principal of all of the Equipment Notes to be immediately due and payable.

Deposited Cash shall mean the aggregate of all cash deposited with the Trustee under Section 2.1 hereof and, when required or indicated by the context, any sums deposited with the Trustee in accordance with the provisions of Section 3.2 hereof, and held by the Trustee.

Event of Default shall have the meaning specified in Section 7.1 hereof.

Guaranteed Principal Amount of the Equipment Notes at any time for the determination thereof shall mean whichever of the following shall be the least: (1) \$21,000,000 principal amount of the Equipment Notes; or (2) 70% of the aggregate principal amount of all Equipment Notes originally authenticated and delivered pursuant to Sections 2.1 and 2.2 hereof; or (3) the total principal amount of the Equipment Notes outstanding at the time of the determination.

Manufacturer shall mean General Motors Corporation and its successors and assigns.

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

Original Contract Price when used with respect to any of the Trust Equipment shall mean the total unit price thereof set forth in Schedule A (As Amended) to the Purchase Contract.

Railroad Trustees shall mean George P. Baker, Richard C. Bond, Jervis Langdon, Jr. and Willard Wirtz, Trustees of the property of Penn Central Transportation Company, Debtor, as well as any successor or additional trustees of such property, before any assignment and transfer of the leasehold interest of the Railroad Trustees under the Lease in the Equipment and the possession thereof to a Reorganized Company as provided in Section 18 of the Lease, and thereafter shall mean any Reorganized Company.

Reorganized Company shall mean any corporation (which may be the Railroad) or governmental agency which acquires the greater

portion of the lines of railroad comprised in the Railroad's estate upon termination of the trusteeship of the property of the Railroad, and thereafter shall include any successor which shall have become such in compliance with Section 18 of the Lease.

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

Subordinate Claims shall have the meaning specified in Section 6.8 hereof.

Subsidiary of Manufacturer shall mean a corporation substantially all of the outstanding securities of which entitled to vote for the election of directors are owned by Manufacturer or by other Subsidiaries of Manufacturer.

Trust Equipment shall mean Equipment then subject to the terms of this Agreement and the Lease.

Trust Estate shall mean all right, title and interest of the Company in, to and under the Trust Equipment (subject to the rights of the Railroad Trustees under the Lease), the Lease and, except as provided in Section 6.6 hereof, shall include any cash and other property held by the Trustee in trust hereunder or otherwise subject hereto or intended so to be.

Trustee shall mean United States Trust Company of New York and any successor trustee under this Agreement.

ARTICLE TWO.

The Equipment Notes.

SECTION 2.1. At any time and from time to time after the execution of this Agreement, but not after June 15, 1971, Equipment Notes in temporary form shall be made by the Company and delivered to the Trustee for authentication and the Trustee, subject to the provisions of Section 2.2 hereof, shall upon Request authenticate said Equipment Notes and deliver the same to the Agent in accordance with Section 1.2 of the Loan and Financing Agreement, but only upon receipt by the

Trustee of checks of the Lenders, or bank cashiers' checks, payable in New York Clearing House funds (or of immediately available funds transferred from an account of such Lender with the Agent) in an amount equal to the aggregate principal amount of the Equipment Notes then being authenticated, the proceeds of which checks (and any such funds) shall be held as Deposited Cash and (together with any cash required to be deposited under Section 3.2 hereof) shall be applied by the Trustee for, or to discharge indebtedness incurred by the Company for, the purchase of Trust Equipment in accordance with Article Three hereof.

SECTION 2.2. Equipment Notes shall (i) be made and delivered by the Company to the Trustee and authenticated and delivered by the Trustee under Section 2.1 hereof in substantially the forms set forth in Schedule A hereto, (ii) be dated the date of authentication by the Trustee and (iii) be limited in aggregate principal amounts and bear interest, and be payable in installments, as set forth below (subject to adjustment of said aggregate principal amounts and installment payments as set forth in Section 1.3 of the Loan and Financing Agreement):

Designation	Principal Amount	Interest Rate	Principal Payments
A Equipment Notes	\$10,500,000	8¾%	20 equal quarterly installments of \$525,000 each, March 15, 1971 to December 15, 1975
B Equipment Notes	\$19,500,000	9½%	40 equal quarterly installments of \$487,500 each, March 15, 1976 to December 15, 1985
Total	<u>\$30,000,000</u>		

Thirty-five per cent in aggregate principal amount of the Equipment Notes at any one time authenticated and delivered under Section 2.1 hereof shall be A Equipment Notes and the remaining sixty-five per cent shall be B Equipment Notes.

SECTION 2.3. Equipment Notes issued in temporary form and held by any Lender or by the Agent for the account of one or more Lenders

shall be consolidated at the expense of the Company into single permanent A or B Equipment Notes, as the case may be, for each Lender holding or having an interest in the temporary Equipment Notes, upon surrender of the same to the Trustee as soon as practicable on or after June 15, 1971, provided that (i) the interest payable on or before said date on all temporary Equipment Notes then outstanding shall have been duly paid, and (ii) the installments of principal payable on or before said date on all A Equipment Notes then outstanding shall have been duly paid. To effect such consolidation the Company shall make and deliver to the Trustee and the Trustee shall authenticate and deliver to any such Lender, or to the Agent and the Agent shall deliver to each such Lender, permanent consolidated A or B Equipment Notes, as the case may be, dated said interest payment date, in the same aggregate unpaid principal amount, payable in installments in the same aggregate amounts on the same dates, as the aggregate unpaid principal amounts and unpaid installment payments of the temporary Equipment Notes surrendered.

SECTION 2.4. Interest on the Equipment Notes shall be computed on the basis of a 360-day year of twelve 30-day months. The principal amounts of all Equipment Notes, all principal installment payments thereon and all prepayments of principal made thereon shall be in whole dollars. In rounding out to whole dollars, all installments of principal payable on any Equipment Note, and any prepayment of principal of any Equipment Note, shall be in equal amounts as to all installments except the final installment, to which any necessary adjustment shall be applied.

SECTION 2.5. The Equipment Notes shall be signed on behalf of the Company by its President or any Vice President.

Equipment Notes bearing the signature of any individual who was at any time a proper officer of the Company shall bind the Company notwithstanding that any such individual has ceased to hold such office prior to the authentication and delivery of such Equipment Notes or did not hold such office at the date of such Equipment Notes.

No Equipment Note shall be entitled to any benefit under this Agreement or be valid or obligatory for any purpose, unless there appears on such Equipment Note a certificate of authentication substantially in the form provided for herein executed by the Trustee by manual signature, and such certificate on any Equipment Note shall be conclusive evidence, and the only evidence, that such Equipment Note has been duly authenticated and delivered hereunder.

SECTION 2.6. Equipment Notes of each series may be exchanged at the expense of the Company for Equipment Notes of the same series in the same aggregate unpaid principal amount, payable in installments in the same aggregate amounts on the same dates, as the aggregate unpaid principal amounts and unpaid installment payments of the Equipment Note or Equipment Notes surrendered for exchange. Equipment Notes to be exchanged shall be surrendered at the office of the Trustee, and the Company shall make and deliver to the Trustee and the Trustee shall authenticate and deliver in exchange therefor the Equipment Notes which the holder making the exchange shall be entitled to receive, in such denominations and payable as such holder shall specify. Each Equipment Note delivered in exchange shall be dated the last date to which interest has been paid on the Equipment Note or Equipment Notes surrendered.

SECTION 2.7. The Equipment Notes may not be prepaid in whole or in part, except as provided in Articles Four, Six and Seven hereof.

SECTION 2.8. Upon receipt of evidence satisfactory to the Company of the loss, theft, destruction or mutilation of any Equipment Note and, in the case of any such loss, theft or destruction, upon delivery of a bond of indemnity satisfactory to the Company and the Trustee, or, in the case of any such mutilation, upon surrender and cancellation of such Equipment Note, the Company shall make and deliver to the Trustee and the Trustee shall authenticate and deliver a new Equipment Note, dated the last date to which interest has been paid and in the same unpaid principal amount and of like tenor, in lieu of such lost, stolen,

destroyed or mutilated Equipment Note. The indemnity agreement of any Lender shall constitute indemnity satisfactory to the Company and the Trustee for the purposes of this Section 2.8.

SECTION 2.9. The Trustee may deem and treat the payee of any Equipment Note as the absolute owner thereof for the purpose of receiving payment thereon and for all other purposes until written notice of transfer has been received by the Trustee.

SECTION 2.10. Payment of principal of and interest on any Equipment Note may, and in the case of any Lender shall, be made by the Trustee by mailing its check to the payee thereof addressed in accordance with Section 10.7 hereof. Presentation of Equipment Notes to the Trustee for notation of payment of principal shall not be required in the case of Lenders, or in the case of any subsequent holder of Equipment Notes if there shall have been filed with the Trustee an agreement between the Company and any such subsequent holder that such presentation shall not be required and such holder will not dispose of any Equipment Notes held by it without first submitting the same to the Trustee for stamping or other notation of the making of payment of principal thereof.

ARTICLE THREE.

Trust Equipment.

SECTION 3.1. The Trustee, subject to the satisfaction of the conditions set forth in Section 3.3 hereof, shall pay out Deposited Cash deposited with the Trustee pursuant to Sections 2.1 and 3.2 hereof (i) to or upon the order of the Company to enable the Company to discharge the short-term borrowings incurred by the Company to pay for Equipment heretofore purchased by the Company under the Purchase Contract which became subject to the Temporary Lease and shall have become subject to the Lease upon its recordation pursuant to Section 20c of the Interstate Commerce Act, and (ii) to make payment to Manufacturer for Equipment hereafter purchased by the Company under the

Purchase Contract which becomes subject to the Lease after its recordation pursuant to Section 20c of the Interstate Commerce Act.

SECTION 3.2. In the event that an invoice received by the Trustee under Section 3.3(c) hereof states that the price of any portion of the Trust Equipment covered thereby is in excess of the Original Contract Price of said Equipment, the Company covenants that it will forthwith deposit an amount in cash with the Trustee equal to such excess to be held by the Trustee as Deposited Cash and to be applied for the purposes set forth in Section 3.1 hereof.

SECTION 3.3. The Trustee shall not pay out any Deposited Cash in respect of any of the Trust Equipment unless and until it shall have received:

(a) an Officer's Certificate requesting payment of a specified amount out of Deposited Cash (i) to or upon the order of the Company to discharge short-term borrowings incurred by the Company to pay for Equipment theretofore purchased by the Company under the Purchase Contract which became subject to the Lease upon its recordation pursuant to Section 20c of the Interstate Commerce Act, or (ii) to Manufacturer to discharge the obligation of the Company to pay for Equipment theretofore purchased by the Company under the Purchase Contract which became subject to the Lease after its recordation pursuant to Section 20c of the Interstate Commerce Act; and stating that, to the knowledge of the officer signing such certificate, no Event of Default, and no event which with the giving of notice or lapse of time or both would become an Event of Default, has occurred and is continuing under this Agreement; that such Equipment at the date of such Officer's Certificate is Trust Equipment as herein defined; and that the price of such Trust Equipment stated in each invoice delivered under paragraph (d) is correct;

(b) prior to or concurrently with the first payment out of Deposited Cash under this Section 3.3, certificates signed, respectively, by (i) the Secretary or an Assistant Secretary of the Railroad Trustees setting forth the names and signatures of the persons authorized to execute and deliver certificates of

inspection and acceptance under the Lease and under the Temporary Lease, and (ii) an officer of the Company setting forth the names and signatures of the persons authorized to execute and deliver certificates of inspection and acceptance under the Purchase Contract;

(c) a certificate or certificates of inspection and acceptance as to such Trust Equipment in substantially the form of the original or the amended Schedule B to the Purchase Contract, including, in the case of the first payment out of Deposited Cash under this Section 3.3, each such certificate of inspection and acceptance with regard to Trust Equipment which has become subject to the Lease immediately upon its recordation pursuant to Section 20c of the Interstate Commerce Act;

(d) an invoice or invoices for such Trust Equipment from Manufacturer to the Company stating that the Trust Equipment invoiced thereby is Equipment as herein defined and the price thereof;

(e) a bill of sale or bills of sale in substantially the form of Schedule B hereto from Manufacturer to the Company evidencing the transfer to the Company of title to such Trust Equipment;

(f) an interim supplement to this Agreement in substantially the form of Schedule C hereto from the Company to the Trustee with respect to such Trust Equipment;

(g) an opinion of counsel (who may be counsel to the Company or Manufacturer), satisfactory to the Trustee, that (i) the documents delivered to the Trustee in accordance with this Section 3.3 comply as to form with the provisions of this Agreement and (ii) the Company's right, title and interest in and to such Trust Equipment has been validly vested in the Trustee free from all claims, liens, security interests and other encumbrances except only the rights of the Railroad Trustees under the Lease and of the Company under this Agreement;

(h) an opinion of counsel (who may be counsel to the Railroad Trustees), satisfactory to the Trustee, as to each of the matters specified in Section 6 of the Lease; and

(i) prior to or concurrently with the last payment out of Deposited Cash under this Section 3.3, supplements to this

Agreement and to the Lease, in substantially the forms of Schedule D hereto and Schedule C to the Lease, confirming the delivery and acceptance of all of the Trust Equipment under this Agreement and the Lease.

SECTION 3.4. As and when any Equipment shall from time to time hereafter be delivered to and accepted by the Company and the Railroad Trustees as provided in Section 2 of the Purchase Contract, the same shall, *ipso facto*, and without further instrument of lease or transfer become subject to all the terms and provisions of this Agreement and the Lease.

SECTION 3.5. Unless an Event of Default hereunder has occurred and is continuing, the Railroad Trustees shall be entitled to retain any Equipment lost, worn out, destroyed or irreparably damaged and, upon payment in full to the Trustee of the amounts payable with respect to such lost, worn out, destroyed or damaged Equipment under Section 11 of the Lease, such Equipment shall become the sole and exclusive property of the Railroad Trustees free and clear of any rights of the Trustee or of the holders of Equipment Notes or Manufacturer under this Agreement.

ARTICLE FOUR.

Payment and Prepayment of Equipment Notes.

SECTION 4.1. Unless the Equipment Notes shall have been declared due and payable pursuant to Article Seven hereof, the Trustee shall receive and apply the rentals paid under the Lease, any amounts paid by Manufacturer on account of rental deficiency in accordance with Section 6.3 hereof and any other amounts paid by Manufacturer at its election as provided in said Section 6.3, as follows:

First, to the payment, equally and ratably, of principal of and interest on the Equipment Notes becoming due and payable on the March 15, June 15, September 15 or December 15 next succeeding the day on which the rentals under the Lease and the payments of the Manufacturer in respect of rental deficiency are payable; and

Second, after all the principal of and interest on Equipment Notes due and payable on any such March 15, June 15, September 15 or December 15 has been paid in full, to the Company.

If the Equipment Notes shall have been declared due and payable pursuant to Article Seven hereof, any amounts received by the Trustee in respect of rental under the Lease or in respect of rental deficiency under Section 6.3 hereof shall be applied as set forth in Article Seven hereof.

SECTION 4.2. Unless the Equipment Notes shall have been declared due and payable pursuant to Article Seven hereof, the Trustee shall promptly apply to the equal and ratable prepayment of Equipment Notes, pro rata as to all quarterly installments of principal payable thereon and as provided in Section 2.4 hereof, any funds received under Section 11 of the Lease on account of Trust Equipment lost, worn out, destroyed or irreparably damaged. If the Equipment Notes shall have been declared due and payable pursuant to Article Seven hereof, any such amounts received by the Trustee shall be applied as set forth in said Article Seven.

In the event that any prepayment of Equipment Notes is made at any time pursuant to this Section 4.2, the Trustee shall not later than the time of such prepayment deliver a notice to each holder of the Equipment Notes of (i) the reason for such prepayment, (ii) the aggregate amount prepaid on all Equipment Notes held by such holder, (iii) the amount or amounts to be applied to all quarterly installments of principal on the Equipment Notes held by such holder subsequent to the date of such prepayment and (iv) the remaining balance of all quarterly installments of principal of such Equipment Notes which shall be paid after such application.

ARTICLE FIVE.

Additional Covenants of the Company.

SECTION 5.1. The Company covenants and agrees duly and punctually to pay or cause to be paid the principal of and interest on the Equipment Notes.

SECTION 5.2. The Company covenants and agrees that, unless there shall have been filed with the Trustee an appropriate instrument complying with the provisions of Section 6.1 hereof by which Manufacturer (in lieu of its guarantees under Section 6.5 hereof) shall have undertaken to guarantee to the Trustee and to each holder of Equipment Notes and to their respective successors and assigns the due and punctual payment of the principal of and interest on each and every one of the Equipment Notes and of the indebtedness represented thereby as and when the same shall respectively become due and payable, whether at the stated maturity thereof or by Declaration or otherwise pursuant to the provisions of the Equipment Notes and of this Agreement,

(i) it will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence under the laws of the State of Delaware and its qualification to do business in such jurisdictions as may be necessary for it to carry out the transactions contemplated by this Agreement and will continue to maintain an office in the City and State of New York at which notices hereunder may be delivered or process served;

(ii) it will not issue any capital stock except to Manufacturer or a Subsidiary of Manufacturer;

(iii) it will not, without the prior written consent of the holders of a majority in aggregate principal amount of the Equipment Notes at the time outstanding, merge, consolidate or otherwise dispose of all or a substantial part of its assets except with or to Manufacturer;

(iv) it will not incur or be obligated upon, either directly or indirectly by way of guarantee, suretyship or otherwise, any indebtedness for borrowed money except (a) the Equipment Notes and (b) indebtedness, claims in respect of which constitute Subordinate Claims;

(v) it will not, without the prior written consent of the holders of a majority in aggregate principal amount of the Equipment Notes at the time outstanding, assign, transfer, mortgage, hypothecate or pledge its rights under this Agreement except to Manufacturer; and

(vi) 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 has not been paid by the Railroad Trustees, of which the Company has knowledge or the payment of which has been requested by the Trustee, and which has become a lien or charge upon or against any of the Trust Equipment prior to, or on a parity with, the rights of the Trustee hereunder; 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 interest of the Trustee or the holders of the Equipment Notes.

SECTION 5.3. The Company covenants and agrees that upon or before the delivery to the Railroad Trustees of each Locomotive, there shall be plainly, distinctly, permanently and conspicuously placed and fastened upon each side of such Locomotive a metal plate on which plainly and conspicuously appear the following words in letters not less than one inch in height:

EL-PC LEASING CORPORATION, OWNER AND LESSOR
UNITED STATES TRUST COMPANY OF NEW YORK, TRUSTEE, ASSIGNEE

The Company also covenants and agrees that upon or before the delivery of each Locomotive to the Railroad Trustees there will be placed on each side of such Locomotive the Manufacturer's Serial Number and the Railroad's Road Number as set forth in Schedule A (As Amended) to the Purchase Contract.

SECTION 5.4. The Company covenants and agrees that it will cause this Agreement and the Lease and all amendments, supplements and assignments hereto and thereto to be duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. In addition, the Company will cause the Lease to be deposited with the Registrar General of Canada in accordance with Section 148 of the Railway Act (and notice of such deposit to be given in the *Canada Gazette* pursuant to said Section 148) and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, record, re-file and re-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 Equipment Notes and of fully carrying out and effectuating this Agreement and the Lease and the intent hereof and thereof; and the Company will promptly furnish to the Trustee certificates or other evidences of filing and recording or re-filing and re-recording pursuant to this Section, and an opinion or opinions satisfactory to the Trustee of counsel, who may be counsel for the Railroad Trustees, with respect thereto.

SECTION 5.5. The Company covenants and agrees to make payment of all reasonable expenses incurred by and compensation of the Trustee, and of all taxes, assessments and other governmental charges levied upon the Trust Equipment or the Lease or upon the revenues, rents, income or profits with respect thereto, or otherwise for which the Trustee, as such, may be liable, but nothing herein contained shall require the Company to make payment of any tax levied upon the compensation or other income received by the Trustee to remunerate it for serving as such hereunder.

SECTION 5.6. The Company covenants and agrees that it will furnish to the Trustee financial statements and such other reasonable information as the Trustee may from time to time request, and will permit the agents of the Trustee to inspect any of the properties of the Company, examine its books of account and discuss with the Company and its officers and agents the affairs, finances and accounts of the Company at reasonable times and from time to time.

SECTION 5.7. The Company covenants and agrees from time to time to do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Agreement and the intent hereof. The Company further covenants and agrees that it will cause the Railroad Trustees to maintain and keep all of the Equipment in good order and repair in accordance with the provisions of Section 10 of the Lease, and that in determining the amount of insurance coverage under said Section 10 it will consult with and act in accordance with the directions (if any) of the Trustee.

SECTION 5.8. It is understood and agreed that satisfaction by Manufacturer or the Railroad Trustees of any of the obligations of the Company herein contained either by payments to the Trustee pursuant to this Agreement or the Lease or by performance of other covenants contained in the Lease shall be deemed to and shall constitute performance by the Company of such covenants and agreements hereunder, as between the Company, the Trustee and the holders of the Equipment Notes, subject, however, to the rights of Manufacturer under Sections 6.8 and 7.2 hereof.

SECTION 5.9. The Company will deliver to the Trustee, within 120 days after the end of each fiscal year, an Officer's Certificate, stating that

(i) a review of the activities of the Company during such year and of its performance under this Agreement has been made under his supervision, and

(ii) to the best of his knowledge, based on such review, no Event of Default, and no event which with the giving of notice or lapse of time or both would become an Event of Default, has occurred during such year, or, if any such Event of Default or other such event has occurred, specifying the same and the nature and status thereof.

ARTICLE SIX.

Covenants and Guarantees of Manufacturer.

SECTION 6.1. Manufacturer covenants and agrees that, to the extent permitted by law, Manufacturer and its Subsidiaries will not during the term of this Agreement

(i) sell, assign, transfer, hypothecate or pledge any of the capital stock of the Company now owned or hereafter acquired by Manufacturer or any of its Subsidiaries except to Manufacturer or a Subsidiary of Manufacturer,

(ii) cause or permit the Company to issue additional capital stock except to Manufacturer or a Subsidiary of Manufacturer,

(iii) cause or permit the Company to dissolve, or, without the prior written consent of the holders of a majority in aggregate principal amount of the Equipment Notes at the time outstanding, cause or permit the Company to merge, consolidate or otherwise dispose of all or a substantial part of its assets except with or to Manufacturer, or

(iv) without the prior written consent of the holders of a majority in aggregate principal amount of the Equipment Notes at the time outstanding, cause or permit the Company to assign, transfer, mortgage, hypothecate or pledge its rights under this Agreement except to Manufacturer,

unless prior to any such sale, assignment, transfer, hypothecation, pledge, dissolution, merger, consolidation or disposal Manufacturer shall, by executing and delivering to the Trustee an appropriate instrument, in form and substance satisfactory to each of the Lenders, have undertaken to guarantee to the Trustee and to each holder of Equipment Notes and to their respective successors and assigns the due and punctual payment of the principal of and interest on each and every one of the Equipment Notes and of the indebtedness represented thereby as and when the same shall respectively become due and payable, whether at the stated maturity thereof or by Declaration or otherwise pursuant to the provisions of the Equipment Notes and of this Agreement. Upon execution and delivery by Manufacturer to the Trustee of such instrument containing such undertaking the same shall supersede and be in lieu of the covenants, agreements and guarantees by Manufacturer in the following Sections 6.2 to 6.8, inclusive, hereof, and such instrument may expressly so provide.

SECTION 6.2. Manufacturer covenants and agrees that it will make payments or advances to the Company at such times and in such amounts as may be required to permit the Company to pay its income, franchise and other taxes, fees, principal and interest on its indebtedness (excluding principal and interest on the Equipment Notes, except pursuant to Section 6.3 or Section 6.5 hereof), and its expenses, including without limitation amounts payable by the Company pursuant to Section 6.5 of the Loan and Financing Agreement and Sections 3.2 and

5.5 hereof; provided, however, that Manufacturer shall have no obligation under this Section 6.2 to make payments or advances in respect of any taxes, fees, indebtedness or other expenses which shall not have accrued or become payable prior to the expiration of a period of 90 days following the occurrence of an Event of Default hereunder unless the same shall have been cured within such period.

SECTION 6.3. Unless an Event of Default has occurred hereunder and has not been cured, Manufacturer covenants and agrees that one business day prior to the 15th days of March, June, September and December in each year, commencing March 15, 1971 and ending December 15, 1985, it will pay to the Trustee for the account of the Company amounts equal to the excess, if any, of the amount of principal and interest payable on the Equipment Notes on each of said dates over the total amount of rentals payable under Section 4 of the Lease one business day prior to each of said dates, to the end that the Company shall be in a position to meet its obligations on the Equipment Notes to the extent of such excess.

In addition to the foregoing payments to be made by Manufacturer for the account of the Company, Manufacturer may, at its election, at any time and from time to time prior to December 15, 1972, pay to the Trustee for the account of the Company amounts necessary to enable the Company to pay in full the principal and interest payable on the Equipment Notes on any date when the same shall become due and payable, if the Railroad Trustees shall default in making any rental payments due under Section 4 of the Lease, it being understood, however, that Manufacturer shall not be under any obligation to make such payment for the account of the Company by reason of any such default on the part of the Railroad Trustees.

SECTION 6.4. Manufacturer covenants and agrees that in any suit, proceeding or action brought by the Trustee under the Lease for the payment of any rentals or to enforce any of the provisions thereof, or under the Equipment Notes for the payment of the principal thereof or interest thereon, or under this Agreement to enforce any provisions hereof, it will save, indemnify and keep harmless the Trustee, for the

benefit of the holders of Equipment Notes, from and against all expenses, loss or damage suffered by reason of any defense, set-off, counterclaim or recoupment whatsoever of the Company or the Railroad Trustees arising out of a breach by Manufacturer of any obligations in respect of the Equipment or the manufacture, construction, delivery, guarantee or warranty thereof, or by reason of any defense, set-off, counterclaim or recoupment whatsoever by reason of any other indebtedness or liability at any time owing to the Company or to the Railroad Trustees by Manufacturer.

SECTION 6.5. Manufacturer covenants and agrees and unconditionally guarantees that:

(a) if at any time the unpaid principal of all of the Equipment Notes shall become due and payable by a Declaration Manufacturer will, within five business days after the effective date of the Declaration, pay to the Trustee, as provided in and for application pursuant to Section 6.6 hereof, an amount equal to the sum of

(i) the then Guaranteed Principal Amount of the Equipment Notes, plus

(ii) interest on such Guaranteed Principal Amount of the Equipment Notes (at the respective interest rates borne by the A Equipment Notes and the B Equipment Notes, pro rata in proportion to the respective principal amounts of A Equipment Notes and B Equipment Notes then outstanding) from the last date to which interest on all outstanding Equipment Notes shall have been paid to the earlier of (x) the date of such payment by Manufacturer or (y) 180 days after the last date to which interest on all outstanding Equipment Notes shall have been paid; and

(b) if at any time Manufacturer shall be required to make any payment to the Trustee pursuant to subparagraph (a) above, Manufacturer will, in addition to the amount payable pursuant to said subparagraph (a), at the same time pay to the Trustee, for application pursuant to Section 6.6 hereof, an amount equal to interest on the principal amount of Equipment Notes, if any, then outstanding in excess of the then Guaranteed Principal Amount (at their respective interest rates pro rata as aforesaid) from the last date to which interest

on all outstanding Equipment Notes shall have been paid to the earlier of (x) the date of such payment by Manufacturer or (y) 270 days after the last date to which interest on all outstanding Equipment Notes shall have been paid.

Manufacturer further covenants and agrees and unconditionally guarantees that if at the time of any payment by Manufacturer in respect of interest on Equipment Notes in excess of the Guaranteed Principal Amount pursuant to subparagraph (b) above the entire amount due and payable in respect of principal and interest on such Equipment Notes shall not thereupon be paid in full and less than 270 days shall have elapsed since the last date to which interest on all outstanding Equipment Notes shall have been paid, Manufacturer will thereafter pay to the Trustee, for application pursuant to Section 6.6 hereof, further amounts equal to interest on the principal amount of such outstanding Equipment Notes in excess of the Guaranteed Principal Amount (at their respective interest rates, pro rata as aforesaid) from the date of the payment by Manufacturer pursuant to subparagraph (b) above to the earlier of (x) the date on which such Equipment Notes are paid in full or (y) the expiration of 270 days from the last date to which interest on all outstanding Equipment Notes was paid prior to the payment by Manufacturer pursuant to said subparagraph (b). Any payment or payments by Manufacturer required by this paragraph shall be made as and when such interest would have been payable in the absence of the Declaration.

All amounts payable by Manufacturer pursuant to this Section 6.5 in respect of unpaid interest on A Equipment Notes and B Equipment Notes shall be at the respective rates at which interest would have been payable on such Notes in the absence of the Declaration.

Manufacturer shall be entitled to reimbursement from the Company for all amounts paid to the Trustee pursuant to this Section 6.5, together with interest thereon at the rate of 10% per annum, to the extent legally enforceable, subject to the provisions of Section 6.8 hereof.

The obligations of Manufacturer under this Section 6.5 and under Section 6.1 hereof shall be absolute and unconditional, irrespective of the validity, regularity or enforceability of any Equipment Note, or the validity or enforceability of the Lease or of the assignment of the right, title and interest of the Company therein and thereunder to

the Trustee, and shall not be affected by any action taken under this Agreement or the Lease or any Equipment Note in the exercise of any right or power herein or therein conferred, or by any failure or omission to enforce any right conferred hereby or thereby, or by any waiver of any term, covenant, agreement or condition hereof or thereof, or by any consolidation or merger of the Company into, or any sale, lease or other disposition of all or any part of the property of the Company to, any other person or by an extension or renewal of any of the Equipment Notes in whole or in part, or by any amendment of or supplement to this Agreement or the Lease or any of the Equipment Notes, or by any repossession by the Trustee of any Equipment covered by the Lease, or by any other circumstances whatsoever (with or without notice to or knowledge of Manufacturer) which may or might in any manner or to any extent vary the risks of Manufacturer under this Agreement, or might otherwise constitute a legal or equitable discharge of a surety or guarantor; it being the purpose and intent of the parties hereto that the obligations of Manufacturer under this Section 6.5 and under any guarantee undertaken pursuant to Section 6.1 hereof shall be absolute and unconditional under any and all circumstances and shall not be discharged except by payment as herein and therein provided, and then only to the extent of such payment or payments.

SECTION 6.6. Amounts paid to the Trustee by Manufacturer pursuant to Section 6.5 hereof shall not constitute part of the Trust Estate, but shall be received by the Trustee as agent for the holders of the outstanding Equipment Notes and shall forthwith be paid over by the Trustee to such holders pursuant to Section 2.10 hereof, as follows:

(a) the amount paid to the Trustee pursuant to clause (i) of subparagraph (a) of Section 6.5 hereof in respect of the Guaranteed Principal Amount of the Equipment Notes shall be applied to the equal and ratable payment of the unpaid principal due on all Equipment Notes outstanding irrespective of series; and

(b) all amounts paid to the Trustee pursuant to Section 6.5 hereof in respect of interest on the A Equipment Notes and the B Equipment Notes shall be applied to the equal and ratable

payment of unpaid interest due on the Equipment Notes of each such series respectively.

Manufacturer shall make any payment to the Trustee pursuant to Section 6.5 hereof in New York Clearing House funds not later than 12 o'clock noon, New York time, on the date such payment is made and at least one business day prior to such payment shall deliver to the Trustee written notice of its intention to make such payment and the manner in which such payment will be made. Provided that such payment is so made and such notice has been so delivered, the amount of such payment shall be paid over by the Trustee in New York Clearing House funds to the holders of outstanding Equipment Notes as provided in this Section 6.6 on the same day that such amount is received by the Trustee.

Notwithstanding the provisions of Section 7.1 hereof, if Manufacturer shall duly make the payments specified in Section 6.5 hereof at the times therein specified, all amounts paid over by the Trustee to the holders of Equipment Notes pursuant to this Section 6.6 on account of unpaid principal and interest due thereon shall constitute full payment, pro tanto, of such principal and of interest for the period in respect of which such interest is paid (computed at the respective rates at which interest would have been payable on such Equipment Notes in the absence of the Declaration) and no additional interest shall be payable thereon in respect of such period.

SECTION 6.7. Manufacturer covenants and agrees that if at any time on or before June 15, 1975 the unpaid principal amount of all Equipment Notes shall have become due and payable by a Declaration and the Trustee shall theretofore or thereafter have repossessed any Locomotives pursuant to Section 14 of the Lease:

(a) Manufacturer will, at its expense, as promptly as practicable, restore such repossessed Locomotives to a condition which shall be that in which normally-maintained locomotives of the same age should be; and

(b) Manufacturer will, to the extent hereinbelow provided, use its best efforts to find a purchaser or purchasers from the Trustee of Locomotives so reconditioned at prices at least equal to their 15-year straight-line depreciated value (computed on the basis of the Original Contract Price) at the time such Locomotives are repossessed by the Trustee.

The obligation of Manufacturer to use its best efforts to find a purchaser or purchasers for repossessed Locomotives under subparagraph (b) of this Section 6.7 shall be limited to such number and type of repossessed Locomotives (selected by Manufacturer) as shall have an aggregate minimum purchase price as specified in said subparagraph (b) equal to the principal amount of the Equipment Notes, if any, outstanding at the effective date of the Declaration in excess of the then Guaranteed Principal Amount.

Manufacturer shall be entitled to reimbursement from the Company for its expenses of reconditioning repossessed Locomotives pursuant to this Section 6.7, together with interest thereon at the rate of 10% per annum, subject to the provisions of Section 6.8 hereof.

Manufacturer shall have the right, at its election, to purchase any Locomotives reconditioned by it under this Section 6.7 at prices at least equal to their 15-year straight-line depreciated value, provided that notice in writing of its election to do so is given to the Trustee within 45 days after repossession of such Locomotives by the Trustee. Manufacturer shall pay the purchase price for any such Locomotives to the Trustee in full, in cash, within 30 days after such Locomotives have been reconditioned.

SECTION 6.8. All claims of any kind or character of Manufacturer, and of its affiliates, Subsidiaries, successors and assigns, against the Company, including without limitation all claims arising in respect of payment of principal of and interest on any indebtedness from the Company to Manufacturer or arising under any accounts resulting from or any securities issued to Manufacturer on account of advances or payments made to the Company pursuant to Section 6.2 hereof or on account of payments made to the Trustee for the account of the Company pursuant to Section 6.3 hereof or on account of payments made to the Trustee in respect of unpaid principal and interest due on the Equipment Notes pursuant to Section 6.5 hereof or on account of expenses of reconditioning repossessed Locomotives pursuant to Section 6.7 hereof (claims in respect of any of the foregoing being referred to herein as "Subordinate Claims"), shall be subordinated in right of payment to the prior payment of principal of and interest on the Equipment Notes as follows:

During the continuance of an Event of Default and upon any distribution of assets of the Company upon any dissolution, winding up, liquidation or reorganization of the Company, whether in bankruptcy, insolvency or receivership proceedings or upon an assignment for the benefit of creditors or any other marshalling of the assets and liabilities of the Company or otherwise,

(a) the holders of the Equipment Notes shall first be entitled to receive payment in full of the principal thereof and the interest due thereon before any payment shall be made on Subordinate Claims;

(b) any payment or distribution of assets of the Company of any kind or character, whether in cash, property or securities, which would be made on account of Subordinate Claims except for these provisions shall be paid by the trustee or agent or other person making such payment or distribution direct to the holders of Equipment Notes or their representative or representatives ratably according to the aggregate amounts remaining unpaid on account of the principal of and interest on Equipment Notes held or represented by each, to the extent necessary to make payment in full of all Equipment Notes remaining unpaid after giving effect to any concurrent payment or distribution for the account of holders of Equipment Notes; and

(c) in the event that Manufacturer shall receive any payment or distribution on any Subordinate Claims which Manufacturer is not entitled to retain under the foregoing provisions, Manufacturer will hold any amount so received in trust for the holders of the Equipment Notes and will forthwith turn over such payment or distribution to the holders of Equipment Notes or their representative or representatives (ratably as aforesaid) in the form received to be applied on the Equipment Notes.

Manufacturer shall have a security interest in the Trust Estate to the extent of the aggregate amount of all Subordinate Claims, which security interest shall be subordinate to all security interests in the Trust Estate for the benefit of the Trustee and the holders of Equipment Notes.

Nothing contained herein is intended to or shall impair, as between the Company and its creditors other than the holders of Equipment

Notes, the obligations of the Company to pay to Manufacturer the principal of and interest on any indebtedness from the Company to it as and when the same shall become due and payable in accordance with its terms, provided, however, that Manufacturer shall not enforce by legal process payment of any indebtedness of the Company to it until and unless the holders of Equipment Notes have received payment in full of principal thereof and interest thereon.

ARTICLE SEVEN.

Remedies on Default.

SECTION 7.1. The Company covenants and agrees that in case one or more of the following Events of Default shall have occurred and be continuing, that is to say:

(a) an event constituting an event of default under Section 14 of the Lease shall have occurred and be continuing, except such an event of default occurring under Subsection (a) of Section 14 of the Lease by reason of a default by the Railroad Trustees in the payment of any part of the rental due under Section 4 of the Lease prior to December 15, 1972;

(b) default in the due and punctual payment of the principal of or interest on any of the Equipment Notes when the same shall have become due and payable and any such default shall have continued for 10 days;

(c) default by the Company in the performance or observance of any of the covenants set forth in Section 5.2 hereof, other than the covenants set forth in subparagraph (vi) thereof;

(d) default in the performance or observance of any of the other covenants and agreements on the part of the Company or Manufacturer contained in this Agreement or any agreement supplemental hereto, or on the part of Manufacturer contained in the Warranty Agreement, and any such default shall have continued for 30 days after written notice to the Company or Manufacturer, as the case may be, shall have been given by the Trustee, or to the Company or Manufacturer, as the case may be, and the Trustee by the holders of at least 25 per cent in aggregate principal amount of the Equipment Notes at the time outstanding;

(e) the Company or Manufacturer shall admit in writing its inability to pay its debts as they mature; or consent to the appointment of a receiver or trustee for it or substantially all of its property, or suffer such appointment made without its consent to remain undischarged for 60 days; or institute or consent to any proceedings under any law relating to bankruptcy, insolvency, or the reorganization or relief of debtors, or suffer any such proceedings instituted against and contested by it not to be dismissed or stayed within 60 days; or suffer any order of attachment or execution or any similar process to be issued or levied against substantially all of its property which is not released, stayed, bonded or vacated within 60 days after its issue or levy; or

(f) any material representation made by the Company or Manufacturer herein or in the Loan and Financing Agreement or in any certificate or other instrument delivered under or pursuant to any provision hereof or thereof shall prove to have been false or incorrect in any material respect on the date as of which made;

then, in each and every such case, either the Trustee or the holders of not less than 25 per cent in aggregate principal amount of Equipment Notes then outstanding, by notice in writing to the Company (and to the Trustee if given by the holders of Equipment Notes) may declare the unpaid principal of all of the Equipment Notes to be immediately due and payable and upon any such Declaration the same shall become and shall be immediately due and payable without further demand, anything to the contrary in this Agreement or in the Equipment Notes notwithstanding, and thereafter (except as provided in Section 6.6 hereof) such principal and interest due thereon shall bear interest from the date of such Declaration at a rate $\frac{1}{2}$ of 1% per annum above the respective interest rates borne by such Equipment Notes, to the extent legally enforceable, and the Trustee shall be entitled to recover judgment for the entire unpaid principal amount of Equipment Notes with interest as aforesaid, and to collect such judgment out of any property of the Company wherever situated.

If before sale or completion of any other enforcement of this Agreement (i) all expenses of the Trustee incident to such Event of Default and to the enforcement by the Trustee of the provisions of this Agreement shall have been paid by the Company, (ii) all amounts which

shall then be due and payable by the Company on the Equipment Notes and under this Agreement, other than such part of the Equipment Notes as shall have become due and payable only because of a Declaration, shall have been paid by the Company, with interest thereon from the date of such Declaration at a rate $\frac{1}{2}$ of 1% per annum above the respective interest rates borne by such Equipment Notes, to the extent legally enforceable, and (iii) all other existing Events of Default shall have been remedied, then the holders of a majority in aggregate principal amount of the Equipment Notes of each series then outstanding may waive any such Event of Default and its consequences and rescind and annul any such Declaration by delivering to the Company and the Trustee a written notice to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such default had existed or no such Declaration had been made. It is expressly understood and agreed by the Company, however, that no such waiver, rescission and annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

If an Event of Default shall have occurred and be continuing and if the unpaid principal amount of the Equipment Notes shall have been declared immediately due and payable as hereinbefore provided the Trustee, subject to any mandatory requirements of law then in force and applicable thereto, may, with or without taking possession of the Trust Estate, at its election, sell or lease any or all of the Trust Estate, free from any and all claims of the Company or Manufacturer (except as provided in this Article) or of any other person claiming by, through or under the Company, at law or in equity, at public or private sale, for cash or on credit, and with or without advertisement, all as the Trustee may determine. Any such sale or lease may be held or conducted at such place or places and at such time or times as the Trustee may fix, in one lot and as an entirety or in separate lots, and without the necessity of taking possession of or gathering at the place of sale or lease the Trust Estate to be sold or leased, and in general in such manner as the Trustee may determine; *provided, however*, that notice of each such sale or lease shall be given to the Company by telegram or registered mail at least ten days prior thereto, and, if such sale or lease shall be a private sale or lease permitted by such mandatory requirements of law, such notice shall also

specify the proposed sale price or rental. Each private sale or lease pursuant to this Agreement shall be subject to the right of the Company to purchase or provide a purchaser or lessee within such ten days at the same or a better price or rental and on not less favorable terms than those offered by the intending purchaser or lessee. Without accountability to the Company (except as provided in this Article) any holder of the Equipment Notes then outstanding or Manufacturer may bid for and become the purchaser or lessee of any or all of the Trust Estate and in payment of the purchase price or rental of such Trust Estate shall be entitled to be credited on account thereof the distributive share of such holder or of Manufacturer (subject to Section 6.8 hereof) of the purchase price or rental of such Trust Estate.

Except as provided in this Agreement no sale, lease, or taking possession of the Trust Estate shall affect any right or cause of action which the Trustee or the holders of the Equipment Notes then outstanding or Manufacturer may have, or release the Company or Manufacturer from any obligation or liability, upon the Equipment Notes or under this Agreement.

To the extent not prohibited by law, each and every power and remedy hereby specifically given to the Trustee or the holders of the Equipment Notes or Manufacturer shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Trustee or the holders of the Equipment Notes or Manufacturer. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Trustee or the holders of the Equipment Notes or Manufacturer in the exercise of any such power or remedy and no renewal or extension of any payments due on the Equipment Notes shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein.

SECTION 7.2. If an Event of Default shall have occurred and the Trustee or the holders of Equipment Notes or Manufacturer shall exer-

cise any of the rights or remedies conferred by Section 7.1 hereof, all payments made by the Company or the Railroad Trustees to the Trustee after such Event of Default, the proceeds of any sale or lease of the Trust Estate and the proceeds of any judgment collected from the Company or the Railroad Trustees by the Trustee hereunder, together with any other sums which may then be held by the Trustee under any of the provisions of this Agreement, shall be applied by the Trustee as follows:

First: to the reasonable expenses of retaking, holding, preparing for sale or lease, selling or leasing of the Trust Equipment; reasonable counsel fees; and in general to the payment of all proper charges, expenses or advances made or incurred by the Trustee in accordance with this Agreement;

Second: to the equal and ratable payment of the principal of and interest on the Equipment Notes, together with interest on overdue principal and interest at a rate $\frac{1}{2}$ of 1% per annum above the respective interest rates borne by such Equipment Notes, or, if such shall be prohibited by any mandatory requirements of law then in force and effect, at the highest rate allowable by such requirements; and

Third: to the satisfaction of any Subordinate Claims of Manufacturer if written notification of demand therefor is received by the Trustee before distribution of the proceeds is completed.

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. If, after applying all such sums of money realized by the Trustee as aforesaid, there shall remain any amount due under the provisions hereof, the Company agrees to pay the amount of such deficit to the Trustee upon demand for application in accordance with this Section 7.2. If the Company shall fail to pay to the Trustee any such deficit, the Trustee may bring suit therefor and shall be entitled to recover a deficiency judgment therefor against the Company.

SECTION 7.3. If the Company or Manufacturer shall refuse or fail to perform any agreement which this Agreement requires it to perform, the

Trustee may perform the same and give to the Company or Manufacturer, as the case may be, notice in writing of the expenses incurred in connection therewith and the Company or Manufacturer, as the case may be, agrees to repay promptly after such notice all reasonable expenses so incurred.

The acceptance by the Trustee or any holder of the Equipment Notes of any security or of any payment on account of the Equipment Notes or of interest thereon maturing or accruing after any default or of any payment on account of any past default shall not be deemed a waiver of any right to take advantage of any other past or any future default.

All rights, remedies and powers provided for in this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law in the premises and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law that may be controlling in the premises and to be limited to the extent necessary so that they will not render this Agreement invalid or unenforceable. Except as otherwise provided in this Agreement, the Company and Manufacturer, to the fullest extent permitted by law, hereby waive all statutory or other legal requirements for any notice or demand of any kind whatsoever in connection with any sale, lease, or taking possession of the Trust Estate and all other requirements as to the time, place and terms of sale or lease thereof, and any other requirements with respect to the enforcement of the Trustee's rights hereunder, and any and all rights of redemption.

SECTION 7.4. The holders of a majority in aggregate principal amount of the Equipment Notes of each series at the time outstanding (or Manufacturer as holder of any Subordinate Claims, if and when all sums due on account of principal of and interest on the Equipment Notes shall have been paid in full) shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee in exercising any trust or power conferred on the Trustee under any provision of this Agreement, and the Trustee shall be fully protected in acting in accordance with such direction.

SECTION 7.5. No taking of possession of the Trust Equipment by the Trustee, or any withdrawal, lease or sale thereof, or any action or failure or omission to act against the Company, Manufacturer or the Railroad Trustees, or in respect of the Trust Equipment, on the part of the Trustee or on the part of any holder of Equipment Notes, or any delay or indulgence granted to the Company or Manufacturer by the Trustee or by any such holder, shall affect the obligations of the Company or Manufacturer hereunder or under the Equipment Notes.

SECTION 7.6. Notwithstanding any other provision in this Agreement, the holder of any Equipment Note shall have the right which is absolute and unconditional to receive payment of the principal of and interest on such Equipment Note on the respective payment dates expressed therein and to institute suit for the enforcement of any such payment, and such right shall not be impaired without the consent of such holder.

SECTION 7.7. The Company will pay all reasonable expenses, including attorneys' fees, incurred by the Trustee in enforcing its remedies hereunder or under the Lease. In the event that the Trustee shall bring suit hereunder and shall be entitled to judgment, then in such suit the Trustee may recover reasonable expenses, including counsel fees, and the amount thereof shall be included in such judgment.

ARTICLE EIGHT.

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 shall not be responsible for the filing or recording or re-filing or re-recording of this Agreement, the Lease or of any supplement hereto or thereto. In making payment for the Trust Equipment, or in accepting any cash payable hereunder or under the Lease in respect of Trust Equipment, the Trustee may rely upon and

shall be fully protected by the certificates, bills of sale, invoices and opinions of counsel to be furnished to it hereunder or under the Lease, as the case may be, and shall not be required to make any further investigation of or inquiry concerning the matters covered thereby.

SECTION 8.3. The Trustee shall be under no obligation to take any action for the execution or enforcement of the trust hereby created or in the way of insuring, taking care of or taking possession of the Trust Equipment, or to take any other action under this Agreement or the Lease, unless requested so to do in writing by the holders of not less than 25% in principal amount of the then outstanding Equipment Notes (or by Manufacturer as holder of any Subordinate Claims, if and when all sums due on account of principal of and interest on the Equipment Notes shall have been paid in full) and unless indemnified to its satisfaction against expense and liability with respect thereto, and unless also furnished with proof satisfactory to it as to the ownership of the Equipment Notes in respect of which any such request may be made; but this provision, in the absence of such request, shall not affect any discretion herein given to the Trustee to determine whether it shall take action in respect of any default hereunder or what action it shall take.

SECTION 8.4. Any money at any time paid to or held by the Trustee hereunder until paid out by the Trustee as herein provided may be carried by the Trustee on deposit with itself, without liability for interest thereon save as may be agreed upon between the Trustee and the Company or as otherwise provided herein.

SECTION 8.5. 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 Railroad Trustees or of the Company or Manufacturer, 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, including its powers and duties as assignee of the Lease, 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 or Manufacturer or the Railroad Trustees), 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, the Lease or of the Equipment Notes, or for any mistake of fact or law.

The Trustee shall be entitled to receive payment of all reasonable expenses incurred by it 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 Company and Manufacturer also agree to indemnify the Trustee for any loss, liability or expense incurred in connection with the acceptance or administration of this trust, as well as the costs and expenses of defending against any such loss, liability or expenses.

The Trustee shall have a lien on the Trust Estate and the proceeds thereof and Deposited Cash prior to the liens of the holders of the Equipment Notes and Manufacturer for all amounts agreed to be paid by, and for all obligations of, the Company with respect to expenses, disbursements and compensation of the Trustee.

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

Any moneys at any time held by the Trustee hereunder, until paid out by the Trustee as herein provided, shall, subject to the provisions of Section 6.6 hereof in respect of moneys paid to the Trustee by Manufacturer pursuant to Section 6.5 hereof, be held by it in trust as herein provided for the benefit of the holders of the Equipment Notes and of Manufacturer as holder of any Subordinate Claims.

SECTION 8.6. Within 10 days after the occurrence of any default hereunder known to the Trustee it shall give written notice thereof to

all holders of Equipment Notes, unless such default shall have been cured or waived; provided, however, that in the case of any default of the character specified in subsection (d) of Section 7.1 hereof no such notice shall be given until at least 30 days after the occurrence thereof. For the purpose of this Section 8.6, the term "default" means any event which is, or after notice or lapse of time or both would become, an Event of Default.

SECTION 8.7. (a) The Trustee or any successor to the Trustee hereafter appointed may resign and be discharged of the trusts created hereby by giving notice of such resignation to the Company and to each holder of Equipment Notes in accordance with Section 10.7 hereof, specifying the date (which shall be not less than 60 days after the date of giving such notice) when such resignation shall take effect. Such resignation shall take effect on the date so specified unless previously a successor trustee shall have been appointed by the holders of a majority in principal amount of the Equipment Notes of each series or Manufacturer as hereinbelow provided, in which event such resignation shall take effect immediately upon the appointment of such successor. The Trustee or any such successor hereafter appointed may be removed at any time by an instrument or instruments signed by the holders of a majority in principal amount of the Equipment Notes of each series then outstanding (or by Manufacturer as holder of any Subordinate Claims, if and when all sums due on account of principal of and interest on the Equipment Notes shall have been paid in full).

(b) In case at any time the Trustee or any successor to the Trustee hereafter appointed shall resign or be removed or otherwise become incapable of acting, or if the Trustee or any such successor trustee shall be taken under the control of any public officer or officers or of a receiver appointed by a court, then (except as hereinafter provided), a successor or successors may be appointed by an instrument or instruments signed by the holders of a majority in principal amount of the Equipment Notes of each series then outstanding (or by Manufacturer as holder of any Subordinate Claims, if and when all sums due on account of principal and interest on the Equipment Notes shall have been paid in full); provided, however, that the Company, by an instrument exe-

cuted by order of its Board of Directors, may appoint a successor trustee to act until a successor trustee shall be so appointed by the holders of the Equipment Notes or Manufacturer. After any such appointment by the Company, it shall give written notice thereof by mail to each holder of Equipment Notes and Manufacturer, but any new trustee so appointed by the Company shall immediately and without further act be superseded by a trustee appointed by the holders of a majority in principal amount of the Equipment Notes of each series or Manufacturer as above provided.

(c) Any successor to the Trustee shall execute, acknowledge and deliver to its predecessor trustee, and to the Company, an instrument accepting such appointment hereunder, and thereupon such successor trustee, without any further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers, duties and trusts of its predecessor in the trust hereunder with like effect as if originally named as trustee herein; but nevertheless on the written request of the Company or of the successor trustee, the retiring trustee shall execute and deliver an instrument transferring to such successor trustee upon the trusts herein expressed all the estates, properties, rights, powers and trusts of the trustee so retiring, and shall duly assign, transfer, deliver and pay over to the successor trustee any property and moneys subject to this Agreement and held by such retiring trustee. Should any bill of sale, conveyance or instrument in writing from the Company be required by any successor trustee for more fully and certainly vesting in and confirming to such successor trustee such estates, properties, rights, powers and trusts, then on request any and all such bills of sale, conveyances and instruments in writing shall be made, executed, acknowledged and delivered by the Company.

(d) Any successor to the Trustee shall be a bank or trust company having a combined capital and surplus of at least \$40,000,000 and doing business in the Borough of Manhattan, City of New York, State of New York, and duly authorized to act as a trustee therein, if there shall be such a bank or trust company willing and legally qualified to accept and perform the trusts and duties mentioned herein upon reasonable or customary terms.

SECTION 8.8. 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 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 \$40,000,000, 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 NINE.

Defeasance.

SECTION 9.1. After the payment in full of principal of and interest on all of the Equipment Notes, the payment in full of all Subordinate Claims of Manufacturer constituting a lien on the Trust Estate, and the payment of all reasonable expenses incurred by the Trustee and reasonable compensation to the Trustee, (i) any money remaining in the hands of the Trustee shall be paid to the Company; (ii) all of the right, title and interest of the Trustee in and to the Trust Estate shall vest in the Company free and clear of any rights of the Trustee or the holders of Equipment Notes or Manufacturer under this Agreement; and (iii) the Trustee shall execute in proper form for recordation in such public offices as may be necessary, at the expense of the Company, such instrument or instruments in writing as shall reasonably be requested by the Company in order to make clear upon the public records the Company's title to the Trust Estate; provided, however, that until such time the Trustee's title to the Trust Estate shall not pass to or vest in the Company but shall be and remain in the Trustee as herein provided.

ARTICLE TEN.

Miscellaneous.

SECTION 10.1. With the consent of the holders of not less than 66 $\frac{2}{3}$ % in aggregate unpaid principal amount of the Equipment Notes

of each series at the time outstanding the Company, Manufacturer and the Trustee may from time to time and at any time modify, amend or supplement this Agreement and, with the concurrence of the Railroad Trustees, the Lease, for the purpose of adding any provisions or changing in any manner or eliminating any of the provisions hereof or thereof; provided, however, that no such modification, amendment or supplement shall extend the fixed maturities of any Equipment Note, reduce the principal amount thereof, reduce the rate or alter the time for payment of principal and interest thereon, alter the terms of Section 6.5 hereof, permit the creation of any lien ranking prior to or on a parity with the lien of this Agreement on the Trust Estate or any part thereof, except as herein expressly permitted, deprive the holder of any of the Equipment Notes then outstanding of the lien hereby created on the Trust Estate or reduce the percentage required for any action under this Section 10.1 or under Section 7.1, 7.4 or 8.7 hereof without the consent of all of the holders of Equipment Notes at the time outstanding.

If in the opinion of the Trustee a proposed amendment or modification to the Purchase Contract and the specifications of the Trust Equipment deliverable thereunder will not adversely affect the rights of the holders of the Equipment Notes, the Trustee, without the consent of the holders of Equipment Notes, shall be authorized in its discretion to consent on behalf of all of the holders of Equipment Notes to any such proposed amendment or modification to which Manufacturer, the Company and the Railroad Trustees shall have duly consented. The Trustee, without the consent of the holders of the Equipment Notes or Manufacturer, shall be authorized in its discretion to enter into an agreement or agreements supplemental hereto providing for the confirmation of the conveyance and assignment of the Trust Equipment to the Trustee for the purposes herein provided and for the acceptance by the Trustee of the trusts created with respect thereto.

SECTION 10.2. In determining whether the holders of the required aggregate principal amount of Equipment Notes have concurred in any direction, consent or waiver under this Agreement, Equipment Notes which are owned by the Company, Manufacturer or the Railroad Trus-

tees, or by any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company, Manufacturer or the Railroad Trustees, shall be disregarded and deemed not to be outstanding for the purpose of any such determination, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver only Equipment Notes which the Trustee knows are so owned shall be so disregarded.

SECTION 10.3. Any request or other instrument provided by this Agreement to be signed or executed by holders of Equipment Notes 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. The execution of any such request or other instrument, or of a writing appointing any such agent or attorney, or proof of the holding by any person of Equipment Notes, 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 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 acknowledgment 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; provided, however, that execution of any document by or on behalf of any Lender shall be deemed sufficiently proved when executed in writing by an individual purporting to be an authorized officer of such Lender.

SECTION 10.4. 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 Equipment Notes, 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 Equipment Notes.

SECTION 10.5. Nothing contained herein, or contained in the Lease or in any Equipment Note, shall be deemed to impose on the Trustee, Manufacturer, the Railroad Trustees or the Company any obligation to pay to the holder of any Equipment Note 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 Equipment Note.

SECTION 10.6. Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns.

SECTION 10.7. All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or delivered to the post office postage prepaid or to the telegraph office charges prepaid addressed as follows: (a) in the case of the Company or Manufacturer, Room 2600, 767 Fifth Avenue, New York, N. Y. 10022 or at such other address as may hereafter be furnished to the Trustee in writing by the Company or Manufacturer, as the case may be, and (b) in the case of the Trustee, 130 John Street, New York, N. Y. 10038, Attention: Corporate Trust and Agency Division, or at such other address as may hereafter be furnished to the Company and Manufacturer in writing by the Trustee, and (c) in the case of the holders of Equipment Notes, the address of the original payees thereof as set forth in the Loan and Financing Agreement or at such other address as may hereafter be furnished to the Trustee in writing or the address of any subsequent holder thereof, if notice of such address shall have been delivered in writing to the Trustee. An affidavit by any person representing or acting on behalf of the Company, Manufacturer or the Trustee as to such mailing shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 10.8. 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 10.9. 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 10.10. In any case where the date of maturity of interest on or principal of the Equipment Notes shall be a Sunday, a Saturday, or any other day upon which banking institutions in the City of New York are authorized by law to be closed, payment of principal and interest on the Equipment Notes may be made on the next succeeding business day with the same force and effect as if made on the date of maturity.

SECTION 10.11. The provisions of this Agreement and the Equipment Notes, and all the rights and obligations of the parties hereunder and thereunder, shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the Company, Manufacturer and the Trustee have caused their names to be signed hereto by their officers thereunto duly authorized and their corporate seals, duly attested, to be hereunto affixed as of the day and year first written.

EL-PC LEASING CORPORATION

By 
Vice President

Attest:


Assistant Secretary

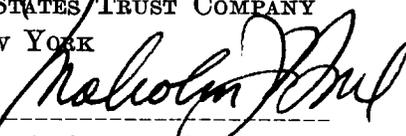
GENERAL MOTORS CORPORATION

By 
Executive Vice President

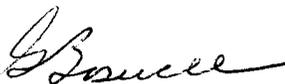
Attest:


Assistant Secretary

UNITED STATES TRUST COMPANY
OF NEW YORK

By 
Assistant Vice President

Attest:


Assistant Secretary

STATE OF MICHIGAN }
 COUNTY OF WAYNE } ss.:

On this 22nd day of January, 1971 before me personally appeared R. B. Smith, to me personally known, who, being by me duly sworn, says that he is a Vice President of EL-PC 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.

R. C. Austin

My Commission expires

R. C. AUSTIN
 Notary Public, Oakland, County, Mich.
 Acting in Wayne County, Mich.
 My Commission Expires Jan. 13, 1973

STATE OF MICHIGAN }
 COUNTY OF WAYNE } ss.:

On this 22nd day of January, 1971 before me personally appeared A. A. Lunden, to me personally known, who, being by me duly sworn, says that he is an Executive Vice President of GENERAL MOTORS 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.

R. C. Austin

My Commission expires

R. C. AUSTIN
 Notary Public, Oakland, County, Mich.
 Acting in Wayne County, Mich.
 My Commission Expires Jan. 13, 1973

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

On this 25th day of JANUARY, 1971 before me personally appeared MALCOLM J. HOOD, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of UNITED STATES TRUST 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 by-laws and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Gene R. Scocca

My Commission expires

GENE R. SCOCCA
 Notary Public, State of New York
 No. 41-8885475
 Qualified in Queens County
 Certificate filed in New York County
 Commission Expires March 30, 1972

SCHEDULE A

[FORM OF A EQUIPMENT NOTES]

EL-PC LEASING CORPORATION

A EQUIPMENT NOTE NO.

DATED, 19..

FOR VALUE RECEIVED, EL-PC LEASING CORPORATION, a Delaware corporation (the "Company"), promises to pay to the order of

 at the corporate trust office of United States Trust Company of New York, in the City of New York, New York, the principal sum of \$----- in lawful money of the United States of America and to pay interest on the unpaid balance of such principal sum in like money, quarterly, on the fifteenth days of March, June, September and December in each year, at the rate of 8¾% per annum from the date hereof until such principal sum shall have become due and payable in installments or otherwise, and to pay interest at the rate of 9¼% per annum on any overdue principal and (to the extent permitted by applicable law) on any overdue interest, from the due date thereof, until the obligation of the Company with respect to the payment thereof shall be discharged. The principal hereof is payable in equal quarterly installments of \$----- each on the fifteenth days of March, June, September and December in each year commencing ----- 15, 197 -- to and including September 15, 1975 and the unpaid balance on December 15, 1975.*

This is one of the Equipment Notes secured by the Equipment Note Agreement dated as of December 15, 1970 (the "Equipment Note Agreement") among the Company, General Motors Corporation and United States Trust Company of New York, as Trustee, to which reference is hereby made for rights as to prepayment hereof or as to acceleration of the maturity hereof and as to certain guarantees and

* This sentence is to be appropriately modified in the case of temporary A Equipment Notes issued after March 15, 1971 and on or before June 15, 1971 which are subject to adjustment of the June 15, 1971 principal payment pursuant to Section 1.3 of the Loan and Financing Agreement.

other undertakings by General Motors Corporation with respect to the Equipment Notes.

Any transfer of this Equipment Note is subject to restrictions contained in a certain Loan and Financing Agreement described in the Equipment Note Agreement, to which reference is hereby made for such restrictions.

This Equipment Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Trustee under the Equipment Note Agreement.

EL-PC LEASING CORPORATION

By -----
Vice President

[FORM OF B EQUIPMENT NOTES]

EL-PC LEASING CORPORATION

B EQUIPMENT NOTE No.

DATED, 19..

FOR VALUE RECEIVED, EL-PC LEASING CORPORATION, a Delaware corporation (the "Company"), promises to pay to the order of

 at the corporate trust office of United States Trust Company of New York, in the City of New York, New York, the principal sum of \$----- in lawful money of the United States of America and to pay interest on the unpaid balance of such principal sum in like money, quarterly on the fifteenth days of March, June, September and December in each year, at the rate of 9½% per annum from the date hereof until such principal sum shall have become due and payable in installments or otherwise, and to pay interest at the rate of 10% per annum on any overdue principal and (to the extent permitted by applicable law) on any overdue interest, from the due date thereof, until the obligation of the Company with respect to the payment thereof shall be discharged. The principal hereof is payable in equal quarterly installments of \$----- each on the fifteenth days of March, June, September and December in each year commencing ----- 15, 19 ___* to and including September 15, 1985 and the unpaid balance on December 15, 1985.

This is one of the Equipment Notes secured by the Equipment Note Agreement dated as of December 15, 1970 (the "Equipment Note Agreement") among the Company, General Motors Corporation and United States Trust Company of New York, as Trustee, to which reference is hereby made for rights as to prepayment hereof or as to acceleration of the maturity hereof and as to certain guarantees and other undertakings by General Motors Corporation with respect to the Equipment Notes.

* In the case of B Equipment Notes issued prior to March 15, 1976 the date to be inserted will be March 15, 1976.

Any transfer of this Equipment Note is subject to restrictions contained in a certain Loan and Financing Agreement described in the Equipment Note Agreement, to which reference is hereby made for such restrictions.

This Equipment Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Trustee under the Equipment Note Agreement.

EL-PC LEASING CORPORATION

By _____
Vice President

[FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION]

This is one of the Equipment Notes described in the within-mentioned Equipment Note Agreement.

UNITED STATES TRUST COMPANY OF
NEW YORK, *as Trustee*

By _____
Authorized Officer

SCHEDULE B

BILL OF SALE

General Motors Corporation (Electro-Motive Division) (Manufacturer), in consideration of the sum of one dollar, and other good and valuable consideration paid by EL-PC Leasing Corporation (the Company), at and before the execution and delivery of these presents, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell, transfer and set over unto the Company, its successors and assigns, the following Diesel-Electric Locomotives (the Locomotives) constructed by Manufacturer which have been delivered under the Purchase Contract dated as of November 1, 1970, as amended (the Purchase Contract) between Manufacturer and the Company:

Model	Description	Quantity	Manufacturer's Serial Number	Railroad's Road Number	Date of Delivery
-------	-------------	----------	------------------------------------	------------------------------	---------------------

to have and to hold all and singular the Locomotives to the Company, its successors and assigns, for its and their own use and behoof forever.

And Manufacturer hereby warrants to the Company, its successors and assigns, that at the time of delivery of each of the Locomotives (i) each Locomotive was plated and numbered in accordance with the provisions of Section 1 of the Purchase Contract; (ii) Manufacturer had legal title to and good and lawful right to sell each Locomotive; and (iii) the title of Manufacturer to each Locomotive was free and clear of all claims, liens, security interests and other encumbrances of any nature whatsoever. Manufacturer further covenants and agrees that it will defend the title to each Locomotive against the demands of all persons whomsoever based on claims originating prior to the delivery of the Locomotive by Manufacturer under the Purchase Contract.

IN WITNESS WHEREOF Manufacturer has caused this instrument to be executed in its name by a duly authorized officer and its corporate seal to be hereunto affixed and duly attested, the ____ day of _____, 197__.

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

By _____

Attest:

SCHEDULE C

INTERIM SUPPLEMENT DATED, 197... TO EQUIPMENT
NOTE AGREEMENT DATED AS OF DECEMBER 15, 1970 BY AND
AMONG EL-PC LEASING CORPORATION (THE COMPANY), GEN-
ERAL MOTORS CORPORATION (MANUFACTURER) AND UNITED
STATES TRUST COMPANY OF NEW YORK (THE TRUSTEE) AS
TRUSTEE

The Company hereby confirms unto the Trustee that, by the afore-
said Equipment Note Agreement, and for good and valuable considera-
tion, it has sold, assigned, mortgaged, transferred and set over, and
by these presents does hereby sell, assign, mortgage, transfer and set
over unto the Trustee, its successors and assigns, the following Diesel-
Electric Locomotives (the Locomotives) constructed by Manufacturer
which have been delivered under the Purchase Contract dated as of
November 1, 1970, as amended (the Purchase Contract) between Manu-
facturer and the Company and the Lease of Railroad Equipment dated
as of December 15, 1970 (the Lease) made by the Company to
George P. Baker, Richard C. Bond, Jervis Langdon, Jr. and Willard
Wirtz, Trustees of the property of Penn Central Transportation Com-
pany, Debtor (the Railroad Trustees):

Model	Description	Quantity	Manufac- turer's Serial Number	Railroad's Road Number	Date of Delivery
-------	-------------	----------	---	------------------------------	---------------------

to have and to hold all and singular the Locomotives to the Trustee,
its successors and assigns, for its and their own use and behoof forever,
in trust nevertheless as and for the purposes set forth in said Equipment
Note Agreement.

The Company hereby warrants to the Trustee, its successors
and assigns that at the time of delivery of each Locomotive (i) each
Locomotive was plated and numbered in accordance with the provisions
of Section 1 of the Purchase Contract; and (ii) the Company had

legal title to and good and lawful right to sell such Locomotive, and (iii) the title of the Company to such Locomotive was free and clear of all claims, liens, security interests and other encumbrances of any nature whatsoever except only the rights of the Company and Manufacturer under said Equipment Note Agreement and the Railroad Trustees under the Lease; and further the Company covenants and agrees that it will defend the title to each Locomotive against the demands of all persons whomsoever based on claims originating prior to the delivery of said Locomotives by the Company under the Lease;

ALL SUBJECT, HOWEVER, to the provisions of said Equipment Note Agreement and the Lease.

IN WITNESS WHEREOF the Company has caused this Supplement to be executed in its name by a duly authorized officer and its corporate seal to be hereunto affixed and duly attested, the ___ day of _____, 197__.

EL-PC LEASING CORPORATION

Attest:

By _____

Acceptance of the trusts created with respect to the within described Diesel-Electric Locomotives is hereby acknowledged and the subjection thereof to the within-mentioned Equipment Note Agreement as part of the Trust Estate thereunder is hereby confirmed.

UNITED STATES TRUST COMPANY OF
NEW YORK

By _____

Attest:

Assistant Vice President

Assistant Secretary

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

On this ____ day of _____, 197__ before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is _____ of EL-PC LEASING CORPORATION, that the seal 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.

 My Commission expires

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

On this ____ day of _____, 197__ before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of UNITED STATES TRUST COMPANY OF NEW YORK, that the seal 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 by-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

 My Commission expires

SCHEDULE D

CONSOLIDATING SUPPLEMENT DATED, 197.. TO
EQUIPMENT NOTE AGREEMENT DATED AS OF DECEMBER 15, 1970
BY AND AMONG EL-PC LEASING CORPORATION (THE COM-
PANY), GENERAL MOTORS CORPORATION (MANUFACTURER)
AND UNITED STATES TRUST COMPANY OF NEW YORK (THE
TRUSTEE) AS TRUSTEE

The Company hereby confirms unto the Trustee that, by the afore-
said Equipment Note Agreement and Interim Supplements thereto dated
-----, and for good and valuable consideration, it has
sold, assigned, mortgaged, transferred and set over, and by these
presents does hereby sell, assign, mortgage, transfer and set over, unto
the Trustee, its successors and assigns, the following Diesel-Electric
Locomotives (the Locomotives) constructed by Manufacturer which
have been delivered under the Purchase Contract dated as of November
1, 1970, as amended (the Purchase Contract) between Manufacturer and
the Company and the Lease of Railroad Equipment dated as of De-
cember 15, 1970 (the Lease) made by the Company to George P. Baker,
Richard C. Bond, Jervis Langdon, Jr. and Willard Wirtz, Trustees of
the property of Penn Central Transportation Company, Debtor (the
Railroad Trustees):

Model	Description	Quantity	Manufac- turer's Serial Number	Railroad's Road Number	Date of Delivery
-------	-------------	----------	---	------------------------------	---------------------

to have and to hold all and singular the Locomotives to the Trustee, its
successors and assigns, for its and their own use and behoof forever, in
trust nevertheless as and for the purposes set forth in said Equipment
Note Agreement.

The Company hereby warrants to the Trustee, its successors and
assigns, that at the time of delivery of each Locomotive (i) each Loco-
motive was plated and numbered in accordance with the provisions

of Section 1 of the Purchase Contract; (ii) the Company had legal title to and good and lawful right to sell such Locomotive; and (iii) the title of the Company to such Locomotive was free and clear of all claims, liens, security interests and other encumbrances of any nature whatsoever except only the rights of the Company and Manufacturer under said Equipment Note Agreement and the Railroad Trustees under the Lease; and further the Company covenants and agrees that it will defend the title to each Locomotive against the demands of all persons whomsoever based on claims originating prior to the delivery of the Locomotives by the Company under the Lease;

ALL SUBJECT, HOWEVER, to the provisions of the aforesaid Equipment Note Agreement and the Lease.

IN WITNESS WHEREOF the Company has caused this Supplement to be executed in its name by a duly authorized officer and its corporate seal to be hereunto affixed and duly attested, the day and year first above written.

EL-PC LEASING CORPORATION

Attest:

By _____

Vice President

Assistant Secretary

Acceptance of the trusts created with respect to the within described Diesel-Electric Locomotives is hereby acknowledged and the subjection thereof to the within mentioned Equipment Note Agreement as part of the Trust Estate thereunder is hereby confirmed.

UNITED STATES TRUST COMPANY
OF NEW YORK

Attest:

By _____

Assistant Vice President

Assistant Secretary

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

On this _____ day of _____, 197__ before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is _____ of EL-PC LEASING CORPORATION, that the seal 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.

 My Commission expires

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

On this _____ day of _____, 197__ before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of UNITED STATES TRUST COMPANY OF NEW YORK, that the seal 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 by-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

 My Commission expires