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INTERSTATE COMMERCE COMMISSION

ILLINOIS TERMINAL RAILROAD  
EQUIPMENT TRUST NO. 3

EQUIPMENT TRUST AGREEMENT

Dated as of

January 15, 1971

Between

UNITED CALIFORNIA BANK  
of Los Angeles, California,

Trustor

And

GIRARD TRUST BANK,  
of Philadelphia, Pennsylvania,

Trustee

EQUIPMENT TRUST AGREEMENT

THIS IS AN AGREEMENT, dated as of January 15, 1971, between UNITED CALIFORNIA BANK, of Los Angeles, California (the Trustor) and GIRARD TRUST BANK, of Philadelphia, Pennsylvania (the Trustee).

ARTICLE I.

DEFINITIONS

SECTION 1.01. For all purposes of this Trust Agreement, the following terms shall have the following meanings:

(a) Certificate shall mean each Equipment Trust Certificate substantially in the form therefor set forth in Section 3.01 hereof, issued by the Trustee to a Certificate Purchaser pursuant to Article IV hereof, in the principal amount, bearing interest at the rates and payable as to principal and interest as provided in Section 3.01 hereof, and shall include any Certificate issued in exchange therefor or replacement thereof pursuant to Section 3.05 and 3.06 hereof.

(b) Certificate Holder shall mean each holder of a Certificate issued and outstanding pursuant to the terms of this Trust Agreement, as of the date of any determination of Certificate Holders.

(c) Certificate Purchasers shall mean the parties to the Equipment Trust Certificate Purchase Agreement who shall, pursuant to the terms thereof, purchase the original Certificates issued hereunder, namely: The Penn Mutual Life Insurance Company, Fidelity-Mutual Savings Bank and Ludwig Jesselson.

(d) Equipment Trust Certificate Purchase Agreement shall mean the agreement so designated dated as of the date hereof and entered into concurrently with the execution and delivery of this Trust Agreement, between the Trustee and the Certificate Purchasers, in substantially the form of Exhibit B hereto, as such agreement may from time to time be supplemented or amended, or the terms thereof waived or modified, to the extent permitted by, and in accordance with, the terms of this Trust Agreement.

(e) Lease shall mean the Railroad Equipment Lease Agreement to be dated as of the date hereof and to be entered into by the Trustee and the Lessee concurrently with the execution and delivery of this Trust Agreement in substantially the form of Exhibit A hereto, as such agreement may from time to time be supplemented or amended, or the terms thereof waived or modified, to the extent permitted by, and in accordance with, the terms of this Trust Agreement. The term Lease shall also include each Lease Supplement from time to time entered into pursuant to the terms of the Lease.

(f) Lessee shall mean Illinois Terminal Railroad Company, a Delaware corporation, of St. Louis, Missouri.

(g) Purchase Agreement shall mean the Railroad Equipment Purchase Agreement to be dated as of the date hereof and to be executed and delivered by the Lessee and the Trustee concurrently with the execution and delivery of this Trust Agreement in substantially the form of Exhibit C hereto, as such agreement may from time to time be supplemented or amended, or the terms thereof waived or modified, to the extent permitted by and in accordance with, the terms of this Trust Agreement.

(h) Reconstruction Agreement shall mean the Railroad Equipment Reconstruction Agreement between the Trustee, Railroad and Southern to be dated as of the date hereof and entered into concurrently with the execution and delivery of this Trust Agreement, in substantially the form of Exhibit D hereto, as such agreement may from time to time be supplemented or amended, or the terms thereof waived or modified, to the extent permitted by, and in accordance with, the terms of this Trust Agreement.

(i) Equipment shall mean the railroad boxcars which are to be purchased by the Trustee from the Lessee pursuant to the Purchase Agreement, reconstructed by Southern pursuant to the Reconstruction Agreement and leased to the Lessee pursuant to the Lease, all as more particularly described in the Lease.

(j) Requisite Parties as of a date of determination thereof shall mean (i) Certificate Holders holding more than 51% in aggregate unpaid principal amount of all Certificates, if any, outstanding as of such date, (or, if no Certificates are then outstanding but the Equipment Trust Certificate Purchase Agreement is then in effect, Certificate Purchasers who have committed thereunder to purchase more than 51% of the Certificates to be issued pursuant thereto), and (ii) the Trustor; provided, however, that during any period during which an Event of Default shall have occurred and be continuing, or during any period commencing 10 days after any payment of principal or of interest on any Certificate shall not have been paid when due for any reason and continuing thereafter until payment in full or any principal of and interest on any Certificates which shall be overdue, Requisite Parties shall mean the holders of more than 51% in aggregate unpaid principal amount of all Certificates outstanding as of the date of determination.

(k) Settlement Date shall mean each date as of which, under the terms of the Purchase Agreement and the Reconstruction Agreement, the Trustee is obligated to make payment to the Lessee for the purchase price of units of Equipment, and to Southern for the reconstruction of units of Equipment.

(l) Southern means Southern Iron & Equipment Company, a Georgia corporation.

(m) Trust Estate shall mean all estate, right, title and interest of the Trustee in, to and under the Equipment, the Lease, the Purchase Agreement and the Reconstruction Agreement, (including without limitation all of the following until the same are disbursed by the Trustee in accordance with the terms hereof); (i) all proceeds of the Certificates as

defined in the Equipment Trust Certificate Purchase Agreement, (ii) all amounts of Basic Rent, Supplemental Rent, Casualty Value payments, and indemnity or other payments of any kind for or with respect to any Equipment and (iii) any and all payments or proceeds received by the Trustee after the termination of the Lease with respect to any Equipment as the result of the sale, lease or other disposition thereof.

SECTION 1.02. For all purposes of this Trust Agreement, the following terms shall have the meanings defined in the Lease: Basic Rent, Casualty, Casualty Occurrence, Casualty Value, Event of Default, Lease Supplement, Lessor's Cost, Rent, Supplemental Rent, and unit (or units) of Equipment.

## ARTICLE II.

### DIRECTION TO EXECUTE DOCUMENTS: DECLARATION OF TRUST

SECTION 2.01. The Trustor hereby authorizes and directs the Trustee to execute and deliver the Equipment Trust Certificate Purchase Agreement, the Purchase Agreement, the Reconstruction Agreement and the Lease and, subject to the terms of this Trust Agreement, to execute and deliver all such Certificates and other documents, pay and receive such funds, and take all such action as may be necessary, appropriate or convenient to consummate the transactions contemplated in this Trust Agreement and the other agreements referred to herein, and to carry out the terms thereof.

SECTION 2.02. The Trustee hereby declares that it will hold the Trust Estate upon the trusts hereinafter set forth, subject to, and in accordance with, the terms of Article V hereof, first, for the ratable use and benefit of the Certificate Holders and, second, for the use and benefit of the Trustor, all as more particularly set forth in said Article V. This Trust Agreement creates, for the rateable benefit of the Certificate Holders, a security interest in the Trust Estate to secure the prompt payment of the indebtedness evidenced by the Certificates and the performance and observance by the Trustee of all of the agreements, covenants and provisions herein and in the Certificates contained,

subject to the terms and conditions hereof. For convenience of reference, the trust created by this Trust Agreement may be referred to as the "Illinois Terminal Railroad Equipment Trust No. 3".

ARTICLE III.

THE CERTIFICATES

SECTION 3.01. The Certificates shall be substantially in the form set forth below:

EQUIPMENT TRUST CERTIFICATE  
GIRARD TRUST BANK

TRUSTEE UNDER EQUIPMENT TRUST AGREEMENT  
DATED AS OF JANUARY 15, 1971  
(ILLINOIS TERMINAL RAILROAD  
EQUIPMENT TRUST NO. 3)

\$ \_\_\_\_\_, 19\_\_\_\_,  
Philadelphia, Pennsylvania

GIRARD TRUST BANK, as trustee under the Trust Agreement dated as of January 15, 1971, (the Trust Agreement); between UNITED CALIFORNIA BANK, of Los Angeles, California (the Trustor) and the Trustee, hereby promises to pay to the order of \_\_\_\_\_ the principal sum of \$ \_\_\_\_\_, together with interest on the amount of said principal sum remaining unpaid from time to time from the date of this Certificate until payment in full of said principal sum at the rate of 10-3/4% per annum (computed on the basis of a 360-day year of twelve 30-day months), payable as follows: Accrued interest at the aforesaid rate computed on the aforesaid principal sum from the date hereof shall be payable on July 1, 1971; thereafter, 26 consecutive semi-annual level payments of principal and interest, commencing with January 1, 1972, and on the first day of each July and January thereafter until July 1, 1984, each in the amount of \$ \_\_\_\_\_, except that the last such payment shall be in an amount sufficient to discharge the

accrued interest on, and unpaid principal of, this Certificate. (All defined terms used in the Trust Agreement shall have the same meaning when used in this Certificate).

This Certificate, to the extent permitted by applicable law, shall bear interest at the rate of 12% per annum (computed as aforesaid) on any part of the principal or interest hereon not paid when due for any period during which the same shall be overdue.

All payment of principal and interest hereunder and under the Trust Agreement shall be made only from the income and proceeds from the Trust Estate and only to the extent that the Trustee shall have sufficient income or proceeds from the Trust Estate to make such payments in accordance with the terms of Article V of the Trust Agreement; and each holder hereof, by its acceptance of this Certificate, agrees that it will look solely to the income and proceeds from the Trust Estate to the extent available for distribution to the holder hereof as above provided and that neither the Trustor nor the Trustee are personally liable to the holder hereof for any amounts payable under this Certificate or the Trust Agreement.

Principal and interest shall be payable at the principal corporate trust office of the Trustee in Philadelphia, Pennsylvania or at the office of any successor trustee, in lawful money of the United States of America.

Each holder hereof by its acceptance of this Certificate agrees that, except as otherwise provided in Section 5.02(d) of the Trust Agreement and Section 3.02 of the Equipment Trust Certificate Purchase Agreement, each level payment and any other payments received by it hereunder shall be applied, first, to the payment of accrued interest on this Certificate (including any interest on overdue principal or interest) to the date of such payment, second, to the payment of the principal amount of this Certificate then due and third, the balance, if any, remaining thereafter, to the payment of the principal amount of this Certificate remaining unpaid.

This Certificate is one of the Certificates referred to in the Trust Agreement, which have been or are to be issued by the Trustee pursuant to the terms of the Trust Agreement. The beneficial interest of the Trustor in and to the Trust Estate is subject to the rights of the holders of the Certificates to the extent provided in the Trust Agreement. Reference is hereby made to the Trust Agreement for a statement of the rights of the holder of this Certificate and of the rights of the holders of the other Certificates, a statement of the conditions upon which the maturity hereof may be accelerated, a description of the security for the payment of this Certificate, as well as for a statement of the terms and conditions of the trust created by the Trust Agreement, to all of which terms and conditions each holder hereof agrees by its acceptance of this Certificate.

This Certificate is not subject to prepayment except as provided in Sections 3.02 and 5.02(b) and (c) of the Trust Agreement. Reference is hereby made to Section 3.02 of the Trust Agreement for a statement of the terms upon which the level installments hereon shall be reduced in the event of any such prepayment.

IN WITNESS WHEREOF, the Trustee has caused this Certificate to be duly executed on its behalf by an authorized officer as of the date first above written.

GIRARD TRUST COMPANY, Trustee  
under the Illinois Terminal  
Railroad Equipment Trust No. 3

By \_\_\_\_\_  
Authorized Officer

SECTION 3.02. Each Certificate shall be issued by the Trustee in accordance with the terms of this Trust Agreement and the Equipment Trust Certificate Purchase Agreement, and shall be payable in accordance with, and subject to the terms and conditions set forth in, the form of Certificate set forth in Section 3.01 hereof, the other provisions of this Trust Agreement, and the Equipment Trust Certificate Purchase Agreement. Upon any payment to the Certificate Holders pursuant to Section 5.02(b) (relating to Casualty Value payments),

or pursuant to Section 3.02 of the Equipment Trust Certificate Purchase Agreement (relating to the repayment of excess funds not used for the payment of Lessor's Cost), the level payments thereafter due on each Certificate shall be recalculated and reduced so that such payments will amortize the then remaining principal balance on such Certificate, plus interest thereon, in approximately equal installments in such number as there are level installment payment dates then remaining, provided that the last of such installments shall in any event be in an amount sufficient to discharge the accrued interest on, and unpaid principal of, such Certificate. Upon or promptly after the distribution of any such payment, the Trustee shall advise each Certificate Holder in writing of the amount of each such recalculated level installment payment amount applicable to each Certificate held by such Certificate Holder (but the failure to give such advice shall not affect the foregoing provisions). Upon presentment to the Trustee of any outstanding Certificate following any such payment, under any provisions of this Trust, the Trustee shall make appropriate notations thereon showing such payment and such recalculated level installment payments.

SECTION 3.03. Notwithstanding any provision herein or in any Certificate to the contrary, the Trustee will pay, if so requested by any Certificate Holder by written notice to the Trustee, all amounts payable by the Trustee to any such holder who is a Certificate Purchaser or a designee or nominee thereof (including all amounts distributed pursuant to Article V of this Trust Agreement) either (i) by crediting the amount to be distributed to such holder to the account maintained by such holder with the Trustee or (ii) by mailing a check payable in clearing house funds to such holder at such address as such holder shall have specified in such notice, such mailing to be made promptly and in any event within five business days after receipt by the Trustee of the funds with which such payment is to be made, in either case without any presentment or surrender of any Certificate, except that in the case of the final payment in respect of any Certificate, such Certificate shall be surrendered to the Trustee. The Trustee may deem and treat the person in whose name any certificate shall have been issued by the Trustee as the absolute owner and holder of such Certificate for the purpose of receiving payment of all amounts payable by the Trustee with

respect to such Certificate and for all other purposes, and the Trustee shall not be affected by any notice to the contrary.

SECTION 3.04. A Certificate Holder shall have no further beneficial interest in, or other right with respect to, the Trust Estate when and if the principal of and interest and premium (if any) on all Certificates held by such holder and all other sums payable to such holder hereunder, under the Equipment Trust Certificate Purchase Agreement or under such Certificates shall have been paid in full.

SECTION 3.05. The Trustee shall maintain a register for the purpose of registering transfers and exchanges of Certificates. A Certificate Holder intending to transfer any or all of the Certificates held by such holder to a new payee shall surrender such Certificate or Certificates to the Trustee at its principal corporate trust office at Philadelphia, Pennsylvania, or at the office of any successor trustee, together with a duly executed instrument of assignment from such holder, specifying the name and address of the payee or payees. Promptly upon receipt of such documents the Trustee will issue a new Certificate or Certificates of the same type, in the same aggregate original face amount, dated the same date or dates and in such denomination or denominations and payable to the order of such payee or payees as shall be specified in the written request from such holder. The Trustee shall make a notation on each new Certificate of the amount of all payments or prepayments of principal previously made on the old Certificate or Certificates with respect to which such new Certificate or Certificates is issued and the date to which interest on such old Certificate or Certificates has been paid. The Trustee shall not be required to exchange any surrendered Certificates as above provided during the ten-day period preceding the due date of any payment on such Certificate.

SECTION 3.06. If any Certificate shall become mutilated, destroyed, lost or stolen, the Trustee shall, upon the written request of the holder of such Certificate, execute and deliver in replacement thereof a new Certificate in the same original face amount, dated the same date as the Certificate so mutilated, destroyed, lost or stolen. If the Certificate being replaced has become mutilated, such Certificate shall be surrendered to the Trustee. If the Certificate being

replaced has been destroyed, lost or stolen the holder of such Certificate shall furnish to the Trustee such security or indemnity as may be required by it to save the Trustee harmless and evidence satisfactory to the Trustee of the destruction, loss or theft of such Certificate and of the ownership thereof.

SECTION 3.07. Upon the issuance of a new Certificate or Certificates pursuant to Section 3.05 or 3.06 hereof, the Trustee may require the payment of a sum to reimburse it for, or to provide funds for, the payment of any tax or other governmental charge or any charges and expenses connected therewith paid or payable by the Trustee.

#### ARTICLE IV.

##### CONSUMMATION OF TRANSACTIONS BY TRUSTEE AND TRUSTOR

SECTION 4.01. The Trustee agrees that it will, subject to the terms and conditions hereof and of the other agreements herein referred to and the Trustor authorizes and directs the Trustee to:

(a) Execute the documents referred to in Section 2.01 hereof, and take all steps necessary to consummate the transactions therein and herein contemplated, (including, without limitation, the conveyance to the Lessee of the title to any units of Equipment which do not become subject to the Lease and for which no payment of Lessor's Cost is made by the Trustee, and the payment to the Certificate Holders of any sum not disbursed for the Lessor's Cost of such unit of Equipment, as contemplated by the Purchase Agreement, the Reconstruction Agreement and the Equipment Trust Certificate Purchase Agreement).

(b) Authorize a representative of the Trustee (who may be an employee of the Lessee) to accept delivery of the Equipment from the Lessee pursuant to the Purchase Agreement, and the reconstructed Equipment from Southern pursuant to the Reconstruction Agreement.

(c) On each date specified in the Equipment Trust Certificate Purchase Agreement issue and sell to the Certificate Purchasers the Certificates in accordance with the terms thereof and retain and/or invest the proceeds received therefrom until same are either (i) required for the payment of the Lessor's Cost of units of Equipment as provided in paragraph (d) below, or (ii) returned to the Certificate Purchasers as required by the Equipment Trust Certificate Purchase Agreement.

(d) With the funds received by the Trustee from the issuance of Certificates as provided in paragraph (c) above, together with the funds received from the Trustor in accordance with Section 4.02 below, make payments on each Settlement Date as follows:

(i) To the Lessee, the aggregate amount then due to the Lessee for Equipment in accordance with the Purchase Agreement; and

(ii) To Southern, the aggregate amount then due to Southern pursuant to the Reconstruction Agreement.

(e) Furnish to the Trustor, on or promptly after the date of issuance of any Certificates, copies of all of the documents which the Trustee is required to furnish to the Certificate Purchasers under the Equipment Trust Certificate Purchase Agreement.

(f) Receive rent and all other sums paid by the Lessee under the Lease, and the proceeds of the sale or other disposition of any Equipment, and distribute the same in accordance with the provisions of Article V hereof.

(g) Prepare and submit to the Trustor for the Trustor's approval all appropriate tax returns for this Trust, and prepare such statements and reports concerning the Equipment, the Lease, or this Trust from facts actually known to the Trustee, as the Trustor may from time to time request.

(h) Promptly pay to the Certificate Holders when due all sums actually received by the Trustee so as to avoid, to the extent the same is within the control of the Trustee, any default by this Trust under the terms hereof or of the Equipment Trust Certificate Purchase Agreement.

SECTION 4.02. The Trustor agrees that it will, on each Settlement Date, furnish to the Trustee in immediately available funds at the place of closing specified in the Equipment Trust Certificate Purchase Agreement, a sum equal to 20% of the Lessor's Cost of the units of Equipment as to which payment is then due to Southern under the Reconstruction Agreement and to the Lessee under the Purchase Agreement, up to a maximum aggregate amount for all such payments not exceeding \$604,000.00, subject to the Certificate Purchasers' theretofore or concurrently making payments for Certificates aggregating 80% of such Lessor's Cost, in accordance with the Equipment Trust Certificate Purchase Agreement. The Trustor acknowledges that Southern and the Lessee will be relying upon the provisions hereof in executing and performing the Reconstruction Agreement, the Purchase Agreement and the Lease, as the case may be. Notwithstanding any other provisions hereof, the obligation of the Trustor to advance funds hereunder shall be subordinate and junior to the payment of principal and interest on and in accordance with the terms of the 4 1/2% capital notes due 1988 of the Trustor issued under the Capital Note Agreement dated September 16, 1963, between the Trustor and certain investors. The Trustor shall also furnish to the Trustee and the Certificate Purchasers the opinion of counsel for the Trustor referred to in Section 2.01(c) (ii) of the Equipment Trust Certificate Purchase Agreement.

#### ARTICLE V.

##### SECURITY INTEREST IN TRUST ESTATE: DISTRIBUTION OF RENTS AND OTHER PROCEEDS

SECTION 5.01. The Trustee hereby grants a security interest in the Trust Estate (other than tax indemnity payments referred to in Section 14(b) of the Lease), and any and all proceeds thereof, to secure ratably the payment of all Certificates and all other sums due or to become due to the Certificate Holders under the terms hereof, of the Equipment Trust Certificate Purchase Agreement, or of the Lease, it being the intent hereof that all of the Trust Estate (other than tax indemnity payments referred to in Section 14(b) of the Lease), at any time coming into the possession or control of the Trustee shall be held,

first for the ratable benefit of the Certificate Holders and, second, for the benefit of the Trustor; provided, however, that such security interest is subject to the rights and interests of the Lessee under the Lease, and the Purchase Agreement, and the rights and interests of the Lessee and Southern under the Reconstruction Agreement. The Trustee shall, as requested by any Certificate Holder in writing (subject to the provisions of Section 6.03 hereof), file or record, or cause to be filed or recorded, this Trust Agreement, the Lease (and each Lease Supplement thereto) and all additional financing statements, continuation statements and other documents, in such places and in such manner, and shall execute, deliver, file and record all such additional documents, all as may be required fully to preserve, protect and perfect the rights of the Certificate Holders with respect to the security interest in the Trust Estate granted herein.

SECTION 5.02. The Trustee shall collect and receive all Rents payable under the Lease, together with all sums realized from any source with respect to the Equipment, and shall distribute the same in accordance with the following:

(a) Except as otherwise provided in paragraph (c) hereof, each payment of Basic Rent under the Lease received by the Trustee at any time shall be distributed by the Trustee on the date such payment is received, in the following order of priority: first, so much of such payment as shall be required to pay in full the aggregate amount of the installment payments of principal and interest (as well as any interest on overdue principal or interest) then due under all Certificates shall be distributed to the Certificate Holders; and, second, the balance, if any, of such payment remaining thereafter shall be distributed to the Trustor. The portion of each such payment distributed to a Certificate Holder shall be applied by such holder in payment of the Certificates held by such holder, pro rata.

(b) Except as otherwise provided in paragraph (c) hereof, any payment received by the Trustee from the Lessee pursuant to Section 15 of the Lease as a result of a Casualty shall be distributed in the following order of priority: first, so much of such payment as

shall be equal to the unpaid principal balance of, plus accrued interest on, the portion of the then outstanding Certificates which represent indebtedness to finance 80% of the Lessor's Cost of the unit or units of Equipment suffering such Casualty, shall be paid to the Certificate Holders; second, the balance of such payment remaining thereafter shall be distributed to the Trustor. The portion of each such payment distributed to each Certificate Holder pursuant thereto shall be applied by such holder in payment of the Certificates held by such holder, pro rata.

(c) All payments received and amounts realized by the Trustee after the Trustee shall have declared the Lease to be in default pursuant to Section 17 thereof upon the occurrence of an Event of Default (including any amounts realized from the exercise of any remedies pursuant to Section 17 of the Lease) as well as all payments or amounts then held or thereafter received by the Trustee while such declaration remains in effect, shall be distributed by the Trustee in the following order of priority: first, so much of such payments or amounts as shall be required to reimburse the Trustee for expenses incurred in collecting or distributing such sums (to the extent not previously reimbursed or paid) shall be distributed to the Trustee; second, so much of such payment or amounts as shall be required to pay in full the aggregate unpaid principal amount of all Certificates then outstanding, plus the accrued but unpaid interest thereon to the date of distribution, shall be distributed to the Certificate Holders; and third, the balance, if any, of such payments or amounts remaining thereafter shall be distributed to the Trustor. The portion of each such payment or amount distributed to each Certificate Holder pursuant thereto shall be applied by such holder in payment of the Certificates held by such holder, pro rata.

(d) Any payments received by the Trustee pursuant to Section 12, 14(a) or 22 of the Lease, constituting reimbursement by the Lessee of its obligations for ancillary expenses under the Lease or payment of certain

taxes, fees and charges shall be distributed to the parties who originally advanced the funds for such expenses, or who are entitled to be indemnified thereunder, as the case may be.

(e) Any payments received by the Trustee pursuant to Section 14(b) of the Lease, and any payments received by the Trustee after payment in full of the Certificates, shall be distributed to the Trustor.

SECTION 5.03. Whenever a distribution is required to be made to the Certificate Holders under this Trust Agreement, (except as provided in Section 5.02(d)) such payment shall be made to all Certificate Holders ratably, without priority one over the other, in the proportion that the unpaid balance of principal plus accrued interest on the Certificates then held by each such holder bears to the unpaid balance of principal plus accrued interest on all Certificates, as of the date of distribution.

## ARTICLE VI

### DUTIES OF THE TRUSTEE

SECTION 6.01. In the event the Trustee shall have knowledge of an Event of Default, the Trustee shall give prompt written notice of such Event of Default to the Trustor and to each Certificate Holder by first class registered or certified mail, postage prepaid, unless such Event of Default shall have been remedied before the giving of such notice. Subject to the terms of Section 6.03 hereof, the Trustee shall take such action with respect to such Event of Default as the Trustee shall be directed in writing by the Requisite Parties. If the Trustee shall not have received instructions as above provided within 20 days after mailing notice of such Event of Default, the Trustee may, until it shall have received such instruction, take such action, or refrain from taking such action, with respect to such Event of Default as it shall deem advisable in the best interests of the Certificate Holders, or the Trustor if all Certificates have then been paid in full. In the event the Trustee shall at any time declare the Lease to be in default pursuant to Section 17 thereof, the unpaid principal amount of all Certificates then outstanding with accrued interest thereon

shall immediately become due and payable without further act or notice of any kind. For all purposes of this Trust Agreement, in the absence of actual knowledge, the Trustee shall not be deemed to have knowledge of an Event of Default unless notified in writing by the Lessee or one or more Certificate Holders or the Trustor, except that the Trustee shall be deemed to have knowledge of any Event of Default by the failure of the Lessee to make any payment of Basic Rent within five (5) days after the same shall become due.

SECTION 6.02. Subject to the terms of Section 6.03 hereof, the Trustee shall, upon the written instructions at any time and from time to time of the Requisite Parties, take such of the following actions as may be specified in such instructions:

(i) Take such action as the Requisite Parties shall specify in writing with respect to the option in the Reconstruction Agreement to accept or reject reconstructed units of Equipment which are not delivered within the time specified therein.

(ii) give such notice or direction or exercise such right or power under the Lease, the Purchase Agreement or the Reconstruction Agreement as shall be specified in such instructions, or take such other action (including, without limitation, such action to preserve or protect the Trust Estate (including the discharge of liens or encumbrances) as the Lessee shall not be required to take in accordance with the terms of the Lease) as shall be specified in such instructions;

(iii) approve as satisfactory to it all matters required by the terms of the Lease to be satisfactory to it, it being understood that without the written instructions of the Requisite Parties the Trustee shall not approve any such matter as satisfactory to it; and

(iv) subject to Section 19 of the Lease, after

the expiration or earlier termination of the Lease with respect to any Equipment, convey all the Trustee's right, title and interest in and to such Equipment for such amount, on such terms and to such purchaser or purchasers as shall be designated in such instructions, or lease or otherwise dispose of such Equipment on such terms as shall be designated in such instructions.

SECTION 6.03. The Trustee shall not be required to take any action under Sections 6.01, 6.02 or 5.01 hereof unless the Trustee shall have been indemnified by the party or parties giving such directions, in manner and form satisfactory to the Trustee, against any liability, cost or expense (including counsel fees) which may be incurred in connection with such action. The Trustee shall not be required to take any action under Sections 6.01, 6.02 or 5.01 hereof, nor shall any other provision of this Agreement be deemed to impose a duty on the Trustee to take any action, if the Trustee shall have been advised by counsel that such action is contrary to the terms of the Lease or other applicable agreement or is otherwise contrary to law.

SECTION 6.04. The Trustee shall have no duty or obligation to manage, control, use, sell, dispose or otherwise deal with any Equipment or any other part of the Trust Estate, or to otherwise take or refrain from taking any action under, or in connection with, the Lease, the Purchase Agreement, or the Reconstruction Agreement, or any action with respect to the Equipment except as expressly provided by the terms of this Trust Agreement or as expressly provided in written instructions pursuant to Section 6.01 or 6.02 hereof; and no implied duties or obligations shall be read into this Trust Agreement against the Trustee. The Trustee nevertheless agrees that it will, at its own cost and expense, promptly take such action as may be necessary to duly discharge any liens or encumbrances on any part of the Trust Estate which result from claims against the Trustee not related to the ownership of the Equipment or the administration of the Trust Estate.

SECTION 6.05. The Trustee agrees that it will not manage, control, use, sell, encumber, dispose or otherwise deal with any Equipment or any other part of the Trust Estate except

(a) as required by the terms of the Lease, the Purchase Agreement, the Reconstruction Agreement and the Equipment Trust Certificate Purchase Agreement, (b) in accordance with the powers granted to, or the authority conferred upon, the Trustee pursuant to this Trust Agreement or (c) in accordance with written instructions pursuant to Section 6.01 or 6.02 hereof.

## ARTICLE VII

### THE TRUSTEE

SECTION 7.01. The Trustee accepts the trust hereby created and agrees to perform the same but only upon the terms of this Trust Agreement. The Trustee shall not be answerable or accountable under any circumstances, except for its own wilful misconduct or gross negligence.

SECTION 7.02. Except in accordance with written instructions furnished pursuant to Section 5.01 hereof or Section 6.02 hereof, and without limitation of the generality of Section 6.04 hereof, the Trustee shall have no duty (i) to see to any registration of the Equipment or any recording or filing of the Lease or of this Trust Agreement, or to see to the maintenance of any such registration, recording or filing, (ii) to see to any insurance on the Equipment or to effect or maintain any such insurance, (iii) except as provided in Section 6.04 hereof, to see to the payment or discharge of any tax, assessment or other governmental charge or any lien or encumbrance of any kind owing with respect to, assessed or levied against, any part of the Trust Estate, (iv) to confirm or verify any financial statements of the Lessee or (v) to inspect the Equipment at any time or ascertain or inquire as to the performance or observance of any of the Lessee's covenants under the Lease or the Purchase Agreement or Southern's covenants under the Reconstruction Agreement with respect to the Equipment. Notwithstanding the foregoing, the Trustee will furnish to each of the Certificate Purchasers, so long as he or it shall hold any of the Certificates, and to each other holder of at least 10% in principal amount of the Certificates at the time outstanding and to the Trustor promptly upon receipt thereof, duplicates or copies of all reports, notices, requests, demands, certificates, financial statements

and other instruments furnished to the Trustee under the Lease or otherwise received with respect to the Equipment.

SECTION 7.03. The Trustee makes (i) no representation or warranty as to the value, condition, merchantability or fitness for use of any Equipment or as to its title thereto, or any other representation or warranty with respect to the Equipment whatsoever except that the Trustee hereby represents and warrants to each Certificate Holder and to the Trustor that on the Settlement Date for each Unit of Equipment the Trustee shall have received whatever title was conveyed to it by the Lessee and that each such unit of Equipment shall be free of liens and encumbrances which may result from claims against the Trustee not related to the ownership of such unit of Equipment or the administration of the Trust Estate or any other transaction pursuant to this Trust Agreement or any document included in the Trust Estate, and (ii) no representation or warranty as to the validity, legality or enforceability of this Trust Agreement, the Certificates, the Lease, the Equipment Trust Certificate Purchase Agreement, the Purchase Agreement or the Reconstruction Agreement or as to the correctness of any statement contained in any thereof (other than the representations and warranties of the Trustee under Article IV of the Equipment Trust Certificate Purchase Agreement), except that the Trustee hereby represents and warrants to each Certificate Holder and the Trustor that this Agreement has been, and each of said other documents will be, executed and delivered by one of its officers who is and will be duly authorized to execute and deliver such document on its behalf.

SECTION 7.04. Monies received by the Trustee hereunder need not be segregated in any manner except to the extent required by law and may be deposited with the Trustee under such general conditions as may be prescribed by law in the general banking department of the Trustee, and the Trustee shall not be liable for any interest thereon.

SECTION 7.05. The Trustee shall not incur any liability to anyone in acting upon any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, bond or other document or paper reasonably believed by it to be genuine and reasonably believed by it to be signed by the proper party or parties. The Trustee may accept a copy of a resolution of the Board of

Directors or the Executive Committee of any corporation, certified by the Secretary or an Assistant Secretary thereof as duly adopted and in full force and effect, as conclusive evidence that such resolution has been duly adopted by said Board or Executive Committee and that the same is in full force and effect. As to any fact or matter the manner of ascertainment of which is not specifically described herein, the Trustee may for all purposes hereof rely on a certificate, signed by the Chairman of the Board, or by the President, or by any Vice President of the Lessee, as to such fact or matter, and such certificate shall constitute full protection to the Trustee for any action taken or omitted to be taken by it in good faith in reliance thereon. In the administration of the trusts hereunder, the Trustee may execute any of the trusts or powers hereof and perform its powers and duties hereunder directly or through agents or attorneys and may, at the expense of the Trust Estate, advise with counsel, accountants and other skilled persons to be selected and employed by it, and the Trustee shall not be liable for anything reasonably done, suffered or omitted in good faith by it in accordance with the advice or opinion of any such counsel, accountants or other skilled persons.

SECTION 7.06. In accepting the trusts hereby created, the Trustee acts solely as trustee hereunder and not in its individual capacity; and all persons, other than the Trustor and the Certificate Holders to the extent provided in Section 7.01 hereof, having any claim against the Trustee by reason of the transactions contemplated hereby shall look only to the Trust Estate for payment or satisfaction thereof.

SECTION 7.07. The Trustor shall pay such compensation to the Trustee for its service hereunder as may be agreed upon from time to time by the Trustee and the Trustor. The Trustee agrees that it shall have no right against the Certificate Holders or, except as specifically provided in this Trust Agreement, the Trust Estate for any fee as compensation for services hereunder.

SECTION 7.08. Any and all exculpatory provisions, immunities and indemnities in favor of the Trustee under this Agreement shall inure to the benefit of the Trustee in its capacity as such, as Lessor under the Lease, as owner under

the Reconstruction Agreement, as purchaser under the Purchase Agreement, as the maker of the Certificates, and as the issuer under the Equipment Trust Certificate Purchase Agreement.

## ARTICLE VIII

### INDEMNIFICATION OF TRUSTEE BY TRUSTOR

SECTION 8.01. The Trustor hereby agrees, whether or not any of the transactions contemplated hereby shall be consummated, to assume liability for, and to indemnify, protect, save and keep harmless the Trustee, its successors, assigns, agents and servants, from and against any and all liabilities, obligations, losses, damages, penalties, taxes, claims, actions, suits, costs, expenses or disbursements (including legal fees and expenses) of any kind and nature whatsoever which may be imposed on, incurred by or asserted against the Trustee (whether or not also indemnified against by the Lessee under the Lease or also indemnified against by any other person) in any way relating to or arising out of this Trust Agreement, the Certificates, the Lease, the Equipment Trust Certificate Purchase Agreement, the Purchase Agreement, or the Reconstruction Agreement or the enforcement of any of the terms of any thereof, or in any way relating to or arising out of the purchase, reconstruction, acceptance, rejection, ownership, delivery, lease, possession, use, operation, condition, sale, return or other disposition of any Equipment (including, without limitation, latent and other defects, whether or not discoverable, and any claim for patent, trademark, or copyright infringement), or in any way relating to or arising out of the administration of the Trust Estate or the action or inaction of the Trustee hereunder, except only in the case of wilful misconduct or negligence on the part of the Trustee in the performance of its duties hereunder. The indemnities contained in this Section 8.01 shall survive the termination of this Trust Agreement. In addition, if necessary, the Trustee shall be entitled to indemnification from the Trust Estate for any liability, obligation, loss, damage, penalty, claim, action, suit, cost, expense or disbursements indemnified against pursuant to this Section 8.01 to the extent not reimbursed by the Lessee, the Trustor, or any other person; and to

secure the same the Trustee shall have a lien on the Trust Estate prior to any interest therein of any Certificate Holder or the Trustor.

## ARTICLE IX

### SUCCESSOR TRUSTEE

SECTION 9.01. (a) The Trustee or any successor thereto may resign at any time without cause by giving at least 30 days prior written notice to the Trustor and each Certificate Holder. In addition, the Requisite Parties may at any time remove the Trustee without cause by an instrument in writing delivered to the Trustee, the Trustor (if not then one of the Requisite Parties) and each other Certificate Holder. Any such resignation or removal shall only become effective upon the appointment as hereinafter provided of a successor Trustee and the acceptance of such appointment by such successor Trustee. In the case of the resignation or removal of the Trustee, the Requisite Parties may appoint a successor Trustee by an instrument signed by the Requisite Parties. If the Requisite Parties shall not have appointed a successor Trustee within 30 days after such notice of resignation or removal, the Trustee, the Trustor or any Certificate Holder may apply to any court of competent jurisdiction to appoint a successor Trustee to act until such time, if any, as a successor shall have been appointed by the Requisite Parties as above provided. Any successor Trustee so appointed by such court shall immediately and without further act be superseded by any successor Trustee appointed by the Requisite Parties within one year from the date of the appointment by such court.

(b) Any successor Trustee, whether appointed by a court or by the Requisite Parties or otherwise, shall execute and deliver to the predecessor Trustee an instrument accepting such appointment, and thereupon such successor Trustee, without further act, shall become vested with all of the estates, properties, rights, powers, duties and trusts of the predecessor Trustee in the trusts hereunder with like effect as if originally named as a

Trustee herein; but nevertheless upon the written request of such successor Trustee, such predecessor 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 such predecessor Trustee, and such predecessor Trustee shall duly assign, transfer, deliver and pay over to such successor Trustee any property or moneys then held by such predecessor Trustee upon the trusts herein expressed.

(c) Any successor Trustee shall be a corporation, or banking association, incorporated under the laws of the United States or any state thereof, having a combined capital and surplus of at least \$50,000,000 and which is authorized under such laws to exercise corporate trust powers and is subject to supervision or examination by federal or state authority.

SECTION 9.02. Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation to which substantially all the business of the Trustee may be transferred, shall be the Trustee under this Trust Agreement without further act.

## ARTICLE X

### SUPPLEMENTS AND AMENDMENTS TO THIS TRUST AGREEMENT AND OTHER DOCUMENTS

SECTION 10.01. At any time and from time to time, upon the written request of the Requisite Parties, (i) the Trustee and the Trustor shall execute a supplement hereto for the purpose of adding provisions to, or changing or eliminating provisions of, this Trust Agreement and as specified in such request and (ii) the Trustee shall enter into such written amendment or supplement to the Lease, the Purchase Agreement, and the Reconstruction Agreement as the Lessee or Southern, as the case may be, may agree to and as may be specified in such request, or execute and deliver such written waiver or modification of such terms of the Lease, the Purchase Agreement or the Reconstruction Agreement as may be specified in such request; provided, however, that without the consent of the Trustor and each Certificate Holder no such supplement, waiver or modification shall (i) modify any of the provisions of this Section or of Section 1.01(j), 6.01 or 6.02 hereof, (ii) reduce the amount or extend the time of payment of any amount owing under any Certificate or alter or modify the provisions of Article V hereof with respect to the security interest

therein created or the order of priorities in which distributions thereunder shall be made as between the Certificate Holders and the Trustor, (iii) reduce, modify or amend any indemnities in favor of the Certificate Holders or Trustor (except that the indemnities contained in Section 14(b) of the Lease may be modified with the consent of the Trustor only), or (iv) reduce the amount or extend the time of payment of the Basic Rent or Casualty Value for any Equipment as set forth in the Lease, or change the absolute and unconditional character of the obligations of the Lessee as set forth in Section 23 of the Lease.

SECTION 10.02. If in the opinion of the Trustee any document required to be executed pursuant to the terms of Section 10.01 hereof affects any immunity or indemnity in favor of the Trustee under this Agreement or the Lease, the Trustee may in its discretion decline to execute such document.

SECTION 10.03. It shall not be necessary for any written request furnished pursuant to Section 10.01 hereof to specify the particular form of the proposed document to be executed pursuant to said Section, but it shall be sufficient if such request shall indicate the substance thereof.

SECTION 10.04. Promptly after the execution by the Trustee of any document entered into pursuant to Section 10.01 hereof, the Trustee shall mail, by first class mail, postage prepaid, a conformed copy thereof to the Trustor and each Certificate Holder at its address last known to the Trustee, but the failure of the Trustee to mail such conformed copies shall not impair or affect the validity of such document.

## ARTICLE XI

### MISCELLANEOUS

SECTION 11.01. This Trust Agreement and the trusts created hereby shall terminate and this Trust Agreement shall be of no further force or effect upon the earlier of (i) the sale or other final disposition by the Trustee of all Equipment at any time part of the Trust Estate and the final distribution by the Trustee of all monies or other property or proceeds constituting part of the Trust Estate in accordance with

the terms hereof, provide that at such time the Lessee shall have fully complied with all of the terms of the Lease, or (ii) twenty-one years less one day after the date of the earliest acknowledgement of the execution of this Trust Agreement by any party hereto; otherwise this Trust Agreement and the trusts created hereby shall continue in full force and effect in accordance with the terms hereof. Notwithstanding the foregoing, however, the Trustor shall have the absolute right at its sole option, at any time after October 1, 1971, or such later date as of which the Trustee shall have discharged all its obligations under the Purchase Agreement and the Reconstruction Agreement, to terminate this Trust upon payment to the Trustee, for distribution to the Certificate Holders, of a sum equal to the entire unpaid principal balance of the Certificates then outstanding, plus the entire amount of interest which would have accrued upon such Certificates had they been outstanding and payable in accordance with their original terms (without, however, any discounting of such sums to their present value), together with any sums then due to the Trustee hereunder, whereupon this Trust shall terminate and the Trustee shall, after payment to the Certificate Holders of the sums referred to hereinabove, convey and distribute to the Trustor all right, title and interest in and to the Trust Estate, and the Trustor shall thereupon succeed to all of the Trustee's rights, interests and obligations hereunder.

SECTION 11.02. Neither the Trustor nor any Certificate Holder shall have legal title to any part of the Trust Estate. No transfer, by operation of law or otherwise, of any Certificate, or the right, title and interest of the Trustor in and to the Trust Estate shall operate to terminate this Trust Agreement or the trust hereunder or entitle any successor or transferee to an accounting or to the transfer to it of legal title to any part of the Trust Estate.

SECTION 11.03. Any sale or other conveyance of any Equipment by the Trustee made pursuant to the terms of this Agreement or of the Lease shall bind the Trustor and the Certificate Holders and shall be effective to transfer or convey all right, title and interest of the Trustee and such parties in and to such Equipment. No purchaser or other grantee shall be required to inquire as to the authorization, necessity, expediency or regularity of such sale or conveyance or as to the application of any sale or other proceeds with respect thereto by the Trustee.

SECTION 11.04. Nothing in this Agreement, whether express or implied, shall be construed to give to any person other than the Trustee, Trustor and the Certificate Holders any legal or equitable right, remedy or claim under or in respect of this Trust Agreement or any Certificate; but this Trust Agreement and the Certificates shall be held to be for the sole and exclusive benefit of the Trustee, the Trustor and the Certificate Holders.

SECTION 11.05. Unless otherwise expressly specified or permitted by the terms hereof, all notices shall be in writing, mailed by first class mail, postage prepaid, and (i) if to the Trustee, addressed as follows: Girard Trust Bank, Trustee Under the Illinois Terminal Railroad Equipment Trust No. 3, 1700 Market Street, Philadelphia, Pennsylvania, 19103, and (ii) if to the Trustor, its assigns, or any Certificate Holder, addressed to such party at such address as such party shall have furnished by notice to the Trustee or, until an address is so furnished, addressed to such party at its office last known to the Trustee. Whenever any notice in writing is required to be given by the Trustee, the Trustor or any Certificate Holder to any of the other of them, such notice shall be deemed given and such requirement satisfied if such notice is mailed by regular mail, postage prepaid, and addressed as provided above, unless otherwise expressly provided by the terms hereof.

SECTION 11.06. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION 11.07. No term or provision of this Trust Agreement or the Certificates may be changed, waived, discharged or terminated orally, but, except as provided in Section 10.01 hereof, only by an instrument in writing signed by the party or other person against whom enforcement of the change, waiver, discharge or termination is sought; and any waiver of the terms hereof or of any Certificate shall be effective only in the specific instance and for the specific purpose given.

SECTION 11.08. The Trustor represents and warrants that neither it nor anyone acting in its behalf has directly or indirectly offered any Certificate, or any interest in this Trust, or any similar securities or interests, for sale to, or solicited any offer to acquire any of the same from, any other person, except for the offers made to participate in such transaction to the Certificate Purchasers identified herein and not more than 15 other institutional purchasers or sophisticated individual investors of either the Certificates or the interests of the Trustor under this Trust.

SECTION 11.09. This Agreement may be executed by the parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

SECTION 11.10. All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the Trustee, the Trustor and their respective successors and assigns. Any request, notice, direction, consent, waiver or other instrument or action by the Trustor or any Certificate Holder shall bind the successors and assigns of such party.

SECTION 11.11. The headings of the various Articles herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

SECTION 11.12. This Agreement shall in all respects be governed by, and construed in accordance with, the laws of the State of Pennsylvania, including all matters of construction, validity and performance.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written and to be delivered in the State of PENNSYLVANIA.

(Corporate Seal)

Attest: *Doyce White*  
CORPORATE TRUST OFFICER

UNITED CALIFORNIA BANK, Trustor

by *H. T. Lundahl* H. T. LUNDAHL  
Vice President

(Corporate Seal)

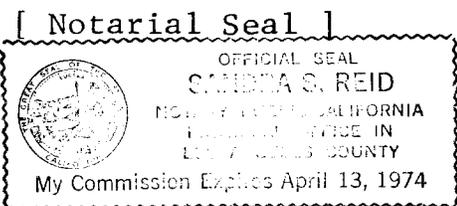
Attest: *[Signature]*  
CORPORATE TRUST OFFICER

GIRARD TRUST BANK, Trustee

by *[Signature]*  
CORPORATE TRUST OFFICER Vice President

STATE OF California )  
 ) SS.  
COUNTY OF Los Angeles )

On the 18th day of February, 1971, before me personally came H. T. LUNDAHL, to me known, who, being by me duly sworn, did depose and say that he resides at 3540 E. Calif. Blvd. Pasadena Calif.; that he is a Director of United California Bank, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.



Sandra S. Reid  
Notary Public, County of Los Angeles, State of California

My Commission: \_\_\_\_\_

STATE OF Pennsylvania )  
 ) SS.  
COUNTY OF Philadelphia )

On the 23rd day of February, 1971, before me personally came D. H. KELLER, JR., to me known, who, being duly sworn, did depose and say that he resides at Philadelphia Pa; that he is a CORPORATE TRUST OFFICER of Girard Trust Bank, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

[ Notarial Seal ]

William F. Fleming, Jr.  
Notary Public, County of \_\_\_\_\_, State of \_\_\_\_\_

My Commission: WILLIAM F. FLEMING, JR., NOTARY PUBLIC  
PHILADELPHIA, PHILADELPHIA COUNTY  
MY COMMISSION EXPIRES APRIL 30, 1973  
Member, Pennsylvania Association of Notaries

EXHIBITS TO BE ATTACHED TO THE  
FOREGOING EQUIPMENT TRUST AGREEMENT:

EXHIBIT

FORM OF

A	Lease
B	Equipment Trust Certificate Purchase Agreement
C	Purchase Agreement
D	Reconstruction Agreement

9

RECEIVED  
JAN 15 1971  
M. J. ...

## RAILROAD EQUIPMENT LEASE AGREEMENT

THIS IS A LEASE AGREEMENT, dated as of January 15, 1971, between GIRARD TRUST BANK, of Philadelphia, Pennsylvania, as Trustee under the Trust Agreement hereinafter referred to (the Lessor), and ILLINOIS TERMINAL RAILROAD COMPANY, a Delaware corporation (the Lessee).

Section 1. Definitions. The following terms shall have the following meanings for all purposes of this Lease Agreement:

(a) Appraisal shall mean a procedure whereby two recognized independent railroad equipment appraisers, one chosen by Lessee and one by Lessor, shall mutually agree upon the amount in question, or (if they should fail to agree) shall mutually appoint a third independent appraiser who shall determine the amount. If either Lessor or Lessee shall fail to appoint an appraiser within 30 days after notice from the other party or appointment of its appraiser, or if such two appraisers shall be unable to agree on the amount of such approval and shall fail to appoint such third appraiser, then either party may apply to any court having jurisdiction to make such appointment.

(b) Basic Rent shall mean the aggregate rent payable throughout the term of this Lease pursuant to Section 6 hereof. Anything herein to the contrary notwithstanding, Basic Rent shall not at any time be less than an amount which would be required at the time of payment of any installment of Basic Rent to make payment in full of all installments of principal and interest at their stated maturity on all Certificates due at such time.

(c) Casualty or Casualty Occurrence, when used in respect of units of Equipment, shall mean that such unit of Equipment shall be or become any of the following: lost; stolen; destroyed; in the opinion of

the Lessee, irreparably damaged; requisitioned (except for any requisition expressly limited to a period ending prior to the termination of this Lease) or taken over by any governmental authority under the power of eminent domain or otherwise during the term of this Lease.

(d) Casualty Value of each unit of Equipment shall be an amount determined as of the date the Casualty Value is payable as provided in this Lease (and not the date of the Casualty Occurrence) equal to that percentage of the Lessor's Cost of such unit of Equipment as set forth in the Schedule of Casualty Value attached hereto as Exhibit B.

(e) Certificates shall mean the Certificates, as that term is defined in, and which shall be from time to time outstanding under, the Trust Agreement.

(f) Certificate Holder shall mean the holder of a Certificate under and pursuant to the Trust Agreement.

(g) Daily Interim Rent Payment Date shall mean June 30, 1971.

(h) Equipment shall mean the 200 railroad box cars described in Exhibit A hereto, or such lesser number thereof as shall constitute the entire quantity of box cars purchased by Lessor under the Purchase Agreement, reconditioned by Southern under the Reconstruction Agreement, and delivered to Lessee by Lessor hereunder.

(i) Equipment Trust Certificate Purchase Agreement means the Agreement so designated, dated as of the date hereof, among the Trustee and the parties designated therein as Certificate Purchasers.

(j) Event of Default shall mean any event specified in Section 16 hereof.

(k) Fair Market Rental Value shall be determined as of the date on which the amount thereof is payable hereunder, and shall mean the aggregate amount,

determined by Appraisal, which can be earned through rental of units of Equipment during the period commencing with the date of such determination and ending at the expiration of the term of this Lease, discounted to current value at the date of determination by 6% per annum.

(l) Fair Market Sales Value shall be determined as of the date on which the amount thereof shall be payable, and shall mean the aggregate amount, determined by Appraisal, which can be realized by sale of units of Equipment.

(m) Lease Supplement shall mean a document in the form of Exhibit C hereto, and all references herein to "this Lease" or "this Agreement" shall, unless the context implies otherwise, include each such Lease Supplement.

(n) Lessor's Cost, when applied to one or more units of Equipment, shall mean the aggregate amount payable by Lessor in respect of such unit or units of Equipment (i) to Southern under the Reconstruction Agreement, not exceeding \$10,100 per unit of Equipment, and (ii) to Lessee under the Purchase Agreement, not exceeding \$5,000 per unit of Equipment.

(o) Purchase Agreement shall mean the agreement designated as the Railroad Equipment Purchase Agreement, dated as of the date hereof, between Lessor and Lessee.

(p) Reconstruction Agreement shall mean the agreement designated as the Railroad Equipment Reconstruction Agreement, dated as of the date hereof, between Lessor, Lessee, and Southern.

(q) Rent shall mean Basic Rent plus Supplemental Rent.

(r) Southern shall mean Southern Iron & Equipment Company, a Georgia corporation.

(s) Supplemental Rent shall mean all amounts, liabilities and obligations which Lessee agrees to pay to Lessor or others hereunder, except Basic Rent.

(t) Trust Agreement means the agreement desig-

nated as the Equipment Trust Agreement, dated as of the date hereof, between United California Bank, as Trustor, and Lessor, as Trustee (as originally executed and as the same may from time to time be supplemented or amended.)

(u) Trustor means the United California Bank, or any successor thereto as Trustor under the Trust Agreement.

(v) Unit (or units) of Equipment shall mean one (or more) of the boxcars constituting the Equipment.

Section 2. Lease. Lessor hereby agrees to lease the Equipment to Lessee, and Lessee agrees to lease the Equipment from Lessor and pay to Lessor the Rent, all on the terms and conditions herein contained.

Section 3. Acceptance and Delivery. Delivery of Equipment to Lessee by Lessor hereunder shall be made simultaneously with delivery of Equipment to Lessor by Southern under the Reconstruction Agreement. Acceptance of each unit of Equipment on behalf of Lessor under the Reconstruction Agreement and on behalf of Lessee hereunder shall be made by their authorized representative, who shall be an employee or officer of Lessee selected by Lessee, and who shall, upon finding such unit of Equipment to have been delivered by Southern in good order, execute and deliver to Lessor, Lessee and Southern a Certificate of Acceptance applicable thereto in the form of Exhibit D hereto; whereupon such unit of Equipment shall be deemed to have been delivered to and accepted by Lessee and shall be subject thereafter to all terms and conditions of this Lease. Upon the delivery of the fiftieth, one-hundredth, one-hundred fiftieth and the two-hundredth (or final, as the case may be) unit of Equipment, Lessor and Lessee shall each promptly execute and deliver to the other a Lease Supplement in the form of Exhibit C annexed hereto, describing the units so delivered hereunder.

Section 4. Term of Lease. This Lease shall commence upon delivery of the first unit of Equipment to Lessee, and shall terminate thirteen (13) years after the date specified in Section 6(a) for the payment of Daily Interim Rent.

Section 5. Representations and Warranties of Lessee. Lessee represents and warrants that:

(a) Lessee is a corporation duly organized and existing in good standing under the laws of the State of Delaware and has the corporate power and authority to carry on its business as presently conducted and to perform its obligations under this Lease, and is duly qualified to do business wherever necessary to carry on its present business and operations and to own or hold under lease the properties so owned or held;

(b) This Lease, each Lease Supplement, the Purchase Agreement, and the Reconstruction Agreement have been duly authorized by all necessary corporate action on the part of Lessee, do not require any approval of stockholders of Lessee, and neither the execution and delivery thereof nor the consummation of the transactions contemplated thereby nor compliance by Lessee with any of the terms and provisions thereof will contravene any law binding on Lessee or result in any breach of, or constitute any default under, or result in the creation of any lien, charge or encumbrance upon any property of Lessee under, any indenture, mortgage, chattel mortgage, deed of trust, conditional sales contract, bank loan or credit agreement, corporate charter, by-law or other agreement or instrument to which Lessee is a party or by which Lessee or its properties may be bound or affected;

(c) Neither the execution and delivery by Lessee of this Lease, or any Lease Supplement, nor any of the transactions by Lessee contemplated hereby or thereby, require the consent or approval of, or the giving of notice to any federal, state or foreign governmental authority, except such, if any, as shall have been duly given prior to the initial delivery of Equipment hereunder;

(d) This Lease, the Purchase Agreement, and the Reconstruction Agreement have been duly entered into and delivered and constitute, and each Lease Supplement, when entered into and delivered, will constitute, legal, valid and binding obligations of Lessee enforceable against Lessee in accordance with the respective terms thereof;

(e) The Equipment is not and will not become subject to any lien or security interest in favor of any creditor of Lessee pursuant to the terms of any indenture or other instrument affecting Lessee or its property;

(f) Lessee has filed or caused to be filed all federal and state tax returns which are required to be filed and, to the extent no extension on filing has been granted, has paid or caused to be paid all taxes shown to be due or payable on said returns or on any assessment received by Lessee, to the extent that such taxes have become due and payable, or such taxes are being contested by appropriate proceedings.

(g) The financial statements of Lessee heretofore delivered to Lessor are true and correct and fairly depict the financial condition of Lessee as of the date thereof; since such date, there has been no material adverse change in the financial condition of Lessee.

(h) Neither Lessee nor anyone acting on behalf of Lessee has directly or indirectly offered any Certificates or any similar securities relating to the Equipment or any beneficial interest under the Trust Agreement or any similar instrument, for sale to, or solicited any offers to acquire any of the same from, anyone other than the parties to the Trust Agreement and the Equipment Trust Certificate Purchase Agreement and not more than fifteen other financial institutions.

Section 6. Basic Rent. Lessee agrees to pay Basic Rent hereunder, as follows:

(a) Daily Interim Rent. For each unit of equipment delivered to Lessee hereunder, Lessee shall pay to Lessor, in a lump sum on the Daily Interim Rent Payment Date, daily rental equal to .036944% of the Lessor's Cost thereof, computed for the period beginning on the date of payment by Lessor of the Lessor's Cost

of such unit of Equipment and ending on the Daily Interim Rent Payment Date; provided, however, that the amount of Daily Interim Rent required hereunder shall in no event (and regardless of the number of units of Equipment theretofore delivered to Lessee hereunder, the dates of such delivery, or the payment of Casualty Value for any unit or units pursuant to Section 15(c) hereof) be less than a sum equal to the accrued interest on all Certificates then due (after taking into account any payments applicable to such interest which is payable by the Trustee pursuant to Section 3.02 of the Equipment Trust Certificate Purchase Agreement).

(b) Periodic Rent. For each unit of Equipment delivered to Lessee hereunder, twenty-six semi-annual installments of Periodic Rent, each in the amount of 6.65% of the Lessor's Cost of such unit of Equipment, payable in arrears, beginning with the first such installment on December 31, 1971, and on the last day of each June and December and thereafter until June 30, 1984.

(c) Manner and Place of Payment. Lessee agrees to pay all Basic Rent to Lessor in available funds at Lessor's principal corporate trust office in Philadelphia, Pennsylvania.

Section 7. Return of Equipment. Except as otherwise provided herein, upon the expiration of the term of this Lease with respect to any unit of Equipment the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such unit of Equipment to the Lessor, in the condition required for it to be maintained by Lessee hereunder, upon such storage tracks of the Lessee as the Lessor may designate, or in the absence of such designation, as the Lessee may select, and permit the Lessor to store such unit of Equipment on such tracks for a period not exceeding 45 days and transport the same at any time within such 45 day period to any reasonable place on the railroad lines operated by the Lessee or to any connecting carrier for shipment, all as directed by the Lessor upon not less

than 30 days' written notice to Lessee. All movement and storage of each such unit until possession thereof is delivered to Lessor is to be at the risk and expense of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such unit of Equipment, to inspect the same.

Section 8. Net Lease. This lease is a net lease and the Lessee shall not be entitled to any abatement of rent or reduction thereof, including, but not limited to, abatements or reductions due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise or against Southern under the Reconstruction Agreement, nor except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or failure of title of the Lessor to the Equipment or any defect in or damage to or loss or destruction of all or any of the Equipment from whatsoever cause, the taking or requisitioning of the Equipment by condemnation or otherwise, the lawful prohibition of the Lessee's use of the Equipment, the interference with such use by any private person or corporation, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease, or lack of right, power or authority of the Lessor to enter into this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated pursuant to Section 15 hereof, or until, pursuant to Section 7 hereof, the Equipment is placed and ready for delivery to Lessor on the Lessee's lines, or is stored for the Lessor on the Lessee's lines, or leaves the Lessee's lines for off-line delivery to the Lessor.

Section 9. Warranty Disclaimer. AS BETWEEN LESSOR AND LESSEE, LESSOR LEASES THE EQUIPMENT, AS-IS

WITHOUT WARRANTY OR REPRESENTATION EITHER EXPRESS OR IMPLIED, AS TO (A) THE FITNESS OR MERCHANTABILITY OF ANY UNIT OF EQUIPMENT, (B) THE LESSOR'S TITLE THERETO, (C) THE LESSEE'S RIGHT TO THE QUIET ENJOYMENT THEREOF, OR (D) ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE ARE TO BE BORNE BY THE LESSEE. The Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce, from time to time, in the name and for the account of the Lessor and the Lessee, as their interests may appear, but in all cases at the sole cost and expense of the Lessee, whatever claims and rights the Lessor may have as owner of the Equipment against any manufacturers or contractors in respect thereof, including claims and rights against Southern under the Reconstruction Agreement.

Section 10. Ownership.

(a) Retention of Title. The Lessor, as between the Lessor and the Lessee, shall and hereby does retain full legal title to the Equipment notwithstanding the delivery thereof to and the possession and use thereof by the Lessee.

(b) Duty to Number and Mark Equipment. The Lessee will cause each unit of Equipment to be kept numbered with its road number as set forth in Exhibit A and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each unit of Equipment in letters not less than one-half inch in height as follows:

"Leased from GIRARD TRUST BANK, Trustee,  
and Subject to a Security Interest Re-  
corded with the I.C.C."

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Lessor to such unit of Equipment, its rights under this Lease and the rights of any assignee hereof, or of the Trustor or any Certificate Holders under the Trust Agreement. The Lessee will not place any such unit

of equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the road number of any unit of Equipment except with the consent of the Lessor and in accordance with a statement of new road numbers to be substituted therefor, which consent and statement previously shall have been filed with the Lessor by the Lessee and filed, recorded or deposited in all public offices where this Lease shall have been filed, recorded or deposited.

(c) Prohibition Against Certain Designations. Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by it of the same or a similar type.

Section 11. Possession, Use and Maintenance;  
Liens.

(a) Possession. So long as no Event of Default shall have occurred and be continuing, Lessee shall be entitled as against Lessor to the possession and use of the Equipment in accordance with and during the term of this Lease. The Lessee shall not, without the prior written consent of Lessor, part with possession or control of, or suffer or allow to pass out of its possession or control, any of the Equipment; provided, however, that Lessee shall, in the absence of any Event of Default, be entitled to the possession of the Equipment and to the use thereof upon the railroad lines owned or operated by it (either alone or jointly) or by any corporation a majority of whose voting stock (i.e., having ordinary voting power for the election of a majority of its Board of Directors) is owned directly or indirectly by the Lessee, or upon railroad lines

over which the Lessee or such corporation has trackage or other operating rights or over which equipment of the Lessee is regularly operated pursuant to contract and also to permit the use of the Equipment upon connecting and other railroads in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this Lease. No assignment, sublease or interchange agreement entered into by the Lessee hereunder shall relieve the Lessee of any liability or obligations hereunder which shall be and remain those of a principal and not a surety.

(b) Use and Maintenance. The Lessee shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Lessee shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, suitable for use in interchange. The Lessee shall not modify any unit of Equipment without the written authority and approval of the Lessor which shall not be unreasonably withheld. Any parts installed or replacements made by the Lessee upon any unit of Equipment shall be considered accessions to such unit of Equipment and title thereto shall be immediately vested in the Lessor, without cost or expense to the Lessor.

(c) Governmental Laws, Rules and Regulations. The Lessee agrees to comply with all governmental laws, regulations, requirements and rules (including the rules of the United States Department of Transportation and the current Interchange Rules and supplements thereto of the Mechanical Division Association of American Railroads) with respect to the use, maintenance and operation of each unit of Equipment subject to this Lease. In case any equipment or appliance is required to be installed on any such unit of Equipment in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such changes, additions and replacements.

(d) Liens. The Lessee shall pay or satisfy and discharge any and all claims against, through, or under the Lessee and its successors which, if unpaid, might constitute

or become a lien or a charge upon the Equipment, and any liens or charges which may be levied against or imposed upon any unit of Equipment as a result of the failure of the Lessee to perform or observe any of its covenants or agreements under this Lease, but the Lessee shall not be required to pay or discharge any such claims so long as it shall, in good faith and by appropriate legal proceedings contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Lessor to the Equipment. The Lessee's obligations under this Section 11(d) shall survive termination of the Lease.

Section 12. Taxes. Lessee agrees to pay, and to indemnify and hold Lessor, the Trustor and each Certificate Holder harmless from all license and registration fees and all taxes, including without limitation, income, franchise, sales, use, personal property, stamp, interest equalization or other taxes, levies, imposts, duties, charges or withholdings of any nature (together with any penalties, fines or interest thereon) imposed against any such party or Equipment by any federal, state or local government or taxing authority in the United States or by any foreign government or any subdivision thereof upon or with respect to the Equipment, or upon the purchase, ownership, delivery, leasing, possession, use, operation, return or other disposition thereof, or upon the rentals, receipts or earnings arising therefrom, or upon the income or other proceeds received with respect to the Equipment until possession of the Equipment has been delivered to Lessor in accordance with Section 7 hereof, or upon or with respect to this Lease, the Trust Agreement or the issuance of the Certificates under the Trust Agreement (excluding, however, (except as otherwise provided in Section 14(b) hereof) federal taxes on, or measured by, the net income of any such party and taxes, fees or other charges of any other jurisdiction which are based on, or measured by, the net income of any such party and (i) imposed by the jurisdiction in which the principal office of such party is located or (ii) imposed by any other jurisdiction in which such

party is subject to taxes, fees or other charges as the result, whether solely or in part, of business or transactions unrelated to this Lease and excluding any taxes on or measured by any fees or compensation received by Lessor for services rendered in connection with the transactions contemplated hereby and further excluding any taxes based on gross income of any such party (other than gross receipts taxes) which may hereafter be imposed in any such jurisdiction as a substitute for and not in addition to taxes based on net income) unless, and to the extent only, that any such tax, levy, impost, duty, charge or withholding is being contested by Lessee in good faith and by appropriate proceedings so long as such proceedings do not involve any danger of the sale, forfeiture, or loss of the Equipment or interest therein. In case any report or return is required to be made with respect to any obligation of Lessee under this Section or arising out of this Section, Lessee will either make such report or return in such manner as will show the ownership of the Equipment in Lessor and send a copy of such report or return to Lessor or will notify Lessor of such requirement and make such report or return in such manner as shall be satisfactory to Lessor. All amounts payable by Lessee pursuant to this Section 12 shall be payable, to the extent not theretofore paid, on written demand by the party entitled to indemnification. All the indemnities contained in this Section 12 shall continue in full force and effect notwithstanding the expiration or other termination of this Lease and are expressly made for the benefit of, and shall be enforceable by, Lessor and each such other party, provided that the foregoing indemnities shall not apply to any of the aforesaid taxes, fees and charges which arise during and are incurred with respect to the period following the end of the term of this Lease.

Section 13. Filing. Prior to delivery and acceptance of the first unit of Equipment hereunder, the Lessee will at its sole expense cause this Lease to be duly filed in accordance with Section 20c of the Interstate Commerce Act. Lessee will, as promptly as practicable after execution and delivery to it of any Lease Supplement (but in any event not later than one day before the date on which Lessor shall be obligated to make payments under the Purchase

Agreement and the Reconstruction Agreement in respect of the units of Equipment covered by such Lease Supplement) cause such Lease Supplement also to be duly filed in accordance with said statute, and will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will re-file, re-register, or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor, for the purpose of protecting the Lessor's title to, or any Certificate Holder's security interest in, the Equipment and the sums due under this Lease to the satisfaction of the Lessor's or such Certificate Holder's counsel or for the purpose of carrying out the intention of this Lease, and in connection with any such action, will deliver to the Lessor proof of such filings and an opinion of the Lessee's counsel that such action has been properly taken. The Lessee will pay all costs, charges, and expenses incident to any filing or recording of the Trust Agreement (and supplements or amendments thereto), with the Interstate Commerce Commission or otherwise, and any other aforementioned filing, re-filing, registering, re-registering, recording and re-recording of any such instruments or incident to the taking of such action.

#### Section 14. Indemnities.

(a) General Indemnity. Lessee hereby agrees, whether or not any of the transactions contemplated hereby shall be consummated, to assume liability for, and does hereby agree to indemnify, protect, save and keep harmless Lessor, the Trustor and each Certificate Holder, and their respective successors, assigns, agents and servants, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements, including legal fees and expenses, of whatsoever kind and nature, imposed on, incurred by or asserted against Lessor, the Trustor or any Certificate Holder or any of their respective successors, assigns, agents and servants, in any way relating to or arising out of the Purchase Agreement, Reconstruction Agreement, the manufacture, purchase, acceptance or rejection under the Reconstruction Agreement, ownership, delivery, lease, possession, use, operation, condition, sale, return or other disposition of the equipment (including, without limitation, latent and other defects, whether or not discoverable by any of such parties, and any claim for patent, trademark or copyright infringement),

except only that Lessee shall not be required to indemnify Lessor, the Trustor or any Certificate Holders or their respective successors, assigns, agents, and servants, for loss or liability in respect of any unit of Equipment arising from acts or events which occur after possession of such unit of Equipment has been delivered to Lessor in accordance with Section 7 hereof, or loss or liability resulting from the willful misconduct or gross negligence of the party otherwise to be indemnified hereunder. If Lessor shall have knowledge of any claim or liability hereby indemnified against, it shall give prompt written notice thereof to the Lessee. Lessee's obligations hereunder shall be that of primary obligor irrespective of whether the individual or corporation indemnified shall also be indemnified with respect to the same matter under any other agreement by any or all such parties, or any other person. Upon payment in full of any indemnities contained herein by Lessee, it shall be subrogated to any rights of the individual or corporation indemnified in respect of the matter against which indemnity has been given. The indemnities in favor of the Lessor hereunder shall inure to the benefit of the Lessor in its capacity as such, as Trustee under the Trust Agreement, as purchaser under the Purchase Agreement, and as a party to the Reconstruction Agreement.

(b) Indemnities for Failure to Obtain Depreciation, Amortization or Interest Deductions. 1. If the Trustor shall (except as herein below provided) fail to obtain or have the right to claim or shall be disallowed, a depreciation or amortization deduction with respect to Lessor's Cost of any unit of Equipment, in computing its taxable income for the period this Lease is in effect (computed (i) as to that portion of Lessor's Cost which represents payments made under the Purchase Agreement, under one of the accelerated methods of depreciation provided in Section 167 of the Internal Revenue Code of 1954, as amended to the date hereof, and (ii) as to that portion of Lessor's Cost representing amounts paid under the Reconstruction Agreement, in accordance with the provisions of Section 184 of the Internal Revenue Code of 1954, as amended as of the date hereof), or shall for any reason (except as herein below provided) fail to obtain,

or to have the right to claim, or shall be disallowed, a deduction with respect to amounts paid or accrued as interest on the Certificates in computing its taxable income for the period the Certificates are outstanding, as provided in Section 163(a) of the Internal Revenue Code of 1954, except for any inability to obtain or to have the right to claim such deductions because of the occurrence of any of the following events:

(i) Casualty shall occur with respect to such unit of Equipment, whereby Lessee is required by the terms hereof to pay, and shall pay in full, the Casualty Value; provided, however, that the indemnities set forth in this Section 14(b)1 shall continue in effect as provided in Section 14(c) hereof, notwithstanding such payment of Casualty Value, with respect to the period beginning on the delivery date of such unit of Equipment and ending on the date of payment of said Casualty Value;

(ii) at any time while such unit of Equipment is leased hereunder, and while no Event of Default has occurred and is continuing unremedied, without the written consent of Lessee, Lessor shall (other than solely in connection with a substitution of the Trustee pursuant to the Trust Agreement) voluntarily transfer legal title of such unit of Equipment to anyone or the Trustor shall dispose of any interest in the Equipment or shall reduce its interest in the profits from the Equipment, and such transfer by Lessor or such disposal or reduction by the Trustor shall be the direct cause of the Trustor's inability to obtain or to have the right to claim or of the disallowance of such depreciation or amortization deduction or interest deduction;

(iii) the parties to the Trust Agreement shall amend such document without the prior written consent of Lessee and such amendment shall be the direct cause of Trustor's inability to obtain or to have the right to claim or of the disallowance of such depreciation or amortization deduction or interest deduction;

(iv) the Trustor shall fail to claim such depreciation or amortization deduction or interest deduction in its income tax returns for the appropriate year or shall fail to follow the proper procedure in claiming such depreciation deduction or interest deduction, and such failure to claim or to follow such procedure, as the case may be, shall preclude the Trustor from claiming such depreciation or amortization deduction or interest deduction;

(v) the Trustor shall fail to have sufficient income to benefit from the deduction of such depreciation, amortization or interest;

(vi) the Trustor or Lessor shall fail to take timely action in contesting a claim made by the Internal Revenue Service with respect to the disallowance of such depreciation or amortization deduction or interest deduction, and the failure to take such action in a timely manner shall preclude the right of such party to contest such claim (provided that the Lessee shall upon demand of the Trustor pay to the Trustor the expenses of any such contest as a condition of prosecuting the same); or

(vii) any other fault of the Trustor which directly causes the loss of any of the aforesaid tax benefits; provided, however, that the execution and delivery of this Lease and the other documents herein referred to and the carrying out of the transactions contemplated herein and therein in accordance with the terms of this Lease and such other documents shall not be deemed to have caused the loss of such tax benefit under this paragraph (vii);

then Lessee shall pay Lessor as Supplemental Rent an amount which, after deduction of all taxes required to be paid by Lessor or the Trustor in respect of the receipt thereof under the laws of the United States or any state, city or other political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of any other such taxes), shall be equal to the additional income taxes and any additions to tax or penalties paid or

payable by the Lessor or Trustor in consequence of such failure to obtain or have the right to claim, or the disallowance of, such depreciation deduction or such interest deduction, together with the amount of any interest which may be assessed against Lessor or Trustor in connection with such failure to obtain or have the right to claim, or the disallowance of, such depreciation deduction or such interest deduction.

2. Indemnities pursuant to this paragraph (b) shall be payable on written demand made at any time after such interest deduction or such depreciation deduction could have been claimed if allowable or, if claimed and then disallowed, on written notice given by the Trustor at any time that the Trustor has first made a payment on account of a tax attributable to the loss of depreciation or interest deductions.

(c) Continuing Indemnity. All the indemnities contained in paragraphs (a) and (b) of this Section 14 shall continue in full force and effect in accordance with their terms notwithstanding the expiration or other termination of this Lease and are expressly made for the benefit of, and shall be enforceable by, Lessor, Trustor and the Certificate Holders, as the case may be.

Section 15. Casualty Loss. In the event of a Casualty as to any unit of Equipment:

(a) Report. Such fact shall promptly be reported by Lessee to Lessor.

(b) Amount Payable to Lessor. Except as provided in Section 15(c), on the date specified in Section 6 for payment of the installment of Basic Rent next following the date of such Casualty Occurrence, Lessee shall pay to Lessor (in addition to the Basic Rent payment due on such date) the Casualty Value of such unit of Equipment, determined as of the date of such payment.

(c) Casualty Occurring Prior to Date of Payment of Interim Daily Rent. In the event the Lessee shall have

notified the Lessor that a unit or units of Equipment have suffered a Casualty Occurrence 15 days or more prior to the Daily Interim Rent Payment Date, the Casualty Value for such unit or units shall be an amount equal to Lessor's Cost thereof plus the Daily Interim Rent therefor computed for the period from the date of delivery of such unit hereunder to the date of payment of such Casualty Value, which payment shall be made not more than 15 days after the date of notice to the Lessor of such Casualty Occurrence. If the Lessee shall have notified the Lessor that a unit or units of Equipment have suffered a Casualty Occurrence less than 15 days prior to the Daily Interim Rent Payment Date, the date of such Casualty Occurrence for such unit or units shall be deemed to be one day after the Daily Interim Rent Payment Date.

(d) Rent Termination. Upon (and not until) payment of the Casualty Value in respect of any unit or units of Equipment, and any Basic Rent installment due on the Casualty Value payment date, the obligation to pay rent for such unit or units of Equipment shall terminate, but the Lessee shall continue to pay Rent for all other units of Equipment.

(e) Disposition of Equipment. The Lessee shall, as agent for the Lessor, dispose of such unit or units of Equipment as soon as it is able to do so for the best price obtainable. Any such disposition shall be on an "as is", "where is" basis without representation or warranty, express or implied. As to each separate unit of Equipment so disposed of the Lessee may, after paying Lessor the amounts specified in subparagraphs (b) or (c) of this Section 15, retain all amounts of such price plus any damages received by the Lessee by reason of such Casualty Occurrence, up to the Casualty Value attributable thereto, and shall remit the excess, if any, to the Lessor. In disposing of such unit or units of Equipment, the Lessee shall take such action as the Lessor shall reasonably request to terminate any contingent liability which the Lessor might have arising after disposition from or connected with such unit or units of Equipment.

(f) Risk of Loss. The Lessee shall bear the risk of and, except as hereinabove in this Section 15 provided, shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any unit of Equipment.

(g) Eminent Domain. In the event that during the term of this Lease the use of any unit of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for a period which does not exceed the remaining term of this Lease, the Lessee's duty hereunder to pay Rent in respect of any such unit of Equipment shall continue for the duration of said requisitioning or taking. The Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession to an amount equal to the Basic Rent paid or payable hereunder in respect of such unit of Equipment for such period, and the balance, if any, shall be payable to and retained by the Lessor as its sole property.

Section 16. Events of Default. The following events shall constitute Events of Default (whether any such event shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) Lessee shall fail to make any payment of Basic Rent when due and such failure shall continue unremedied for a period of 5 days; or

(b) Lessee shall fail to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder or under the Purchase Agreement or the Reconstruction Agreement and such failure shall continue unremedied for a period of 30 days after written notice thereof from Lessor; or

(c) any representation or warranty made by Lessee herein or in any document or certificate furnished Lessor in connection herewith or pursuant hereto shall prove to be incorrect at any time in any material respect and such condition shall continue unremedied for a period of 30 days after written notice thereof from Lessor; or

(d) Lessee shall consent to the appointment of a receiver, trustee or liquidator of itself or of a substantial part of its property, or Lessee shall admit in writing its inability to pay its debts generally as they come due, or shall make a general assignment for the benefit of creditors, or Lessee shall file a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization in a proceeding under any bankruptcy laws (as now or hereafter in effect) or an answer admitting the material allegations of a petition filed against Lessee in any such proceeding, or Lessee shall by voluntary petition, answer or consent seek relief under the provisions of any other similar law providing for the reorganization or winding-up of corporations, or providing for an agreement, composition, extension or adjustment with its creditors; or

(e) an order, judgment or decree shall be entered by any court of competent jurisdiction appointing, without the consent of Lessee, a receiver, trustee or liquidator of Lessee or of any substantial part of its property, or any substantial part of the property of Lessee shall be sequestered, and any such order, judgment or decree of appointment or sequestration shall remain in force undismissed, unstayed or unvacated for a period of 90 days after the date of entry thereof; or

(f) a petition against Lessee in a proceeding under the federal bankruptcy laws or other insolvency laws (as now or hereafter in effect) shall be filed and shall not be withdrawn or dismissed within 90 days thereafter, or if, under the provisions of any law providing for reorganization or winding-up of corporations which may apply to Lessee, any court of competent jurisdiction shall assume jurisdiction, custody or control of Lessee or of any substantial part of its property, and such jurisdiction, custody or control shall remain in force unrelinquished, unstayed or unterminated for a period of 90 days.

Section 17. Remedies. Upon the occurrence of any Event of Default and at any time thereafter so long as the same shall be continuing, Lessor may, at its option, declare this Lease to be in default and at any time thereafter, so long as Lessee shall not have remedied all outstanding Events of Default, Lessor may do one or more of the following with respect to the Equipment as Lessor in its sole discretion shall elect, to the extent permitted by, and subject to compliance with any mandatory requirements of, applicable law then in effect;

(a) demand that Lessee, and Lessee shall upon the written demand of Lessor and at Lessee's expense, return promptly the Equipment to Lessor in the manner and condition required by, and otherwise in accordance with all of the provisions of, Section 7 hereof as if the Equipment were being returned at the end of the term of this Lease; or Lessor, at its option, may enter upon the premises where all or any part of the Equipment is located and take immediate possession of and remove the same by summary proceedings or otherwise, all without liability to Lessor for or by reason of such entry of taking of possession, whether for the restoration of damage to property caused by such taking or otherwise;

(b) sell the Equipment at public or private sale, as Lessor may determine, or otherwise dispose of, hold, use, operate, lease to others or keep idle the Equipment as Lessor in its sole discretion may determine, all free and clear of any rights of Lessee and without any duty to account to Lessee with respect to such action or inaction or for any proceeds with respect thereto.

(c) except as stated in this paragraph (c), whether or not Lessor shall have exercised, or shall thereafter at any time exercise, any of its rights under paragraph (a) or paragraph (b) above with respect to the Equipment, Lessor, by written notice to Lessee specifying a payment date which shall be a Basic Rent payment date specified in Section 6 not earlier than 10 days from the date of such notice, may demand that Lessee pay to Lessor and

Lessee shall pay to Lessor, on the payment date specified in such notice, as liquidated damages for loss of a bargain and not as a penalty (in lieu of the Basic Rent for the equipment due after the payment date specified for payment in such notice), any unpaid Basic Rent for the Equipment due for periods up to and including the payment date specified in such notice plus whichever of the following amounts Lessor, in its sole discretion, shall specify in such notice (together with interest on such amount at the rate of 12% per annum from the payment date specified in such notice to the date of actual payment): (i) an amount equal to the excess, if any, of the Casualty Value for the Equipment, computed as of the rental payment date specified for payment in such notice, over the aggregate Fair Market Rental Value of the Equipment; or (ii) an amount equal to the excess, if any, of the Casualty Value for the Equipment as of the date specified in such notice over the Fair Market Sales Value of the Equipment, provided, however, that if by the payment date specified in such notice Lessor, pursuant to paragraph (b) above, shall have sold the Equipment and the amounts in respect of the Equipment which Lessor might demand if it exercised its rights under paragraph (d) below is less than the amount specified in or payable under any notice given under this paragraph (c), Lessee shall pay to Lessor the amounts computed under paragraph (d) below, and not the amounts specified in or payable under the notice given under this paragraph (c);

(d) in the event Lessor, pursuant to paragraph (b) above, shall have sold the Equipment, Lessor, in lieu of exercising its rights under paragraph (c) above with respect to the Equipment, may, if it shall so elect, demand that Lessee pay Lessor and Lessee shall pay to Lessor, as liquidated damages for a loss of a bargain and not as a penalty (in lieu of the Basic Rent for the Equipment due beginning on or after the rental payment date next following the date on which such sale occurs), any unpaid Basic Rent for the Equipment due for periods up to and including the Basic Rent payment date next following the date on which such sale occurs plus the amount of any deficiency between the net proceeds of such sale and the Casualty Value of the Equipment, computed as of the Basic

Rent payment date next following the date on which such sale occurs, together with interest at the rate of 12% per annum on the amount of such deficiency from the Basic Rent payment date as of which such Casualty Value is computed until the date of actual payment; and/or

(e) Lessor may exercise any other right or remedy which may be available to it under applicable law or proceed by appropriate court action to enforce the terms hereof or to rescind this Lease as to the Equipment.

In addition, Lessee shall be liable, except as otherwise provided above, for any and all unpaid Rent due hereunder before or during the exercise of any of the foregoing remedies and for all legal fees and other costs and expenses incurred by reason of Lessor's remedies with respect thereof, including all costs and expenses incurred in connection with the return of the Equipment in accordance with the terms of Section 7 hereof or in placing such Equipment in the condition required by said Section. No express or implied waiver by Lessor of any Event of Default shall in any way be, or be construed to be, a waiver of any future or subsequent Event of Default. To the extent permitted by applicable law, Lessee hereby waives any rights now or hereafter conferred by statute or otherwise which may require Lessor to sell, lease or otherwise use the Equipment in mitigation of Lessor's damages as set forth in this Section or which may otherwise limit or modify any of Lessor's rights or remedies under this Section.

#### Section 18. Annual Reports.

(a) Duty of Lessee to Furnish. On or before May 1 in each year, commencing with the year 1971, the Lessee will furnish to the Lessor or its assigns an accurate statement, as of the end of Lessee's preceding fiscal year (a) showing the amount, description and numbers of the units of Equipment then leased hereunder, the amount, description and numbers of all units of Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease, in the

case of the first such statement), and such other information regarding the condition or repair of the Equipment as Lessor may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 10(b) hereof shall have been preserved or replaced.

(b) Lessor's Inspection Rights. The Lessor or its assigns shall have the right, at its sole cost and expense, by its authorized representative, to inspect the Equipment and the Lessee's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Lessor or its assigns the existence and proper maintenance thereof during the continuance of this Lease.

Section 19. Option to Purchase. Provided that the Lessee is not in default, Lessee shall have the following option to purchase:

(a) Option. The Lessee shall have the right to purchase all but not less than all of the Equipment then leased hereunder at the expiration of the term of this Lease at a price equal to the then Fair Market Sales Value. The Lessee shall give the Lessor written notice 180 days prior to the end of the term of its election to exercise the purchase option provided for in this Section. Payment of the option price shall be made at the place of payment specified in Section 6 (c) hereof in funds there current against delivery of a bill of sale transferring and assigning to the Lessee all right, title and interest of the Lessor in and to the Equipment and containing a warranty against liens or claims of persons claiming by, through or under the Lessor except liens and claims which the Lessee assumed or is obligated to discharge under the terms of the Lease. The Lessor shall not be required to make any representation or warranty as to the condition of the Equipment or any other matters.

(b) Notice. Unless the Lessee has given the Lessor 180 days notice as required in connection with exercise of the foregoing option, all the Equipment then leased hereunder shall be returned to the Lessor in accordance with Section 7 hereof.

(c) Election to Purchase. Notwithstanding any election of the Lessee to purchase, the provisions of Section 15 hereof shall continue in full force and effect until the date of purchase and the passage of ownership of the Equipment purchased by the Lessee upon the date of purchase, unless the purchase price has been determined pursuant to this Section and is lower than the Casualty Value required pursuant to Section 15 hereof, in which event such purchase price shall govern.

Section 20. Merger; Assignment by Lessee.

(a) Lessee may not sell or convey its property and assets as an entirety or substantially as an entirety to, or consolidate or merge with or into, any other corporation, unless (1) the successor corporation shall be a corporation incorporated under the laws of the United States of America or of any state or states thereof, (ii) upon any such sale, conveyance, consolidation or merger, the successor corporation shall expressly assume the due and punctual payment of Basic Rent, all Supplemental Rent, and Casualty Value in accordance with the terms of this Lease, as well as the due and punctual performance and observance of all other terms, covenants and conditions of this Lease to be kept and performed by Lessee, (iii) after giving effect to any such sale, conveyance, consolidation or merger no Event of Default and no event which with notice or lapse of time or both would constitute an Event of Default shall have occurred and be continuing and (iv) Lessor shall be promptly notified of such sale, conveyance, merger or consolidation. Any such purchasing or successor corporation shall be substituted for Lessee as Lessee hereunder.

(b) Except to the extent otherwise expressly provided in this Lease, Lessee will not, without the prior written consent of Lessor, assign any of its rights or delegate any of its duties hereunder. The rights and obligations of Lessor and Lessee hereunder shall inure to the benefit of, and be binding upon, the permitted successors and assigns of Lessor and Lessee, respectively.

Section 21. Assignments by Lessor. This Lease shall be assignable in whole or in part by Lessor without the consent of Lessee, but Lessee shall be under no obli-

gation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. In the event that separate assignments are executed by the Lessor in respect of this Lease and the rental and other sums due and to become due hereunder, insofar as the same relate to units of Equipment, the Lessor and the Lessee agree that so long as such separate assignments remain in force and effect this Lease shall be deemed to be and shall be construed as a divisible and severable contract between the Lessor and the Lessee for the leasing of Equipment covered by each such separate assignment, all to the same extent and with the same force and effect as though a separate lease had been entered into by the Lessor and the Lessee in respect of such Equipment. Upon notice to the Lessee of any such assignment the rent and other sums payable by the Lessee which are the subject matter of the assignment shall be paid to the assignee. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) the rights of any such assignee in and to the sums payable by the Lessee under any provisions of this Lease shall not be subject to any abatement whatsoever, and shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever whether by reason of or defect in Lessor's title, or any interruption from whatsoever cause (other than from a wrongful act of the assignee) in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part of the assignee, the Lessee shall be unconditionally and absolutely obligated to pay the assignee all of the rents and other sums which are the subject matter of the assignment and which shall become payable after Lessee receives notice of such assignment, and (ii) the assignee shall have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of the assignee) which by the terms

of this Lease are permitted or provided to be exercised by the Lessor. Lessee and Lessor acknowledge that the Trust Agreement creates, for the pro rata benefit of the Certificate Holders, a security interest in the Equipment, this Lease, and all Rent (other than certain items of Rent specified therein) payable hereunder.

Section 22. Lessor's Right to Perform for Lessee. If Lessee fails to make any payment of Supplemental Rent required to be made by it hereunder or fails to perform or comply with any of its agreements contained herein, Lessor may itself make such payment or perform or comply with such agreement, and the amount of such payment and the amount of the reasonable expenses of Lessor incurred in connection with such payment or the performance of or compliance with such agreement, as the case may be, together with interest thereon at the rate of 12% per annum shall be deemed Supplemental Rent, payable by Lessee upon demand.

Section 23. No Set-Off for Lessee. Lessee's obligation to pay all Rent payable hereunder shall be absolute and unconditional and shall not be affected by any circumstance, including, without limitation, (i) any set-off, counterclaim, recoupment, defense or other right which Lessee may have against Southern, Lessor, the Trustor, any Certificate Holder or any assignee of any of them or anyone else for any reason whatsoever, (ii) any defect in the title, condition, design, operation, or fitness for use of, or any damage to or loss or destruction of, the Equipment, or any interruption or cessation in the use or possession thereof by Lessee for any reason whatsoever. Lessee hereby waives, to the extent permitted by applicable law, any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Lease except in accordance with the express terms hereof. Each Rent payment made by Lessee shall be final and Lessee will not seek to recover all or any part of such payment from Lessor for any reason whatsoever.

Section 24. Notices. All notices required or permitted to be delivered to any party shall be in writing, and shall be deemed to be given when delivered, or when deposited in the United States mails, certified and postage prepaid as follows:

(a) If to Lessor:

Girard Trust Bank, Trustee of the  
Illinois Terminal Railroad Trust No. 3  
1700 Market Street  
Philadelphia, Pennsylvania 19103  
Attention: O.K. Keller, Jr., Corporate  
Trust Officer

(b) If to Lessee:

Illinois Terminal Railroad Company  
Post Office Box 7282  
St. Louis, Missouri 63177  
Attention: E. B. Wilson, President

Section 25. Counterparts. This Lease, and any Lease Supplement hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and in each case such counterparts shall constitute but one and the same instrument.

Section 26. Opinion of Lessee's Counsel. Concurrently with the delivery and acceptance of the first unit of Equipment hereunder, the Lessee will deliver to the Lessor eight counterparts of the written opinion of counsel for the Lessee addressed to the Lessor, the Trustor, all Certificate Holders under the Trust Agreement, and to any assignee of Lessor of which the Lessee has notice, in scope and substance satisfactory to the Lessor, to the effect that:

(a) The Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of the State of Delaware.

(b) The Lessee has the corporate or other power and authority to own its property and carry on its business

as now being conducted and is duly qualified to do business as a foreign corporation in all states in which such qualification is necessary to carry out the terms of the Lease;

(c) This Lease, the Reconstruction Agreement and the Purchase Agreement have been duly authorized, executed and delivered by the Lessee and constitute legal, valid and binding agreements of the Lessee which are enforceable in accordance with their respective terms, subject, however, to bankruptcy, insolvency and similar laws affecting generally the rights of creditors;

(d) This Lease has been filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and no other filing, recording or depositing is necessary to protect the Lessor's title to the Equipment;

(e) No approval, consent or withholding of objection is required from any public regulatory body with respect to the entering into or performance of the Purchase Agreement, this Lease, or the Reconstruction Agreement;

(f) The execution and delivery by Lessee of the Purchase Agreement, the Reconstruction Agreement, and this Lease do not violate any provision of any law, any order of any court or governmental agency, the certificate of incorporation or by-laws of the Lessee, or any indenture, agreement, or other instrument to which Lessee is a party or by which it, or any of its property is bound, and of which such counsel has knowledge, and will not be in conflict with, result in breach of, or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement, or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Lessee, except as contemplated and permitted hereby; and

(g) As to any other matters which Lessor shall reasonably request.

Section 27. Other Documents. Lessee will deliver to Lessor such other documents, financial statements, opinions of counsel or certificates relating to Lessee's financial condition or the execution and performance of this Lease as Lessor shall from time to time reasonably request.

Section 28. Miscellaneous. Any provision of this Lease which is prohibited or enforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction. To the extent permitted by applicable law Lessee hereby waives any provision of law which renders any provision hereof prohibited or unenforceable in any respect. No term or provision of this Lease may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which the enforcement of the change, waiver, discharge or termination is sought. This Lease shall constitute an agreement of lease, and nothing herein shall be construed as conveying to Lessee any right, title or interest in the Equipment except as a Lessee only. The captions in this Lease are for convenience or reference only and shall not define or limit any of the terms or provisions hereof. This Lease shall in all respects be governed by, and construed in accordance with, the laws of Pennsylvania including all matters of construction, validity and performance.

IN WITNESS WHEREOF, Lessor and Lessee have caused this agreement to be duly executed as of the day and year first above written.

GIRARD TRUST BANK, as Trustee under  
the Illinois Terminal Railroad  
Equipment Trust No. 3, (Lessor)

[Corporate Seal]

By \_\_\_\_\_  
Its \_\_\_\_\_

Attest \_\_\_\_\_



Exhibits

A  
B  
C  
D

Form of

Schedule of Equipment  
Casualty Schedule  
Lease Supplement  
Certificate of Acceptance

EXHIBIT A TO LEASE

Description of Equipment:

Two Hundred (200) railroad box cars,  
reconstructed by Southern under the  
Reconstruction Agreement and marked  
with identifying numbers ITC 9300  
through ITC 9499 inclusive.

EXHIBIT B TO LEASE

Schedule of Casualty Value

<u>Casualty Value Payment Due on Periodic Rent Payment Date</u>	<u>Casualty Value (expressed as a Percentage of Lessor's Cost</u>
1	108.89030
2	108.54232
3	107.60368
4	106.46306
5	104.71516
6	102.74702
7	100.15291
8	97.44025
9	94.22913
10	90.91158
11	87.08502
12	83.33486
13	79.26308
14	75.26229
15	70.93435
16	66.67118
17	62.07447
18	57.53600
19	52.65731
20	47.83001
21	42.65548
22	37.525117
23	32.04028
24	26.59209
25	20.78163
26	15.0000

EXHIBIT C

LEASE SUPPLEMENT

LEASE SUPPLEMENT, dated as of \_\_\_\_\_, 19\_\_, between Girard Trust Bank, as Trustee of the Illinois Terminal Railroad Equipment Trust No. 3 (hereinafter referred to as Lessor) and Illinois Terminal Railroad Company (hereinafter referred to as Lessee).

Representations, Covenants, and Warranties

1. This Lease Supplement is issued pursuant to (and hereby incorporates all of the definitions, terms and conditions of, as if the same were fully set forth herein) that certain Railroad Equipment Lease Agreement dated as of January 15, 1971 (the Lease) between Lessor and Lessee.
2. Lessor hereby delivers and leases to Lessee under the Lease, and Lessee hereby accepts and leases from Lessor under the Lease, the following described units of Equipment:

TOTAL NO.  
OF UNITS

LESSEE'S IDENTIFYING  
NUMBERS

3. Lessee hereby confirms to Lessor that each of the aforementioned units of Equipment has been and is marked in accordance with the provisions of Section 10 of the Lease.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease Supplement to be duly executed on the dates appearing in their respective acknowledgments hereto but as of the date first above written.

GIRARD TRUST BANK  
As Trustee, Lessor

By \_\_\_\_\_

Title: \_\_\_\_\_

(Corporate Seal)

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

ILLINOIS TERMINAL RAILROAD COMPANY  
Lessee

By \_\_\_\_\_

Title: \_\_\_\_\_

(Corporate Seal)

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF )  
 ) SS  
COUNTY OF )

On the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me personally came \_\_\_\_\_, to me known, who, being by me duly sworn, did depose and say that he resides at \_\_\_\_\_; that he is a \_\_\_\_\_ of Girard Trust Bank, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

[ Notarial Seal ]

\_\_\_\_\_  
Notary Public, Count of \_\_\_\_\_  
\_\_\_\_\_, State of \_\_\_\_\_

My Commission: \_\_\_\_\_

STATE OF )  
 ) SS  
COUNTY OF )

On the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me personally came \_\_\_\_\_, to me known, who, being duly sworn, did depose and say that he resides at \_\_\_\_\_; that he is a \_\_\_\_\_ of Illinois Terminal Railroad Company, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

[ Notarial Seal ]

\_\_\_\_\_  
Notary Public, County of \_\_\_\_\_  
\_\_\_\_\_, State of \_\_\_\_\_

My Commission: \_\_\_\_\_

EXHIBIT D

ILLINOIS TERMINAL RAILROAD EQUIPMENT TRUST NO. 3

CERTIFICATE OF ACCEPTANCE

Under Railroad Equipment Lease Agreement dated as of January 15, 1971 and Railroad Equipment Reconstruction Agreement dated as of January 15, 1971.

The undersigned, being the duly authorized representative of Girard Trust Bank, Trustee under the Equipment Trust Agreement dated as of January 15, 1971 and designated as the Illinois Terminal Railroad Equipment Trust No. 3 (the Trustee), and of Illinois Terminal Railroad Company (the Lessee), and acting on their behalf as contemplated by the Railroad Equipment Reconstruction Agreement (the Reconstruction Agreement) dated as of January 15, 1971, among Lessee, Trustee, and Southern Iron & Equipment Company (Southern) and the Railroad Equipment Lease Agreement (the Lease) dated as of January 15, 1971, between Lessee and Trustee, hereby certifies that the following units of Equipment:

Description:

<u>TOTAL NO.</u> <u>OF UNITS</u>	<u>LESSEE'S IDENTIFYING</u> <u>NUMBERS</u>	<u>DATE</u>
-------------------------------------	---	-------------

have been duly delivered in good order by Southern and duly inspected and accepted by the undersigned on the respective dates shown above on behalf of the Trustee and in turn have been duly delivered by the Trustee to the Lessee and have been duly inspected and accepted by the undersigned on said dates on behalf of the Lessee as conforming in all respects to the requirements and provisions of the Reconstruction Agreement and the Lease.

The undersigned further certifies that at the time of its delivery to the Trustee and the Lessee each unit of Equipment covered by this Certificate was properly marked on each side thereof with the legend provided in Section 1 of the Reconstruction Agreement and Section 10 of the Lease.

Dated: , 19\_\_\_\_.

Duly authorized representative  
of Girard Trust Bank,

Trustee under Equipment Trust  
Agreement dated as of January 15,  
1971 and of Illinois Terminal  
Railroad Company

NOT

B

EQUIPMENT TRUST CERTIFICATE  
PURCHASE AGREEMENT

(ILLINOIS TERMINAL RAILROAD EQUIPMENT TRUST NO. 3)

THIS IS AN AGREEMENT, dated as of January 15, 1971, among GIRARD TRUST BANK, (the Trustee) as Trustee under the Equipment Trust Agreement, (the Trust Agreement) dated as of the date hereof, between UNITED CALIFORNIA BANK, (the Trustor) and the Trustee, and the other parties who are signatory to this agreement below (the Certificate Purchasers).

R E C I T A L S

A. Concurrently herewith the Trustee and the Trustor are entering into the Trust Agreement, in the form annexed hereto as Exhibit I. (All defined terms used herein which are not otherwise defined shall have the same meanings as set forth in the Trust Agreement.) Pursuant to the terms of the Trust Agreement, the Trustee proposes to (i) purchase from ILLINOIS TERMINAL RAILROAD COMPANY (the Railroad) the 200 railroad boxcars described therein (collectively the Equipment and individually a unit of Equipment) for the purchase price of \$5,000 per unit, (ii) deliver them to SOUTHERN IRON & EQUIPMENT COMPANY (Southern) for reconstruction pursuant to the Reconstruction Agreement among the Railroad, the Trustee and Southern for a price not exceeding \$10,100 per unit, and (iii) upon completion of such reconstruction lease the Equipment to the Lessee on the terms and conditions set forth in the Lease referred to and incorporated in the Trust Agreement.

B. To finance the payment of the purchase price of \$5,000 per unit and the reconstruction price of up to \$10,100 per unit (the combination thereof, in the maximum amount of \$15,100 per unit, being called herein, in the Trust Agreement and in the Lease, the Lessor's Cost of each unit of Equipment), the Trustor agrees to make payment of 20% of the Lessor's Cost, and the Trust Agreement authorizes and directs the Trustee to enter into this Equipment Trust Certificate Purchase Agreement pursuant to which the Certificate Purchasers shall purchase Equipment Trust Certificates, in the form set forth in Section 3.01 of the Trust Agreement, to finance the payment of 80% of the Lessor's Cost of each unit of Equipment, on the terms and conditions set forth herein.

C O V E N A N T S

ARTICLE I  
PURCHASE OF CERTIFICATES

1.01 Subject to the terms and conditions of this Agreement and the Trust Agreement, the Trustee agrees to issue and sell to the Certificate Purchasers, and the Certificate Purchasers severally agree to purchase from the Trustee, Equipment Trust Certificates on the dates and in the amounts indicated below:

<u>NAME OF CERTIFICATE PURCHASER</u>	<u>DATE</u>	<u>AMOUNT</u>
(a) The Penn-Mutual Life Insurance Company	February 16, 1971	\$350,000
	March 11, 1971	\$300,000
	March 31, 1971	\$800,000
(b) Fidelity Mutual Savings Bank	March 11, 1971	\$500,000
(c) Ludwig Jesselson	February 16, 1971	\$500,000

1.02. On each of the dates specified in Section 1.01, each Certificate Purchaser shall make available to the Trustee at its principal corporate trust office in Philadelphia, Pennsylvania immediately available funds equal to 100% of the principal amount of the Certificates to be purchased by such Certificate Purchaser on such date. The Trustee shall, on each such date, execute and deliver to each Certificate Purchaser a single Certificate in the principal amount indicated in Section 1.01. The Trustee shall give to each Certificate Purchaser at least five days advance written notice indicating each date on which such Certificate Purchaser is required to purchase Certificates hereunder, and the amount thereof.

1.03 Each Certificate issued hereunder shall be in the form set forth in Section 3.01 of the Trust Agreement, with appropriate insertions indicating the principal amount, date, payee, and amount of level installment payments required thereunder. Each Certificate shall name the appropriate Certificate Purchaser as payee, or such nominee as he or it shall designate to the Trustee. Each of the 26 level installment payments of principal and interest specified in each Certificate shall be in such amount as shall be required to amortize fully the principal of and interest on such Certificate in approximately equal installments. All Certificates issued hereunder shall be governed by, and shall be subject to the terms and conditions of, the Trust Agreement, as well as this Equipment Trust Certificate Purchase Agreement, and shall be secured by a security interest in the Trust Estate, as more fully provided in the Trust Agreement.

## ARTICLE II CLOSING CONDITIONS

2.01 The obligation of the Certificate Purchasers to purchase Certificates hereunder shall be subject to the satisfaction of the following conditions prior to the purchase of Certificates hereunder.

- (a) Each Certificate Purchaser shall receive an executed copy of (i) the Trust Agreement; (ii) the Purchase Agreement; (iii) the Reconstruction Agreement; (iv) the Lease; and (v) this Agreement.
- (b) The Trust and the Lease shall have been duly filed with the Interstate Commerce Commission in accordance with the provisions of Section 20(c) of the Interstate Commerce Act.
- (c) The Certificate Purchasers shall have received signed copies of the following opinions, in form and substance and by counsel satisfactory to the Certificate Purchasers:

- (i) an opinion of counsel for the Lesseerequired under Section 26 of the Lease;
- (ii) an opinion of counsel for the Trustee to the effect that (A) the Trustee is a banking association duly incorporated and in good standing under the laws of the State of Pennsylvania; (B) the Trust Agreement has been duly authorized, executed and delivered by the Trustee, and constitutes a legal, valid and binding agreement and declaration of Trust by the Trustee which is enforceable in accordance with the terms thereof, subject, however, to bankruptcy, insolvency and similar laws affecting generally the rights of creditors; (C) the execution by the Trustee of the Trust Agreement, the Lease, the Purchase Agreement and the Reconstruction Agreement and the consummation of the transactions therein contemplated, do not conflict with or violate any provisions of the articles of association or by-laws of the Trustee, any agreement to which the Trustee is a party and of which such counsel has knowledge, or any banking laws or regulations applicable to the Trustee, and the same do not require the consent or approval of any governmental regulatory agency having jurisdiction over the Trustee with respect to such transactions; and (D) the provisions of the Certificates to be issued hereunder do not violate the usury laws of the State of Pennsylvania.
- (iii) an opinion of counsel for the Trustor to the effect that: (A) the Trustor is a banking association duly incorporated and in good standing under the laws of the State of California; (B) the Trust Agreement has been duly authorized, executed and delivered by the Trustor and constitutes a legal, valid and binding agreement and declaration of trust by the Trustor, which is enforceable

in accordance with the terms thereof, subject, however, to bankruptcy, insolvency and similar laws affecting generally the rights of creditors; and (C) the execution of the Trust Agreement by the Trustor and the consummation of the transactions therein contemplated do not conflict with or violate any provisions of the articles of association or by-laws of the Trustor, any agreement to which the Trustor is a party and of which such counsel has knowledge, or any banking laws or regulations applicable to the Trustor, and the same do not require the consent or approval of any governmental regulatory agency having jurisdiction over the Trustor with respect to such transactions.

- (iv) an opinion of counsel for Southern to the effect that: (A) Southern is a corporation duly incorporated and in good standing under the laws of the State of Georgia; (B) the Reconstruction Agreement has been duly authorized, executed and delivered by Southern and is a legal, valid and binding agreement of Southern which is enforceable in accordance with the terms thereof subject, however, to bankruptcy, insolvency and similar laws affecting generally the rights of creditors; and (C) the execution and performance of the Reconstruction Agreement by Southern do not conflict with or violate any provisions of the articles of incorporation or by-laws of Southern, any agreement to which Southern is a party and of which such counsel has knowledge, or any law or regulation applicable to Southern, and the same do not require the consent or approval of any governmental agency having jurisdiction over Southern with respect to such transactions.

- (d) The Certificate Purchasers shall have received signed copies of an opinion of Messrs. Foley & Lardner, as special counsel for the Certificate Purchasers, in form and substance satisfactory to the Certificate Purchasers, to the effect that:
- (i) The Trust Agreement has been duly authorized, executed and delivered by the Trustee and the Trustor, and constitutes a legal, valid, binding agreement and declaration of trust by the Trustee and the Trustor which is enforceable in accordance with the terms thereof;
  - (ii) The Trust created and provided for by the Trust Agreement is not taxable as an association under existing statutes, regulations and decisions relating to Federal income taxes;
  - (iii) The Trustee has full right, power and authority under the Trust Agreement to enter into, execute and deliver this Agreement, the Purchase Agreement, the Reconstruction Agreement, the Lease, and the Certificates and to perform each and all of the matters provided for in such instruments;
  - (iv) This Agreement, the Purchase Agreement, the Reconstruction Agreement, and the Lease have been duly executed and delivered by the Trustee and constitute the legal, valid and binding agreements of the Trustee which are enforceable in accordance with their respective terms;
  - (v) The Lease, the Purchase Agreement and the Reconstruction Agreement have been duly authorized, executed and delivered by the Lessee

and constitute the legal, valid and binding agreements of the Lessee which are enforceable in accordance with the terms thereof;

- (vi) The Reconstruction Agreement has been duly executed and delivered by Southern and constitutes the legal, valid and binding agreement of Southern which is enforceable in accordance with its terms;
- (vii) The Trustee has good title to the Equipment free and clear of any liens and encumbrances and any claims of third persons, excepting only the security interest created by the Trust Agreement, and the right, title and interest of the Lessee under the Lease, and the Reconstruction Agreement, and the rights of Southern under the Reconstruction Agreement;
- (viii) The Lease has been duly filed with the Interstate Commerce Commission and any other filing or recording of the Lease or any notice thereof in any other public office which is necessary to protect the right, title and interest of the Trustee under the Lease has been done;
- (ix) The Trust Agreement has been duly filed with the Interstate Commerce Commission and any other filing or recording of the Trust Agreement or any notice thereof in any other public office which is necessary to perfect the security interest of the Certificate Holders as against creditors of and purchasers from the Trustee has been done; and such security interest in the units of Equipment which become subject to the Lease is effective as against creditors of and purchasers from the Trustee and the Lessee, subject only to the right, title and interest of the Lessee under the Lease and the Reconstruction Agreement, and the rights of Southern under the Reconstruction Agreement, and the Trust Agreement creates a valid security interest in and to the rents and other sums due and to become due under the Lease in respect of the units of

Equipment which become subject to the Lease effective as against creditors of and purchasers from the Trustee;

- (x) The Certificates to be issued and sold pursuant to the terms hereof will, when executed and delivered by the Trustee against receipt of funds in the principal amount thereof, constitute the legal, valid and binding obligations of the Trustee which are enforceable in accordance with their terms, and are subject to the terms and entitled to the benefits of this Agreement and the Trust Agreement.
  
- (xi) Based on the representation and warranties set forth in Article IV hereof, Section 5(h) of the Lease, Section 11.08 of the Trust Agreement and similar representations given to such counsel by certain other parties, the offering, sale and delivery of the Certificates under the circumstances contemplated by this Agreement constitute an exempted transaction under the Securities Act of 1933, as amended, which does not require registration of the Certificates thereunder, or under the Trust Indenture Act of 1939, which does not require qualification of an indenture thereunder, and since the Certificate Purchasers are acquiring the Certificates for investment and not for resale or distribution (other than the sale to American Mutual Life Insurance Company by Ludwig Jesselson referred to in Section 4.02 hereof), if any of the Certificate Purchasers should in the future deem it expedient to sell any Certificate (which the Certificate Purchasers do not now contemplate or foresee), such sale would be an exempted transaction under the Securities Act of 1933, as amended, provided that at the time of such sale such Certificate Purchaser, directly or indirectly, does not control, is not controlled by, and is not under common control with the Trustee or, if any such control then exists, such sale is not made through an underwriter

as that term is defined in said Act; provided that in giving such opinion such special counsel may (Y) qualify all opinions with respect to the enforceability of the Certificates and any other agreements by reference to bankruptcy, insolvency and similar law affecting generally the rights of creditors; and (Z) rely on the following (but shall state that such reliance by such special counsel and the Certificate Purchasers is in their opinion reasonable): as to the opinion referred to in Section 2.01(D) (vii), on the warranties contained in the bills of sale covering the Equipment and the opinion of counsel for the Railroad required under the Purchase Agreement concerning the bills of sale to be delivered by the Railroad; and as to the opinions referred to in Section 2.01(d) hereof relating to the due authorization and execution of the Trust Agreement, the Lease, the Purchase Agreement and the Reconstruction Agreement by the respective parties thereto, on the various opinions of counsel for such parties referred to in Section 2.01(c) hereof.

- (e) All proceedings taken in connection with the transactions contemplated by this Agreement and all documents necessary to the consummation thereof shall be satisfactory in form and substance to the Certificate Purchasers and their special counsel and the Certificate Purchasers shall have received a copy (executed, xerox or certified as may be appropriate) of all documents or proceedings taken in connection with the consummation of such transactions.
- (f) The representation and warranties of the Trustees under Section 4.01 hereof, and of the Railroad under Section 5 of the Lease, shall be true as of each date of purchase of any Certificates hereunder.

ARTICLE III  
USE OF PROCEEDS OF CERTIFICATES:  
REDUCTION OF CERTIFICATES

3.01. The Trustee shall hold and use the proceeds received from the sale of Certificates, including income received from the investment thereof pursuant to Section 3.03 hereof (all referred to herein as the Proceeds), solely for the purposes and on the terms set forth in this Agreement. On each date specified in the Reconstruction Agreement and the Purchase Agreement for the payment of the Lessor's Cost of units of Equipment, the Trustee shall make payment to the Railroad and Southern of such Lessor's Cost out of the Proceeds, in an amount not exceeding, as to each such unit of Equipment, 80% of the lesser of (i) the actual Lessor's Cost thereof, or (ii) \$15,100; provided, however, that the Trustor shall have furnished to the Trustee funds equal to not less than 20% of such Lessor's Cost. Prior to the expenditure of the Proceeds for such purpose on each such date, the Trustee shall receive, and shall promptly thereafter deliver to each of the Certificate Purchasers the following:

- (a) copies of the documents required to be delivered to the Trustee by the Railroad under the Purchase Agreement upon the payment of the purchase price of the units of Equipment thereunder including the bills of sale for such units, an opinion of Lessee's counsel with respect to such bills of sale, and a certificate of the Railroad currently confirming its representations and warranties under the Lease.
- (b) a xerox copy of an invoice of Southern for the reconstruction of units of Equipment for which payment is then being made under the Reconstruction Agreement;
- (c) a copy of a Lease Supplement or Supplements executed by the Trustee and the Railroad pursuant to the Lease identifying the units of Equipment for which payment is then being made;
- (d) an opinion of Messrs. Foley & Lardner, as special counsel for the Certificate Purchasers, dated as of the date of such payment, to the effect that:

- (i) If such opinion is dated a later date than the opinion of such special counsel referred to in Section 2.01(d), currently confirming the matters set forth in such previous opinion.
- (ii) Each Lease Supplement referred to in paragraph (c) above has been duly authorized, executed and delivered by the Trustee and the Lessee, and constitutes the legal, valid and binding agreement of such parties, as part of the Lease, which is enforceable in accordance with the terms thereof; and such Lease Supplement has been duly filed with the Interstate Commerce Commission, and any other filing or recording of such Lease Supplement or any notice thereof in any other public office which is necessary to perfect the security interest of the Certificate Holders in the units of Equipment described therein as against creditors of and purchasers from the Trustee or the Lessee has been done, and such security interest in such units of Equipment is effective as against creditors of and purchasers from the Trustee and the Lessee, subject only to the right, title and interest of the Lessee under the Lease, and subject to the qualification and reliance referred to in Section 2.01(d).

3.02. On July 31, 1971, or such later date as may be agreed to in writing by the Requisite Parties (determined under the provisions of the Trust Agreement), the Trustee shall pay to the holders of the Certificates (herein called the Certificate Holders) pro rata in proportion to the Certificates held by each Certificate Holder, all of the Proceeds, if any, then held by the Trustees hereunder. Such payment shall be applied by each Certificate Holder as follows: first, so much of such payment as shall be equal to the Pro Rata Share of Excess Funds (defined below) of such Certificate Holder shall be applied in payment of the unpaid principal balance of the Certificates held by such Certificate Holder, pro rata in proportion to the unpaid principal balance thereof; and second, pro rata payment of the accrued interest on the Certificates held by such Certificate Holder. For purposes hereof, Pro Rata Share of Excess

Funds of a Certificate Holder shall mean (a) the difference between the aggregate principal amounts theretofore paid to the Trustee upon the issuance of all Certificates hereunder, less the aggregate of the payments made by the Trustee out of the Proceeds pursuant to Section 3.01 hereof, multiplied by (b) a fraction, the numerator of which shall be equal to the then unpaid principal balance of Certificates held by such Certificate Holder and the denominator of which shall be equal to the then unpaid principal balance of all then outstanding Certificates. In the event that a payment is made under this Section 3.02 in reduction of the principal amount of the outstanding Certificates, then the level payments thereafter due on each Certificate shall be recalculated and reduced in the manner provided in, and subject to the other terms and provisions of, Section 3.02 of the Trust Agreement.

3.03. The Trustee is hereby authorized in its discretion to invest and reinvest all Proceeds which are not currently disbursed or required for the payment of the Lessor's Cost of units of Equipment under Section 3.01 hereof, in obligations of the United States Government or agencies thereof, and/or bank certificates of deposit, in each case having a maturity of one year or less, and shall hold all such investments subject to the terms hereof and of the Trust Agreement. The Trustee will make reasonable efforts to realize a reasonable return on unused Proceeds held by it hereunder, but it shall have sole discretion in exercising its own judgment with respect to the purchase or sale of any such obligations, and shall not be liable to anyone for any acts done or omitted by it in the exercise of, or failure to exercise, such judgment, except for its own wilful misconduct or gross negligence.

#### ARTICLE IV REPRESENTATIONS AND WARRANTIES

4.01. The Trustee represents and warrants that as of the date hereof, and as of each date referred to in Section 3.01 hereof, unless the Trustee otherwise advises the Certificate Holders prior thereto:

- (a) To the knowledge of the Trustee, there are no actions, suits or proceedings at law or in equity or by or before any governmental instrumentality or other agency now pending against, or threatened

against the Trustee which materially and adversely affect the Trust Estate under the Trust Agreement.

- (b) Neither the Trustee, nor any agent on behalf of the Trustee, has directly or indirectly offered the Certificates or solicited an offer to acquire the Certificates, or any substantially similar securities in connection with the transaction herein contemplated, from or otherwise approached, negotiated or communicated in respect of the Certificates, or any substantially similar securities in connection with the transaction herein contemplated, with any person or persons so as to bring the offering or issuance thereof under the provisions of Section 5 of the Securities Act of 1933, as amended; and
- (c) The Trustee has not either directly or through an agent offered the beneficial interests under the Trust Agreement or any part thereof for sale to or solicited any offers to buy the beneficial interest or any part thereof from or otherwise approached or negotiated in respect thereof with any person or persons, so as to thereby bring the creation and acquisition of the beneficial interest within the provisions of Section 5 of the Securities Act of 1933, as amended. By making the warranties contained in this paragraph the Trustee is not thereby acknowledging or implying that such a beneficial interest under the Trust Agreement is a "security" within the meaning of Section 2(1) of the Securities Act of 1933, as amended.

4.02. Each of the Certificate Purchasers represent that it is the present intention of such Certificate Purchaser to acquire its Certificates for its own account for investment and not with a view to distribution or resale thereof, but subject to any legal requirement that the disposition of such Certificate Purchaser's property be at all times within its control (and the purchase of the Certificates hereunder shall constitute a reaffirmation of the foregoing as of each date specified in Section 1.01 hereof). Notwithstanding the foregoing, it is understood that Ludwig Jesselson proposes to sell the Certificate purchased by him to American Mutual Life Insurance Company, of Des Moines, Iowa, which latter company is furnishing, by separate letter, a representation similar in effect to the foregoing.

ARTICLE V  
MISCELLANEOUS PROVISIONS

5.01. This Agreement, the Certificate and the Trust Agreement shall be construed in accordance with and governed by the laws of the State of Pennsylvania.

5.02. The Certificate Purchasers and the Trustee each acknowledge that Southern and the Railroad will be relying upon the provisions hereof in executing and performing the Reconstruction Agreement, the Purchase Agreement and the Lease, as the case may be.

5.03. The execution hereof by the parties hereto shall constitute a contract between the Trustee, and the Certificate Purchasers, and this Agreement may be executed in any number of counterparts, each executed counterpart constituting an original but all together only a single agreement.

GIRARD TRUST BANK,

Trustee Under the Illinois  
Terminal Railroad Equipment  
Trust No. 3

By \_\_\_\_\_

ATTEST: \_\_\_\_\_

CERTIFICATE PURCHASERS:

The Penn Mutual Life  
Insurance Company

Fidelity Mutual Savings  
Bank

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

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

\_\_\_\_\_  
Ludwig Jesselson

EXHIBIT TO EQUIPMENT  
TRUST CERTIFICATE PURCHASE AGREEMENT

Exhibit

I

Form of

Trust Agreement

EXHIBIT  
NOT FOR CIRCULATION

EXHIBIT C

RAILROAD EQUIPMENT PURCHASE AGREEMENT

ILLINOIS TERMINAL RAILROAD COMPANY

THIS IS AN AGREEMENT, made as of January 15, 1971 by GIRARD TRUST BANK, of Philadelphia, Pennsylvania as Trustee under the Equipment Trust Agreement hereinafter described (the Trustee), and ILLINOIS TERMINAL RAILROAD COMPANY, a Delaware corporation (Railroad).

1. Purchase and Sale.

Railroad will sell and deliver to Trustee, and Trustee will purchase and accept from Railroad certain railroad equipment, consisting of two hundred boxcars described in Schedule A, (hereinafter called the Equipment, or individually, unit of Equipment) for the purchase price set forth in Schedule A.

2. Delivery.

Railroad will deliver the Equipment at the Decatur, Georgia, plant of Southern Iron & Equipment Company (Southern). Delivery shall be made to a representative of Trustee (who may be an employee or officer of Railroad) authorized by the Trustee to accept delivery hereunder. Units of Equipment shall be delivered in lots of not less than twenty units of Equipment per week, commencing on or about January 2, 1971.

3. Documents of Sale, Delivery and Acceptance.

Delivery of each unit of Equipment hereunder shall be accompanied by the following documents:

(a) a bill or bills of sale of the Railroad, in substantially the form of Schedule B annexed hereto, transferring to Trustee all of Railroad's right, title and interest in and to such units of Equipment, and warranting that at the time of delivery of such units of Equipment, Railroad had

full legal title thereto, free and clear of all liens, claims or encumbrances of any nature, and full legal and equitable rights to transfer title therein to Trustee; and

(b) a written opinion of counsel for Railroad that such bill or bills of sale are valid, enforceable, and effective to transfer title to the Trustee in accordance with the terms thereof, free and clear of all claims, liens and encumbrances of any nature whatsoever.

Acceptance of delivery shall be documented by a Certificate or Certificates of Acceptance, in the form of Schedule C annexed hereto, executed by the aforementioned representative of Trustee, who shall execute and deliver the same upon his acceptance of delivery of the appropriate documents and unit of Equipment.

#### 4. Reconstruction of Equipment.

Trustee and Railroad have entered into a reconstruction contract with Southern dated as of the date hereof (the Reconstruction Agreement) pursuant to which Southern has agreed to reconstruct the equipment for Trustee. The parties hereto have further agreed (by a separate agreement of even date, entitled Railroad Equipment Lease Agreement) that the Equipment will be leased by Trustee to Railroad upon completion of such reconstruction, all as contemplated by that certain Equipment Trust Agreement, dated as of the date hereof between the Trustee, as trustee, and UNITED CALIFORNIA BANK, of Los Angeles, California, as trustor. The parties hereto further acknowledge and agree that the delivery schedule and lot sizes specified in paragraph 2 hereof are based upon anticipated rates at which units of Equipment will be reconstructed pursuant to the Reconstruction Agreement. The parties hereto agree to use their best efforts from time to time to adjust the delivery schedule and lot size specified in paragraph 2, in the event that such adjustment will facilitate or expedite the carrying out of the Reconstruction Agreement.

#### 5. Payment of Purchase Price.

The purchase price for units of Equipment sold to Trustee hereunder shall be paid to Railroad, at the price per

unit of Equipment specified in Schedule A, in four equal installments, one such installment to be paid on the tenth business day following the dates on which (i) the fiftieth, (ii) the one-hundredth, (iii) the one-hundred fiftieth, and (iv) the two hundredth unit of Equipment has been delivered to Railroad by Trustee under the Lease referred to in paragraph 4 hereof and accepted by Railroad thereunder, provided, however, that (without in any way limiting Railroad's obligation to deliver units of Equipment as promptly as practicable), the Trustee shall not be obligated to make payments to Railroad except in accordance with the following schedule (and the payment of the installments specified above shall be delayed to the extent required by such schedule):

- (a) No payments prior to February 16, 1971;
- (b) No payments in excess of an aggregate of \$351,822 from February 16, 1971 to March 10, 1971;
- (c) No payments in excess of an aggregate of \$692,948 from February 16, 1971 to March 30, 1971; and
- (d) No limitation on or after March 31, 1971.

Payments shall be made in immediately available funds at the principal corporate trust office of the Trustee in Philadelphia, Pennsylvania. Unless the Trustee shall have received written notice to the contrary from Railroad, prior to the date of any such payment, Trustee shall arrange a bank transfer of funds paid hereunder to the Mercantile Trust Company, N. A., St. Louis, Missouri, to be available for credit to Railroad's account with said bank before 2:00 o'clock p.m. on the day of payment. Each payment by Trustee shall be made against delivery of a certificate of Railroad, in form and content satisfactory to Trustee, stating that at the date of such payment the representations and warranties of Lessee, contained in Section 5 of the aforementioned Lease, continue to be true, and certifying to such other matters pertaining to said Lease as Trustee shall reasonably require.

#### 6. Partial Cancellation.

At the option of Trustee, exercisable without prior notice, this Agreement shall be cancelled or rescinded, as

applicable, as to any of all units of Equipment as to which the reconstruction and redelivery to Trustee contemplated by paragraph 4 is not complete on or before July 31, 1971. In the event of such cancellation or rescission, all of Trustee's rights and obligations under the Reconstruction Agreement shall forthwith be transferred to and assumed by Railroad, and Trustee shall have no further obligation of any nature whatever to Railroad hereunder, except (i) to deliver to Railroad a bill of sale transferring all right, title and interest of the Trustee in and to any unit of Equipment to which this paragraph 6 applies (but without representations or warranties of any nature); and (ii) to pay to Railroad (within 10 days after the exercise of such option to rescind or cancel) the unpaid purchase price of any units of Equipment as to which such cancellation or rescission shall not apply.

ILLINOIS TERMINAL RAILROAD COMPANY

(CORPORATE SEAL)

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

Attest: \_\_\_\_\_  
Title: \_\_\_\_\_

GIRARD TRUST BANK, Trustee under  
the Illinois Terminal Railroad  
Equipment Trust No. 3

(CORPORATE SEAL)

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

Attest: \_\_\_\_\_  
Title: \_\_\_\_\_

SCHEDULE A TO RAILROAD EQUIPMENT PURCHASE AGREEMENT

Description of Units:

Two Hundred (200) 40 ft., 50 ton capacity boxcars, of the following series:

<u>Quantity</u>	<u>ITC Series</u>
120	5850-5999 and 6850-6999
80	6500-6849

Purchase Price Per Unit: Five Thousand Dollars (\$5,000.00)

Total Purchase Price: One Million Dollars (\$1,000,000.00)

SCHEDULE B

BILL OF SALE

ILLINOIS TERMINAL RAILROAD COMPANY (hereinafter referred to as the Seller), for and in consideration of One Dollar (\$1.00) and other valuable consideration in full payment for the railroad equipment hereinafter specified, receipt of which is hereby acknowledged, has sold, assigned, transferred and set over to Girard Trust Bank, as Trustee under the Trust Agreement dated as of January 15, 1971 (hereinafter referred to as the Trustee), its successors and assigns, the following railroad equipment:

<u>Description of Units</u>	<u>Number of Units</u>	<u>Seller's Road Numbers</u>
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which railroad equipment has been delivered to the Trustee pursuant to the Railroad Equipment Purchase Agreement dated as of January 15, 1971 between the Seller and the Trustee.

This Bill of Sale is executed and delivered for the purpose of confirming and evidencing the transfer of title to said railroad equipment to the Trustee at the time and place of delivery of said railroad equipment.

The Seller hereby warrants to the Trustee, its successors and assigns, that at the time of delivery of said railroad equipment to the Trustee the Seller had legal title to said railroad equipment and good and lawful right to sell the same and that title to said railroad equipment was at the time of delivery of said railroad equipment to the Trustee free of all claims, liens and encumbrances of any nature.

IN WITNESS WHEREOF, Illinois Terminal Railroad Company has caused this instrument to be signed in its name by a duly authorized officer and its corporate seal to be hereunto affixed this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

ILLINOIS TERMINAL RAILROAD COMPANY

ATTEST:

By \_\_\_\_\_  
Its \_\_\_\_\_

\_\_\_\_\_  
Secretary

SCHEDULE C TO RAILROAD EQUIPMENT PURCHASE AGREEMENT

CERTIFICATE OF ACCEPTANCE  
(Purchase Agreement)

The undersigned (being the duly authorized representative of Girard Trust Bank, Trustee of the Illinois Terminal Railroad Equipment Trust No. 3), acting pursuant to the terms of the Railroad Equipment Purchase Agreement (the Purchase Agreement) dated \_\_\_\_\_, 19 \_\_\_\_, between Girard Trust Bank (hereinafter referred to as Trustee) and Illinois Terminal Railroad Company (the Railroad), hereby certifies that on the dates indicated, the following railroad boxcars were delivered by Railroad and accepted by the undersigned on behalf of Trustee, pursuant to Section 2 of the Purchase Agreement:

<u>Total Number of Units</u>	<u>Railroad's Identifying Numbers</u>	<u>Date</u>
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and that delivery of such boxcars was accompanied in each case by delivery of appropriate bills of sale and the opinion of counsel for Railroad, as required by Section 3 of the Purchase Agreement.

Date:

\_\_\_\_\_  
Authorized Representative of Trustee

EXHIBIT 2

EXHIBIT  
NOT FOR SIGNATURE

RAILROAD EQUIPMENT RECONSTRUCTION AGREEMENT

THIS IS AN AGREEMENT made as of January 15, 1971, among SOUTHERN IRON & EQUIPMENT COMPANY, a Georgia corporation (Southern), GIRARD TRUST BANK, a banking institution organized under the laws of Pennsylvania, as Trustee under the Equipment Trust Agreement described below (the Trustee) and ILLINOIS TERMINAL RAILROAD COMPANY, a Delaware corporation (the Railroad).

RECITALS:

- A. The Trustee and Railroad have entered into a Railroad Equipment Purchase Agreement, dated as of the date hereof (the Purchase Agreement) pursuant to which Trustee will purchase the 200 railroad boxcars described in Schedule 1 hereto (hereinafter referred to collectively as the Equipment, and individually as a unit of Equipment).
- B. By the terms of the Purchase Agreement the Trustee will take title to units of Equipment as and when such units are delivered to Trustee, at Decatur, Georgia, whereupon such units of Equipment will be accepted by Trustee and delivered in place to Southern for the reconstruction to be performed hereunder.
- C. Upon performance of this Agreement by Southern, the Railroad and Trustee intend that all units of Equipment reconstructed hereunder shall be leased by Trustee to Railroad, pursuant to the Railroad Equipment Lease Agreement, dated as of the date hereof between Railroad and Trustee (the Lease).

COVENANTS

1. Reconstruction

Southern agrees to reconstruct each unit of Equipment delivered to it by the Trustee hereunder, in accordance with the specifications set forth in Schedule 2 hereto (the Specifications); to number and mark each unit of Equipment as specified by the Trustee; and to deliver Equipment, as and when so reconstructed and in the quantities hereinafter set forth.

The Equipment, as so reconstructed, shall conform in all respects to requirements and specifications of the United States Department of Transportation, and all standards recommended by the Association of American Railroads, insofar as such requirements, specifications and recommended standards are, in the reasonable judgment of Southern, applicable as of the date of this Agreement to railroad equipment of the character of the Equipment as so reconstructed.

## 2. Warranty

Southern warrants to Trustee and Railroad that the Equipment will be reconstructed in accordance with the requirements, specifications and standards set forth as referred to in paragraph 1 hereof, and warrants that the Equipment as so reconstructed will be free from defects in material (except as to specialties incorporated therein specified by the Trustee and not manufactured by Southern) and workmanship under normal use, and service, the obligation of Southern under this paragraph being limited to making good at its plant any part or parts of any reconstructed unit of Equipment which: (i) are defective in the sense that the same do not comply with the warranty specified herein; (ii) were reconstructed and/or supplied by Southern; and (iii) shall, within one year after the delivery of such reconstructed unit of Equipment to the Trustee, be returned to Southern with transportation charges prepaid. This warranty is expressly in lieu of the warranty of merchantability and all other warranties, express or implied and of all other obligations or liabilities on the part of Southern except for its obligations under this Agreement, and Southern neither assumes nor authorizes any person to assume for it any other liability in connection with the reconstruction of the Equipment and delivery of the reconstructed Equipment except as aforesaid. Southern further agrees with the Trustee and Railroad that the acceptance by either of them of any reconstructed unit of Equipment hereunder shall not be deemed a waiver by them of any of their rights under this paragraph.

## 3. Delivery

The Equipment will be delivered to Southern by Trustee at Southern's plant in Decatur, Georgia. The rate of such delivery shall be as follows: commencing on or about January 2, 1971, in weekly lots of such sizes as Southern shall reasonably require for expeditious handling, consistent with the schedule provided herein for delivery by Southern of reconstructed units of Equipment. Southern will deliver units of

Equipment to Trustee, reconstructed pursuant hereto, at the rate of up to approximately twenty units of Equipment per week, commencing as soon as practical. Delivery by Southern and acceptance by Trustee shall be at Southern's plant in Decatur, Georgia. Southern agrees that it will take no steps to cause a material reduction in its labor force or a material diversion of work from the contract during the period in which units of equipment are being reconstructed hereunder.

#### 4. Force Majeure

The schedule specified in paragraph 3 for delivery of units of Equipment shall be extended to the extent of any delay or delays suffered by Railroad or by Southern, as the case may be, in the performance of the Agreement by reason of the occurrence of acts of God; acts of Government such as embargoes, priorities, and allocations; war or war conditions; riot, civil commotion or sabotage; strikes, differences with workmen and labor shortages; accidents, fire, flood, explosion, damage to plant, equipment or facilities; delays in receiving the Equipment; delays in receiving necessary materials or any other cause beyond the reasonable control of Railroad or Southern, as the case may be.

#### 5. Inspection; Acceptance; Risk of Loss

The Trustee agrees to appoint by written notice to Southern and maintain an authorized representative or representatives at the place of delivery of the reconstructed Equipment, and to cause such representative or representatives, as and when reconstructed Equipment is tendered for delivery by Southern in accordance herewith, to inspect the same and, if such reconstructed Equipment is found to be in good order, to accept delivery thereof and to execute and deliver to Southern and to the Trustee a Certificate of Acceptance acknowledging delivery of the reconstructed Equipment in good order and acceptance thereof by the authorized representative of the Trustee (hereinafter called "Certificate of Acceptance"). The execution of such a Certificate of Acceptance and receipt by the Trustee of Southern's invoice therefor (dated as of the date of the Certificate of Acceptance) as to any unit or units of Equipment, shall be deemed to complete Southern's obligation to deliver such unit or units hereunder, and from the time of their delivery to Southern until execution of such Certificate of Acceptance Southern shall bear all risk and responsibility of loss of or damage to such unit or units.

6. Payment to Southern

The reconstruction price for units of Equipment reconstructed by Southern hereunder shall be paid to Southern by Trustee, at the price per unit of Equipment specified in Schedule 1, as follows: in four equal installments, one such installment to be paid on or before the tenth business day following the dates on which (i) the fiftieth, (ii) the one-hundredth, (iii) the one-hundred fiftieth, and (iv) the two hundredth unit of Equipment has been delivered to and accepted by Trustee hereunder and by Railroad under the lease; provided, however, that (without in any way limiting Southern's obligation to deliver units of Equipment of promptly as practicable) the Trustee shall not be obligated to make payments to Southern except in accordance with the following schedule:

- (a) No payments prior to February 16, 1971;
- (b) No payments in excess of an aggregate of \$710,678 from February 16, 1971 to March 10, 1971;
- (c) No payments in excess of an aggregate of \$1,379,552 from February 16, 1971 to March 30, 1971; and
- (d) No limitation on or after March 31, 1971.

Payments to Southern shall be made at the principal corporate trust office of the Trustee in Philadelphia, Pennsylvania. Unless Trustee shall have received written notice to the contrary from Southern prior to the date of any such payment, Trustee shall arrange a bank transfer of funds paid hereunder to The Citizens and Southern National Bank, Atlanta, Georgia, to be available for credit to Southern's account with said Bank before 2:00 o'clock P.M. on the day of payment.

7. Concerning the Obligations of the Parties Inter Se

It is the intention of Railroad and Trustee that Trustee shall be the absolute owner of each and every unit of Equipment specified in Schedule 1, subject only to Railroad's rights as lessee under the Lease. Railroad and Trustee have agreed, however, that Trustee may at its option cancel or rescind, as applicable, the Purchase Agreement and the Lease as to any reconstructed units of Equipment not delivered to Trustee by Southern hereunder for any reasons (including those specified

in paragraph 4 hereof) on or before July 31, 1971. Southern hereby agrees that, at the option of Trustee and without notice, Trustee shall have no liability or obligation to Southern with respect to those reconstructed units of Equipment, if any, not delivered to Trustee for any reason on or before July 31, 1971 (regardless of when such units may have been delivered to Southern for reconstruction). Within ten business days after exercise of such option, Trustee shall make payment to Southern for any units of Equipment delivered to and accepted by Trustee hereunder for which payment had not been made as of the date of such exercise.

Railroad agrees:

- (i) to pay Southern the reconstruction price of each unit of Equipment reconstructed by Southern hereunder as to which Trustee shall exercise the option described above in this paragraph 7, provided the failure to deliver such units by the date specified in paragraph 7 was due to a cause within the terms of paragraph 4, and
- (ii) to guarantee payment by Trustee to Southern of all amounts due hereunder.

Southern agrees to pay railroad freight charges for shipping Equipment to Southern's plant from Railroad's line in Decatur, Illinois.

Payments to Southern by Railroad pursuant to this paragraph 7 shall be made at the times specified herein for payments to be made by Trustee to Southern. Nonperformance of the obligations of Southern to Railroad or of Railroad to Southern under this paragraph 7 shall not of itself entitle Railroad or Southern to assert any claim, set off, or counterclaim against Trustee, nor excuse Southern or Railroad from any obligation of payment or delivery to Trustee under this Reconstruction Agreement, the Purchase Agreement or the Lease.

#### 8. Taxes

Payment of any sales or use taxes payable in connection with the reconstruction of any unit of Equipment shall be

the obligation of the party obligated hereunder to pay the reconstruction price of such unit of Equipment to Southern (provided, however, that the foregoing shall not be construed to limit the obligation of Railroad, as Lessee under the lease, to pay any such taxes under the terms of the Lease).

#### 9. Notices

Any notice given by a party hereto to either or both of the other parties shall be in writing and shall be deemed to be received when delivered personally or deposited in the United States mail, certified and postage prepaid, as follows:

If to the Trustee: Girard Trust Bank,  
Trustee under the Illinois Terminal Railroad Equipment Trust  
No. 3  
1700 Market Street  
Philadelphia, Pennsylvania 19103

Att: O. H. Keller, Jr.  
Corporate Trust Officer

If to Southern: Southern Iron & Equipment Company  
5522 New Peachtree Road  
Chamblee, Georgia 30341

Att: T. C. Campbell, President

If to Railroad: Illinois Terminal Railroad Company  
P. O. Box 7282  
St. Louis, Missouri 63177

Att: E. B. Wilson, President

#### 10. Modification; Waiver

No amendment, modification or alteration of this Agreement shall be effective unless in writing signed by the parties hereto. No waiver of any right, in part or in whole, arising out of any circumstance or occurrence, shall be deemed to be a waiver of any other or future right arising out of the same or any other circumstance or occurrence.

#### 11. Successors and Assigns

As used herein the terms Southern, the Railroad and

Trustee shall be deemed to include the successors and assigns of Southern, the Railroad and the Trustee, provided, however, that no assignment by any party or any assignee thereof shall subject any assignee to, or relieve such party from, any of the obligations of such party hereunder. Each party hereto may conclusively assume that there has been no assignment of the other party's rights under this Agreement unless and until it shall have been notified in writing of any such assignment by such assignor.

12. Execution of Counterparts

This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

SOUTHERN IRON & EQUIPMENT COMPANY

By \_\_\_\_\_

Title: \_\_\_\_\_

(Corporate Seal)

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

GIRARD TRUST BANK

Trustee under the Illinois Terminal  
Railroad Equipment Trust Agreement  
No. 3

By \_\_\_\_\_

Title: \_\_\_\_\_

(Corporate Seal)

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

ILLINOIS TERMINAL RAILROAD COMPANY

By \_\_\_\_\_

Title: \_\_\_\_\_

(Corporate Seal)

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

SCHEDULE 1 TO RECONSTRUCTION AGREEMENT

Description of Equipment:

Two Hundred (200) railroad boxcars, bearing identifying numbers in the series shown below:

<u>Quantity</u>	<u>Bearing Identifying Numbers</u>
120	in ITC Series 5850-5999 and 6850-6999
80	in ITC Series 6500-6849

Reconstruction Price per Unit of Equipment: \$10,100.00

Total Reconstruction Price: \$2,020,000.00