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INTERSTATE COMMERCE COMMISSION

This instrument has been executed in 10 counterparts, of which this is No. 5 .

UNITED STATES RAILWAY LEASING EQUIPMENT TRUST

Series 4

EQUIPMENT TRUST AGREEMENT

by and among

CHEMICAL BANK,
Trustee,

UNITED STATES RAILWAY LEASING COMPANY

and

UNITED STATES RAILWAY EQUIPMENT CO.

Dated as of November 1, 1970

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EQUIPMENT TRUST AGREEMENT dated as of November 1, 1970, by and among CHEMICAL BANK, a New York banking corporation (hereinafter called the Trustee), UNITED STATES RAILWAY LEASING COMPANY, an Illinois corporation (hereinafter called the Company), and UNITED STATES RAILWAY EQUIPMENT CO., an Illinois corporation (hereinafter called the Equipment Co.).

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

WHEREAS title to such railroad equipment is to be vested in and is to be retained by the Trustee and such railroad equipment is to be leased to the Company hereunder, all subject to the existing leases referred to in Schedule A hereto (hereinafter called the Existing Leases) between the Company and various lessees, which Existing Leases are to be assigned to the Trustee pursuant to Assignments of Lease (hereinafter called the Assignments) substantially in the form annexed hereto as Schedule B until title is transferred under the provisions hereof; and

WHEREAS United States Railway Leasing Equipment Trust Certificates, Series 4 (hereinafter called the Trust Certificates), are to be issued and sold from time to time in an aggregate principal amount not exceeding $5,700,000, and the proceeds of such sale are to be deposited in trust with the Trustee and are to constitute a fund to be known as UNITED STATES RAILWAY LEASING EQUIPMENT TRUST, SERIES 4, to be applied by the Trustee from time to time in payment of the cost of the Trust Equipment, the remainder of the cost thereof, if any, to be paid out of advance rentals to be paid by the Company as provided herein; and

WHEREAS in addition to the guaranty of the Trust Certificates by the Company hereinafter referred to, the Equipment Co., which is the owner of all the outstanding stock of the Company, is entering into this Agreement and endorsing its guaranty on the Trust Certificates as an inducement

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to the purchase of the Trust Certificates by the purchasers thereof; and

WHEREAS the text of the Trust Certificates and the guaranty to be endorsed on the Trust Certificates by the Company and the Equipment Co. are to be substantially in the following forms, respectively:

[FORM OF TRUST CERTIFICATES]

$..... No. .....

UNITED STATES RAILWAY LEASING

EQUIPMENT TRUST CERTIFICATES,
SERIES 4
Total Authorized Issue $5,700,000

CHEMICAL BANK,
Trustee

Chemical Bank, Trustee (hereinafter called the Trustee), under an Equipment Trust Agreement (hereinafter called the Agreement) dated as of November 1, 1970, by and among the Trustee, United States Railway Leasing Company, an Illinois corporation (hereinafter called the Company), and United States Railway Equipment Co., an Illinois corporation (hereinafter called the Equipment Co.) certifies that

or registered

assigns is entitled to an interest of

Dollars ($) in United States Railway Leasing Equipment Trust, Series 4, due and payable on or before November 1, 1985, in instalments as hereinafter provided, and to dividends on the amount of unpaid principal from time to time due and owing pursuant to this Certificate due and payable semiannually on May 1 and November 1 in each year at the rate of 10⅜% per annum from the date hereof until such principal amount becomes

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due and payable, with interest on any overdue principal and dividends, to the extent legally enforceable, at the rate of 11% per annum. Payments of principal, dividends and interest shall be made by the Trustee to the registered holder hereof at the corporate trust office of the Trustee at 20 Pine Street, New York, New York 10015 (hereinafter called the Corporate Trust Office), in such coin or currency of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts. Each of such payments shall be made only from and out of rentals or other moneys received by the Trustee and applicable to such payment under the provisions of the Agreement. The principal amount of this Trust Certificate is due and payable in 15 substantially equal consecutive annual instalments on November 1, in each year from 1971 through 1985, both inclusive, except to the extent Casualty Occurrence payments are applied, as provided in the Agreement, to the prepayment of instalments in the inverse order of maturity. Dividends and interest shall be computed hereunder on the basis of a 360-day year of twelve 30-day months.

This Certificate is one of an authorized issue of Trust Certificates, in an aggregate principal amount not exceeding $5,700,000 and issued or to be issued under the Agreement, under which certain railroad equipment leased to the Company (or cash or obligations defined in the Agreement as "Investments" in lieu thereof, as provided in the Agreement) is held by the Trustee in trust for the equal and ratable benefit of the holders of the outstanding Trust Certificates issued thereunder. Reference is made to the Agreement (a copy of which is on file with the Trustee at its said office) for a more complete statement of the terms and provisions thereof, to all of which the registered holder hereof, by accepting this Certificate, assents. The Certificates are issuable in any denomination.

The transfer of this Certificate is registerable in whole or in part by the registered holder hereof in person or by duly authorized attorney on the books of the Trustee upon surrender to the Trustee at the Corporate Trust Office of

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this Certificate accompanied by a written instrument of transfer, duly executed by the registered holder in person or by such attorney, in form satisfactory to the Trustee, and thereupon a new Trust Certificate or Certificates for the then unpaid aggregate principal amount hereof will be issued to the transferee in exchange herefor and, if less than the then entire unpaid principal amount hereof is transferred, a balance piece therefor will be issued to the transferor. Prior to due presentment for registration of transfer, the Trustee, the Company and the Equipment Co. may deem and treat the person in whose name this Certificate is registered as the absolute owner hereof for the purpose of receiving payment of principal and dividends and for all other purposes and shall not be affected by any notice to the contrary.

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

In witness whereof, the Trustee has caused this Certificate to be signed by one of its Vice Presidents, by his signature or a facsimile thereof, and its corporate seal or a facsimile thereof to be hereunto affixed or hereon imprinted and to be attested by one of its Assistant Secretaries by his signature .

Dated as of

Chemical Bank,
Trustee,

by.....
Vice President.

Attest:

.....
Assistant Secretary.

(Seal)

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GUARANTY

United States Railway Leasing Company and United States Railway Equipment Co., each for a valuable consideration, hereby jointly and severally unconditionally guarantee to the registered holder of the within Certificate the prompt payment when due of the principal of said Certificate, and of the dividends thereon specified in said Certificate, with interest on any overdue principal and dividends, to the extent legally enforceable, at the rate of 11% per annum, all in accordance with the terms of said Certificate and the Equipment Trust Agreement referred to therein.

UNITED STATES RAILWAY LEASING COMPANY,

by .....
Vice President.

UNITED STATES RAILWAY EQUIPMENT CO.,

by .....
Vice President.

NOTATION OF CASUALTY OCCURRENCE PAYMENTS*

By reason of Casualty Occurrence payments having heretofore been applied to prepay instalments in the inverse order of maturity, the within Certificate in the principal amount of $ was, as of , 19 , payable in equal consecutive annual instalments of $ in each of the years 19 through 19 , and payable by a final instalment of $ in the year 19 .

CHEMICAL BANK,

.....
Authorized Officer.

*To be included only on Certificates issued upon exchange or transfer.

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FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

Please insert Social Security or other identifying number of Assignee

[ ] .....

.....

the within United States Railway Leasing Equipment Trust Certificate and does hereby irrevocably constitute and

appoint .....
attorney to transfer the said Certificate on the books of the within named Trustee, with full power of substitution in the premises.

Dated..... .....

PAYMENTS ON ACCOUNT OF PRINCIPAL

Amount of Principal Paid	Year of Instalment Maturity	Authorized Signature of Trustee

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WHEREAS it is desired to secure to the holders of the Trust Certificates the payment of the principal thereof, as hereinafter more particularly provided, with dividends thereon, as hereinafter provided, payable semiannually in each year, and to evidence the rights of the holders of the Trust Certificates in substantially the form hereinbefore set forth:

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

ARTICLE ONE

DEFINITIONS

SECTION 1.01. *Definitions.* The following terms (except as otherwise expressly provided or unless the context otherwise requires) for all purposes of this Agreement shall have the respective meanings hereinafter specified:

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

Assignments shall mean assignments by the Company to the Trustee of the Existing Leases and of other leases permitted by Section 4.09 substantially in the form annexed hereto as Schedule C.

Company shall mean United States Railway Leasing Company and any successor or successors to it complying with the provisions of Section 4.09 or 6.05.

Corporate Trust Office shall mean the principal office of the Trustee in the State of New York, City of New York, at which the corporate trust business of the Trustee shall, at

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the time in question, be administered, which office is, on the date of execution of this Agreement, located at 20 Pine Street, New York, New York 10015.

Cost, when used with respect to Equipment not built by the Company or any Affiliate of the Company, shall mean the actual cost thereof, and in respect of Equipment built by the Company or any Affiliate of the Company, shall mean so-called "car builder's cost", including direct cost of labor and material and overhead, but excluding any manufacturing profit.

Deposited Cash shall mean the aggregate of (a) the proceeds from the sale of the Trust Certificates deposited with the Trustee pursuant to Section 2.01 hereof and, when required or indicated by the context, any Investments purchased by the use of such proceeds pursuant to the provisions of Section 8.04, and (b) any sums restored to Deposited Cash from rentals pursuant to Section 4.04(B)(1) and on deposit with the Trustee.

Equipment shall mean standard-gauge railroad equipment (other than passenger or work equipment).

Equipment Co. shall mean United States Railway Equipment Co. and any successor or successors to it complying with the provisions of Section 6.05.

Event of Default shall mean any event specified in Section 5.01 to be an Event of Default.

Existing Leases shall mean all and any of the leases referred to in Schedule B hereto.

Investments shall mean (i) certificates of deposit of commercial banks incorporated under the laws of the United States of America or any State thereof having a capital and surplus aggregating not less than $50,000,000, (ii) open market commercial paper rated prime by a national credit agency and (iii) bonds, notes or other direct obligations of the United States of America or obligations for which the full faith and credit of the United States are pledged to provide for the payment of the interest and principal, in each case maturing within one year after the date of investment therein.

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The word *holder,* when used with respect to Trust Certificates, shall include the plural as well as the singular number and shall mean the person in whose name such Trust Certificate is registered.

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

Opinion of Counsel shall mean an opinion in writing signed by legal counsel for the Company who shall be satisfactory to the Trustee and who may be an employee of the Company. The acceptance by the Trustee of, together with its action on, an Opinion of Counsel shall be sufficient evidence that such counsel is satisfactory to the Trustee.

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

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

Trust Certificates shall mean United States Railway Leasing Equipment Trust Certificates, Series 4, issued hereunder.

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

Trustee shall mean Chemical Bank, and, subject to the provisions of Article Eight, any successor as trustee hereunder.

The words *herein, hereof, hereby, hereto, hereunder* and words of similar import refer to this Agreement as a whole and not to any particular Article, Section, paragraph or subdivision hereof.

ARTICLE TWO

Trust Certificates and Issuance Thereof

Section 2.01. *Issuance of Trust Certificates.* An amount equal to the proceeds of the sale of any of the Trust Certifi-

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cates, but not less than the aggregate principal amount thereof, shall, forthwith upon the issuance thereof, be deposited in cash with the Trustee by or on behalf of the Company. The amount of such proceeds shall be specified in an Officer's Certificate delivered to the Trustee concurrently with such deposit.

Thereupon, without waiting for the recording or filing of this Agreement or of any other instrument respecting the Trust Equipment, the Trustee shall from time to time issue and deliver Trust Certificates in such aggregate principal amount and bearing such final maturity dates as the Company shall direct by Request.

Subject to the provisions of Section 2.06 of this Agreement, the aggregate principal amount of Trust Certificates which shall be executed and delivered by the Trustee under this Section shall not exceed the sum of $5,700,000, and the aggregate principal amount represented by all the Trust Certificates shall be payable as hereinafter set forth.

SECTION 2.02. *Interests Represented by Trust Certificates; Dividends; Maturity.* Each of the Trust Certificates shall represent an interest in the amount therein specified in the trust created hereunder and shall originally bear the final maturity specified by the Company in a Request to the Trustee; *provided, however,* that the aggregate principal amount of all the Trust Certificates shall mature no later than November 1, 1985. The Trust Certificates will bear dividends, payable on May 1 and November 1 of each year, at the rate of 10⅜% per annum, with interest payable on any overdue principal and dividends, to the extent legally enforceable, at the rate of 11% per annum. The Trust Certificates are issuable in any denomination.

The principal of and dividends on the Trust Certificates shall be payable at the Corporate Trust Office in such coin or currency of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts, but only from and out of rentals or other moneys received by the Trustee and applicable to such payment under the provisions hereof. Notwithstanding the pro-

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visions of the preceding sentence of this paragraph, in the case of payments of principal and dividends to be made on a Trust Certificate not then to be paid in full, upon request and deposit of an agreement of the holder of such Trust Certificate (the responsibility of such holder to be satisfactory to the Company) obligating such holder, prior to any transfer or other disposition thereof, to surrender the same to the Trustee for notation thereon of the instalments of principal amount represented thereby theretofore paid in whole or in part, the Trustee will mail its check on the date each such payment is due to such registered holder at his address shown on the registry books maintained by the Trustee; *provided, however,* that this paragraph shall not apply to any of the original purchasers of the Trust Certificates who, at the time payments of principal or dividends are to be made, are holders of Trust Certificates, and the Company may direct the Trustee by Request to make payments of principal and dividends to the original purchasers of Trust Certificates or to any other purchaser approved by the Company at their "home office" address which address shall be supplied to the Trustee by the Company.

SECTION 2.03. *Forms of Trust Certificates and Guaranty.* The Trust Certificates and the guaranty to be endorsed on the Trust Certificates by the Company and the Equipment Co. as provided in Section 6.01 shall be in substantially the forms hereinbefore set forth.

SECTION 2.04. *Execution by Trustee.* The Trust Certificates shall be signed in the name and on behalf of the Trustee by the manual or facsimile signature of its President or one of its Vice Presidents and its corporate seal or a facsimile thereof shall be affixed or imprinted thereon and attested by the manual signature of one of its Assistant Secretaries. In case any officer of the Trustee whose signature, whether facsimile or not, shall appear on any of the Trust Certificates shall cease to be such officer of the Trustee before the Trust Certificates shall have been issued and delivered by the Trustee or shall not have been acting in such capacity on the date of the Trust Certificates, such Trust Certificates may be adopted by the Trustee and be

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issued and delivered as though such person had not ceased to be or had then been such officer of the Trustee.

SECTION 2.05. *Characteristics of Trust Certificates.*

(a) The Trust Certificates shall be registered, as to both principal and dividends, in the name of the holder; shall be transferable in whole or in part and exchangeable for Trust Certificates of other denominations of equal aggregate outstanding principal amount and of the same maturities, upon presentation and surrender thereof for registration of transfer or exchange at the Corporate Trust Office, accompanied, in the case of transfer, by appropriate instruments of assignment and transfer, duly executed by the registered holder of the surrendered Trust Certificate or Certificates or by duly authorized attorney, in form satisfactory to the Trustee; shall, in connection with the initial issuance of Trust Certificates, be dated as of the date of issue and shall, in connection with Trust Certificates issued in exchange for or upon registration of transfer of another Trust Certificate or Certificates, be dated as of the date to which dividends have been paid or shall, if no dividends have been paid thereon, be dated as of the date of initial issuance; and shall entitle the registered holder to dividends from the date thereof. The Trustee shall, if any prepayment shall theretofore have been made pursuant to Section 4.08, endorse on each Trust Certificate issued upon registration of transfer or exchange a notation thereon as to the fact that the instalments of principal thereon will be payable in equal annual instalments except for specified instalments which will not be in equal amounts.

(b) Anything contained herein to the contrary notwithstanding, prior to due presentment for registration of transfer the parties hereto may deem and treat the registered holder of any Trust Certificate as the absolute owner of such Trust Certificate for all purposes and shall not be affected by any notice to the contrary.

(c) The Trustee shall cause to be kept at the Corporate Trust Office, books for the registration and registration of transfer of the Trust Certificates and, upon presentation

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of the Trust Certificates for such purpose, the Trustee shall register any transfer as hereinabove provided, and under such reasonable regulations as it may prescribe.

(d) For any registration, registration of transfer or exchange, the Trusteee shall require payment by the person requesting same of a sum sufficient to reimburse it for any governmental charge connected therewith.

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

(f) The Trustee shall not be required to issue, transfer or exchange Trust Certificates for a period of ten days next preceding any dividend payment date.

SECTION 2.06. *Replacement of Lost Trust Certificates.* In case any Trust Certificate shall become mutilated or defaced or be lost, destroyed or stolen, then on the terms herein set forth, and not otherwise, the Trustee shall execute and deliver a new Trust Certificate of like tenor and date, and bearing such identifying number or designation as the Trustee may determine, in exchange and substitution for, and upon cancelation of, the mutilated or defaced Trust Certificate, or in lieu of and in substitution for the same if lost, destroyed or stolen. The Company and the Equipment Co. shall execute their guaranty on any Trust Certificate so delivered. The applicant for a new Trust Certificate pursuant to this Section shall furnish to the Trustee and to the Company and the Equipment Co. evidence to their satisfaction of the loss, destruction or theft of such Trust Certificate alleged to have been lost, destroyed

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or stolen and of the ownership and authenticity of such mutilated, defaced, lost, destroyed or stolen Certificate, and also shall furnish such security or indemnity as may be required by the Trustee and by the Company and the Equipment Co. in their discretion, and shall pay all expenses and charges of such substitution or exchange. All Trust Certificates are held and owned upon the express condition that the foregoing provisions are exclusive in respect of the replacement of mutilated, defaced, lost, destroyed or stolen Trust Certificates and shall preclude any and all other rights and remedies, any law or statute now existing or hereafter enacted to the contrary notwithstanding.

ARTICLE THREE

Acquisition of Trust Equipment by Trustee; Deposited Cash

Section 3.01. *Acquisition of Equipment by Trustee.* The Company, as speedily as may be, shall cause to be sold, to the Trustee, as trustee for the holders of the Trust Certificates, all of the Equipment described in Schedule A hereto, all of which the Company represents and warrants was new Equipment when first put into service and that none of the Equipment was put into service prior to June 15, 1968 *provided* that the 99 50-foot 70-ton RBL box cars bearing car numbers MRS 4900 to 4970 and 4972 to 4999 specified in Schedule A hereto were constructed in 1969 containing a minor proportion of used car parts derived from other cars bearing the same car numbers so that such cars are presently classified as "rebuilt cars" comparable with new and modern equipment in accordance with the rules of the Association of American Railroads; and for all purposes hereof and for the purposes of any Certificates required or permitted to be delivered pursuant hereto said cars are deemed "new equipment" and the date on which they were first put into service is deemed to be the date when the same were first put into service subsequent to the completion of such construction.

In the event that the Company shall deem it necessary or desirable to procure for the use of the Company, and to

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include in the trust hereby created other new Equipment in lieu of any units of the Equipment specifically described in Schedule A hereto prior to the acceptance of such Equipment by the Trustee, or in the event that any unit of the Equipment described in Schedule A hereto shall suffer a Casualty Occurrence, as defined in Section 4.08, before being accepted by the Trustee pursuant to this Section and Section 3.04, the Company may cause to be sold to the Trustee such other Equipment (first put into service on or after June 15, 1968), to be substituted under the trust, subject to the provisions of the second paragraph of Section 4.06.

SECTION 3.02. *Payment of Deposited Cash.* From time to time, when and as any Equipment shall have been accepted by the Trustee pursuant to Sections 3.01 and 3.04(a), the Trustee shall (subject to the provisions of Section 3.03) pay, upon Request, to the Owners of the accepted Equipment out of Deposited Cash then held by the Trustee an amount not exceeding 80% of the aggregate Cost of such Equipment, as such Cost is specified in the final Officer's Certificate furnished to the Trustee pursuant to Section 3.04(b)

SECTION 3.03. *Payment of Deficiency.* The Company covenants that, contemporaneously with any payment by the Trustee pursuant to Section 3.02, if the Owners of the accepted Equipment shall not be the Company, it will either (a) pay to the Trustee the advance rental provided in Section 4.04 (A), and thereupon the Trustee shall, upon Request, pay to the Owners of the accepted Equipment, by the use of such advance rental, the portion of the aggregate Cost of such Equipment not paid out of Deposited Cash as provided for in Section 3.02 or (b) deliver to the Trustee an executed counterpart of a receipt from such Owners evidencing the direct payment by the Company to such Owners of that portion of the Cost of such Equipment equal to the amount of advance rental required to be paid to the Trustee pursuant to clause (a) of this sentence in respect of such Equipment. The intention of this Section is that the

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Company shall ultimately pay not less than 20% of the aggregate Cost of all the Equipment accepted by the Trustee as Trust Equipment pursuant to this Article Three, and the Trustee and the Company shall at any time, if occasion arises, adjust their accounts and payments to the end that the Trustee shall pay with Deposited Cash not more than 80% of such aggregate Cost and the Company shall pay as advance rental the remainder, to be not less than 20% of such Cost.

SECTION 3.04. *Supporting Papers.* The Trustee shall not pay out any Deposited Cash for the purchase of any unit of Equipment unless and until it shall have received:

(a) a bill of sale covering such unit of Equipment from the Owners to the Trustee, which bill of sale shall specify such unit of Equipment described therein by number or numbers and shall contain a warranty or guaranty to the Trustee that the title of such unit of Equipment described therein is free from all claims, liens, security interests and other encumbrances (except as permitted by Section 6.02 and except for this Agreement, any of the Existing Leases, any Prior Lease referred to in the Evans Lease (as defined in Section 4.09), any lease permitted by Section 4.09 and any Assignment thereof) and the receipt of such bill of sale by the Trustee shall constitute acceptance by the Trustee hereunder of such unit of Equipment as Trust Equipment; and

(b) an Officer's Certificate, which shall state (i) that such unit of Equipment is Equipment as herein defined and was not put into service prior to the date specified therein and (ii) that the Cost of such unit of Equipment is an amount therein specified or is not less than an amount therein specified;

(c) an invoice from the Owners of such unit of Equipment having endorsed thereon a certification by the Company as to the correctness of the price stated therein; and

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(d) an Opinion of Counsel for the Owners to the effect that such bill of sale is valid and effective, either alone or in connection with any other instrument referred to in and accompanying such opinion, to vest in the Trustee title to such unit of Equipment free from all claims, liens, security interests and other encumbrances (except as permitted by Section 6.02 and except for this Agreement, any of the Existing Leases, any Prior Lease referred to in the Evans Lease (as defined in Section 4.09), any lease permitted by Section 4.09 and all Assignments).

(e) an opinion of Messrs. Rosenthal and Schanfield, counsel for the Company, or an opinion of other counsel satisfactory to the Trustee, to the effect that (i) this Agreement, the Existing Leases, any new lease covering the Equipment permitted by Section 4.09 and all Assignments and any amendments thereto have been duly authorized, executed and delivered by the parties hereto and thereto and constitute legal, valid and binding obligations of such parties, (ii) the Trustee is vested with all the right, title and interest of the Company in and to the Existing Leases and such new leases purported to be assigned to the Trustee by the Assignments, and (iii) this Agreement, the Existing Leases, Assignments, any such new leases and the Assignments thereof and amendments or supplements to any thereof in the case of such unit not specifically described herein have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, (iv) any Existing Leases, and any new leases and any amendments thereto and Assignments thereof, made with Canadian railway companies have been deposited in the office of the Registrar General of Canada and any required notice of such deposit has been duly published and (v) no other filing or recordation or deposit is necessary for the protection of the rights of the Trustee in and to such unit of Equipment, the Existing Leases, such new leases, the Assignments or this Agreement in any state of the United

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States of America or the District of Columbia. In giving such opinion, counsel may rely on the opinion of counsel for the lessees under the Existing Leases and such new leases as to such lessees' organization, powers and standing and the binding effect of the Existing Leases and such new leases upon such lessees and on an opinion of Canadian counsel with respect to the above-stated deposit in the office of the Registrar General of Canada; *provided, however,* that a copy thereof shall have been delivered to the Trustee.

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

If the aggregate Cost, as specified in the certificates theretofore delivered to the Trustee pursuant to this Section, of the Trust Equipment accepted by the Trustee pursuant to this Article Three shall be less than 1⅞ths of the aggregate principal amount of Trust Certificates issued pursuant to Section 2.01, the Company will cause to be assigned and transferred to the Trustee additional Equipment (first put into service on or after June 15, 1968) in such amount and of such Cost that the aggregate Cost of the Trust Equipment will be at least equal to 1⅞ths of the aggregate principal amount of said Trust Certificates, and will concurrently deliver to the Trustee the documents specified in paragraphs (a) through (e) of this Section with respect to such additional Equipment.

ARTICLE FOUR

Lease of Trust Equipment to the Company

Section 4.01. *Lease of Trust Equipment.* The Trustee does hereby let and lease to the Company, for a period of 15 years from and after November 1, 1970, all the Trust Equipment.

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SECTION 4.02. *Equipment Automatically Subjected.* As and when any Equipment shall from time to time be accepted hereunder by the Trustee, the same shall, *ipso facto* and without further instrument of lease or transfer, become subject to all the terms and provisions hereof.

SECTION 4.03. *Additional and Substituted Equipment Subject Hereto.* In the event that the Company shall, as provided in Sections 3.01, 3.04 or 4.06, elect to sell to the Trustee other Equipment in addition to or in substitution for any of the Equipment herein specifically described or subjected hereto, such other Equipment shall be included as part of the Trust Equipment by supplement hereto to be executed by the Trustee, the Company and the Equipment Co., and to be recorded with the Interstate Commerce Commission pursuant to the requirements of Section 20c of the Interstate Commerce Act. Such Equipment shall be subject to all the terms and conditions hereof in all respects as though it had originally been part of the Equipment herein specifically described.

SECTION 4.04. *Rental Payments.* The Company hereby accepts the lease of all the Trust Equipment; and the Company covenants and agrees to pay to the Trustee at the Corporate Trust Office (or, in the case of taxes, to the proper taxing authority), in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, rental hereunder which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable (whether or not any of such items shall become due and payable prior to the acceptance of and lease to the Company of any unit of the Trust Equipment):

(A) The Company shall pay to the Trustee, as hereinafter provided, as advance rental hereunder, sums which in the aggregate shall be equal to the difference between the aggregate Cost of the Trust Equipment (other than Trust Equipment subjected hereto pursuant to Section 4.06) and the portion of such Cost to be pro-

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vided out of Deposited Cash as provided for in Section 3.02 but only to the extent that such sums are required to be paid by the Company pursuant to Section 3.03 hereof.

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

(1) (a) the necessary and reasonable expenses of the trust hereby created, including compensation and expenses provided for herein, and (b) an amount equal to any expenses incurred or loss of principal (including interest accrued thereupon at the time of purchase) in connection with any purchase, sale or redemption by the Trustee of Investments;

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

(3) (a) the amounts of the dividends payable at the rate of 10⅜% per annum on the Trust Certificates, when and as the same shall become payable, and (b) interest at the rate of 11% per annum from the due date, upon the amount of any instalments of rental payable under this and the following subparagraph which shall not be paid when due, to the extent legally enforceable; and

(4) the instalments of principal of all the Trust Certificates aggregating $380,000 annually (except as such sum may be reduced due to prepayments made pursuant to the terms of subparagraph (ii) of the first paragraph of Section 4.08), when and as the same shall become payable, whether upon the date of maturity thereof or by declaration or otherwise.

Nothing contained herein or in the Trust Certificates shall be deemed to impose on the Trustee or on the Company

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(except as provided in Section 4.04(B)(2)) any obligation to pay to the registered holder of any Trust Certificate any tax, assessment or governmental charge required by any present or future law of the United States of America, or of any state, county, municipality or other taxing authority thereof, to be paid in behalf of, or withheld from the amount payable to, the holder of any Trust Certificate.

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

SECTION 4.05. *Termination of Lease.* After all payments due or to become due from the Company hereunder shall have been completed and fully made to the Trustee (1) such payments shall be deemed to represent payment of the full purchase price for the Company's purchase at such time of the Trust Equipment from the Trustee, (2) any moneys remaining in the hands of the Trustee after providing for all outstanding Trust Certificates and after paying the expenses of the Trustee, including its reasonable compensation, shall be paid to the Company, (3) title to all the Trust Equipment shall vest in the Company and (4) the Trustee shall execute for record in public offices, at the expense of the Company, such instrument or instruments in writing as reasonably shall be requested by the Company in order to make clear upon public records the Company's title to all the Trust Equipment under the laws of any jurisdiction; *provided, however,* that until that time title to the Trust Equipment shall not pass to or vest in the Company, but title to and ownership of all the Trust Equipment shall be and remain in the Trustee, notwithstanding the delivery of the Trust Equipment to and the possession and use thereof by the Company pursuant to the terms of this Agreement.

SECTION 4.06. *Substitution and Replacement of Trust Equipment.* Upon Request, the Trustee shall, at any time and

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from time to time, execute and deliver a bill of sale assigning and transferring to the transferee named by the Company all the right, title and interest of the Trustee in and to any or all of the units of Trust Equipment and execute a release pursuant to Section 3 of the applicable Assignments; *provided, however,* that (a) there shall be paid to the Trustee cash in an amount not less than the value, as of the date of such Request, of the units of Trust Equipment to be assigned or transferred by the Trustee or (b) there shall be conveyed to the Trustee at the time of assignment or transfer of any units of Trust Equipment, other units of Equipment first put into use on or after June 30, 1969, and of a value not less than the value, as of the date of such Request, of the units of Trust Equipment to be assigned or transferred.

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

(1) an Officer's Certificate stating (i) the value, as of the date of said Request, of the Trust Equipment so to be assigned or transferred by the Trustee and the date such Trust Equipment was first put into service (or that such Trust Equipment was first put into service not later than a specified date), (ii) the value of such substituted Equipment as of such date and the date such substituted Equipment was first put into service (or that such substituted Equipment was first put into service not earlier than a specified date), (iii) that each such unit so to be substituted is Equipment as herein defined, and (iv) that no default hereunder has occurred or is continuing;

(2) a certificate, an invoice or invoices and a bill or bills of sale in respect of such substituted Equipment as provided for in subparagraphs (a) and (c) of the first paragraph of Section 3.04 (acceptance of such bill or bills of sale by the Trustee to constitute acceptance by the Trustee hereunder of such Equipment); and

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(3) an Opinion of Counsel to the effect that (i) such bill or bills of sale are valid and effective, either alone or together with any other instruments referred to in and accompanying such opinion, to vest in the Trustee title to such substituted Equipment free from all claims, liens, security interests and other encumbrances (except as permitted by Section 6.02 and except for this Agreement, any of the Existing Leases, any lease permitted by Section 4.09 and any Assignment), (ii) that a proper supplement hereto and to the appropriate Existing Lease and the Assignment thereof, or that a new lease permitted by Section 4.09 and an Assignment thereof, in respect of each substituted unit of Equipment has been duly authorized, executed and delivered by the parties thereto and has been recorded with the Interstate Commerce Commission pursuant to the requirements of Section 20c of the Interstate Commerce Act and (iii) if such Existing Lease or new lease and Assignment thereof or supplement thereto is made with a Canadian railway company, that they have been deposited in the office of the Registrar General of Canada and that any required notice of such deposit has been duly published.

At the time of delivery of any Request pursuant to the first paragraph of this Section, the Company shall, if cash is to be paid to the Trustee in respect of the Trust Equipment to be assigned or transferred by the Trustee, deliver to the Trustee papers corresponding to those set forth in the second paragraph of this Section, with such appropriate modifications as may be approved by the Trustee.

Cash deposited with the Trustee pursuant to this Section or Section 4.08 shall, from time to time, be paid over by the Trustee to the Company upon Request, against conveyance to the Trustee of units of Equipment having a value, as of the date of said Request, not less than the amount of cash so paid, and upon delivery to the Trustee of papers corresponding to those set forth in the second paragraph of this Section, with such appropriate modifications as may be approved by the Trustee.

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For all purposes of this Section, where value is required to be determined in an Officer's Certificate, value shall be determined as follows (and the manner of such determination set forth in each Officer's Certificate furnished in respect thereof):

(1) the value of any unit of Trust Equipment assigned or transferred by the Trustee as provided in this Section shall be deemed to be the greater of (a) the actual fair value thereof and (b) the Cost thereof as theretofore certified to the Trustee less 1/15th of such Cost for each full period of one year elapsed between (i) the later of November 1, 1970, and the date such unit was first put into use, as certified to the Trustee, and (ii) the date of the Request furnished pursuant to this Section; and

(2) the value of any unit of Equipment conveyed to the Trustee as provided in this Section shall be deemed to be the lesser of (a) the actual fair value thereof and (b) the Cost of such unit less depreciation at the rate not less than 1/15th of such Cost for each full period of one year elapsed between (a) the later of November 1, 1970, and the date such unit was first put into use, as certified to the Trustee, and (b) the date of the Request furnished pursuant to this Section.

SECTION 4.07. *Marking of Trust Equipment.* The Company agrees that it will immediately at its own cost and expense prepare and deliver to its lessees the appropriate form of stencil for marking purposes and will forthwith exercise its rights and power under the Existing Leases to direct such lessees thereunder to mark plainly, distinctly, permanently and conspicuously on each side of each unit of the Trust Equipment, in letters not less than one inch in height the following legend:

"TITLE TO THIS CAR SUBJECT TO DOCUMENTS RECORDED UNDER SECTION 20C OF INTERSTATE COMMERCE ACT".

Such marks shall be such as to be readily visible. The Company will also promptly so mark each unit of the Trust Equipment not subject to an Existing Lease.

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

The Trust Equipment may be lettered in an appropriate manner for convenience of identification of the leasehold interest of the Company therein, and may also be lettered, in case of any of the Existing Leases or of any new leases permitted by Section 4.09, in such manner as may be appropriate for convenience of identification of such leasehold interest therein; but the Company, during the continuance of the lease provided for herein, will not allow the name of any person, firm, association or corporation to be placed on any of the Trust Equipment as a designation which might reasonably be interpreted as a claim of ownership thereof by the Company or by any person, firm, association or corporation other than the Trustee.

SECTION 4.08. *Maintenance of Trust Equipment; Casualty Occurrences.* The Company agrees that it will maintain or cause to be maintained and keep all the Trust Equipment in good order and proper repair at no cost or expense to the Trustee, unless and until it becomes worn out, unsuitable for use, lost, destroyed or damaged beyond economical repair (hereinafter called a Casualty Occurrence). Whenever any unit of the Trust Equipment shall suffer a Casualty Occurrence the Company shall, within 30 days after it shall have been informed of such Casualty Occurrence, deliver to the Trustee an Officer's Certificate describing such Trust Equipment and stating the value to the Company

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thereof as of the date such Trust Equipment suffered such Casualty Occurrence. When the total value of all units of the Trust Equipment having suffered a Casualty Occurrence (exclusive of units having suffered a Casualty Occurrence in respect of which a payment shall have been made to the Trustee pursuant to this Section) shall exceed $50,000, the Company, within 30 days of such event, shall deposit with the Trustee an amount in cash equal to the value of such units as of the date of the Casualty Occurrence in respect of each thereof. The rights and remedies of the Trustee to enforce or to recover any of the rental payments shall not be affected by reason of such Casualty Occurrence. For all purposes of this paragraph, value shall be determined in the manner provided in subparagraph (1) of the last paragraph of Section 4.06. Cash deposited with the Trustee pursuant to this Section shall be held and applied at the election of the Company (as evidenced by a Request) either (i) as provided in the fourth paragraph of Section 4.06 or (ii) to prepay instalments of principal *pro rata* on each Trust Certificate in the inverse order of the respective maturities thereof.

In the event the Company elects to apply moneys deposited pursuant to this Section to the prepayment of instalments of principal in the inverse order of the respective maturity of each Trust Certificate, such prepayment shall be made on the November 1 next succeeding the Request therefor and shall be allocated among the registered holders of all the Trust Certificates as near as may be in proportion to the respective unpaid principal amount represented by each Trust Certificate.

The Company agrees to furnish to the Trustee, on or before April 1 in each year commencing with 1972, an Officer's Certificate dated as of the preceding December 31, (1) stating the amount, description and numbers of all Trust Equipment that may have suffered a Casualty Occurrence since the date of the last preceding statement (or the date of this Agreement in the case of the first statement), (2) identifying the units of Trust Equipment then being leased by the Company as permitted by Section 4.09 (including the name of the lessee, the term of the lease and the date of the agreement pursuant to which such Trust Equipment is

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leased) and specifying which units of Equipment are not then being leased by the Company and (3) certifying that the Company is not in default under any provision of this Agreement and that no default has occurred and is continuing under any Existing Lease or any other lease assigned to the Trustee pursuant to Section 4.09, or specifying all such defaults and the action being taken by the Company to remedy the same.

SECTION 4.09. *Possession of Trust Equipment.* Except as provided in this Section, the Company will not assign or transfer its rights hereunder, or transfer or lease the Trust Equipment or any part thereof, without the written consent of the Trustee first had and obtained; and the Company shall not, without such written consent, except as herein provided, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment. An assignment or transfer to a solvent corporation which shall acquire all or substantially all of the property of the Company and which, by execution of an appropriate instrument satisfactory to the Trustee, shall assume and agree to perform each and all of the obligations and covenants of the Company hereunder and under the guaranty endorsed on the Trust Certificates shall not be deemed a breach of this covenant.

So long as the Company shall not be in default under this Agreement, the Company shall be entitled to the possession of the Trust Equipment and also to maintain the Existing Leases and otherwise to lease the Trust Equipment to, or to permit its use under the terms of car contracts by, a lessee or user incorporated in the United States of America (or any state thereof or the District of Columbia) or in the Dominion of Canada or any Province or Territory thereof; *provided, however,* that any such Existing Lease or other lease shall forthwith be assigned to the Trustee as security for the obligations of the Company hereunder pursuant to an Assignment and *provided further, however,* that the Company shall not enter into any leases or car contracts relating to the use of Trust Equipment with any lessee or user incorporated, or having its principal place of business in the Dominion of Canada or any province or territory

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thereof (herein called Canadian Lessees) if the aggregate value of Trust Equipment subject to leases and car contracts with Canadian Lessees would exceed 10% of the aggregate value of all the Trust Equipment and, for the purposes hereof, value shall be determined as provided in Section 4.06. Upon entering into any lease or car contract with a Canadian Lessee, the Company will promptly furnish to the Trustee an Officer's Certificate to such effect which shall also include a statement of the value of Trust Equipment subject thereto. Any lease by the Company entered into pursuant to this Section 4.09 may provide (and such provision shall be binding upon the Trustee) that the lessee, so long as it shall not be in default under such lease, shall be entitled to the possession of the Trust Equipment included in such lease and the use thereof, and, subject to the provisions of Section 4.07, may provide for lettering or marking upon such Trust Equipment for convenience of identification of the leasehold interest of such lessee therein.

Evans Products Company (herein called "Evans"), the lessee under the Existing Lease (herein called the "Evans Lease"), covering 157 box cars described in Schedule A hereto (herein called the "Evans Cars"), comprising part of the Trust Equipment, has entered into or may enter into agreements (herein called "Alternate Agreements") with the Company wherein the Company shall be authorized in its own name to lease the Evans Cars to other users (herein called "Alternate Lessees") under leases or car contracts (herein called "Alternate Leases") containing such terms and provisions as may be provided for in the Alternate Agreements or as may be otherwise acceptable to Evans and the Company. The Company is hereby authorized from time to time to enter into Alternate Agreements and, in its own name, to execute and deliver Alternate Leases to and with Alternate Lessees with respect to some or all of the Evans cars, provided that:

(1) The Evans cars subject to any Alternate Leases shall at all times be and remain Trust Equipment and subject to all of the terms and provisions of this Equipment Trust Agreement; and each and every Alternate Lease shall so provide by specific reference to this Equipment Trust Agreement.

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(2) The Company shall, forthwith upon the execution and delivery of any Alternate Lease or any amendment or termination thereof, give notice thereof to the Trustee and shall furnish the Trustee with a copy of such Alternate Lease.

(3) Each Alternate Lessee shall be a lessee or user incorporated (if a corporation) or having its domicile or principal place of business in the United States of America (or any state thereof or the District of Columbia) or in the Dominion of Canada or any province or territory thereof.

(4) The Evans Lease shall at all times be and remain in full force and effect with respect to all of the Evans cars, and Evans shall at all times be and remain obligated and liable for performance of all of the terms and provisions thereof, including, without limitation, the obligation to pay rent for all of the cars, notwithstanding any Alternate Agreement or any Alternate Lease which may be in effect with respect to any or all of the Evans cars; *provided, however,* that rents received by the Trustee pursuant to clause (5) of this paragraph shall apply in reduction of the obligation of Evans to make payments of rent payable under the Evans Lease.

(5) The Company shall have the right to receive all rents payable under Alternate Leases for any period in which an Alternate Lease shall be in effect, provided, that upon receipt thereof, the Company shall pay over to the Trustee in connection with each Evans car leased thereunder, the lesser of the amount payable as rent for such period under the Evans Lease or the amount actually paid by the Alternate Lessee.

(6) Each Alternate Lease and any amendment thereof shall be duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and any Alternate Lease and any amendment thereof made with Canadian railway companies shall be deposited in the Office of the Registrar General of Canada and any required notice of such deposit shall be duly published.

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SECTION 4.10. *Indemnity.* The Company covenants and agrees to indemnify the Trustee against any and all claims arising out of or connected with the ownership or use of any of the Trust Equipment, and particularly against any and all claims arising out of the use of any patented inventions in and about the Trust Equipment, and to comply in all respects with the laws of the United States of America and of all the states and other jurisdictions in which the Trust Equipment, or any unit thereof, may be operated, and with all lawful acts, rules, regulations and orders of any commissions, boards and other legislative, executive, administrative or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including without limitation all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; *provided, however,* that the Company may in good faith contest the validity of any such law, act, rule, regulation or order, or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates. The Company shall not be relieved from any of its obligations hereunder by reason of the assertion or enforcement of any such claims or the commencement or prosecution of any litigation in respect thereof.

ARTICLE FIVE

EVENTS OF DEFAULT AND REMEDIES

SECTION 5.01. *Events of Default.* The Company covenants and agrees that in case:

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

(b) the Company shall enter into any lease or car contract prohibited by the second proviso to the second paragraph of Section 4.09 or make or suffer any unau-

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thorized assignment or transfer of its rights hereunder or shall make any unauthorized transfer or lease (including, for the purpose of this clause, contracts for the use thereof) of any of the Trust Equipment, or, except as herein authorized, shall part with the possession of any of the Trust Equipment, and shall fail or refuse either to cause such assignment or transfer or lease to be canceled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within 30 days after the Trustee shall have demanded in writing such cancelation and recovery of possession, or within said 30 days to deposit with the Trustee a sum in cash equal to the value, as of the date of such unauthorized action (determined in the manner provided in subparagraph (1) of the last paragraph of Section 4.06), of such Trust Equipment (any sum so deposited to be returned to the Company upon the cancelation of such assignment, transfer or lease and the recovery of possession by the Company of such Trust Equipment), or

(c) the Company shall, for more than 30 days after the Trustee shall have demanded in writing performance thereof, fail or refuse to comply with any other of the terms and covenants hereof or under any Assignment on its part to be kept and performed, or to make provision satisfactory to the Trustee for such compliance, or

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

(e) a decree or order shall have been entered by a court of competent jurisdiction adjudging the Company or the Equipment Co. a bankrupt or insolvent or approving as properly filed a petition seeking reorganization or arrangement of the Company or the Equipment Co. under the Bankruptcy Act, or any other federal or state law relating to bankruptcy or insolvency, or appointing a receiver or decreeing or ordering the winding up or liquidation of the affairs of the Company or the Equipment Co., (unless such decree or order shall have been discharged, stayed or otherwise rendered in-

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effective [but then only so long as such stay shall continue in force or such ineffectiveness shall continue]) and all the obligations of the Company or the Equipment Co. hereunder, as the case may be, under the guaranty endorsed on the Trust Certificates and under any instrument made in connection with the purchase of the Trust Certificates by the initial holders thereof, shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Company or the Equipment Co. or for its property in connection with such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier, or

(f) the Company or the Equipment Co. shall institute proceedings to be adjudicated a bankrupt or insolvent or shall consent to the institution of bankruptcy or insolvency proceedings against it or shall file a petition or answer or consent seeking reorganization or relief under the Bankruptcy Act or any other federal or state law relating to bankruptcy or insolvency or shall consent to the filing of any such petition or shall consent to the appointment of a receiver or shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due, or action shall be taken by the Company or the Equipment Co. in furtherance of any of the aforesaid purposes,

then, in any such case (herein sometimes called an Event of Default), the Trustee in its discretion may, and upon the written request of the holders of a majority in unpaid principal amount of the then outstanding Trust Certificates shall, by notice in writing delivered to the Company, declare to be due and payable forthwith the entire amount of the rentals (including any unpaid advance rental, but not including rentals required for the payment of dividends accruing after the date of such declaration) payable by the

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Company as set forth in Section 4.04 and not theretofore paid. Thereupon the entire amount of such rentals shall forthwith become and shall be due and payable immediately without further demand, together with interest at the rate of 11% per annum, to the extent legally enforceable, on any portion thereof overdue.

In case one or more Events of Default shall happen, the Trustee in its discretion also may, and upon the written request of the holders of a majority in unpaid principal amount of the then outstanding Trust Certificates shall, by notice in writing delivered to the Company, declare the unpaid principal of all the Trust Certificates then outstanding to be due and payable, and thereupon the same shall become and be immediately due and payable.

In case the Company shall fail to pay any instalment of rental payable pursuant to Sections 4.04(B) (3) or (B) (4) when and as the same shall have become due and payable hereunder, and such default shall have continued for a period of ten days, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the rentals so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Company or other obligor upon the Trust Certificates and collect in the manner provided by law out of the property of the Company or other obligor upon the Trust Certificates wherever situated the moneys adjudged or decreed to be payable.

In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or the Equipment Co. under the Bankruptcy Act or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of the Company or the Equipment Co., or in case of any other judicial proceedings relative to the Company or the Equipment Co., or to the creditors or property of the Company or the Equipment Co., the Trustee, irrespective of whether the rental payments hereunder or the unpaid principal amount of the Trust Certificates shall then be due and payable as herein

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

All rights of action and to assert claims under this Agreement, or under any of the Trust Certificates, may be enforced by the Trustee without the possession of any of the Trust Certificates or the production thereof on any trial or other proceedings relative thereto, and any such action or proceedings instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall be for the ratable benefit of the holders of the Trust Certificates. In any proceedings brought by

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(e) the Trustee may consult with counsel, and any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with such Opinion of Counsel;

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

(g) the Trustee shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Agreement. None of the provisions contained in this Agreement shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if there is reasonable ground for believing that the repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it. Whether or not therein expressly so provided, every provision of this Agreement relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

SECTION 8.03. *Application of Rentals.* The Trustee covenants and agrees to apply the rentals received by it under Section 4.04(B) when and as the same shall be received, and to the extent that such rentals shall be sufficient therefor, for the purposes specified in Section 4.04(B).

The Trustee shall not be required to undertake any act or duty in the way of insuring, taking care of or taking possession of the Trust Equipment or to undertake any other act or duty under this Agreement until fully indemnified by the Company or by one or more of the holders of the

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

SECTION 8.04. *Funds May be Held by Trustee; Investments.* Any money at any time paid to or held by the Trustee hereunder until paid out by the Trustee as herein provided may be carried by the Trustee on deposit with itself.

At any time, and from time to time, if at the time no Event of Default shall have occurred and be continuing, the Trustee, on Request, shall invest and reinvest Deposited Cash held by it or cash deposited with it pursuant to Section 4.06 or Section 4.08 (hereinafter in this Section called Replacement Funds) in Investments, at such prices, including any premium and accrued interest, as are set forth in such Request, such Investments to be held by the Trustee in trust for the benefit of the holders of the Trust Certificates.

The Trustee shall, on Request, or the Trustee may, in the event funds are required for payment against acceptance of Trust Equipment, sell such Investments, or any portion thereof, and restore to Deposited Cash or Replacement Funds, as the case may be, the proceeds of any such sale up to the amount paid for such Investments, including accrued interest.

The Trustee shall restore to Deposited Cash or Replacement Funds, as the case may be, out of rent received by it for that purpose under the provisions of Section 4.04(B)(1), an amount equal to any expenses incurred in connection with any purchase or sale of Investments and also an amount equal to any loss of principal incident to the sale or redemption of any Investments for a sum less than the amount paid therefor, including accrued interest.

The Company, if not to the knowledge of the Trustee in default under the terms hereof, shall be entitled to receive any interest (in excess of accrued interest paid from Deposited Cash or Replacement Funds at the time of purchase) or other profit which may be realized from any sale or redemption of Investments.

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SECTION 8.05. *Trustee Not Liable for Delivery Delays or Defects in Equipment or Title.* The Trustee shall not be liable to anyone for any delay in the delivery of any of the Trust Equipment, or for any default on the part of the manufacturers thereof or of the Company, or for any defect in any of the Trust Equipment or in the title thereto, nor shall anything herein be construed as a warranty on the part of the Trustee in respect thereof or as a representation on the part of the Trustee in respect of the value thereof or in respect of the title thereto.

The Trustee may perform its powers and duties hereunder by or through such attorney and agents as it shall appoint, and shall be answerable only for its own negligent acts, negligent failures to act and wilful misconduct and not for the default or misconduct of any attorney or agent appointed by it with reasonable care. The Trustee shall not be responsible in any way for the recitals herein contained or for the execution or validity of this Agreement, the Existing Leases or any other lease assigned to the Trustee hereunder or the Assignments, or of the Trust Certificates (except for its own execution thereof) or for the guaranty by the Company or the Equipment Co.

The Trustee shall be entitled to receive payment of all of its expenses and disbursements hereunder, including reasonable counsel fees, and to receive reasonable compensation for all services rendered by it in the execution of the trust hereby created, all of which shall be paid by the Company.

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

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

SECTION 8.06. *Resignation and Removal; Appointment of Successor Trustee.*

(a) The Trustee may resign and be discharged of the trust created by this Agreement by giving 30 days' written

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notice to the Company and such resignation shall take effect 30 days after the delivery thereof to the Company or upon receipt by the Trustee of an instrument of acceptance executed by a successor trustee as hereinafter provided in this Section.

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

(c) If at any time the Trustee shall resign or be removed or otherwise become incapable of acting or, if at any time a vacancy shall occur in the office of the Trustee for any other cause, a successor trustee may be appointed by the holders of a majority in aggregate unpaid principal amount of the then outstanding Trust Certificates by an instrument in writing delivered to the Company and the Trustee. Until a successor trustee shall be appointed by the holders of Trust Certificates as herein authorized, the Company by an instrument in writing executed by order of its Board of Directors shall appoint a trustee to fill such vacancy. A successor trustee so appointed by the Company shall immediately and without further act be superseded by a successor trustee appointed by the holders of Trust Certificates in the manner provided above if such appointment is made within one year after completion of the giving of notice, in the manner provided in the next succeeding paragraph, of the appointment of a successor trustee by the Company. Every successor trustee appointed pursuant to this Section shall be a national bank or a bank or trust company incorporated under the laws of the United States of America or the State of New York or the State of Illinois, having its principal office in the City of New York or the City of Chicago, and having a capital and surplus of not less than $50,000,000, if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

(d) The Company shall give notice to the holders of all outstanding Trust Certificates of each resignation or removal of the then Trustee and of each appointment by the

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Company of a successor trustee pursuant to this Section by mailing written notice of such event by first-class mail, postage prepaid.

SECTION 8.07. *Acceptance of Appointment by Successor Trustee.* Any successor trustee appointed as provided in Section 8.06 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and, subject to the provisions of Section 8.06(a) thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as Trustee herein; but, nevertheless, on the written Request of the Company or request of the successor trustee, upon payment of its charges then unpaid, the trustee ceasing to act shall execute and deliver an instrument transferring to such successor trustee all the rights and powers of the trustee so ceasing to act. Upon request of any such successor trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a lien upon all property or funds held or collected by such trustee to secure any amounts then due it pursuant to the provisions of Section 8.05.

SECTION 8.08. *Merger or Consolidation of Trustee.* 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 shall be the successor of the Trustee hereunder, provided such corporation shall be qualified under the provisions of Section 8.06, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

SECTION 8.09. *Return of Certain Moneys to Company.* Notwithstanding any provision of this Agreement, any

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moneys paid to the Trustee which are applicable to the payment of the principal of or dividends on, any Trust Certificates which remain unclaimed for five years after the day when such moneys were due and payable shall then be repaid to the Company upon Request, and the holders of such Trust Certificates shall thereafter be entitled to look only to the Company for payment thereof and all liability of the Trustee with respect to such moneys shall thereupon cease; *provided, however,* that before the repayment of such moneys to the Company as aforesaid, the Trustee may first publish a notice, in such form as may be deemed appropriate by the Trustee in respect of the Trust Certificates so payable and not presented and in respect of the provisions hereof relating to the repayment to the Company of the moneys held for the payment thereof.

ARTICLE NINE

Miscellaneous

Section 9.01. *Rights Confined to Parties and Holders.* Nothing expressed or implied herein is intended or shall be construed to confer upon or to give to any person, firm or corporation, other than the parties hereto and the holders of the Trust Certificates, any right, remedy or claim under or by reason of this Agreement or of any term, covenant or condition hereof, and all the terms, covenants, conditions, promises and agreements contained herein shall be for the sole and exclusive benefit of the parties hereto and their successors and of the holders of the Trust Certificates.

Section 9.02. *No Recourse.* No recourse under any obligation, covenant or agreement of this Agreement, or of the guaranty endorsed on any Trust Certificate, shall be had against any stockholder, officer or director of the Company or the Equipment Co., as such, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute or otherwise; it being expressly agreed and understood that this Agreement and said guaranty are solely corporate obligations, and that no personal liability whatever shall attach to or be incurred by the stockholders, officers or directors of the Company or the Equipment Co., as such, or any of them under or by reason of any of the

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obligations, covenants or agreements contained in this Agreement or in said guaranty, or implied therefrom, and that any and all personal liability, either at common law or in equity, or by statute or constitution, of every such stockholder, officer or director is hereby expressly waived as a condition of and consideration for the execution of this Agreement and said guaranty.

SECTION 9.03. *Binding Upon Assigns.* Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 9.04. *Notices.* All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered at or mailed by registered mail to (a) in the case of the Company or the Equipment Co., 2200 East Devon Avenue, Des Plaines, Illinois, 60018 or such other address as may hereafter be furnished to the Trustee in writing by the Company or the Equipment Co. and (b) in the case of the Trustee, Chemical Bank, 20 Pine Street, New York, N. Y. 10015, attention of Corporate Trustee Administration Department, or such other address as may hereafter be furnished to the Company in writing by the Trustee. An affidavit by any person representing or acting on behalf of the Company or the Trustee, as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 9.05. *Effect of Headings.* The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 9.06. *Date Executed.* This Agreement shall be deemed to have been executed on the date of the acknowledgment thereof by the officer of the Trustee who signed it on behalf of the Trustee.

SECTION 9.07. *Illinois Law Governs.* The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of Illinois, *provided, however,* that the duties, obligations and the immunities of the Trustee shall be governed by the laws of the State of New York.

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In witness whereof, the Company, the Equipment Co., and the Trustee have caused their names to be signed hereto by their respective officers thereunto duly authorized and their respective corporate seals, duly attested, to be hereunto affixed as of the day and year first written.

Chemical Bank,

[corporate seal]

by .....
Trust Officer.

Attest:

.....
Assistant Secretary.

United States Railway Leasing Company,

[corporate seal]

by .....
Vice President.

Attest:

.....
Assistant Secretary.

United States Railway Equipment Co.,

[corporate seal]

by .....
Vice President.

Attest:

.....
Assistant Secretary.

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

On this 19th day of November, 1970, before me personally appeared K. Mehl, to me personally known, who, being by me duly sworn, says that he is a Trust Officer of CHEMICAL BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said ~~national~~ banking corporation, that said instrument was signed and sealed on behalf of said banking corporation, by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[NOTARIAL SEAL]

Notary Public

JOHN L. BERVAR
Notary Public, State of New York
No. 41-5303890
Qualified in Queens County
Cert. filed in New York County
Term Expires March 30, 1972

My Commission expires

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this 20 day of November, 1970, before me personally appeared JOHN C. FELTEN, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNITED STATES RAILWAY LEASING COMPANY, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[NOTARIAL SEAL]

Notary Public

My Commission expires

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STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this 20 day of November, 1970, before me personally appeared JOHN C. FELTEN, to me personally known, who, being by me duly sworn, says that he is a Vice President of UNITED STATES RAILWAY EQUIPMENT Co., that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[NOTARIAL SEAL]

Robert Rhuman
.....
Notary Public

My Commission expires

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SCHEDULE A

UNITED STATES RAILWAY LEASING COMPANY

EQUIPMENT TRUST—SERIES 4

No. of Cars	Description of Equipment	Equipment Cost	Total Amount of Rents Payable During Lease Term	Lessee	Lease Term (Years)*	Builder	Maintenance	Car Numbers (all inclusive)
50	DF 100-ton coil steel cars	$ 915,000	$ 1,104,000	Grand Trunk Western Railroad Company	10	Evans Products Co.	Lessor	GTW 307,000 to 307,049
99	50′ 70-ton RBL box cars	1,871,097	2,518,560	St. Louis Refrigerator Car Company	10	St. Louis Ref. Car. Co.	Lessee	MRS 4900 to 4970 and 4972 to 4999
5	52′ 5″ 70-ton RBL box cars	111,713	159,150	Van Brode Milling Company	10	U.S. Railway Mfg. Co.	Lessee	USLX 13000 to 13004
9	5000 cu. ft. P.D. covered hopper cars	211,500	279,720	Gen'l Motors Corp.-Delco Remy Division	10	Gunderson Bros.	Lessee	USLX 5008, 5009, 5011 to 5017
10	50′ 6″ 50-ton bulkhead flat cars	160,000	198,000	Roscoe, Snyder and Pacific Railway Co.	10	RSP Railway Equip. Co.	Lessor	RSP 200105 to 200114
10	52′ 5″ 70-ton RBL box cars	223,000	165,900	General Mills Inc.	5	U.S. Railway Mfg. Co.	Lessee	USLX 10540 to 10549
2	52′ 5″ 70-ton RBL box cars	46,600	75,600	Illinois Terminal Railroad Co.	15	U.S. Railway Mfg. Co.	Lessor	ITC 900 to 901
6	DF 100-ton coil steel cars	106,800	210,000	Detroit, Toledo & Ironton Railroad Co.	15	U.S. Railway Mfg. Co.	Lessor	DTI 1350 to 1355
157	52′ 5″ 70-ton RBL box cars	3,504,100	7,206,300	Evans Products Co.	15	U.S. Railway Mfg. Co.	Lessee	USLX 9000 to 9019; 10000 to 10079; 10385 to 10399; 10410 to 10412; 10418 to 10430; 10432; 15000 to 15024
348		$7,149,810	$11,917,830**					

* Leases are non-cancellable.

** The total amount of rentals remaining to be paid during the life of the Equipment Trust is $10,983,915.

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SCHEDULE B

ASSIGNMENT OF LEASE AND AGREEMENT dated as of , 19 , by and between UNITED STATES RAILWAY LEASING COMPANY, an Illinois corporation (hereinafter called the Company), and CHEMICAL BANK, as Trustee (hereinafter called the Trustee), under an Equipment Trust Agreement dated as of November 1, 1970 (hereinafter called the Equipment Trust Agreement), by and among the Trustee, the Company and United States Railway Equipment Co., an Illinois corporation (hereinafter called the Equipment Co.).

WHEREAS, the Company and

(hereinafter called the Lessee) have entered into a Lease Agreement dated , 19 (hereinafter called the Lease), providing for the leasing by the Company to the Lessee of the units of railroad equipment (hereinafter called Units) described in the Lease, which has been filed and recorded with the Interstate Commerce Commission and bears Recordation Number , an executed counterpart of the Lease being delivered to the Trustee concurrently herewith; and

WHEREAS, this Assignment of Lease and Agreement is being made pursuant to Section 4.09 of the Equipment Trust Agreement to secure the payment and performance by the Company of all obligations of the Company arising under the Equipment Trust Agreement, including, but not limited to, the obligations of the Company arising under its guaranty endorsed or to be endorsed on the Equipment Trust Certificates issued or to be issued under the Equipment Trust Agreement (all such obligations being hereinafter called the Liabilities);

NOW, THEREFORE, in consideration of the sum of $10 duly paid by the Trustee to the Company and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

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SCHEDULE B

ASSIGNMENT OF LEASE AND AGREEMENT dated as of , 19 , by and between UNITED STATES RAILWAY LEASING COMPANY, an Illinois corporation (hereinafter called the Company), and CHEMICAL BANK, as Trustee (hereinafter called the Trustee), under an Equipment Trust Agreement dated as of November 1, 1970 (hereinafter called the Equipment Trust Agreement), by and among the Trustee, the Company and United States Railway Equipment Co., an Illinois corporation (hereinafter called the Equipment Co.).

WHEREAS, the Company and

(hereinafter called the Lessee) have entered into a Lease Agreement dated , 19 (hereinafter called the Lease), providing for the leasing by the Company to the Lessee of the units of railroad equipment (hereinafter called Units) described in the Lease, which has been filed and recorded with the Interstate Commerce Commission and bears Recordation Number , an executed counterpart of the Lease being delivered to the Trustee concurrently herewith; and

WHEREAS, this Assignment of Lease and Agreement is being made pursuant to Section 4.09 of the Equipment Trust Agreement to secure the payment and performance by the Company of all obligations of the Company arising under the Equipment Trust Agreement, including, but not limited to, the obligations of the Company arising under its guaranty endorsed or to be endorsed on the Equipment Trust Certificates issued or to be issued under the Equipment Trust Agreement (all such obligations being hereinafter called the Liabilities);

Now, THEREFORE, in consideration of the sum of $10 duly paid by the Trustee to the Company and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

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1. As security for the payment and performance of the Liabilities, the Company hereby assigns, transfers, and sets over unto the Trustee all the Company's right, title and interests as lessor under the Lease, together with all rights, powers, privileges, and other benefits of the Company as lessor under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Company under or pursuant to the provisions of the Lease and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an event of default specified in the Lease, and to do any and all other things whatsoever which the Company, as lessor, is or may become entitled to do under the Lease; *provided, however,* that until an Event of Default under the Equipment Trust Agreement, or any event which notice or lapse of time or both, would constitute such an Event of Default, shall occur, it is understood that the Company shall be entitled for the benefit of the Trustee to give all notices and to take all action upon the happening of an event of default specified in the Lease provided that the Trustee is first advised of such action proposed to be taken. In furtherance of the foregoing assignment, the Company hereby irrevocably authorizes and empowers the Trustee in its own name, or in the name of its nominee, or in the name of the Company or as its attorney, to ask, demand, sue for, collect and receive any and all sums to which the Company is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

The Company will cause notice of this Assignment forthwith to be given to the Lessee (together with a copy of this Assignment) and will direct the Lessee to pay all rentals, profits and other sums payable to or receivable by the Company under or pursuant to the provisions of the Lease on and after such notice of this Assignment is given (hereinafter called Rentals) directly to the Trustee (a copy of such notice and direction to be given to the Trustee). If under the provisions of the Lease the Lessee is entitled to

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a credit in respect of the Rentals thereunder on account of mileage payments payable to the Lessor, the Lessor will furnish the Trustee with a duplicate copy of its current rental invoice to the Lessee setting forth the amount of the credit to be applied against the Rentals payable under the Lease on or before each Rental payment date under the Lease and the net amount of Rentals payable to the Trustee by the Lessee. The Trustee may conclusively rely upon such duplicate invoice as to the facts stated therein and shall be under no duty or obligation whatsoever to investigate or verify the mileage payments credited against the Rentals or the Rentals payable under the Lease. The Trustee will accept payments of Rentals made to it by the Lessee pursuant to the Lease and this Assignment and the Trustee will apply the Rentals as follows: *first,* to or toward the payment of all amounts due and payable under the Equipment Trust Agreement at the time of receipt of such Rentals, and the Trustee shall credit such Rentals so applied to the amounts then due and payable by the Company under the Equipment Trust Agreement; and, *second,* so long as, to the actual knowledge of the Trustee, the Company is not in default under any provision of the Equipment Trust Agreement, any balance of Rentals remaining shall be paid over to the Company by the Trustee. The Trustee hereby appoints the Company as its agent, and the Company hereby accepts such appointment, to collect and receive for the account of the Trustee all mileage payments payable in respect of the Units, and the Company agrees to segregate and hold all such payments in trust for the account of the Trustee. On each May 1 and November 1 the Company, as such agent, will apply all such mileage payments as follows: *first,* to or toward the payment of all amounts then due and payable by the Company pursuant to the provisions of the Equipment Trust Agreement, and the Trustee shall credit such payment to the amounts then due and payable by the Company under the Equipment Trust Agreement; and, *second,* so long as, to the actual knowledge of the Trustee, the Company is not in default under any provision of the Equipment Trust Agreement, any balance remaining may be released

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by the Company, as such agent, to the Company in its individual capacity.

So long as, to the actual knowledge of the Trustee, the Company shall be in default under any provision of the Equipment Trust Agreement, (i) the Trustee shall not pay over any of the Rentals to the Company, but, during the continuance of such default, shall apply all Rentals received by the Trustee to the payment of all amounts then or thereafter due and payable under the Equipment Trust Agreement and (ii) the Company shall forthwith upon receipt thereof deposit with the Trustee all mileage payments received in respect of the Units, which payments shall also be applied by the Trustee in like manner as Rentals under clause (i) above.

2. The assignment made hereby is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Trustee to, or transfer, or pass, or in any way affect or modify the liability of the Company under the Lease, it being understood and agreed that notwithstanding such assignment or any subsequent assignment all obligations of the Company to the Lessee shall be and remain enforceable by the Lessee, its successors and assigns, against, and only against, the Company.

3. Upon the full discharge and satisfaction of the Liabilities, the assignment made hereby shall terminate, and all estate, right, title and interest of the Trustee in and to the Lease shall revert to the Company.

Upon transfer by the Trustee of title to any of the Units pursuant to Section 4.06 of the Equipment Trust Agreement, the Trustee shall execute and deliver to the Company a release or reassignment of this Assignment as to such Units.

4. The Company warrants and covenants that (a) the execution and delivery by the Company of the Lease and this Assignment have each been duly authorized, and the

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Lease and this Assignment are and will remain the valid and binding obligations of the Company in accordance with their terms; (b) the Company has not executed any other assignment of the Lease or of its right to receive all payments under the Lease and the Lease will continue to be free and clear of any and all claims, liens, agreements, security interests or other encumbrances (except this Assignment and except to the extent the Company is contesting the validity of the same in good faith by appropriate proceedings), (c) notwithstanding this Assignment, the Company will conform and comply with each and all of the covenants and conditions in the Lease set forth to be complied with by it and (d) to the knowledge of the Company, it has performed all obligations on its part to be performed under the Lease on or prior to the date hereof.

Unless the Lease is an Existing Lease (as defined in the Equipment Trust Agreement), the Company will, concurrently with the execution and delivery of this Assignment, deliver to the Trustee the opinion of Messrs. Rosenthal and Schanfield, counsel for the Company, or an opinion of other counsel satisfactory to the Trustee, to the effect set forth in subparagraph (e) of Section 3.04 of the Equipment Trust Agreement relating to the Lease.

5. The Company covenants and agrees with the Trustee that in any suit, proceeding or action brought by the Trustee under the Lease for any Rental, or to enforce any provisions of the Lease, the Company will save, indemnify and keep the Trustee harmless from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever of the Lessee or its successors, arising out of a breach by the Company of any obligation under the Lease or arising out of any other indebtedness or liability at any time owing to the Lessee or its successors from the Company. Any and all such obligations of the Company shall be and remain enforceable against and only against the Company and shall not be enforceable against the Trustee or any party or parties in

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whom any of the rights of the Company under the Lease shall vest by reason of the successive assignments or transfers.

6. The Company will from time to time execute all such financing statements and supplemental instruments as the Trustee may from time to time reasonably request in order to confirm or further assure the assignment made hereby and the provisions hereof.

7. The Trustee may assign all or any of its rights under the Lease, including the right to receive any payments due or to become due to it from the Lessee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Trustee hereunder.

8. Notwithstanding anything to the contrary contained in Section 1 of this Assignment, the Company agrees that it will not, without the prior written consent of the Trustee, enter into any agreement amending, modifying or terminating the Lease and that any amendment, modification or termination thereof without such consent shall be void. The Trustee shall consent to any such agreement if (a) it does not affect the Rentals, the term, the maintenance or the possession and use provisions or any other provision which the Trustee or its special counsel deems to materially and adversely affect the security provided hereby or (b) the holders of more than 50% in aggregate unpaid principal amount of the Trust Certificates then outstanding consent in writing thereto.

9. This Assignment shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

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In witness whereof, the Company and the Trustee have caused this instrument to be signed in their respective names by their respective officers thereunto duly authorized, as of the date first above written.

United States Railway Leasing Company,

by .....
Vice President.

Attest:

.....
Assistant Secretary.

[corporate seal]

Chemical Bank, as Trustee,

by .....
Trust Officer.

Attest:

.....
Assistant Secretary.

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STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of UNITED STATES RAILWAY LEASING COMPANY, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

[NOTARIAL SEAL]

My Commission expires

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

On this day of , before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Trust Officer of CHEMICAL BANK, that the seal affixed to the foregoing instrument is the corporate seal of said banking corporation, that said instrument was signed and sealed on behalf of said national banking association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

[NOTARIAL SEAL]

My Commission expires

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the Trustee (and also any proceedings involving the interpretation of any provisions of this Agreement to which the Trustee shall be a party) the Trustee shall be held to represent all the holders of the Trust Certificates, and it shall not be necessary to make any holders of the Trust Certificates parties to such proceedings.

SECTION 5.02. *Remedies.* In case of the happening of any Event of Default, the Trustee may by its agents enter upon the premises of the Company and of any Affiliate or of any lessee (or other person having acquired the use of the Trust Equipment) where any of the Trust Equipment may be and take possession of all or any part of the Trust Equipment and withdraw the same from said premises (subject to any rights of quiet possession of any lessee referred to in Section 4.09 under any Existing Lease or other lease assigned to the Trustee hereunder), retaining all payments which up to that time may have been made on account of rental for the Trust Equipment and otherwise, and shall be entitled to collect, receive and retain all unpaid mileage or other charges of any kind earned by the Trust Equipment or any part thereof, and may lease or otherwise contract for the use of the Trust Equipment or any part thereof; or the Trustee may with or without retaking possession (but only after declaring due and payable the entire amount of rentals payable by the Company and the unpaid principal of all the then outstanding Trust Certificates, as provided in Section 5.01) sell the Trust Equipment or any part thereof, free from any and all claims of the Company at law or in equity, in one lot and as an entirety or in separate lots, at public or private sale, for cash or upon credit, in its discretion, and may proceed otherwise to enforce its rights and the rights of the holders of then outstanding Trust Certificates, all subject to any mandatory requirements of law applicable thereto. Upon any such sale, the Trustee itself may bid for the property offered for sale or any part thereof. Any such sale may be held or conducted at such place and at such time as the Trustee may specify, or as may be required by law, and without gathering at the place of sale the Trust Equipment to be sold, and in general in such

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manner as the Truste may determine, but so that the Company may and shall have a reasonable opportunity to bid at any such sale. After the Trustee has fully exercised its remedies hereunder, the Company shall cease to have any rights or remedies in respect of the Trust Equipment hereunder, but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Company, and no payments theretofore made by the Company for the rent or use of the Trust Equipment or any of it shall give to the Company any legal or equitable interest or title in or to the Trust Equipment or any of it or any cause or right of action at law or in equity in respect of the Trust Equipment against the Trustee or the holders of interests hereunder. No such taking of possession, withdrawal, lease or sale of the Trust Equipment by the Trustee shall be a bar to the recovery by the Trustee from the Company of rentals then or thereafter due and payable, or of principal and dividends in respect of the Trust Certificates, and the Company shall be and remain liable for the same until such sums have been realized as, with the proceeds of the lease or sale of the Trust Equipment, shall be sufficient for the discharge and payment in full of all the obligations of the Company under this Agreement.

SECTION 5.03. *Application of Proceeds.* If the Trustee shall exercise any of the powers conferred upon it by Sections 5.01 and 5.02, all payments made by the Company to the Trustee, and the proceeds of any judgment collected from the Company by the Trustee, and the proceeds of every sale or lease by the Trustee of any of the Trust Equipment, together with any other sums which may then be held by the Trustee under any of the provisions hereof (other than sums held in trust for the payment of specific Trust Certificates or a part thereof, or dividends thereon) shall be applied by the Trustee to the payment, in the following order of priority, (a) of all proper charges, expenses or advances made or incurred by the Trustee in accordance with the provisions of this Agreement and (b) of the dividends then due, with interest on overdue dividends at the rate of 11% per annum, to the extent legally enforceable, and of the principal of all the outstanding Trust Certificates, with interest thereon at the rate of 11%

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per annum, to the extent legally enforceable, from the last preceding dividend payment date, whether such Trust Certificates shall have then matured by their terms or not, all such payments to be in full if such proceeds shall be sufficient, and if not sufficient, then *pro rata* without preference between principal and dividends.

After all such payments shall have been made in full, the title to any of the Trust Equipment remaining unsold shall be conveyed by the Trustee to the Company free from any further liabilities or obligations to the Trustee hereunder. If after applying all such sums of money realized by the Trustee as aforesaid there shall remain any amount due to the Trustee under the provisions hereof, the Company agrees to pay the amount of such deficit to the Trustee. If after applying as aforesaid the sums of money realized by the Trustee there shall remain a surplus in the possession of the Trustee, such surplus shall be paid to the Company.

SECTION 5.04. *Waivers of Default.* Prior to the declaration of the acceleration of the maturity of the rentals and of the maturity of all the Trust Certificates as provided in Section 5.01, the holders of a majority in aggregate unpaid principal amount of the Trust Certificates at the time outstanding may on behalf of the holders of all the Trust Certificates waive any past default and its consequences, except a default in the payment of any instalment of rental payable pursuant to Section 4.04(B)(3) or (B)(4), but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

If at any time after the principal of all the Trust Certificates shall have been declared and become due and payable or if at any time after the entire amount of rentals shall have been declared and become due and payable, all as provided in Section 5.01, but before November 1, 1985, all arrears of rent (with interest at the rate of 11% per annum upon any overdue instalments, to the extent legally enforceable), the expenses and reasonable compensation of the Trustee, together with all expenses of the trust occasioned by the Company's default, and all other sums which shall

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have become due and payable by the Company hereunder shall be paid by the Company before any sale or lease by the Trustee of any of the Trust Equipment, and every other default shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then, and in every such case, the Trustee, if so requested by the holders of a majority in unpaid principal amount of the Trust Certificates then outstanding, shall by written notice to the Company waive the default by reason of which there shall have been such declaration or declarations and the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

SECTION 5.05. *Obligations of Company Not Affected by Remedies.* No retaking of possession of the Trust Equipment by the Trustee, or any withdrawal, lease or sale thereof, nor any action or failure or omission to act against the Company or in respect of the Trust Equipment, on the part of the Trustee or on the part of the holder of any Trust Certificate, nor any delay or indulgence granted to the Company by the Trustee or by any such holder, shall affect the obligations of the Company hereunder or the obligations of the Company or of the Equipment Co. under the guaranty endorsed on the Trust Certificates.

The Company and the Equipment Co. hereby waive presentation and demand in respect of any of the Trust Certificates and waive notice of presentation, of demand and of any default in the payment of the principal of and dividends on the Trust Certificates.

SECTION 5.06. *Company to Deliver Trust Equipment to Trustee.* In case the Trustee shall rightfully demand possession of any of the Trust Equipment in pursuance of this Agreement, the Company will, at its own expense, forthwith and in the usual manner and at usual speed, cause such Trust Equipment to be drawn to such point or points as shall reasonably be designated by the Trustee and will there deliver or cause to be delivered the same to the Trustee; or, at the option of the Trustee, the Trustee may keep such Trust Equipment, at the expense of the Company, on any

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lines of railroad or premises approved by the Trustee until the Trustee shall have leased, sold or otherwise disposed of the same. The performance of the foregoing covenant is of the essence of this Agreement and upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company requiring the specific performance thereof.

SECTION 5.07. *Trustee to Give Notice of Default.* The Trustee shall give to the registered holders of the Trust Certificates notice of each Event of Default hereunder known to the Trustee, within 30 days after it learns of the same, unless remedied or cured before the giving of such notice.

SECTION 5.08. *Control by Holders of Trust Certificates.* The registered holders of a majority in aggregate unpaid principal amount of the then outstanding Trust Certificates, by an instrument or instruments in writing executed and delivered to the Trustee, shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee; *provided, however,* that the Trustee shall have the right to decline to follow any such direction (i) if the Trustee shall be advised by counsel that the action so directed may not lawfully be taken (ii) if the Trustee shall be advised by counsel that the action so directed may involve it in personal liability. The Trustee may take any other action deemed proper by the Trustee which is not inconsistent with any such direction given hereunder.

SECTION 5.09. *Remedies Cumulative; Subject to Mandatory Requirements of Law.* The remedies in this Agreement provided in favor of the Trustee and the holders of the Trust Certificates, or any of them, shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity; and such remedies so provided in this Agreement shall be subject in all respects to any mandatory requirements of law at the time applicable thereto, to the extent, such requirements may not be waived on the part of the Company.

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ARTICLE SIX

Additional Covenants and Agreements by the Company and the Equipment Co.

Section 6.01. *Guaranty of Company and the Equipment Co.* The Company and the Equipment Co. jointly and severally unconditionally covenant, agree and guarantee that the holder of each of the Trust Certificates shall receive the principal amount thereof, in such coin or currency of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts, when and as the same shall become due and payable, in accordance with the provisions thereof or of this Agreement (and, if not so paid, with interest thereon until paid at the rate of 11% per annum, to the extent legally enforceable), and shall receive dividends thereon in like money at the rate specified therein, at the times and place and otherwise as expressed in the Trust Certificates (and, if not so paid, with interest thereon until paid at the rate of 11% per annum, to the extent legally enforceable); and the Company and the Equipment Co. each agrees to endorse upon each of the Trust Certificates, at or before the issuance and delivery thereof by the Trustee, its joint and several guaranty of the prompt payment of the principal thereof and of the dividends thereon, in substantially the form hereinbefore set forth. Said guaranty so endorsed shall be signed in the name and on behalf of the Company and the Equipment Co., each, by the manual or facsimile signature of its President, a Vice President or the Controller. In case any officer of the Company or the Equipment Co. whose signature shall appear on said guaranty shall cease to be such officer before the Trust Certificates shall have been issued and delivered by the Trustee, or shall not have been acting in such capacity on the date of the Trust Certificates, such guaranty shall nevertheless be as effective and binding upon the Company and the Equipment Co. as though the person who signed said guaranty had not ceased to be or had then been such officer.

The Equipment Co. further unconditionally guarantees to the Trustee and the holders of the Trust Certificates the

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due and punctual performance of all obligations of the Company under this Agreement and unconditionally guarantees to the Trustee and the holders of the Trust Certificates that all sums payable by the Company under this Agreement will be promptly paid when due in accordance with the provisions of this Agreement and in case of default by the Company in any such obligations or payment the Equipment Co. agrees punctually to perform or pay the same, irrespective of any enforcement against the Company of any of the rights of the Trustee and the holders of the Trust Certificates under this Agreement. The Equipment Co. hereby agrees that its obligations hereunder and under the aforesaid guaranty on the Trust Certificates shall be unconditional, irrespective of the genuineness, validity, regularity or enforceability of this Agreement or any other circumstance which might otherwise constitute a legal or equitable discharge of a guarantor. No waiver by the Trustee or the holders of any of the Trust Certificates of any of their rights hereunder or under the Trust Certificates and no action by the Trustee or the holders of any of the Trust Certificates to enforce any of their rights or failure to take, or delay in taking, any such action shall affect the obligations of the Equipment Co. hereunder or under said guaranty of the Trust Certificate.

SECTION 6.02. *Discharge of Liens.* The Company covenants and agrees that it will pay and discharge, or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of, any debt, tax, charge, assessment, obligation or claim which if unpaid might become a lien, charge, security interest or other encumbrance upon or against any of the Trust Equipment; but this provision shall not require the payment of any such debt, tax, charge, assessment, obligation or claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings, provided that such contest will not materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates and the Company shall have furnished the Trustee with an Opinion of Counsel to such effect. If the Company does not forthwith pay and discharge, or cause to be paid and discharged, or make ade-

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

SECTION 6.03. *Recording.* The Company will, promptly after the execution and delivery of this Agreement (and of each Existing Lease and any other lease permitted by Section 4.09 and each Assignment of such leases) and each supplement or amendment hereto or thereto, respectively, cause the same to be duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and duly filed, recorded or deposited in the office of the Registrar General of Canada, if permitted, and the Company shall cause to be duly published any required notice of such filing, recording or deposit. The Company will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register and record and will refile, reregister and rerecord any and all further instruments required by law or reasonably requested by the Trustee for the purposes of proper protection of the title of the Trustee and the rights of the holders of the Trust Certificates and of fully carrying out and effectuating this Agreement and the intent hereof.

Promptly after the execution and delivery of this Agreement and of each Assignment, and of each supplement or amendment hereto or thereto, the Company will furnish to the Trustee an Opinion of Counsel stating that, in the opinion of such counsel, such document has been properly deposited, filed, registered and recorded and redeposited, refiled, reregistered and rerecorded, if necessary, so as effectively to protect the title of the Trustee to the Trust Equipment and its interests in such Existing Lease or other lease so assigned and its rights and the rights of the holders of the Trust Certificates hereunder and thereunder and reciting the details of such action.

Nothing contained in this Section shall require the deposit, filing, registration or recording, or the redeposit, refiling, reregistration or rerecording of this Agreement or

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any Assignment or any supplement or amendment hereto or thereto in any public office in Canada, except only the deposit in the office of the Registrar General of Canada of Existing Leases or other leases and amendments thereto and Assignments thereof made with Canadian railway companies.

SECTION 6.04. *Further Assurances.* The Company and the Equipment Co. each covenants and agrees from time to time to do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Agreement and the intent hereof.

SECTION 6.05. *Merger or Consolidation.* The Company and the Equipment Co. each covenants and agrees that in the eventuality that it should merge or consolidate with another corporation which shall be a solvent corporation, the survivor of such merger or consolidation shall be a solvent corporation organized under the laws of the United States of America or a state thereof or the District of Columbia and such survivor (if not the Company or the Equipment Co., as the case may be) shall assume all the obligations and liabilities of the Company or the Equipment Co., as the case may be, hereunder and as guarantor of the Trust Certificates.

ARTICLE SEVEN

CONCERNING THE HOLDERS OF TRUST CERTIFICATES

SECTION 7.01. *Evidence of Action Taken by Holders of Trust Certificates.* Whenever in this Agreement it is provided that the holders of a specified percentage in aggregate unpaid principal amount of the Trust Certificates may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action the holders of such specified percentage have joined therein may be evidenced by any instrument or any number of instruments of similar tenor executed by holders of Trust Certificates in person or by agent or proxy appointed in writing.

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SECTION 7.02. *Proof of Execution of Instruments and of Holding of Trust Certificates.* Proof of the execution of any instrument by a holder of Trust Certificates or his agent or proxy and proof of the holding by any person of any of the Trust Certificates shall be sufficient if made in the following manner:

The fact and date of the execution by any such person of any instrument may be proved by the certificate of any notary public or other officer of any jurisdiction within the United States of America authorized to take acknowledgments of deeds to be recorded in such jurisdiction that the person executing such instrument acknowledged to him the execution thereof, or by an affidavit of a witness to such execution sworn to before any such notary or other such officer. Where such execution is by or on behalf of any legal entity other than an individual, such certificate or affidavit shall also constitute proof of the authority of the person executing the same.

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

SECTION 7.03. *Trust Certificates Owned by Company.* In determining whether the holders of the requisite unpaid principal amount of the Trust Certificates have concurred in any direction, request or consent under this Agreement, Trust Certificates which are owned by the Company or by any other obligor on the Trust Certificates or by an Affiliate of the Company or any such other obligor shall be disregarded, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, request or consent, only Trust Certificates which the Trustee knows are so owned shall be disregarded.

SECTION 7.04 *Right of Revocation of Action Taken.* At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 7.01, of the taking of any action by the holders of the percentage in aggregate unpaid principal amount of the Trust Certificates specified in this Agreement in connection with such action, any holder of a

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Trust Certificate the serial number of which is shown by the evidence to be included in the Trust Certificates the holders of which have consented to such action may, by filing written notice with the Trustee at its Corporate Trust Office and upon proof of holding as provided in Section 7.02, revoke such action in so far as concerns such Trust Certificate. Except as aforesaid any such action taken by the holder of any Trust Certificate shall be conclusive and binding upon such holder and upon all future holders and owners of such Trust Certificate and of any Trust Certificate issued in exchange or substitution therefor, irrespective of whether or not any notation in regard thereto is made upon such Trust Certificate. Any action taken by the holders of the percentage in aggregate unpaid principal amount of the Trust Certificates specified in this Agreement in connection with such action shall be conclusive and binding upon the Company, the Equipment Co., the Trustee and the holders of all the Trust Certificates subject to the provisions of Section 5.08.

ARTICLE EIGHT

The Trustee

Section 8.01. *Acceptance of Trust.* The Trustee hereby accepts the trust imposed upon it by this Agreement, and covenants and agrees to perform the same as herein expressed.

Section 8.02. *Duties and Responsibilities of the Trustee.* In case an Event of Default has occurred (which has not been cured), the Trustee shall exercise such of the rights and powers vested in it by this Agreement, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

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

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

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(1) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Agreement, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Trustee; and

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

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

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

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

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