
RECORDATION NO. 7868

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INTERSTATE COMMERCE COMMISSION

**LOAN AGREEMENT AND
CHATTEL MORTGAGE**

Dated as of January 1, 1975

between

FEDERAL FINANCING BANK

and

NATIONAL RAILROAD PASSENGER CORPORATION

Guaranty by Department of Transportation

4 RTG Trains

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LOAN AGREEMENT AND CHATTEL MORTGAGE

LOAN AGREEMENT AND CHATTEL MORTGAGE dated as of January 1, 1975, between NATIONAL RAILROAD PASSENGER CORPORATION (hereinafter called the "Railroad") and FEDERAL FINANCING BANK (hereinafter called the "Lender").

WHEREAS pursuant to the terms of a Passenger Equipment Purchase Agreement (hereinafter called the "Purchase Agreement") dated as of June 24, 1974, as amended as of January 23, 1975, between ANF-Industrie, S.A. (hereinafter called the "Builder") and the Railroad, the Builder has agreed to construct, sell and deliver to the Railroad, and the Railroad has agreed to purchase, the railroad equipment described in Schedule A hereto (hereinafter called the "Equipment"); and

WHEREAS pursuant to the terms of a Sale and Lease Back Agreement (hereinafter called the "Sale and Lease Back Agreement") dated as of January 1, 1975, between the Railroad and Manufacturers National Bank of Detroit, as trustee (hereinafter, together with any successor thereto, called the "Trustee"), under a Trust Agreement dated as of January 1, 1975, the Railroad has agreed to sell to the Trustee, subsequent to its purchase under the Purchase Agreement and after the completion of the improvements referred to in the Sale and Lease Back Agreement, as permitted by Article 14 hereof, all of its right, title and interest as the owner of the Equipment and certain of its rights under the Purchase Agreement, and to lease the Equipment back from the Trustee pursuant to the terms of an Equipment Lease (hereinafter called the "Lease") dated as of January 1, 1975, between the Railroad and the Trustee, and the Trustee has agreed to purchase the Equipment and such rights from the Railroad, to lease the Equipment back to the Railroad pursuant to the Lease and to pay for the Equipment in the manner set forth in Article 3 of the Sale and Lease Back Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto agree as follows:

ARTICLE 1. Loans. The Lender will, on the terms and subject to the conditions hereof make loans of Federal Reserve Funds (hereinafter called Loans) hereunder to the Railroad at such times and in such amounts as hereinafter set forth, up to, but not exceeding \$11,700,000 in aggregate principal amount. The Lender will make each Loan by wiring Federal Reserve Funds in the amount of such Loan to a bank designated by the Railroad.

ARTICLE 2. Loans Based on Purchase Price. The base price or prices per unit of the Equipment, exclusive of interest, are set forth in Section 4 of the Purchase Agreement. The base price or prices are subject to such increase or decrease as may be agreed to by the Builder and the Railroad. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased as evidenced by the Builder's invoice with respect to such Equipment, but expressed in United States dollars based on the actual price to the Railroad of the French francs used to make the payments to such Builder contemplated by Section 4 of the Purchase Agreement. The Equipment shall be settled for in such number of groups of the Equipment delivered to and accepted by the Railroad on or before June 30, 1975, as may be agreed upon by the parties hereto (each such group being hereinafter called a Group). Each Group shall comprise an entire turbine-powered passenger "RTG" train consisting of a front and rear power section, two intermediate trailer sections and one intermediate bar-grill section.

On any Closing Date (as hereinafter defined in this Article 2) the Lender shall make a Loan to the Railroad in an amount equal to the Purchase Price of the Group or Groups being settled for on such Closing Date, subject to the limitation contained in Article 1 hereof and to compliance with the conditions contained in Article 13 hereof. The Railroad hereby promises to pay in cash to the Lender the amount of the Loans in 30 consecutive semiannual instalments, as hereinafter provided.

The instalment repayments of the principal amount of the Loans shall be made on each January 2 and July 2, commencing January 2, 1976, to and including July 2, 1990 (or if any such date is not a business day on the next succeeding business day), each such date being hereinafter called a Payment Date. The

percentage of the aggregate principal amount of the Loans payable on each of the Payment Dates is set forth in Schedule B hereto. The unpaid balance of the Loans shall bear interest at 7.80% per annum (the "Debt Rate") from the Closing Date in respect of each Loan. Interest accrued to a Settlement Date (as defined in the Sale and Lease Back Agreement), with regard to a Group then being settled for thereunder, shall be payable on that date, and interest accruing on and after a Settlement Date shall be payable on each January 2 and July 2 following the Term Lease Commencement Date (as defined in the Lease).

The term "Closing Date" with respect to any Group shall mean such date (on or prior to June 30, 1975), not more than ten business days following presentation by the Railroad to the Lender of the Builder's invoice or invoices and the certificate or certificates of acceptance for such Group in the form of Exhibit 1 hereto (hereinafter called the Certificate or Certificates of Acceptance), as shall be fixed by the Railroad by written notice delivered to the Lender at least three business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in Washington, D. C. are authorized to remain closed.

Interest under this Agreement shall be calculated on the basis of a 365-day year and actual days elapsed.

The Railroad will pay, to the extent legally enforceable, interest at the Overdue Rate (as hereinafter defined) upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof, anything herein to the contrary notwithstanding. The term "Overdue Rate" shall mean interest at a rate per annum equal to the Debt Rate.

All payments provided for in this Agreement shall be made in immediately available funds. All payments required to be made to the Lender shall be delivered to it in care of Department of the Treasury, Division of Finance and Management Information, Treasury Annex #1, Washington, D.C. 20226, or as the Lender may otherwise specify in writing to the Railroad. Except as provided in Article 7 hereof, or upon the purchase from the Trustee of any units of the Equipment by the Railroad under Section 25 of the Lease, the Railroad shall not have the privilege of prepaying any instalment of its indebtedness hereunder prior to the date it becomes due, *provided, however*, that the Railroad may make a prepayment of the Loans up to \$2,000,000 principal amount on or prior to the Term Lease Commencement Date upon at least 3 days prior written notice to the Lender.

ARTICLE 3. *Purchase Agreement.* The Railroad represents and warrants to the Lender that the certified copy of the Purchase Agreement delivered to the Lender is a true and correct copy of the Purchase Agreement as in effect on the date hereof and that there have been no amendments or modifications thereof, except for changes in specifications approved by the Railroad.

ARTICLE 4. *Taxes.* The Railroad agrees to pay and discharge (and does hereby agree to indemnify and hold the Lender harmless from and against) all sales, use, personal property, excise, leasing, leasing use, stamp or other taxes, levies, imposts, duties, charges or withholdings of any nature (together with any penalties, fines or interest thereon, unless resulting from the Lender's action or failure to act) imposed against the Railroad, the Lender or the Equipment by any foreign, Federal, state or local governmental taxing authority upon or with respect to the Equipment or upon the purchase, ownership, delivery, lease, possession, rental, use, operation, return, sale or transfer of title to the Railroad under the terms hereof, or upon the rentals or receipts arising therefrom or the payments made hereunder (excluding, however, foreign, Federal, state and local taxes on, or measured by, the net income of the Lender); *provided, however*, that the Railroad shall not be required to pay or discharge any such tax, levy, impost, duty, charge or withholding so long as it shall, in good faith and by appropriate administrative or legal proceedings, contest the validity thereof in any reasonable manner which will not affect or endanger the security interest of the Lender in the Equipment, and the Railroad shall reimburse the Lender for any damages or expenses resulting from such failure to pay or discharge. The Railroad agrees to assist the Lender in the preparation, and when possible to file, on behalf of the Lender, all required tax returns and reports relating to taxes for which the Railroad is responsible under this Article 4. The Lender shall keep

the Railroad informed of any claim made against the Lender for the payment of any such tax, levy, impost, duty, charge or withholding. The obligations of the Railroad contained in this Article 4 shall continue in full force and effect notwithstanding the full payment of the Loans and the conveyance of title to the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

ARTICLE 5. *Title to the Equipment.* The Railroad, for and in consideration of the undertakings of the Lender hereunder, does hereby grant, sell, mortgage and convey unto the Lender, its successors and assigns, and does hereby grant to the Lender a security interest in the Equipment until the Railroad shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as provided in this Agreement. Any and all additions to the Equipment and any and all replacements of parts of the Equipment and additions thereto shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement, subject, however, to the provisions of Article 8 hereof.

Except as otherwise specifically provided in Article 7 hereof, when and only when the full indebtedness in respect of the Loans, together with interest and all other payments as herein provided, shall have been paid, and all the Railroad's obligations herein contained shall have been performed by the Railroad, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad without further transfer or action on the part of the Lender. However, the Lender, if so requested by the Railroad at that time, will (a) execute a release of its security interest in the Equipment to the Railroad, or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such release to the Railroad at its address referred to in Article 19 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Railroad to the Equipment and (c) pay to the Railroad any money paid to the Lender pursuant to Article 7 hereof and not theretofore applied as therein provided. The Railroad hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such release or instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such release or instrument or instruments or to file such certificate within a reasonable time after written demand by the Railroad.

ARTICLE 6. *Marking of the Equipment.* The Railroad will cause each unit of the Equipment to be kept numbered with its identifying number as set forth in Schedule A hereto, or in the case of Equipment not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stenciled upon each side of each unit, in letters not less than one inch in height, the words "Ownership Subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c" or other appropriate markings approved by the Lender, with appropriate changes thereof and additions thereto as from time to time may reasonably be requested by the Lender to protect the Lender's security interest and property in the Equipment and its rights under this Agreement. The Railroad will not place any such unit in operation or exercise any control or dominion over the same until such markings have been made thereon and will replace promptly any such markings which may be removed, defaced or destroyed. The Railroad will not change the number of any unit of the Equipment except in accordance with a statement of the new number or numbers to be substituted therefor, which statement previously shall have been filed with the Lender by the Railroad and filed, recorded and deposited by the Railroad in all public offices where this Agreement shall have been filed, recorded and deposited.

Except as provided in the immediately preceding paragraph, the Railroad will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; *provided, however,* that the Railroad may cause the Equipment to be lettered with the names or initials or other insignia of the Railroad or its affiliates.

ARTICLE 7. *Casualty Occurrences and other Prepayment.* In the event that any unit of the Equipment shall, in the good faith opinion of the Railroad, be or become lost, stolen, destroyed, worn out, irreparably damaged or rendered permanently unfit for use or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise, except for any requisition for use by the United States Government, resulting in the loss of possession or use by the Railroad for a period of ninety consecutive days (any such occurrence being hereinafter called a Casualty Occurrence) prior to the payment in full of the Loans, together with interest thereon and all other payments required hereby, the Railroad shall promptly cause the Lender to be fully informed in writing in regard thereto and on a date not later than the earlier of (x) the ninetieth day following the date on which such unit or units of the Equipment suffered a Casualty Occurrence or (y) the date of receipt by the Lessee of any insurance proceeds in respect of such unit or units of the Equipment, shall pay to the Lender a sum equal to the Casualty Value (as hereinafter defined) of such unit or units of Equipment as of the date of such payment. At the time of each payment of Casualty Value hereunder, the Railroad shall file, or cause to be filed, with the Lender a certificate setting forth the Casualty Value of the units covered thereby. Any money paid to the Lender pursuant to this paragraph shall be applied to prepay the Loans ratably in accordance with the unpaid balance of each instalment and the Railroad will promptly furnish to the Lender a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Lender may request, calculated as provided in the third paragraph of Article 2 hereof.

Upon payment by the Railroad to the Lender of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Railroad, without further transfer or action on the part of the Lender, except that the Lender, if requested by the Railroad, will execute and deliver to the Railroad, at the expense of the Railroad, an appropriate instrument confirming such passage to the Railroad of all the Lender's right and security interest in such unit, in recordable form, in order that the Railroad may make clear upon the public records the title of the Railroad to such unit.

The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Loan attributable thereto remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article 7 with respect to any other unit), plus interest accrued thereon but unpaid as of such date. For the purpose of this paragraph, each repayment of the Loans made pursuant to Article 2 hereof shall be deemed to be a repayment of that portion of the original Loan attributable to each unit of the Equipment in like proportion as the original Loan attributable thereto bears to the aggregate of the original Loans in respect of all the Equipment.

In the event the Lender receives any insurance proceeds under Section 21.1 of the Lease in respect of a Casualty Occurrence, such proceeds shall be applied in the manner provided in the first paragraph of this Article 7 and shall be deducted from the amount payable hereunder or, if such proceeds are received after full payment under this Article 7, such proceeds shall be paid to the Railroad.

ARTICLE 8. *Maintenance; Compliance with Laws and Rules.* The Railroad shall use or cause the use of the Equipment only in the United States, except that the Railroad may from time to time use or cause to be used in Canada units of Equipment provided that, during any calendar year the total use of the Equipment in Canada shall not exceed, on an aggregate basis, more than 2% of the total aggregate use of the Equipment in the United States and Canada. The Railroad shall use the Equipment only in the manner for which it was designed and intended. The Railroad shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair, ordinary wear and tear excepted, and in accordance with standards generally prevailing in the railroad industry, including making all replacements required to maintain the Equipment in good running order and the correcting of any initial defects therein. The Railroad agrees, for the benefit of the Lender, the Trustee, and the Trustor (as defined in the Lease) to comply in all material respects with all applicable laws, rules, requirements or regulations of any legislative, executive, administrative or judicial body exercising any power, authority or jurisdiction over the Equipment or the Railroad including, without limitation, all laws of the jurisdictions in which the Railroad's service or operations now or hereafter may extend, and the rules and regulations of the United

States Department of Transportation and the Interstate Commerce Commission, to the extent such requirements or regulations affect the title, maintenance or possession of any unit of the Equipment, and in the event any change, alteration, replacement, or addition of or to any part on any unit of the Equipment shall be required or ordered by the same, the Railroad will at its own cost and expense fully comply therewith. Any parts installed or replacements made by the Railroad upon any unit of Equipment (except radio equipment or devices having a similar use which have been added to any such unit of Equipment by the Railroad, the cost of which is not included in the Purchase Price of such unit) shall be considered accessions to such unit of Equipment and a security interest therein shall be immediately vested in the Lender as provided in Article 5 hereof, without cost or expense to the Lender, provided that the Railroad shall be entitled to remove any such accession so long as such removal is not inconsistent with the Railroad's obligations set forth in the preceding sentences of this Article 8.

ARTICLE 9. *Reports and Inspection Rights.* On or before April 1 in each year, commencing with the year 1976, the Railroad shall furnish to the Lender an accurate statement, as of the preceding December 31, (a) showing the amount, description and numbers of the units of Equipment covered hereby, the amount, description and numbers of all units of Equipment that may have suffered a Casualty Occurrence during the preceding calendar year (or, in the case of the first such statement, for the portion thereof commencing with the date of this Agreement), and such other information regarding the condition or repair of the Equipment as the Lender may reasonably request, and (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Article 6 hereof shall have been preserved or replaced. The Lender shall have the right, at its sole cost and expense, by its authorized representative, to inspect the Equipment and the Railroad's records with respect thereto, at such times as shall be reasonably necessary to confirm to the Lender the existence and proper maintenance thereof during the continuance of this Agreement. The foregoing right of inspection shall be subject, however, to such terms and conditions of access as may be reasonably imposed by any railroad, terminal company or other entity upon the property on which the Equipment is situate at the time of any such inspection.

ARTICLE 10. *Use and Possession.* So long as the Railroad shall not be in default hereunder, the Railroad shall be entitled to the possession and use of the Equipment (by itself or by others on its behalf) in accordance with the terms hereof upon the rail lines over which the Railroad conducts, or has conducted for it, rail passenger service.

ARTICLE 11. *Prohibition Against Liens.* The Railroad will pay or satisfy and discharge any and all sums claimed by any party from, through or under the Railroad or its successors or assigns which, if unpaid, might constitute or become a lien, charge or security interest on the Equipment, or any unit thereof or any accession thereto, equal or superior to the Lender's security interest therein, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith, with due diligence and by appropriate administrative or legal proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Lender, adversely affect the property rights of the Lender in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Lender in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

ARTICLE 12. *Railroad's Indemnities.* Except with respect to the Lender's exercise of its right to inspect under Article 9 hereof, the Railroad agrees to indemnify, protect and hold harmless the Lender from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as a result of the entering into or the performance of, or the occurrence of a default or an event of default under Article 15 of this Loan and Mortgage, the retention by the Lender of its security interest in the Equipment, the ordering, acquisition, use, condition,

possession, storage or return of any unit of the Equipment during the period when such security interest in the Equipment remains in the Lender, any accident in connection with the operation, use, possession, storage or return thereof during such period, or the transfer of such security interest in the Equipment by the Lender pursuant to any of the provisions of this Agreement; *provided, however*, the Lessee shall not indemnify, protect or hold harmless the Lender from or against any losses, damages, injuries, liabilities, claims or demand (including any expenses in connection therewith) which either (i) result from actions taken by the Lender which are not expressly permitted by this Loan and Mortgage or (ii) result from action taken or omissions to act by the Lender other than with respect to the Equipment or in connection with this Loan and Mortgage. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Loans, and the release of the Lender's security interest in the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

ARTICLE 13. Closing Conditions. The Lender, on each Closing Date fixed as provided in Article 2 hereof with respect to a Group of the Equipment, shall make a Loan to the Railroad in an amount equal to the Purchase Price of the Group being settled for provided therein, provided that there shall have been delivered to the Lender, at least five business days prior to such Closing Date, the following documents, in form and substance satisfactory to it and to Messrs. Cravath, Swaine & Moore, in such number of counterparts as may be reasonably requested by said counsel:

(a) A document of title from the Builder to the Railroad transferring to the Railroad legal title to the units of the Equipment in such Group;

(b) A Certificate or Certificates of Acceptance of the Railroad with respect to the units of the Equipment in such Group certifying that such units have been inspected and accepted by the Railroad and are marked in accordance with Article 6 hereof;

(c) An invoice of the Builder for the units of the Equipment in such Group accompanied by or having endorsed thereon a certification by the Railroad as to the correctness of the prices of such units and a certification by the Railroad that such invoice has been paid in full or is concurrently being paid in full out of the proceeds of the Loans;

(d) A favorable opinion of Messrs. Cravath, Swaine & Moore, dated as of such Closing Date, (1) as to this Agreement being a legal, valid and binding instrument and the vesting of a security interest in and to the units of Equipment in such Group in the Lender and (2) setting forth that (i) no approval of the Interstate Commerce Commission is necessary for the valid execution and delivery by the Railroad of this Agreement or if any such approval is necessary, it has been obtained, (ii) this Agreement has been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and no other filing or recordation is necessary for the protection of the rights of the Lender in any state of the United States of America or in the District of Columbia, (iii) the repayment of the Loans and interest thereon by the Railroad has been duly guaranteed by the Federal Railroad Administrator (or such other official to whom the powers of the Federal Railroad Administrator shall have been duly delegated pursuant to Section 102(2) of the Rail Passenger Service Act, as amended, and 49 U.S.C. 1657(e)) on behalf of the Secretary of the Department of Transportation (hereinafter called the Administrator) pursuant to the Guaranty Agreement (hereinafter called the Government Guaranty), among the Administrator, the Trustee, and the Lender under the provisions of the Rail Passenger Service Act, as amended, and the Government Guaranty and the guaranty of the Administrator endorsed on this Agreement have been duly executed and delivered and constitute valid, binding and enforceable general obligations of the United States of America backed by the full faith and credit of the Government of the United States and (iv) registration of this Agreement is not required under the Securities Act of 1933, as amended, and qualification of an indenture with respect thereto is not required under the Trust Indenture Act of 1939, as amended; and such opinion shall also cover such other matters as may reasonably be requested by the Lender;

(e) A favorable opinion of counsel for the Railroad, dated as of such Closing Date, as to the due authorization, execution and delivery of this Agreement by the Railroad and as to the enforceability thereof under Federal law or the laws of the District of Columbia, to the effect set forth in clauses

(2)(i) and (ii) of subparagraph (d) above and stating that the Railroad is a duly organized and existing corporation in good standing under the laws of its jurisdiction of incorporation and has the corporate power and authority to own its properties and to carry on its business as now conducted;

(f) A favorable opinion of the General Counsel of the Department of Transportation, in form and substance satisfactory to the Lender, to the effect set forth in clause (2)(iii) of subparagraph (d) above and stating that all necessary approvals of the Secretary of the Treasury have been obtained;

(g) A duly executed copy of the Government Guaranty; and

(h) A favorable opinion of Canadian counsel for the Railroad, dated as of such Closing Date, to the effect that this Agreement has been duly deposited in the office of the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada, with notice of such deposit being given in the Canada Gazette in accordance with said Section 86 (or appropriate provision made therefor) and that no other filing or recordation is necessary for the protection of the rights of the Lender under this Agreement in Canada or in any province or territory thereof.

In giving the opinions specified in subparagraphs (d) and (e) of this Article 13, counsel may qualify any opinion by general reference to limitations as to enforceability as imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally. In giving the opinion specified in said subparagraph (d), counsel may rely, as to title to the Equipment at the time of delivery thereof under this Agreement on the document of title of the Builder and as to any matter governed by Federal law or the law of the District of Columbia on the opinion of counsel for the Railroad as to such matter.

The Lender shall not be obligated to make payment at any time after the commencement of any proceedings specified in clauses (c) or (d) of Article 15 of this Agreement or if an event of default, or any event which with the lapse of time and/or demand provided for in this Agreement could constitute an event of default, shall have occurred and be continuing under this Agreement. In the event that the Lender shall not make any such payment, the Lender shall reassign to the Railroad, without recourse to the Lender, all right, title and interest of the Lender in and to the units of the Equipment with respect to which payment has not been made by the Lender.

ARTICLE 14. Assignments. The Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement or, except as provided in Article 10 hereof, transfer the right to possession of any unit of the Equipment without first obtaining the written consent of the Lender. A sale, assignment, transfer or disposition to (1) a railroad company organized under the laws of the United States of America or any of the states thereof which shall acquire all or substantially all of the property of the Railroad, and which, by execution of an appropriate instrument satisfactory to the Lender, shall assume and agree to perform each of and all the obligations and covenants of the Railroad under this Agreement, or (2) the Trustee pursuant to the Sale and Lease Back Agreement, shall not be deemed a breach of this covenant; *provided, however*, that the Railroad shall not be released from any of its obligations hereunder and the obligations assumed by the Trustee shall be limited as provided in the Sale and Lease Back Agreement. The Railroad and the Lender hereby agree for themselves and for their successors and assigns that the preceding proviso is made for the express benefit and may be enforced by the Trustee and that no amendment, waiver or modification of such proviso shall be effective as against the Trustee without its prior written consent thereto.

All or any of the rights, benefits and advantages of the Lender under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Lender and reassigned by any assignee at any time or from time to time.

Upon any such assignment either the assignor or the assignee shall give written notice to the Railroad and the Trustee, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall by virtue of such assignment acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Railroad of the notification of any such assignment, all payments thereafter to be made by the Railroad under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

In the event of any such assignment or successive assignments by the Lender, the Railroad will, if necessary, upon request of the assignee, change the markings on each side of each unit of the Equipment so as to be consistent with the interests of the assignee in the Equipment. The cost of such markings in the event of an assignment of not less than all the Equipment at the time covered by this Agreement shall be borne by the Railroad and, in the event of an assignment of less than all such Equipment, such cost shall be borne by such assignee.

The Railroad will (a) in connection with each settlement for the Equipment subsequent to such assignment, deliver to the assignee, at the time of delivery of notice fixing the Closing Date for such Equipment, all documents reasonably required by the terms of such assignment to be delivered to such assignee in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, except for any opinion of counsel for such assignee, and (b) furnish to such assignee such number of counterparts of any other certificate or paper required by the Lender as may reasonably be requested.

ARTICLE 15. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Railroad shall fail to pay in full any indebtedness in respect of the Loans or any other sum payable by the Railroad as provided in this Agreement within 10 days after payment thereof shall be due hereunder; or

(b) the Railroad shall, for more than 30 days after the Lender shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the Equipment, on its part to be kept or performed or to make provision satisfactory to the Lender for such compliance; or

(c) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Railroad and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(d) any other proceeding shall be commenced by or against the Railroad for any relief under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Railroad or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(e) the Railroad shall make or permit any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment; or

(f) the Government Guaranty (as defined in the Lease) shall, for any reason, not be, or cease to be in full force and effect; or

(g) an event of default shall have occurred under the Lease, arising out of the failure of the Railroad to perform its obligations under this Loan and Mortgage;

then at any time after the occurrence of such an event of default the Lender may, upon written notice to the Railroad and upon compliance with any mandatory legal requirements then in force and applicable to such action by the Lender, declare (hereinafter called a Declaration of Default) the entire indebtedness in respect of the Loans, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the Overdue Rate (as defined in Article 3 hereof), to the extent legally enforceable. The Lender shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Loans so payable, with interest as aforesaid, and to collect such judgment out of the Equipment or any property of the Railroad wherever situated. The Railroad shall promptly notify the Lender of any event which has come to its attention which constitutes, or which with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

The Lender may at its election waive any such event of default and its consequences and rescind and annul any Declaration of Default by notice to the Railroad in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 16. *Remedies.* At any time during the continuance of a Declaration of Default, the Lender may, subject to compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Lender, take or cause to be taken by its agent or agents immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 16 expressly provided, and may remove the same from possession and use of the Railroad or any other person and for such purpose may enter upon the Railroad's premises or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Railroad.

In case the Lender shall demand possession of the Equipment pursuant to this Agreement and shall reasonably designate a point or points upon railroad tracks as to which the Railroad then has a contractual right of access, the Railroad shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points upon such railroad tracks as shall be designated by the Lender and shall there deliver the Equipment or cause it to be delivered to the Lender. At the option of the Lender, the Lender may for a period not exceeding 90 days keep the Equipment on any of the premises of the Railroad or upon railroad tracks as to which the Railroad then has a contractual right of access until the Lender shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad agrees to furnish, without charge for rent or storage, the necessary facilities at any point or points selected by the Lender reasonably convenient to the Railroad. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Lender shall be entitled to a decree against the Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Lender and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Lender, with or without retaking possession thereof, at its election and upon reasonable notice to the Railroad and to any other persons to whom the law may require notice of the time and place, may sell the Equipment, or any unit thereof, free from any and all claims of the Railroad or any other party claiming from, through or under the Railroad at law or in equity, at public or private sale and with or without advertisement as the Lender may determine; *provided, however,* that if, prior to such sale and prior to the making of a contract for such sale, the Railroad should tender full payment of the total unpaid balance of the indebtedness in respect of the Loans, together with interest thereon accrued and unpaid and all other payments due under this

Agreement as well as expenses of the Lender in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Lender's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad. The proceeds of such sale, less the attorneys' fees and any other expenses incurred by the Lender in retaking possession of, removing, storing, holding, preparing for sale and selling the Equipment, shall be credited on the amount due to the Lender under the provisions of this Agreement.

Any sale hereunder may be held or conducted at New York, New York, at such time or times as the Lender may specify (unless the Lender shall specify a different place or places, in which case the sale shall be held at such place or places as the Lender may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Lender may determine. The Railroad shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed to the Railroad as provided in Article 19 hereof. If such sale shall be a private sale, it shall be subject to the right of the Railroad to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. The Lender or the Railroad may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. In the event that the Lender shall be the purchaser thereof, it shall not be accountable to the Railroad (except to the extent of surplus money received as hereinafter provided in this Article 16), and in payment of the purchase price therefor the Lender shall be entitled to have credited on account thereof all sums due to the Lender from the Railroad hereunder.

Each and every power and remedy hereby specifically given to the Lender shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Lender. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Lender in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Lender's rights or the Railroad's obligations hereunder. The Lender's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Railroad's obligations or the Lender's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Lender under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Railroad shall pay the amount of such deficiency to the Lender upon demand, and, if the Railroad shall fail to pay such deficiency, the Lender may bring suit therefor and shall be entitled to recover a judgment therefor against the Railroad. If, after applying as aforesaid all sums realized by the Lender, there shall remain a surplus in the possession of the Lender, such surplus shall be paid to the Railroad.

The Railroad will pay all reasonable expenses, including attorneys' fees, incurred by the Lender in enforcing its remedies under the terms of this Agreement. In the event that the Lender shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Lender may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Article 16 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 17. *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a Loan Agreement and Chattel Mortgage and enforced as such.

Except as otherwise provided in this Agreement, the Railroad, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any unit thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Lender's rights under this Agreement and any and all rights of redemption.

ARTICLE 18. *Recording.* The Railroad will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and deposited in the office of the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada with notice of such deposit being given in the Canada Gazette in accordance with said Section 86 (or appropriate provision made therefor); and the Railroad will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments reasonably requested by the Lender for the purpose of proper protection, to the satisfaction of counsel for the Lender, of its security interest in the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement.

ARTICLE 19. *Notice.* Any notice hereunder to any party designated below shall be deemed to be properly served if delivered to it at its address below:

(a) to the Railroad, at 955 L'Enfant Plaza North, S.W., Washington, D. C. 20024, Attention of Secretary,

(b) to the Lender, in care of Department of the Treasury, Main Treasury Building, Room 3124, Washington, D. C. 20220, Attention of Secretary, Federal Financing Bank,

(c) to any assignee of the Lender or of the Railroad, at such address as may have been furnished in writing to the Railroad or the Lender, as the case may be, by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 20. *Article Headings; Effect and Modification of Agreement.* The table of contents and all article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Schedules hereto exclusively states the rights of the Lender and the Railroad with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Lender and the Railroad.

ARTICLE 21. *Law Governing.* The Railroad warrants that its chief place of business and its chief executive office are located in the District of Columbia. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the District of Columbia; *provided, however,* that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof, as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 22. *Benefit.* This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto to the extent provided herein.

ARTICLE 23. *Approvals of Administrator.* The parties agree that before any amendment or modification of this Agreement, or any assignment or transfer of the interest of the Railroad hereunder

(other than to the Trustee pursuant to the Sale and Lease Back Agreement), becomes effective, the Administrator must approve the same in writing. In the event of an assignment or transfer of the Lender's interest herein, the transferee or assignee of such interest, and any subsequent transferees or assignees, must obtain the approval of the Administrator before any such transfer or assignment becomes effective, *provided, however,* that such approval shall not be required with respect to any transfer or assignment of the Lender's interest herein (i) by the Federal Financing Bank, or (ii) with respect to any such transfer or assignment to insurance companies, commercial and savings banks, pension funds, financial institutions of recognized standing organized under the laws of the United States or any state thereof, or any agency or instrumentality of the United States government.

ARTICLE 24. *Execution.* This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated as of the date first set forth above, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by their respective officers thereunto duly authorized, and their respective corporate seals to be hereunto affixed and duly attested.

FEDERAL FINANCING BANK

By *Edward P. Ryan*
Vice-President

Attest:

Robert W. Cook
Secretary

NATIONAL RAILROAD PASSENGER CORPORATION

By *Don D. Brazier*
Treasurer

[CORPORATE SEAL]

Attest:

M. Medvedsky
Secretary

GOVERNMENT GUARANTY

The Deputy Federal Railroad Administrator on behalf of the Secretary of the Department of Transportation of the United States of America does hereby guarantee to the Lender named in the foregoing Loan Agreement and Chattel Mortgage the prompt payment of the unpaid Loans and interest thereon referred to in said Loan Agreement and Chattel Mortgage pursuant to and in accordance with the Guaranty Agreement dated *March 20, 1975* among the Deputy Federal Railroad Administrator on behalf of the Secretary of the Department of Transportation of the United States of America, as Guarantor, Manufacturers National Bank of Detroit, as Trustee, and said Lender.

By *Joseph A. Hall*
Deputy Railroad Administrator
Guarantor

CITY OF WASHINGTON }
DISTRICT OF COLUMBIA } SS.:

On this 21 day of Mar, 1975, before me personally appeared Edward P. Snyder, to me personally known, who, being by me duly sworn, says that he is a Vice President of FEDERAL FINANCING BANK, that the foregoing instrument was signed 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.

Edward P. Snyder
Patricia A. Squillacce
Notary Public

[NOTARIAL SEAL]

My Commission Expires:

My Commission Expires August 31, 1978

CITY OF WASHINGTON }
DISTRICT OF COLUMBIA } SS.:

On this 20 day of Mar, 1975, before me personally appeared *Don R. Boyer*, to me personally known, who, being by me duly sworn, says that he is the Treasurer of NATIONAL RAILROAD PASSENGER CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Don R. Boyer
Patricia A. Squillacce
Notary Public

[NOTARIAL SEAL]

My Commission Expires:

My Commission Expires August 31, 1978

CITY OF WASHINGTON }
DISTRICT OF COLUMBIA } SS.:

On this 20 day of Mar, 1975, before me personally appeared ASAPH H. HALL, to me personally known, who, being by me duly sworn, says that he is the Deputy Federal Railroad Administrator, that the foregoing instrument was signed by him by authority duly delegated to him by the Secretary of Transportation; and he acknowledged that the execution of the foregoing instrument was his free act and deed as the Deputy Federal Railroad Administrator.

Notary Public
Patricia A. Squillacce

[NOTARIAL SEAL]

My Commission Expires:

My Commission Expires August 31, 1978

SCHEDULE A

DESCRIPTION OF EQUIPMENT*

<u>Type</u>	<u>Quantity</u>	<u>Place of Acceptance</u>	<u>Train Price</u>	<u>Total Price</u>	<u>Delivery</u>
ANF-Industrie, S.A. turbine-powered passenger RTG train	4	Le Havre, France	\$2,925,000†	\$11,700,000†	2 in Jan. 1975 2 in Feb. 1975

DESCRIPTION OF ITEMS OF EQUIPMENT

<u>Type</u>	<u>Quantity Per Train</u>	<u>Total</u>	<u>R. R. Nos.</u>
Front power section for turbine-powered passenger RTG train	1	4	58, 64, 66, 68
Rear power section for turbine-powered passenger RTG train	1	4	59, 65, 67, 69
Intermediate trailer section for turbine-powered passenger RTG train.....	2	8	80, 82, 83, 85, 86, 88, 89, 97
Intermediate bar-grill section for turbine-powered passenger RTG train	1	4	81, 84, 87, 96

* A more complete description of the Equipment is contained in Section 1.1 of the Purchase Agreement and Exhibit A thereto.

† Less the cost of one auxiliary engine which will not be included in front power section No. 66.

SCHEDULE B

AMORTIZATION OF THE LOANS

<u>Date</u>	<u>Percentage of the Aggregate Loans Payable</u>
January 2, 1976.....	2.471191
July 2, 1976.....	2.567566
January 2, 1977.....	2.667702
July 2, 1977.....	2.771742
January 2, 1978.....	2.879841
July 2, 1978.....	2.992154
January 2, 1979.....	3.108848
July 2, 1979.....	3.230093
January 2, 1980.....	3.356066
July 2, 1980.....	3.486953
January 2, 1981.....	3.622945
July 2, 1981.....	3.764240
January 2, 1982.....	3.911044
July 2, 1982.....	4.063575
January 2, 1983.....	4.222055
July 2, 1983.....	4.386715
January 2, 1984.....	4.557796
July 2, 1984.....	4.735551
January 2, 1985.....	3.784503
July 2, 1985.....	2.671711
January 2, 1986.....	2.609704
July 2, 1986.....	2.711482
January 2, 1987.....	2.713350
July 2, 1987.....	2.819172
January 2, 1988.....	2.825241
July 2, 1988.....	2.935425
January 2, 1989.....	2.939104
July 2, 1989.....	3.053728
January 2, 1990.....	4.737921
July 2, 1990.....	3.402582
	<u>100.0000%</u>

EXHIBIT 1

CERTIFICATE OF ACCEPTANCE

To: FEDERAL FINANCING BANK, as Lender under a Loan Agreement and Chattel Mortgage dated as of January 1, 1975.

I, duly appointed inspector and authorized representative of NATIONAL RAILROAD PASSENGER CORPORATION ("Railroad"), for the purpose of the Loan Agreement and Chattel Mortgage dated as of January 1, 1975, between Federal Financing Bank and the Railroad, do hereby certify that I have inspected, received, approved and accepted delivery of, on behalf of the Railroad under the Loan Agreement and Chattel Mortgage, the following units of Equipment:

MANUFACTURER:

TYPE OF EQUIPMENT:

PLACE ACCEPTED:

DATE ACCEPTED:

NUMBER OF UNITS:

NUMBERED:

I do further certify, for the foregoing purpose, that the foregoing Equipment is in good order and condition, and appears to conform to the specifications applicable thereto and that each unit included therein has been marked in accordance with Article 6 of the Loan Agreement and Chattel Mortgage.

The execution of this certificate will in no way relieve or decrease the responsibility of the manufacturers of the Equipment for any warranties they have made with respect to the Equipment or for any other obligations which they now or may hereafter have to the Railroad.

DATED: , 1975

.....
Inspector and Authorized
Representative of
NATIONAL RAILROAD PASSENGER CORPORATION