EQUIPMENT TRUST DUE APRIL 1, 1988

Unconditionally Guaranteed as to Principal and Dividends by

TRAILER TRAIN COMPANY

6824-D

RECORDATION NO. _____ Filed & Recorded

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INTERSTATE COMMERCE COMMISSION

Equipment Trust Agreement

Dated as of April 1, 1973

AMONG

MANUFACTURERS HANOVER TRUST COMPANY,
Trustee,

BANKERS TRUST COMPANY,
as Trustee,

AND

TRAILER TRAIN COMPANY

EQUIPMENT TRUST AGREEMENT dated as of April 1, 1973, among MANUFACTURERS HANOVER TRUST COMPANY, a corporation duly organized and existing under the laws of the State of New York, as Trustee (hereinafter called the Trustee), BANKERS TRUST COMPANY, a corporation duly organized and existing under the laws of the State of New York (hereinafter called the Company), as Trustee under a Trust Agreement dated as of November 1, 1972 (hereinafter called the Trust Agreement), with General Electric Credit Corporation, and TRAILER TRAIN COMPANY, a corporation duly organized and existing under the laws of the State of Delaware (hereinafter called the Guarantor or the Lessee).

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

WHEREAS security title to such railroad equipment is to be vested in and is to be retained by the Trustee and such railroad equipment is to be leased to the Company hereunder until full title is transferred to the Company under the provisions hereof; and

WHEREAS Equipment Trust Certificates, due April 1, 1988 (hereinafter called Trust Certificates), bearing the unconditional guaranty of the Guarantor, are to be issued and sold hereunder in an aggregate principal amount not exceeding $2,144,900 at a price not less than 100% of the principal amount thereof, and the net proceeds of such sale are to be deposited with the Trustee to constitute a fund equal to the aggregate principal amount of Trust Certificates so issued and sold to be applied by the Trustee in part payment of the cost of the Trust Equipment (as hereinafter defined), the remainder of the cost thereof to be paid out of advance rentals to be paid by the Company as provided herein; and

WHEREAS the Company has entered into a Lease of Equipment dated as of November 1, 1972 (hereinafter called the Lease), with the Lessee pursuant to which the Company has leased such railroad equipment to the Lessee; and

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

[FORM OF TRUST CERTIFICATE]

THIS CERTIFICATE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND MAY NOT BE SOLD, TRANSFERRED, PLEDGED OR HYPOTHECATED UNLESS AN EXEMPTION FROM REGISTRATION IS AVAILABLE.

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

EQUIPMENT TRUST DUE APRIL 1, 1988

Unconditionally Guaranteed as to Principal and Dividends by

TRAILER TRAIN COMPANY

EQUIPMENT TRUST CERTIFICATE

Total Authorized Issue
$2,144,900

MANUFACTURERS HANOVER TRUST COMPANY, Trustee

Dividends at the Rate of 8% Per Annum Payable
April 1 and October 1

MANUFACTURERS HANOVER TRUST COMPANY, as Trustee under an Equipment Trust Agreement dated as of April 1, 1973 (hereinafter called the Agreement), among MANUFACTURERS HANOVER TRUST COMPANY, Trustee (hereinafter called the Trustee), BANKERS TRUST COMPANY (hereinafter called the Company), as trustee, and TRAILER TRAIN COMPANY (hereinafter called the Guarantor), hereby certifies that

or registered assigns, is entitled to an interest in the principal amount of $ in the EQUIPMENT TRUST DUE APRIL 1, 1988,

UNCONDITIONALLY GUARANTEED AS TO PRINCIPAL AND DIVIDENDS BY TRAILER TRAIN COMPANY, payable on April 1, 1988, upon presentation and surrender of this Certificate to the Trustee at its corporate trust office in the Borough of Manhattan, City and State of New York, and to payment of dividends on the unpaid principal amount represented by this Certificate from the date hereof until the principal amount hereof is due and payable, at the rate of 8% per annum, payable semiannually on April 1 and October 1 in each year, with interest at the rate of 9% per annum on any overdue principal and dividends to the extent that it shall be legally enforceable, all in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, but payable only out of rentals or other moneys received by the Trustee and applicable to such payment under the provisions of the Agreement.

This Certificate is one of an authorized issue of Certificates all having a final maturity of April 1, 1988, and having an aggregate principal amount of $2,144,900, all issued or to be issued under and subject to the terms of the Agreement, under which certain railroad equipment leased to the Company and in turn leased to the Guarantor is held by the Trustee in trust for the equal and ratable benefit of the holders of Certificates, to which Agreement (a copy of which is on file with the Trustee at its said office) reference is made for a full statement of the rights and obligations of the Company and the Guarantor, the duties and immunities of the Trustee and the rights of the holder hereof thereunder. The Company has no personal liability to the holders of the Certificates and the obligations of the Company under the Agreement are limited as provided therein.

As a sinking fund for the Certificates, the Agreement provides for the payment by the Company to the Trustee, but only out of moneys received by the Company as contemplated by the Agreement, on or before April 1 and October 1 in each year, commencing October 1, 1978, and continuing to and including October 1, 1987, of rental calculated as provided in the Agreement so that the aggregate of the dividends and sinking fund rental payments payable on each such date and the aggregate of dividends and principal payable on April 1,

1988, shall be substantially equal and shall completely amortize the principal of and dividends on the Certificates, subject to proportionate reduction in the event of prepayment as mentioned below out of moneys deposited with the Trustee on account of Casualty Occurrences (as defined in the Agreement). As more fully provided in the Agreement, Trust Certificates in an aggregate principal amount equal to sinking fund rental payments are to be prepaid on October 1, 1978, and on each April 1 and October 1 thereafter to and including October 1, 1987, on not less than ten days' prior notice given as provided in the Agreement. The Certificates are also prepayable on any April 1 or October 1 out of moneys deposited with the Trustee on account of Casualty Occurrences. Any such prepayment of Trust Certificates shall be at 100% of the principal amount thereof to be prepaid, together with accrued dividends to the date fixed for prepayment.

The Certificates are issuable only as fully registered Certificates and are interchangeable without charge upon presentation thereof for the purpose at said office of the Trustee, but only in the manner and subject to the limitations provided in the Agreement.

The registered holder hereof has represented to the Company that it has acquired this Certificate for investment and not for resale. Accordingly, this Certificate has not been registered under the Securities Act of 1933, and may not be sold, transferred, pledged or hypothecated unless an exemption from registration is available.

Subject to the restrictions set forth in the next preceding paragraph, the transfer of this Certificate in whole or in part may be registered on the books of the Trustee upon surrender to the Trustee, in person or by duly authorized attorney, at its said office of this Certificate accompanied by a written instrument of transfer, duly executed by the registered holder in person or by such attorney, in form satisfactory to the Trustee, and thereupon a new Certificate or Certificates in authorized denominations for the same aggregate unpaid principal amount 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 Guarantor may treat the person in whose name this Certificate is registered as the absolute owner hereof for the purpose of receiving payment of principal and dividends and for all other purposes, and shall not be affected by any notice to the contrary.

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

It is expressly understood and agreed by the holder hereof, anything herein or in the Agreement to the contrary notwithstanding (except as set forth in the Agreement), that each of and all the representations, covenants, undertakings and agreements herein and in the Agreement made on the part of the Company, while in form purporting to be the representations, covenants, undertakings and agreements of the Company, are made and intended not as personal representations, covenants, undertakings and agreements by the Company or for the purpose or with the intention of binding the Company personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement referred to in the Agreement, and the Agreement is executed and delivered by the Company not in its own right but solely in the exercise of the powers expressly conferred on it as Trustee under said Trust Agreement; and except in the case of gross negligence or wilful misconduct, no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Company, or any beneficiary under said Trust Agreement, on account of this Certificate or the Agreement or on account of any representations, covenants, undertakings or agreements of the Company or any beneficiary under said Trust Agreement, either expressed or implied, all such personal liability, if any, being expressly waived and released by the holder hereof.

In Witness Whereof, the Trustee has caused this Certificate to be signed, manually or by facsimile, by one of its Vice Presidents and its corporate seal or a facsimile thereof to be hereunto imprinted and

to be attested by one of its Assistant Trust Officers by his manual signature.

Dated as of:

MANUFACTURERS HANOVER TRUST COMPANY,
Trustee,

by .....
Vice President

ATTEST:

.....
Assistant Trust Officer

[FORM OF GUARANTY]

GUARANTY

TRAILER TRAIN COMPANY, for a valuable consideration, hereby unconditionally guarantees to the registered holder of the within Certificate the prompt payment of the principal of said Certificate and of the dividends thereon specified in said Certificate, with interest at the rate per annum specified in said Certificate on any overdue principal and dividends to the extent that such interest shall be legally enforceable, all in accordance with the terms of said Certificate and the Equipment Trust Agreement referred to therein, irrespective of the provisions of such Equipment Trust Agreement limiting the liability of the Company (as defined therein) in certain respects. The obligations of Trailer Train Company under the foregoing guaranty are superior in right of payment to all of its Thirty Year Subordinated Notes sold or to be sold pursuant to a Note Purchase Agreement dated as of January 1, 1967, between Trailer Train Company and certain of its stockholders.

TRAILER TRAIN COMPANY,

.....
President

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 on April 1 and October 1 in each year, and to evidence the rights of the holders of the Trust Certificates in substantially the form hereinbefore set forth;

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

ARTICLE 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 hereafter specified:

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

Casualty Occurrence shall mean any occurrence specified in Section 5.07 hereof to be a Casualty Occurrence.

Certificate of Acceptance shall mean a Certificate of Acceptance (as defined in a Manufacturing Agreement).

Corporate Trust Office shall mean the office of the Trustee in New York, New York, at which the corporate trust business of the Trustee shall, at the time in question, be principally administered, which office is, at the date of execution of this Agreement, located at 40 Wall Street, New York, New York 10015.

Cost, when used with respect to Equipment, shall mean the actual cost thereof (including freight charges, if any, from an Owner's plant to a point of delivery to the Lessee and applicable local or state sales taxes, if any, and including only such other items as may be properly included in such cost under sound accounting practice), as evidenced by an Owner's invoice with respect to such Equipment.

Deposited Cash shall mean cash on deposit with the Trustee as provided in the first sentence of Section 2.01 hereof.

The term *dividends* as used herein shall mean the interest payable on the principal amount of the Trust Certificates at the rate provided herein.

Equipment shall mean new standard gauge railroad equipment, other than passenger equipment or work equipment, first put into service no earlier than the date of delivery to and acceptance by the Lessee, but shall not include any special devices, racks or assemblies at any time attached or affixed to any such equipment, the cost or purchase price of which is not included in the Cost of such equipment and the title to which is in a person other than the Company, the Lessee or the Trustee.

Event of Default shall mean any event specified in Section 6.01 hereof to be an Event of Default.

The *Fair Value* of any unit of Trust Equipment on any date shall be deemed to be an amount computed by multiplying the unpaid principal amount of the Trust Certificates outstanding on such date (after giving effect to any prepayment thereof on such date pursuant to Section 3.01(a) hereof) by a fraction of which the numerator shall be the Cost of such unit and the denominator shall be the Cost of all units (including such unit) subject to the trust on such date.

The term *holder,* when used with respect to Trust Certificates, shall mean the registered owner of a Trust Certificate.

Lease shall mean the Lease of Equipment dated as of November 1, 1972, between the Company and the Lessee, as the same may be supplemented or amended as contemplated hereby or thereby.

Lessee's Certificate shall mean a certificate signed by the President, any Vice President, the Secretary or any Assistant Secretary and by the Treasurer or any Assistant Treasurer of the Lessee.

Manufacturing Agreement shall mean any one of the three Manufacturing Agreements dated as of November 1, 1972, among the Company, the Lessee and Pullman Incorporated (Pullman-Standard division), Bethlehem Steel Corporation and ACF Industries, Incorporated,

respectively, as the same may be supplemented or amended as contemplated hereby or thereby.

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

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

Owner shall mean the manufacturer or other person delivering any of the Equipment to the Company.

Penalty Rate shall mean a rate per annum in the amount of 1% above the dividend rate specified in the Trust Certificates.

The term *person* shall mean any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

Request shall mean a written request for the action therein specified signed on behalf of the Company by the President or a Vice President or an Assistant Vice President or an Assistant Secretary of the Company and delivered to the Trustee.

Trust Certificates shall mean the Equipment Trust Certificates issued hereunder.

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

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

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

ARTICLE TWO

Trust Certificates and Issuance Thereof

Section 2.01. *Issuance of Trust Certificates.* The net proceeds of the sale of the Trust Certificates shall forthwith upon the issuance thereof be deposited in cash with the Trustee; it being understood and agreed that such net proceeds will equal $2,144,900. Thereupon, without waiting for the recording or filing of this Agreement or of any other instrument respecting the Trust Equipment, the Trustee shall issue and deliver, as the Company shall direct by Request joined in by the Guarantor, Trust Certificates substantially in the form set forth herein, bearing dividends at the rate per annum set forth in the title of the form of Trust Certificate contained herein, in the aggregate principal amount so sold.

The aggregate principal amount of Trust Certificates which shall be executed and delivered by the Trustee hereunder shall be $2,144,900 except as provided in Sections 2.03 and 2.04 hereof.

Section 2.02. *Interests Represented by Trust Certificates; Dividends; Maturity.* Each of the Trust Certificates shall represent an interest in the principal amount therein specified in the trust created hereunder and shall bear dividends on the unpaid principal amount thereof at the rate per annum set forth in the title of the form of Trust Certificate contained herein payable semiannually on April 1 and October 1 in each year, commencing October 1, 1973, with interest payable on any overdue principal and dividends at the Penalty Rate, to the extent that it shall be legally enforceable.

The Trust Certificates shall mature on April 1, 1988, subject, however, to the provisions of Article Three hereof respecting prepayment of Trust Certificates prior to such maturity date.

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 debts, but only from out

out of rentals or other moneys received by the Trustee and applicable to such payment under the provisions hereof. Notwithstanding the provisions 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 (or, if approved by the Trustee, a copy of an agreement) of the holder of such Trust Certificate (the responsibility of such holder to be satisfactory to the Trustee, the Company and the Guarantor) obligating such holder, prior to any transfer or other disposition thereof, to surrender the same to the Trustee for a new Trust Certificate for the unpaid principal amount represented thereby on the date of such surrender, the Trustee will, subject to timely receipt of the necessary funds, mail its check, or on request of the holder the Trustee will wire by 11:00 a.m. New York time funds immediately available to such holder on such date, to such holder at his address shown on the registry books maintained by the Trustee or at such other address as may be directed in writing by such holder without requiring the surrender of such Trust Certificate.

SECTION 2.03. *Form, Execution and Characteristics of Trust Certificates.*

(a) The Trust Certificates and the guaranty to be endorsed thereon by the Guarantor as hereinafter in Section 7.01 hereof provided shall be in substantially the forms hereinbefore set forth.

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

the Trustee and be issued and delivered as though such person had at all times been such officer of the Trustee.

(c) The Trust Certificates (i) shall be registered, as to both principal and dividends, in the names of the holders; (ii) shall be registrable as to transfer in whole or in part upon presentation and surrender thereof for registration of transfer at the Corporate Trust Office, accompanied by appropriate instruments of assignment and transfer, duly executed by the holder of the surrendered Trust Certificate or Certificates or by duly authorized attorney, in form satisfactory to the Trustee; (iii) shall be dated as of the date of issue, if issued prior to October 1, 1973, or, if issued on or after October 1, 1973, as of the dividend payment date next preceding the date of issue, unless issued on a dividend payment date, in which event they shall be dated as of the date of issue, or unless issued in exchange for or upon the transfer of another Trust Certificate or Certificates bearing unpaid dividends from an earlier date, in which case they shall be dated as of such earlier date; (iv) shall entitle the holders to dividends from the date thereof; and (v) shall be exchangeable at the Corporate Trust Office for an equal aggregate principal amount of Trust Certificates of authorized denominations.

(d) Anything contained herein to the contrary notwithstanding, prior to due presentment for registration of transfer, the parties hereto may deem and treat the 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.

(e) The Trustee shall cause to be kept at the Corporate Trust Office books for the registration of the Trust Certificates and the registration of transfers of the Trust Certificates and, upon presentation of any Trust Certificate for such purpose, the Trustee shall register any transfer as hereinabove provided, under such reasonable regulations as it may prescribe and subject to the provisions of subparagraph (h) of this Section 2.03.

(f) No service charge shall be made for any registration of transfer or exchange of Trust Certificates, but the Trustee shall require

the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any such transfer or exchange.

(g) Each Trust Certificate delivered pursuant to any provision of this Agreement in exchange or substitution 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 be issued in principal amount equal to the unpaid principal amount or amounts of such one or more other Trust Certificates, shall carry all the rights to dividends accrued and unpaid and to accrue, which were carried by the whole or such part 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 shall result from such exchange, substitution or transfer.

(h) The Trustee shall not be required (i) to register the transfer of or exchange any Trust Certificate for a period of ten Business Days next preceding any dividend payment date or (ii) to issue, register the transfer of or exchange any Trust Certificate during a period beginning at the opening of business 15 days before any selection of Trust Certificates to be prepaid and ending at the close of business on the day of the mailing of the relevant notice of prepayment or (iii) to register the transfer of or exchange any Trust Certificate so selected for prepayment in whole or in part until after the date fixed for prepayment.

SECTION 2.04. *Replacement of Mutilated, Defaced, Lost, Stolen or Destroyed Trust Certificates.* In case any Trust Certificate shall become mutilated or defaced or be lost, stolen or destroyed, then on the terms herein set forth, and not otherwise, the Trustee shall execute and deliver a new Trust Certificate, and the Guarantor shall execute its guaranty thereon, of like tenor and date as the one mutilated, defaced, lost, stolen or destroyed, in exchange and substitution for, and upon cancellation of, the mutilated or defaced Trust Certificate, or in lieu of and in substitution for the same if lost, stolen or destroyed.

The applicant for a new Trust Certificate shall furnish to the Trustee, the Company and the Guarantor evidence to their satisfaction of the loss, theft or destruction of such Trust Certificate alleged to have been lost, stolen or destroyed, and of the ownership and authenticity of such mutilated, defaced, lost, stolen or destroyed Trust Certificate, and also shall furnish such security or indemnity as may be required by the Trustee, the Company and the Guarantor, in their discretion, and shall pay all expenses and charges of such exchange or substitution. All Trust Certificates shall be issued, held and owned upon the express condition that the foregoing provisions are exclusive in respect of the replacement of mutilated, defaced, lost, stolen or destroyed Trust Certificates and shall preclude any and all other rights and remedies, any law or statute now existing or hereafter enacted to the contrary notwithstanding.

SECTION 2.05. *Legal Holidays.* If the date fixed for payment of principal of or dividends on any Trust Certificates is not a Business Day, then (notwithstanding any other provision of this Agreement or the Trust Certificates) such payment need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the nominal payment date and no dividends or interest shall accrue for the period from and after such nominal payment date.

ARTICLE THREE

PREPAYMENT OF TRUST CERTIFICATES

SECTION 3.01. *Right of Prepayment.* The Trust Certificates are required to be prepaid in part (a) on October 1, 1978, and on each April 1 and October 1 thereafter to and including October 1, 1987, through the application of the rental payable to the Trustee pursuant to Section 5.04(d) hereof and (b) on any April 1 or October 1 through the application of moneys paid to the Trustee pursuant to Section 5.07 hereof, at 100% of the principal amount thereof, together with accrued and unpaid dividends to the date fixed for prepayment.

SECTION 3.02. *Selection of Trust Certificates for Prepayment; Notice of Prepayment.*

(a) On or before the day next preceding a date on which Trust Certificates are to be prepaid pursuant to Section 3.01 hereof, the Trustee shall select for prepayment, subject to the provisions of the next succeeding sentence, a principal amount of Trust Certificates so as to exhaust (i) the amount of rental to be paid by the Company to it in cash pursuant to Section 5.04(d) hereof and (ii) any amount in cash to be paid to it pursuant to Section 5.07 hereof, on the next succeeding April 1 or October 1, as the case may be. The Trustee shall select for prepayment on each prepayment date a principal amount of Trust Certificates registered in the name of each holder which bears the same ratio to the aggregate principal amount of all the Trust Certificates to be prepaid on such prepayment date as (y) the aggregate principal amount of Trust Certificates registered in the name of such holder on a date selected by the Trustee not more than 15 days prior to the selection by the Trustee of Trust Certificates for prepayment on such prepayment date bears to (z) the aggregate principal amount of Trust Certificates outstanding on such date.

(b) The Trustee shall send a notice of prepayment by first class mail, postage prepaid, at least ten days prior to each prepayment date to the holders of Trust Certificates to be prepaid in whole or in part, at their last addresses as they shall appear upon the registry books. Failure to give such notice, or any defect therein, as to any Trust Certificate shall not affect the validity of the proceedings for the prepayment of any other Trust Certificate. Any notice which is mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the holder receives the notice.

(c) The notice of prepayment to each holder shall (i) specify the date for prepayment, (ii) state that prepayment of the principal amount of the Trust Certificates or portions thereof to be prepaid will be made by the Trustee only from and out of rentals or other moneys paid to the Trustee by the Company or the Guarantor and applicable thereto and, unless such prepayment is to be made pursuant to the second sentence of the third paragraph of Section 2.02 hereof, that such prepayment will be made at the Corporate Trust Office, upon presentation and

surrender of Trust Certificates so to be prepaid, (iii) specify whether prepayment is being made pursuant to Section 5.04(d) or 5.07 hereof, (iv) state the aggregate principal amount of Trust Certificates to be prepaid in whole or in part and the distinctive numbers of the Trust Certificates of such holder to be prepaid and, in the case of any such Trust Certificates to be prepaid in part, the principal amount thereof to be so prepaid, and (v) state that from and after such prepayment date dividends on such Trust Certificates or on the portions thereof to be prepaid will cease to accrue. The holders of Trust Certificates prepaid in part may, at their option and upon surrender thereof, receive new Trust Certificates for the principal amounts remaining unpaid without charge to such holders.

SECTION 3.03. *Payment of Trust Certificates Selected for Prepayment.* Notice of prepayment having been given as above provided, the Trust Certificates or portions thereof to be prepaid shall become due and payable on such prepayment date and from and after such prepayment date dividends on such Trust Certificates or portions thereof shall cease to accrue, and there having been deposited with the Trustee on or before the prepayment date specified in the notice of prepayment, an amount in cash equal to the aggregate principal amount of all the Trust Certificates or portions thereof then to be prepaid and accrued dividends, such Trust Certificates or portions thereof shall no longer be deemed to be outstanding hereunder and shall cease to be entitled to the benefits of this Agreement except to receive payment from the moneys reserved therefor in the hands of the Trustee. The Trustee shall hold the prepayment moneys in trust for the holders of the Trust Certificates or portions thereof to be prepaid and (subject to the provisions of the second sentence of the third paragraph of Section 2.02 hereof) shall pay the same to such holders respectively upon presentation and surrender of such Trust Certificates.

Except as provided in Sections 2.02 and 3.02 hereof, all Trust Certificates prepaid under this Article Three shall be canceled by the Trustee and no Trust Certificates shall be issued hereunder in place thereof.

Upon written request, the Trustee shall deliver to the Guarantor canceled Trust Certificates held by the Trustee or, if so directed by

the Guarantor, may destroy such Trust Certificates and deliver to the Guarantor a certificate of destruction.

ARTICLE FOUR

Acquisition of Trust Equipment by Trustee; Deposited Cash

Section 4.01. *Acquisition of Equipment by Trustee.* The Company shall cause to be sold, assigned and transferred to the Trustee, as trustee for the holders of the Trust Certificates, and as security for the payment thereof, the Equipment described in Annex A hereto. Such Equipment has been or shall be delivered to the Lessee, which is hereby designated by the Trustee as its agent to receive such delivery, and a Lessee's Certificate as to such delivery shall be conclusive evidence of such delivery.

In the event that it may be deemed necessary or desirable to procure for the use of the Company, and to include in the trust created hereby, other Equipment in lieu of any of the Equipment specifically described in Annex A hereto prior to the delivery of such Equipment to the Lessee, the Company may, in its discretion, cause such other Equipment to be sold, assigned and transferred to the Trustee, to be substituted under such trust. In the event of any such substitution, the Company, the Guarantor and the Trustee shall execute an agreement supplemental hereto specifying that this Agreement extends only to the Trust Equipment actually accepted and settled for hereunder.

Section 4.02. *Payment of Deposited Cash.* The Equipment shall be settled for in one group of units of Equipment (such group being hereinafter called the Group), consisting of such units of the Equipment delivered to and accepted by the Company as the Guarantor may specify in a written notice delivered to the Trustee not later than March 28, 1973. The term "Settlement Date" with respect to the Group shall mean April 2, 1973. The Trustee shall, subject to the provisions of Sections 4.03 and 4.04 hereof, pay on the Settlement Date, upon Request, to the Owner or Owners of the delivered Trust Equipment out of Deposited Cash an amount specified in such Request not

exceeding 60% of the aggregate Cost of Trust Equipment then delivered to the Trustee.

SECTION 4.03. *Payment of Deficiency.* The Company covenants that, contemporaneously with any payment by the Trustee pursuant to Section 4.02 hereof with respect to any Trust Equipment, but subject to the provisions of Section 4.05 hereof, it will pay to the Owner or Owners of the delivered Trust Equipment that portion of the Cost of the delivered Trust Equipment not paid out of Deposited Cash as provided for in Section 4.02 hereof. It is understood and agreed, however, that, unless the Company shall otherwise agree, the total Cost of the Trust Equipment shall not exceed $3,600,000.

SECTION 4.04. *Supporting Papers.* The Trustee shall not pay out any Deposited Cash pursuant to Section 4.02 hereof with respect to any of the Trust Equipment unless and until it shall have received:

(a) one or more duly executed Certificates of Acceptance with respect to such Trust Equipment and a Lessee's Certificate stating that the Trust Equipment described and specified therein by number or numbers has been delivered and has been marked in accordance with the provisions of Section 5.06 hereof;

(b) an invoice or invoices from the Owner or Owners and a Lessee's Certificate which shall describe any special devices, racks or assemblies constituting a part of any unit of such Trust Equipment and shall state that such Trust Equipment is Equipment as herein defined (having been first put into service no earlier than the date of delivery to and acceptance by the Lessee, as agent for the Company) and that the Cost of such Trust Equipment is an amount therein specified, together with evidence of payment of the amount to be paid to the Owner or Owners pursuant to Section 4.03 hereof;

(c) a bill or bills of sale from the Owner or Owners transferring and assigning security title to such Trust Equipment to the Trustee, each warranting to the Trustee, the Company and the Lessee that at the time of delivery of such Trust Equipment to the Company, the Owner had legal title to the Trust Equipment

described therein and good and lawful right to sell such Trust Equipment and that title to such Trust Equipment was, at the time of such delivery, free from all claims, liens, security interests and other encumbrances of any nature except as created by a Manufacturing Agreement, if any, and this Agreement and except for the rights of the Lessee under the Lease; and a bill or bills of sale from the Company consenting to such bill or bills of sale from the Owner or Owners and confirming to the Trustee that security title to such Trust Equipment is vested in the Trustee and warranting to the Trustee that such security title is free from all claims, liens, security interests and other encumbrances of any nature except as created by this Agreement and except for the rights of the Lessee under the Lease;

(d) an Opinion of Counsel for the Lessee addressed to the Company and the Trustee to the effect that such bill or bills of sale are valid and effective, either alone or in connection with any other instrument referred to in and accompanying such opinion, to vest in the Trustee security title to such Trust Equipment free from all claims, liens, security interests and other encumbrances of any nature other than as provided in subparagraph (c) above; an Opinion of Counsel for the Company addressed to the Trustee to the effect that such bill or bills of sale have been duly authorized, executed and delivered by the Company; the opinions of counsel referred to in §§ 14 and 15 of the Lease; and the opinions of counsel for the Manufacturers referred to in clause (v) of subparagraph (a) of the first paragraph of Article 4 of the Manufacturing Agreements;

(e) in the case of any Trust Equipment not specifically described in Annex A hereto, an Opinion of Counsel for the Lessee addressed to the Company and the Trustee that a proper supplement hereto in respect of such Trust Equipment has been duly executed by the Trustee, the Company and the Lessee, that a proper supplement to the Lease in respect of such Trust Equipment has been duly executed by the Company and the Lessee and that each of such supplements has been duly filed and recorded in accordance with Section 7.03 hereof;

(f) the instruments referred to in subparagraph (c) of the first paragraph of Article 4 of the Manufacturing Agreements; and

(g) such other documents as the Trustee may reasonably request.

SECTION 4.05. *Conditions to Payment of Deficiency.* The obligation of the Company to pay to the Owner or Owners of the delivered Trust Equipment any amount required to be paid pursuant to Section 4.03 hereof with respect to the Group of the Trust Equipment is specifically subject to the following conditions:

(a) the Company shall have received copies of the documents specified in Section 4.04 hereof, together with evidence of payment of the amount to be paid to the Owner or Owners pursuant to Section 4.02 hereof; and

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

ARTICLE FIVE

LEASE OF TRUST EQUIPMENT TO THE COMPANY

SECTION 5.01. *Lease of Trust Equipment.* The Trustee does hereby let and lease all the Trust Equipment to the Company, for a term ending on April 1, 1988.

SECTION 5.02. *Substituted Equipment Subject Hereto.* In the event that the Company shall, as provided in Section 4.01 hereof, cause to be transferred to the Trustee other Equipment in substitution for any of the Equipment herein specifically described, such other Equipment shall be included as part of the Trust Equipment by supplement hereto to be executed by the Trustee, the Company and the Guarantor and shall be subject to all the terms and conditions hereof in all respects as though it had been part of the Trust Equipment herein specifically described.

SECTION 5.03. *Equipment Automatically Subjected.* As and when any Equipment shall from time to time be accepted by the Company under a Manufacturing Agreement as evidenced by a Lessee's Certificate referred to in Section 4.04(a) hereof, the same shall be deemed accepted hereunder immediately upon execution and delivery hereof and shall at that time, *ipso facto* and without further instrument or lease, transfer or acceptance except as expressly provided herein, pass under and become subject to all the terms and provisions hereof.

SECTION 5.04. *Rental Payments.* The Company hereby accepts the lease of all the Trust Equipment and covenants and agrees to accept delivery and possession hereunder of the Trust Equipment as hereinbefore provided; and the Company covenants and agrees to pay to the Trustee (or, in the case of taxes, to the proper taxing authority), in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, amounts (hereinafter called "rent" or "rentals") which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable (whether or not any of such items shall become due and payable prior to the delivery and lease to the Company of any of the Trust Equipment):

(a) from time to time upon demand of the Trustee the necessary and reasonable expenses of the trust hereby created, including compensation and expenses provided for herein;

(b) from time to time upon demand of the Trustee 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;

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

(d) as a sinking fund for the Trust Certificates, on or before April 1 and October 1 in each year, commencing October 1, 1978, and continuing to and including October 1, 1987, an amount, in addition to the dividends referred to in subparagraph (c) above, in cash calculated on such a basis that the aggregate of dividends and sinking fund rental payments payable on each such date (and the aggregate of dividends and principal payable on April 1, 1988) shall be substantially equal (subject to proportionate reduction in the event of prepayment of Trust Certificates pursuant to Section 3.01(b) hereof) and shall completely amortize the principal of and dividends on the Trust Certificates; and

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

Nothing contained herein or in the Trust Certificates shall be deemed to impose on the Trustee or on the Company (except as provided in paragraph (b) above) any obligation to pay to the holder of any Trust Certificate any tax, assessment or governmental charge required by any present or future law of the United States of America or of any state, county, municipality or other taxing authority thereof to be paid by or in behalf of, or withheld from the amount payable to, the holder of any Trust Certificate. The Company shall not be required to pay any tax, assessment or governmental charge pursuant to paragraph (b) above so long as it shall in good faith and by appropriate legal proceedings contest the validity thereof; *provided, however,* 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 or the Lessee the rights or interests of the Trustee and of the holders of the Trust Certificates will not be materially endangered thereby.

Notwithstanding any other provisions of this Agreement, including, without limitation, Articles Six and Seven hereof, it is understood and agreed by the Trustee on behalf of itself and the holders of the Trust Certificates that liability of the Company for all payments to be made by it under and pursuant to this Agreement (other than the payments

called for by Section 4.03 hereof) and for all performance obligations, shall not exceed an amount equal to the income and proceeds from the Trust Equipment. As used herein the term "income and proceeds from the Trust Equipment" shall mean (i) if an Event of Default shall have occurred and while it shall be continuing so much of the following amounts as are indefeasibly received by the Company at any time after any Event of Default and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences paid for or with respect to the Trust Equipment pursuant to the Lease and (b) any and all payments or proceeds received by the Company pursuant to clause (i) of subparagraph (b) of the first paragraph of § 9 of the Lease or for or with respect to the Trust Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) or otherwise payable to the Company pursuant to the Lease as are indefeasibly received by the Company and as shall equal the rental payments specified in the first paragraph of this Section 5.04 due and payable by the Company on the date such amounts received by the Company were required to be paid to it pursuant to the Lease or as shall equal any other payments (including payments in respect of Casualty Occurrences) then due and payable under this Agreement; it being understood that "income and proceeds from the Trust Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) which were received by the Company prior to the existence of such an Event of Default which exceeded the amounts required to make the rental payments specified in the first paragraph of this Section 5.04 due and payable by the Company on the date on which amounts with respect thereto received by the Company were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease. The Trustee agrees, however, that if it obtains a judgment against the Company for an amount in excess of the amounts payable by the Company pursuant to the limitations set forth in this paragraph, it will,

accordingly, limit its execution of such judgment to such amount and it will not bring suit against the Company for any sums in addition to the amounts payable by the Company pursuant to said limitations (or obtain a judgment, order or decree against the Company for any relief other than the payment of money) except as may be required by applicable rules of procedure to enforce, by appropriate proceedings against the Company at law or in equity or otherwise, the obligation to make the payments to be made pursuant to this Section 5.04 or any other payments or performance obligations due to the Trustee under this Agreement against the Trust Equipment, the Guarantor and the Lease (rather than against the Company personally). Nothing contained herein limiting the liability of the Company shall derogate from the right of the Trustee to proceed against the Equipment or the Guarantor as provided for herein for the full unpaid principal amount of the Trust Certificates and dividends thereon.

SECTION 5.05. *Termination of Lease.* It is understood that the vesting in the Trustee of security title to the Trust Equipment pursuant to this Agreement is solely to secure the performance by the Company of its obligations under this Agreement and the payment of all sums payable pursuant to this Agreement (without regard to the provisions of the last paragraph of Section 5.04 hereof) and that beneficial ownership in and to the Trust Equipment shall be and remain in the Company subject to compliance by the Company with all its obligations under this Agreement and the payment of all such sums. Accordingly, after all payments due or to become due hereunder shall have been completed and fully made to or for the account of the Trustee and the Company shall have performed all its other obligations hereunder (without regard to the provisions of the last paragraph of Section 5.04 hereof), (a) such payments shall be deemed to represent the discharge in full of the Trustee's security interest in the Trust Equipment at such time, (b) 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, (c) full title to all the Trust Equipment shall vest in the Company and (d) the Trustee shall execute for record in public offices,

at the expense of the Lessee, such instrument or instruments in writing as reasonably shall be requested by the Company in order to make clear upon public records the Company's full title to all the Trust Equipment under the laws of any jurisdiction; *provided, however,* that until that time security title to all the Trust Equipment shall be and remain in the Trustee, notwithstanding the possession and use thereof by the Company pursuant to the terms of this Agreement.

SECTION 5.06. *Marking of Trust Equipment.* The Company agrees that it will cause each unit of the Trust Equipment to be kept plainly, distinctly, permanently and conspicuously marked on each side of such unit, in letters not less than one inch in height, the following words:

> "OWNED BY A BANK OR TRUST COMPANY UNDER A SECURITY AGREEMENT FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20c"

or other appropriate words designated by the Trustee, with appropriate changes thereof and additions thereto as from time to time may be required by law or reasonably requested in order to protect the security title of the Trustee to such unit and the rights of the Company and the Trustee under this Agreement.

The Company will not place or permit any unit of the Trust Equipment to be placed in operation or exercise any control or dominion over the same until such words have been so marked on both sides thereof and will replace or cause to be replaced promptly any such words which may be removed, defaced or destroyed. The Company shall not change, or permit to be changed, the identifying number of any unit of the Trust Equipment except in accordance with a statement of new identifying numbers to be substituted therefor, which statement previously shall have been filed by the Company with the Trustee and filed, recorded or deposited in all public offices where this Agreement shall have been filed, recorded or deposited.

Except as above provided, the Company will not allow the name of any person to be placed on the units of the Trust Equipment as a designation that might be interpreted as a claim of full legal ownership;

provided, however, that the Company may cause the Trust Equipment to be lettered with the names, initials or other insignia customarily used by the Lessee on railroad equipment used by it of the same or a similar type for convenience of identification of its right to use the Trust Equipment under the Lease, and the Trust Equipment may be lettered in an appropriate manner for convenience of identification of the interest of the Company therein.

SECTION 5.07. *Maintenance of Trust Equipment; Casualty Occurrences.* The Company agrees that it will maintain or cause to be maintained and keep or cause to be kept each unit of the Trust Equipment in good order and proper repair at its own cost and expense, unless and until worn out, lost, stolen, destroyed or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (any of such occurrences being hereinafter called a Casualty Occurrence).

Whenever any unit of the Trust Equipment shall suffer a Casualty Occurrence, the Company shall, promptly after it is informed of such Casualty Occurrence under the Lease, cause the Lessee to deliver to the Trustee a Lessee's Certificate describing such Trust Equipment and stating the amount to be deposited with the Trustee as hereinafter in this Section 5.07 provided and (except as provided in the fourth paragraph of this Section 5.07) the determination of the Fair Value of such unit. On the rental payment date next succeeding the delivery of such Officer's Certificate or Lessee's Certificate (or, in the event such rental payment date will occur within 60 days after such delivery, on the following rental payment date), the Company shall deposit with the Trustee (subject to the provisions of the last paragraph of Section 5.04 hereof) an amount in cash equal to the Fair Value of such unit as of such date and, upon such payment, the security title of the Trustee to such unit shall terminate and full title to such unit shall vest in the Company and, upon Request, the Trustee shall execute for recording in public offices, at the expense of the Company, such instrument or instruments in writing as reasonably shall be specified by the Company and accompanying such Request in order to make clear upon public

records the Company's full title to such unit under the laws of any jurisdiction. The rights and remedies of the Trustee to enforce or to recover any of the rental payments shall not be affected by reason of any Casualty Occurrence.

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

Anything contained herein to the contrary notwithstanding, in the event that any unit of the Trust Equipment shall suffer a Casualty Occurrence, and the Company shall have been informed thereof under the Lease, prior to the settlement for such unit pursuant to Section 4.02 hereof, the Lessee's Certificate describing such unit shall state the Cost of such unit (rather than the determination of the Fair Value thereof) as shown on the invoice therefor delivered or to be delivered to the Trustee pursuant to Section 4.04(b) hereof, and the Company will, in lieu of making the payments otherwise required pursuant to the second paragraph of this Section 5.07 and Section 4.03 hereof, pay or cause the Lessee to pay directly to the Owner, on the Settlement Date, an amount in cash equal to such Cost, and accrued rental under the Lease thereon, which payment shall, without further action by the Company, have the same effect and entitle the Company to the same rights and privileges hereunder as if the Company had directed the Trustee to exclude such unit from the trust created hereby pursuant to the second paragraph of Section 4.01 hereof.

The Company covenants and agrees to cause the Lessee to furnish to the Trustee, on or before April 1 in each year, commencing with the year 1974, a Lessee's Certificate, as of the preceding December 31, (i) showing the amount, description and numbers of all units of Trust Equipment then subject hereto and the amount, description and numbers of all units of Trust Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Agreement in the case of the first such Officer's Certificate or Lessee's Certificate), and such other information regarding the

condition and state of repair of the units of Trust Equipment as the Trustee may reasonably request and (ii) stating that in the case of all units of Trust Equipment repainted or repaired during the period covered thereby the marks required by Section 5.06 hereof have been preserved or replaced. The Trustee, by its agents, shall have the right once in each calendar year, but shall be under no duty, to inspect, at the expense of the Company, the Trust Equipment, and the Company covenants in that event to furnish to the Trustee all reasonable facilities for the making of such inspection.

The Guarantor will at all times while this Agreement is in effect, at its own expense, cause to be carried and maintained insurance in respect of the Trust Equipment at the time subject hereto, and public liability insurance, in amounts and against risks customarily insured against by railroad companies on similar equipment, and in any event in amounts and against risks comparable to those insured against by the Guarantor on similar equipment owned by it. Any net insurance proceeds or condemnation payments received by the Trustee in respect of units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Company to the Trustee in respect of Casualty Occurrences pursuant to this Section 5.07. If the Trustee shall receive any such net insurance proceeds or condemnation payments after the Company shall have made payments pursuant to this Section 5.07 without deduction for such net insurance proceeds or condemnation payments, the Trustee shall pay such proceeds or payments to the Company.

SECTION 5.08. *Possession of Trust Equipment.* So long as no Event of Default has occurred and is continuing hereunder, the Company shall be entitled to the possession and use of the Trust Equipment and also to enter into the Lease, which the Company and the Lessee hereby agree shall be subject and subordinate to this Agreement, and to permit the use of the Trust Equipment as provided in the Lease.

Except as permitted by the Trust Agreement, the Company will not sell, assign or transfer its rights under this Agreement or, except as provided in this Section 5.08, transfer the right to possession of any unit of the Trust Equipment. The Company will not amend or consent

to any change in the Trust Agreement without the prior written consent of the Trustee.

SECTION 5.09. *Indemnity; Compliance with Laws and Rules.* The Company covenants and agrees to indemnify and save harmless the Trustee against any charge or claim made against the Trustee and against any expense, loss or liability (including but not limited to counsel fees and expenses, patent liabilities, penalties and interest) which the Trustee may incur in any manner by reason of the issuance of the Trust Certificates or by reason of entering into or performing this Agreement, any of the instruments or agreements referred to herein or contemplated hereby or the ownership of, or which may arise in any manner out of or as the result of the ordering, acquisition, purchase, use, operation, condition, delivery, rejection, storage or return of, any unit of the Trust Equipment while subject to this Agreement or until no longer in the possession of or stored by the Lessee, whichever is later, and to indemnify and save harmless the Trustee against any charge, claim, expense, loss or liability on account of any accident in connection with the operation, use, condition, possession or storage of any unit of the Trust Equipment resulting in damage to property, or injury to or death of any person. The indemnities contained in this paragraph shall survive payment of all other obligations under this Agreement and the termination of this Agreement. The Company agrees to comply in all respects with all laws of the jurisdictions in which operations involving any unit subject to this Agreement may extend, with the Interchange Rules of the Association of American Railroads, if applicable, and with all lawful rules of the Interstate Commerce Commission, if applicable, the Department of Transportation and any other legislative, executive, administrative or judicial body or officer exercising any power or jurisdiction over any such unit, to the extent such laws and rules affect the operations or use of such unit; and the Company shall and does hereby indemnify the Trustee and agrees to hold the Trustee harmless from and against any and all liability that may arise from any infringement or violation of any such laws or rules by the Company or any other person. In the event that such laws or rules require the alteration of any such Unit or in case any

equipment or appliance on any such unit shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such unit in order to comply with such laws and rules, the Company agrees to make such alterations, changes, additions and replacements at its own expense and to use, maintain and operate such unit in full compliance with such laws and rules so long as such unit is subject to this Agreement; *provided, however,* that the Company may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Trustee, adversely affect the property or rights of the Trustee or the holders of the Trust Certificates hereunder.

ARTICLE SIX

Events of Default and Remedies

Section 6.01. *Events of Default.* The Company covenants and agrees that in case (irrespective of any provision of this Agreement limiting the liability of the Company):

(a) the Company shall default in the payment of any part of the rental payable under Sections 5.04(c), (d) and (e) hereof for more than ten days after the same shall have become due and payable, or

(b) 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 on its part to be kept and performed, or to make provision satisfactory to the Trustee for such compliance, or

(c) the Company, except as herein authorized or contemplated, shall make or suffer any unauthorized transfer or sublease (including, for the purpose of this clause, contracts for the use thereof) of any of the Trust Equipment, or shall part with the possession of any of the Trust Equipment, and shall fail or refuse either to cause such transfer or sublease to be canceled by agree-

ment of all parties having any interest therein or recover possession of such Trust Equipment, as the case may be, within 30 days after the Trustee shall have demanded in writing such cancelation or recovery of possession, or within said 30 days to deposit with the Trustee a sum in cash equal to the Fair Value of such Trust Equipment (any sum so deposited to be returned to the Company upon the cancellation of such transfer or sublease or the recovery of possession by the Company of such Trust Equipment), or

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

(e) the Lessee shall default in the observance or performance of any of the covenants and agreements on its part contained in the Lease for the benefit of the Trustee or the holders

of the Trust Certificates and such default shall continue for 30 days after the Trustee shall have demanded performance thereof by written notice to the Company and the Lessee *unless* during such 30-day period the Company or the Lessee shall have cured or caused to be cured such default,

then, in any such case (herein sometimes called an Event of Default), and so long as such Event of Default shall be continuing, the Trustee in its discretion may, and upon the written request of the holders of not less than 25% in principal amount of the then outstanding Trust Certificates shall, by notice in writing delivered to the Company and the Guarantor, declare to be due and payable forthwith the entire amount of the rentals (including any unpaid rental then due, but not including rentals required for the payment of dividends accruing after the date of such declaration) payable by the Company as set forth in Section 5.04 hereof and not theretofore paid. Thereupon the entire amount of such rentals shall forthwith become and shall be due and payable immediately without further demand, together with interest at the Penalty Rate, to the extent legally enforceable, on any portion thereof overdue.

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

In case the Company shall fail to pay any instalment of rental payable pursuant to Section 5.04(c), (d) or (e) hereof when and as the same shall have become due and payable hereunder, and such default shall have continued for a period of 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 and collect in

the manner provided by law out of the property of the Company wherever situated the moneys adjudged or decreed to be payable (subject to the provisions of the last paragraph of Section 5.04 hereof).

In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or the Guarantor 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 Guarantor, or in case of any other judicial proceedings relative to the Company or the Guarantor, or to the creditors or property of the Company or the Guarantor, the Trustee, irrespective of whether the rental payments hereunder or the principal amount of the Trust Certificates shall then be due and payable as herein or therein expressed whether by declaration or otherwise and irrespective of whether the Trustee shall have made any demand or declaration pursuant to the provisions of this Section 6.01, 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 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 and 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 the Trustee (and also any proceedings involving the interpretation of any provision of this Agreement to which the Trustee shall be a party) the Trustee shall be held to represent all the holders of the Trust Certificates, and it shall not be necessary to make any holders of the Trust Certificates parties to such proceedings.

SECTION 6.02. *Remedies.* In case an Event of Default shall happen and be continuing, the Trustee may by its agents enter upon the premises of the Company or the Lessee or other premises 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, 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, retain and apply in accordance with Section 6.03 hereof all unpaid per diem, mileage or other charges of any kind earned by the Trust Equipment or any part thereof, and may lease the Trust Equipment or any part thereof; or the Trustee may with or without retaking possession (but only after declaring due and payable the entire amount of rentals payable by the Company as provided in Section 6.01 hereof) sell the Trust Equipment or any part thereof, free from any and all claims of the Company and the Lessee at law or in equity, in one lot and as an entirety or in separate lots, in so far as may be necessary to perform and fulfill the trust hereunder, at public or private sale, for cash or upon credit, in its discretion, and may proceed otherwise to enforce its rights and the rights of the holders of the outstanding Trust Certificates in the manner herein provided. Upon any such public sale, the Trustee itself or any holder of Trust Certificates may bid for the

property offered for sale or any part thereof. Any such sale may be held or conducted at such place and at such time as the Trustee may specify, or as may be required by law, and without gathering at the place of sale the Trust Equipment to be sold, and in general in such manner as the Trustee may determine, but so that any sale is held in a commercially reasonable manner and the Company and the Lessee are duly notified of and have a reasonable opportunity to bid at any such sale. Upon such taking possession or withdrawal or lease or sale of the Trust Equipment, the Company and the Lessee shall cease to have any rights or remedies in respect of the Trust Equipment hereunder (except as provided in Section 6.03 hereof), but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Company and the Lessee, and no payments theretofore made by the Company or the Lessee for the rent or use of the Trust Equipment or any of it shall, in case of the happening of any Event of Default and such taking possession, withdrawal, lease or sale by the Trustee, give to the Company or the Lessee any legal or equitable interest or title in or to the Trust Equipment or any of it or any cause or right of action at law or in equity in respect of the Trust Equipment against the Trustee or the holders of the outstanding Trust Certificates. No such taking possession, withdrawal, lease or sale of the Trust Equipment by the Trustee shall be a bar to the recovery by the Trustee from the Company or the Guarantor of rentals then or thereafter due and payable, and the Company (subject to the provisions of the last paragraph of Section 5.04 hereof) and the Guarantor shall be and remain liable for the same until such sums shall have been realized as, with the proceeds of the lease or sale of the Trust Equipment, shall be sufficient for the discharge and payment in full of all the items mentioned in Section 5.04 hereof (other than dividends or interest not then accrued), whether or not they shall have then matured.

SECTION 6.03. *Application of Proceeds.* If an Event of Default shall happen and be continuing and the Trustee shall exercise any of the powers conferred upon it by Sections 6.01 and 6.02 hereof, all payments made by the Company to the Trustee hereunder after such Event of Default, and the proceeds of any judgment collected hereunder from

the Company by the Trustee, and the proceeds of every sale or lease by the Trustee of any of the Trust Equipment, together with any other sums 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 pursuant to Section 3.03 hereof), shall be applied by the Trustee to the payment in the following order of priority: (a) of all proper charges, expenses or advances made or incurred by the Trustee in accordance with the provisions of this Agreement, and (b) of the dividends then due, with interest on overdue dividends at the Penalty Rate to the extent legally enforceable, and of the principal of all the outstanding Trust Certificates, with interest thereon at the Penalty Rate to the extent legally enforceable from the last preceding dividend date, whether such Trust Certificates shall have then matured by their terms or not, all such payments to be in full if such proceeds shall be sufficient, and if not sufficient, then *pro rata* without preference between principal, dividends and interest.

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 (subject to the provisions of the last paragraph of Section 5.04 hereof) agrees to pay the amount of such deficit to the Trustee. If after applying as aforesaid the sums of money realized by the Trustee there shall remain a surplus in the possession of the Trustee, such surplus shall be paid to the Company.

SECTION 6.04. *Waivers of Default.* If at any time after the principal of all the Trust Certificates shall have been declared and become due and payable or if at any time after the entire amount of rentals shall have been declared and become due and payable, all as in Section 6.01 hereof provided, but before April 1, 1988, all arrears of rent (with interest at the Penalty Rate upon any overdue instalments to the extent legally enforceable), the expenses and reason-

able compensation of the Trustee, together with all expenses of the trust occasioned by the Company's default, and all other sums which shall have become due and payable by the Company hereunder (other than the principal of Trust Certificates and any other rental instalments which shall not at the time have matured according to their terms), shall be paid by the Company (irrespective of the provisions of the last paragraph of Section 5.04 hereof) before any sale or lease by the Trustee of any of the Trust Equipment, and every other default in the observance or performance of any covenant or condition hereof shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then, and in every such case, the Trustee, if so requested or consented to by the holders of a majority in principal amount of the Trust Certificates then outstanding, shall by written notice to the Company waive the default by reason of which there shall have been such declaration or declarations and the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

SECTION 6.05. *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 Guarantor under the guaranty endorsed on the Trust Certificates or under the Lease. The Company hereby waives presentation and demand in respect of any of the Trust Certificates and waives notice of presentation, of demand and of any default in the payment of the principal of and dividends on the Trust Certificates.

SECTION 6.06. *Company and Lessee to Deliver Trust Equipment to Trustee.* In case the Trustee shall demand possession of the Trust Equipment pursuant to the provisions hereof, the Company and

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

SECTION 6.07. *Trustee To Give Notice of Default.* The Trustee shall give to the 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 6.08. *Control by Holders of Trust Certificates.* The 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 if the Trustee shall be advised by counsel that the action so directed would be in conflict with any other provision of this Agreement or any rule of law.

SECTION 6.09. *Unconditional Right of Holders of Trust Certificates to Sue for Principal and Dividends.* Notwithstanding any other provision in this Agreement, the right of any holder of any Trust Certificate to receive payment of the principal of, and dividends on, such Trust Certificate, on or after the respective due dates expressed in such Trust Certificate, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be im-

paired or affected without the consent of such holder, except that no such suit shall be instituted if and to the extent that the institution or prosecution thereof or the entry of judgment therein would, under applicable law, result in the surrender, impairment, waiver or loss of the security title reserved under this Agreement upon any property subject hereto.

SECTION 6.10. *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.

ARTICLE SEVEN

ADDITIONAL COVENANTS AND AGREEMENTS BY THE COMPANY AND THE GUARANTOR

SECTION 7.01. *Guaranty of Guarantor.* The Guarantor unconditionally covenants, agrees and guarantees that the holder of each of the Trust Certificates shall receive the principal amount thereof, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, when and as the same shall become due and payable, in accordance with the provisions thereof or of this Agreement (and, if not so paid, with interest thereon at the Penalty Rate to the extent legally enforceable), and shall receive dividends thereon in like money at the rate specified therein from the date thereof, to the date of maturity of such Trust Certificate, at the times and places and otherwise as expressed in the Trust Certificates and this Agreement (and, if not so paid, with interest thereon at the Penalty Rate to the extent legally enforceable); and the Guarantor covenants and agrees to endorse upon each of the Trust Certificates, at or before the issuance and delivery thereof by

the Trustee, its guaranty of the prompt payment of the principal thereof and of the dividends thereon, in substantially the form hereinbefore set forth. Said guaranty so endorsed shall be signed in the name and on behalf of the Guarantor by the manual or facsimile signature of its President or any Vice President. In case the President or Vice President of the Guarantor whose signature shall appear on said guaranty shall cease to be such officer before the Trust Certificates shall have been issued and delivered by the Trustee, or shall not have been acting in such capacity on the date of the Trust Certificates, such guaranty shall nevertheless be as effective and binding upon the Guarantor as though the person who signed said guaranty had at all times been such officer.

The Guarantor further unconditionally guarantees to the Trustee and the holders of the Trust Certificates the due and punctual performance of all obligations of the Company under this Agreement and unconditionally guarantees to the Trustee and the holders of the Trust Certificates that all amounts payable by the Company under this Agreement will be promptly paid when due in accordance with the provisions of this Agreement and in case of default by the Company in any such obligations or payments the Guarantor agrees punctually to perform or pay the same, irrespective of any enforcement against the Company of any of the rights of the Trustee and the holders of the Trust Certificates under this Agreement. The Guarantor hereby agrees that its obligations hereunder and under the aforesaid guaranty on the Trust Certificates shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever), irrespective of the genuineness, validity, regularity or enforceability of this Agreement, the provisions of the last paragraph of Section 5.04 hereof, or any other circumstance which might otherwise constitute a legal or equitable discharge of a surety or guarantor or any other circumstance which might limit the recourse of the Trustee to the Company. The Guarantor hereby waives diligence, presentment, demand of payment, protest, any notice of any default hereunder or under the Trust Certificates and all notices with respect to this Agreement and all demands whatsoever hereunder. No waiver by the Trustee or the holders of any of the Trust Certificates of any of their rights

hereunder or under the Trust Certificates and no action by the Trustee or the holders of any of the Trust Certificates to enforce any of their rights or failure to take, or delay in taking, any such action shall affect the obligations of the Guarantor hereunder or under said guaranty of the Trust Certificates.

In the event that the Guarantor shall make any payments to the Trustee on account of its guaranty hereunder, the Guarantor hereby covenants and agrees that it shall not acquire any rights, by subrogation or otherwise, against the Company or with respect to any of the units of the Trust Equipment by reason of such payments, all such rights being hereby irrevocably released, discharged and waived by the Guarantor; *provided, however,* that after the payment by the Guarantor to the Trustee of all amounts payable under the first paragraph of this Section 7.01, the Guarantor shall, by subrogation, be entitled to the rights of the Trustee against the Company by reason of such payment, to the extent, but only to the extent, that the Company has received "income and proceeds from the Trust Equipment" (as defined in Section 5.04 hereof) and has not applied amounts equal to such income and proceeds to the payment, in accordance with this Agreement, and subject to the limitations contained in said Section 5.04, of amounts payable by the Company to the Trustee hereunder.

If the Guarantor makes any payment hereunder or performs any obligation hereunder within the time periods set forth in Section 6.01 hereof required to be made or performed by the Company, no Event of Default shall be deemed to have occurred by reason of the Company's not having made such payment or performed such obligation.

The obligations of the Guarantor under the guaranty set forth in this Section 7.01 are superior in right of payment to all the Guarantor's Thirty Year Subordinated Notes sold or to be sold pursuant to a Note Purchase Agreement dated as of January 1, 1967, between the Guarantor and certain of its stockholders.

SECTION 7.02. *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 or charge upon or against any of the Trust Equipment, except upon the interest of the Company hereunder or of the leasehold interest of the Lessee therein; *provided, however,* that 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 or the Lessee 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 adequate provision for the satisfaction or discharge of, any such debt, tax, charge, assessment, obligation or claim as required by this Section 7.02, the Trustee may, but shall not be obligated to, pay and discharge the same and any amounts so paid shall be secured by and under this Agreement until reimbursed by the Company.

SECTION 7.03. *Recording.* The Guarantor will, promptly after the execution and delivery of this Agreement, the Lease and each supplement hereto and thereto, respectively, cause this Agreement, the Lease and such supplement to be duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Company and the Guarantor will from time to time do and perform any other act and will execute, acknowledge, deliver and the Guarantor will file, register and record any and all further instruments required by law or reasonably requested by the Trustee for the purposes of proper protection of the security 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; *provided, however,* that the Company and the Guarantor shall not be required to take any such action in respect of any jurisdiction outside the United States if (a) the Guarantor deems such action to be unduly burdensome, (b) after giving effect to the failure to take such action, the Company and the Guarantor have taken all action required by law to protect the security title of the Trustee to units of Trust Equipment

having a Fair Value of not less than 85% of the aggregate Fair Value of all Trust Equipment and (c) the Company and the Guarantor have at all times complied fully with the provisions of Section 7.02 hereof in respect of any such unit (without giving effect to the proviso contained in such Section 7.02).

Promptly after the execution and delivery of this Agreement and each supplement hereto, the Guarantor will furnish the Trustee with an Opinion of Counsel stating that, in the opinion of such counsel, this Agreement or such supplement, as the case may be, has been properly recorded and filed so as effectively to protect the security title of the Trustee to the Trust Equipment and its rights and the rights of the holders of the Trust Certificates thereunder and hereunder and reciting the details of such action.

SECTION 7.04. *Merger or Consolidation.* The Guarantor agrees not to merge or consolidate with any other corporation or transfer all or substantially all its property unless the survivor of such merger or consolidation or such transferee 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 Guarantor) or such transferee shall assume all the obligations and liabilities of the Guarantor hereunder and as guarantor of the Trust Certificates.

SECTION 7.05. *Increase of User Rates.* The Guarantor covenants and agrees (a) that, if an Event of Default shall happen and be continuing under Section 6.01(a) hereof by reason of the failure of the Company or the Guarantor to pay, or cause to be paid, to the Trustee within the grace period provided in Section 6.01(a) hereof, all or any part of the rentals due and payable under Section 5.04(c)(i), (d) or (e) hereof required for the payment of the principal of or dividends on the Trust Certificates (but not including any principal or dividends payable by reason of acceleration of the date of payment thereof), the Guarantor will, upon written notice by the Trustee so to do, within ten days after receipt of such notice, deliver to all parties to its Form A and Form B car contracts (or such other Forms as may hereafter be used in substitution or

in replacement of such Form A and Form B car contracts) due and proper notice of increases in the car user charges under such contracts, (b) that all car contracts covering any unit or units of railroad equipment of which the Guarantor is the owner or lessee will contain provisions permitting the Guarantor to require such increases and (c) that, unless in connection with an assignment or transfer to a corporation which shall acquire all or substantially all the property of the Guarantor pursuant to Section 7.04 hereof, the Guarantor will not assign or transfer its rights and obligations to require such increases under any such car contracts. Such increases shall commence to accrue and shall be effective on the first day of the first calendar month beginning subsequent to ten days after delivery of such notice by the Guarantor to the parties to such car contracts. Such increases shall be in such amounts or percentages as will cause to accrue and be payable to the account of the Guarantor in respect of the first calendar month during which they are in effect such additional sums of money as will be needed by the Guarantor to enable it to pay all such overdue principal and dividends (with interest on overdue principal and dividends at the Penalty Rate, to the extent legally enforceable) and to cure any defaults in payment of any principal, dividends or interest (or rentals intended to provide for payment thereof) payable under comparable provisions of any other equipment trust, conditional sale or other equipment agreement of the Guarantor not guaranteed jointly and severally by its shareholders or a group of its shareholders (except defaults arising by reason of acceleration of the date of payment of instalments of principal, dividends or interest, or rentals intended to provide for payment thereof), whether heretofore or hereafter entered into, based upon the most recent records or information available to the Guarantor relating to the use of its cars. If for any reason any such increases so made by the Guarantor shall fail to provide in 90 days sufficient cash to enable the Guarantor to cure such default or defaults hereunder and under any other such agreements, or if cash is provided but is not for any reason applied to cure such defaults, the Guarantor will, upon receipt of written notice from the Trustee so to do, promptly make such further increases in its user charges as may from time to time be necessary to enable the Guar-

antor to cure all such defaults hereunder and under such other agreements.

SECTION 7.06. *Covenant Against Prepayment of Subordinated Notes.* The Guarantor covenants and agrees that if an Event of Default hereunder or an Event of Default (as defined in the Lease), or an event which with the lapse of time or the giving of notice, or both, would constitute an Event of Default hereunder or under the Lease shall have occurred and be continuing, it will not voluntarily prepay or retire any of its outstanding Thirty Year Subordinated Notes sold or to be sold pursuant to a Note Purchase Agreement dated as of January 1, 1967, between the Guarantor and certain of its stockholders.

SECTION 7.07. *Further Assurances.* The Company and the Guarantor covenant and agree from time to time to do all such acts and execute all such instruments of further assurance as they shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Agreement and the intent hereof.

ARTICLE EIGHT

CONCERNING THE HOLDERS OF TRUST CERTIFICATES

SECTION 8.01. *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 principal amount of the outstanding 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.

SECTION 8.02. *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.

The ownership of Trust Certificates may be proved by the register of such Trust Certificates to be kept as provided in Section 2.03(e) hereof.

SECTION 8.03. *Trust Certificates Owned by Company.* In determining whether the holders of the requisite 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, by the Lessee or by an affiliate of the Company or the Lessee 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, and except that this Section 8.03 shall not be applicable to the Company or an affiliate of the Company if all the Trust Certificates are owned by the Company or by one or more affiliates of the Company.

SECTION 8.04. *Right of Revocation of Action Taken.* At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 8.01 hereof, of the taking of any action by the holders of the required percentage in aggregate principal amount of the outstanding Trust Certificates specified in this Agreement, any holder of a Trust Certificate may, by filing written notice with the Trustee at the

Corporate Trust Office and upon proof of holding as provided in Section 8.02 hereof, 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 required percentage in aggregate principal amount of the outstanding Trust Certificates specified in this Agreement shall be conclusive and binding upon the Company, the Lessee, the Trustee and the holders of all the Trust Certificates.

ARTICLE NINE

THE TRUSTEE

SECTION 9.01. *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 9.02. *Duties and Responsibilities of the Trustee.* In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Agreement, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

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

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

(1) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Agree-

ment, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Trustee; and

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

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

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

(d) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, Trust Certificate, guaranty or other paper or document believed

by it to be genuine and to have been signed or presented by the proper party or parties;

(e) the Trustee may consult with counsel, and any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with such Opinion of Counsel and not contrary to any express provision of this Agreement;

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

(g) the Trustee shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Agreement.

SECTION 9.03. *Application of Rentals; Responsibility of Trustee to Insure or Record.* The Trustee covenants and agrees to apply and distribute the rentals received by it under Section 5.04 hereof when and as the same shall be received, and to the extent that such rentals shall be sufficient therefor, for the purposes specified in said Section 5.04.

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 to its satisfaction by the Company or the Guarantor or by one or more of the holders of the 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.

SECTION 9.04. *Funds May be Held by Trustee.* Any moneys at any time paid to or held by the Trustee hereunder until paid out by the Trustee as herein provided may be carried as a general deposit and need not be segregated from other funds except to the extent required by law. The Trustee shall not be under any liability for interest on any moneys received by it hereunder except such as it may agree with the Company to pay thereon.

SECTION 9.05. *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 Owners thereof or of the Company, or for any defect in any of the Trust Equipment or in the title thereto, nor shall anything herein be construed as a warranty on the part of the Trustee in respect thereof or as a representation in respect of the value thereof or in respect of the title thereto.

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

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

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

Any moneys at any time held by the Trustee hereunder shall, until paid out or invested by the Trustee as herein provided, be held by it in

trust as herein provided for the benefit of the holders of the Trust Certificates.

SECTION 9.06. *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 notice to the Company and the Guarantor, but such resignation shall not take effect until receipt by the Trustee of an instrument of acceptance executed by a successor trustee as hereinafter provided in Section 9.07 hereof.

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

(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 of the aggregate principal amount of the then outstanding Trust Certificates by an instrument in writing delivered to the Company, the Guarantor and the Trustee. Until a successor trustee shall be appointed by the holders of Trust Certificates as herein authorized, the Company and the Guarantor, by instruments in writing executed by order of their Boards of Directors, shall appoint a trustee to fill such vacancy. A successor trustee so appointed by the Company and the Guarantor shall immediately and without further act be superseded by a successor trustee appointed by the holders of Trust Certificates in the manner provided above. Every successor trustee appointed pursuant to this Section 9.06 shall be a national bank, or a bank or trust company incorporated under the laws of the State of New York, having its principal office in the Borough of Manhattan in The City of New York, and having 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 or the Guarantor shall give notice of each resignation, removal or incapacity of the then Trustee or of a vacancy occurring in the office of the Trustee for any other cause and of each appointment by the Company and the Guarantor of a successor trustee pursuant to paragraph (c) of this Section 9.06 by mailing written notice of such event by first-class mail, postage prepaid, to the holders of all outstanding Trust Certificates.

SECTION 9.07. *Acceptance of Appointment by Successor Trustee.* Any successor trustee appointed as provided in Section 9.06 hereof shall execute, acknowledge and deliver to the Company and the Guarantor and to its predecessor trustee an instrument accepting such appointment hereunder, and 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 the Guarantor or 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 and the Guarantor 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 9.05 hereof.

SECTION 9.08. *Merger or Consolidation of Trustee.* Any corporation into which the Trustee may be merged or with which it may be consolidated or any corporation resulting from any merger or consolidation to which the Trustee shall be a party or any corporation succeeding to all or substantially all the corporate trust business of the Trustee shall be the successor of the Trustee hereunder, provided that such corporation shall be qualified under the provisions of Section 9.06

hereof, 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 9.09. *Return of Certain Moneys to Company.* Notwithstanding any provision of this Agreement, any 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 four 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 TEN

MISCELLANEOUS

SECTION 10.01. *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, 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 10.02. *No Recourse.* No recourse under or upon any obligation, covenant or agreement of this Agreement, or under the guaranty endorsed on any Trust Certificate, or for any claim based thereon

or otherwise in respect thereof shall be had against any stockholder, officer or director, as such, past, present or future, of the Company or the Guarantor, or against any beneficiary of a trust for which the Company is acting as trustee, 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, as such, of the Company or the Guarantor or any of them, under or by reason by any of the obligations, covenants and 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.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding (except the last sentence of Section 5.04 hereof), that each of and all the representations, covenants, undertakings and agreements herein made on the part of the Company, while in form purporting to be the representations, covenants, undertakings and agreements of the Company, are made and intended not as personal representations, covenants, undertakings and agreements by the Company or for the purpose or with the intention of binding the Company personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Agreement is executed and delivered by the Company not in its own right but solely in the exercise of the powers expressly conferred on it as Trustee under the Trust Agreement; and except in the case of gross negligence or wilful misconduct, no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Company, or any beneficiary under the Trust Agreement, on account of this Agreement or on account of any representations, covenants, undertakings or agreements of the Company or any beneficiary under the Trust Agreement,

either expressed or implied, all such personal liability, if any, being expressly waived and released by the other parties hereto.

SECTION 10.03. *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 10.04. *Satisfaction of Obligations.* All obligations of the Company hereunder, including, without limitation, the obligations under Sections 5.04, 5.06, 5.07, 5.09, 6.06, 7.02 and 7.03, and the third paragraph of Section 9.05 hereof, but excluding the obligations under Section 4.03 hereof and any provisions requiring the execution of any instrument by the Company, shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Guarantor shall be liable in respect of its guaranty hereunder for all such obligations of the Company whether or not the Lease is in effect. The Company shall not be obligated personally to perform the obligations of the Lessee and shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for any Event of Default hereunder.

SECTION 10.05. *Notices.* All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or mailed by registered mail (a) to the Company at P. O. Box 318, Church Street Station, New York, N. Y. 10015, attention of Corporate Trust Division (with copies to General Electric Credit Corporation, P. O. Box 8300, Stamford, Connecticut 06904 and General Electric Credit Corporation, P. O. Box 81 (North Station), White Plains, N. Y. 10603, attention of Loan Officer), or to such other address as may hereafter be furnished to the Trustee in writing by the Company, (b) to the Guarantor, at 300 South Wacker Drive, Chicago, Illinois 60606, attention of the Vice President—Finance, or at such other address as may hereafter be furnished to the Trustee in writing by the Guarantor and (c) to the Trustee at the Corporate Trust Office, or at such other address as may hereafter be furnished to the Company and the Guarantor in writing by the Trustee. An affidavit by

any person representing or acting on behalf of the Company, the Guarantor or the Trustee, as the case may be, as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 10.06. *Amendment or Waiver.* Any provision of this Agreement may be amended, by an instrument executed by the parties hereto, or waived, in either case with the written consent of the holders of not less than 66⅔% of the aggregate unpaid principal amount of the Trust Certificates then outstanding; *provided, however,* that no such amendment or waiver shall (a) reduce the amount of principal, change the amount or dates of payment of instalments of principal or reduce the rate or extend the time of payment of dividends with respect to the Trust Certificates without the consent of the holder of each Trust Certificate so affected, (b) reduce the amount of or extend the time of payment of any rentals payable under this Agreement or release or provide for the release of any of the Trust Equipment or any other property or cash held by the Trustee in trust, otherwise than as expressly permitted by the present terms of this Agreement, without the consent of the holders of 100% of the aggregate unpaid principal amount of Trust Certificates then outstanding, or (c) reduce the percentage of the aggregate unpaid principal amount of Trust Certificates then outstanding, the holders of which are required to approve any amendment or to effect any waiver.

SECTION 10.07. *Effect of Headings; Counterparts; Date Executed; Governing Law.*

(a) The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

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

(c) 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.

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

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

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

MANUFACTURERS HANOVER TRUST COMPANY, Trustee,

[CORPORATE SEAL] by .....
Vice President

ATTEST:

.....
Assistant Secretary

BANKERS TRUST COMPANY,
as Trustee,

[CORPORATE SEAL]

by .....
Assistant Vice President

ATTEST:

.....
Assistant Secretary

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by .....
Vice President—Finance

ATTEST:

.....
Assistant Secretary

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

On this 28th day of March, 1973, before me personally appeared T. C. CRANE, to me personally known, who, being by me duly sworn, says that he is a Vice President of MANUFACTURES HANOVER TRUST COMPANY, 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.

Mary Leonardi

[NOTARIAL SEAL]

MARY LEONARDI
Notary Public, State of New York
No. 40-7495520
Qualified in Putnam County
Certificate filed in New York County
Commission Expires March 30, 1974

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

On this 27th day of March, 1973, before me personally appeared ROMANO I. PELUSO, to me personally known, who, being by me duly sworn, says that he is an Assistant Vice President of BANKERS TRUST COMPANY, 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.

Christine Gerace

[NOTARIAL SEAL]

CHRISTINE GERACE
Notary Public, State of New York
No. 24-1407147
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1973

STATE OF ILLINOIS }
COUNTY OF COOK } SS.:

On this 28TH day of March, 1973, before me personally appeared N. V. REICHERT, to me personally known, who, being by me duly sworn, says that he is the Vice President—Finance of TRAILER TRAIN COMPANY, 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.

Jo-Ann Frank
Notary Public

My Commission Expires June 26, 1973

My commission expires

[NOTARIAL SEAL]

ANNEX A TO EQUIPMENT TRUST AGREEMENT

Type	Quantity	Lessee's Car Numbers (All Inclusive)
Pullman:		
89'4" 70-ton capacity standard level hydraulic draft gear auto rack flat cars	112	940951 to 941062
Bethlehem:		
89'4" 70-ton capacity standard level all purpose flat cars	9	971131 to 971139
68' 100-ton capacity bulkhead flat cars	11	80878 to 80888
ACF:		
89'4" 70-ton capacity standard level all purpose flat cars	45	970990 to 970999 and 974000 to 974034