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INTERSTATE COMMERCE COMMISSION

## Trust Indenture and Security Agreement

Dated as of

September 30, 1975

BETWEEN

FIRST NATIONAL BANK OF LOUISVILLE,  
*as Owner Trustees*

AND

THE CHASE MANHATTAN BANK (National Association),  
*as Indenture Trustee*

\_\_\_\_\_  
**10¾% Interim and Definitive Equipment Trust Certificates  
10¾% Loan Certificates**  
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SCHEDULE III—Specific Requirements and Form of Loan Certificates

**TRUST INDENTURE AND SECURITY AGREEMENT** dated as of September 30, 1975 (herein, as amended or supplemented from time to time as permitted hereby, called "this Indenture"), between **FIRST NATIONAL BANK OF LOUISVILLE**, a national banking association, as trustee under each of the respective Trust Agreements referred to below (herein, in such capacity, together with its permitted successors in the trust under said Trust Agreement, called an "Owner Trustee"; all such Owner Trustees being herein collectively called the "Owner Trustees"), having an address at First National Tower, Louisville, Kentucky 40202, and **THE CHASE MANHATTAN BANK (National Association)**, a national banking association, as Trustee hereunder (herein, in such capacity, together with its permitted successors in the trusts hereunder, called the "Indenture Trustee"), having an address at 1 Chase Manhattan Plaza, New York, New York 10015.

#### **PRELIMINARY STATEMENT**

Certain terms used in this Indenture and not elsewhere defined are defined in Article XIII. Each of the Owner Trustees has determined to borrow money on behalf of its Trust in connection with the acquisition of such Trust's Items of Equipment, to issue Loan Certificates to evidence such borrowings and to Grant its interest in the Indenture Estate as security for the payment of all sums payable on or with respect to the Equipment Trust Certificates and the performance of all such Trust's obligations under this Indenture. The Indenture Trustee has determined to issue and sell the Interim Equipment Trust Certificates secured by this Indenture and to issue the Definitive Equipment Trust Certificates in exchange therefor.

In accordance with provisions contained in the Participation Agreement, the Indenture Trustee will deposit the proceeds from the sale of the Interim Equipment Trust Certificates in Escrow Account I to be invested and from time to time withdrawn for application to the purchase price for Loan Certificates to be issued on behalf of the respective Trusts. The proceeds of sale of the Loan Certificates issued on behalf of a particular Trust will be applied by the Owner Trustee of such Trust to the payment, in part, of the Capitalized Cost of such Trust's Items of Equipment.

All covenants and agreements herein made by each of the Owner Trustees are for the benefit and security of the holders from time to time of the Equipment Trust Certificates. Each of the Owner Trustees is entering into this Indenture, and the Indenture Trustee is accepting the trusts created hereby, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

Each Owner Trustee hereby Grants to the Indenture Trustee all of such Owner Trustee's estate, right, title, interest, claim and demand in, to and under the property described in the Granting Clauses. As confirmation of the assignments of the Leases effected by this Indenture, each Owner Trustee will also execute and deliver to the Indenture Trustee a Lease Assignment with respect to the Lease of such Owner Trustee's Trust.

No obligation of any Owner Trustee under the provisions of any instrument included in the Indenture Estate shall be impaired or diminished, or imposed upon the Indenture Trustee, by virtue of the Grant to the Indenture Trustee.

#### **GRANTING CLAUSE FIRST**

##### **THE EQUIPMENT**

The Items of Equipment of each of the respective Trusts, including all the Items to be described in Schedules IA, IB, IC and ID to the Indenture Supplement to be executed and delivered on behalf of such Trust and all replacement Parts incorporated or installed pursuant to such Trust's Lease but excluding Parts replaced by such replacement Parts.

#### **GRANTING CLAUSE SECOND**

##### **THE LEASES**

The Lease of each of the respective Trusts, including all renewals or extensions of the Term thereof. The Grant contained in this Granting Clause Second is to be confirmed by the Grant to be made pursuant to the Lease Assignment with respect to such Lease, which Lease Assignment is hereby incorporated into this Granting Clause Second.

**GRANTING CLAUSE THIRD**  
**THE EASEMENT AGREEMENT**

The Easement Agreement, for the purpose of Granting the rights of each Owner Trustee under the Easement Agreement.

**GRANTING CLAUSE FOURTH**  
**THE LEASE GUARANTY**

The Lease Guaranty, for the purpose of Granting the rights of each Owner Trustee under the Lease Guaranty.

**GRANTING CLAUSE FIFTH**  
**THE ESCROW ACCOUNT**

All moneys, bonds, securities or other obligations from time to time constituting the Escrow Account.

**GRANTING CLAUSE SIXTH**  
**OTHER AND AFTER-ACQUIRED PROPERTY**

The After-Acquired Property. It is the intention of, and is agreed by, each Owner Trustee and the Indenture Trustee that all property hereafter acquired by such Owner Trustee on behalf of such Owner Trustee's Trust and required or intended to be subject to the lien of this Indenture shall forthwith upon the acquisition thereof by such Owner Trustee be as fully embraced within the lien of this Indenture as if such property were now owned by such Owner Trustee and were specifically described in this Indenture and Granted hereby or pursuant hereto; and the Indenture Trustee is hereby authorized to receive any and all such property as and for additional security for the payment of the Equipment Trust Certificates and all other sums secured or intended to be secured hereby, and compliance with the provisions hereof.

**GRANTING CLAUSE SEVENTH**  
**PROCEEDS**

All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or other liquidated claims, including without limitation, all proceeds of insurance and condemnation awards and payments.

**TO HAVE AND TO HOLD** all and singular the Indenture Estate, whether now owned or held or hereafter acquired, unto the Indenture Trustee forever;

**SUBJECT, HOWEVER,** to the provisions of this Indenture and to Permitted Encumbrances;

**IN TRUST, NEVERTHELESS,** with power of sale, for the equal and ratable benefit and security of the Equipment Trust Certificates, without preference, priority or distinction of any thereof over any other by reason of difference in time of issuance or otherwise, and for the enforcement of the payment of the principal of, premium, if any, and interest on, the Equipment Trust Certificates in accordance with their respective terms, and all other sums payable under this Indenture, or on the Equipment Trust Certificates, and compliance with the provisions of this Indenture, all as herein provided.

**IT IS HEREBY COVENANTED, DECLARED AND AGREED** that the Equipment Trust Certificates are to be issued and secured, that the Loan Certificates are to be issued, and the Indenture Estate is to be held, dealt with and disposed of by the Indenture Trustee, upon and subject to the provisions of this Indenture.

**ARTICLE I**

**THE EQUIPMENT TRUST CERTIFICATES**

**SECTION 1.01. GENERAL REQUIREMENTS.**

Each Equipment Trust Certificate shall be issued pursuant to Section 1.02 or 1.03 and shall comply with or be subject to the following general requirements:

(a) It shall be in a denomination of \$10,000 or more and shall be payable in lawful money of the United States.

(b) Payments or prepayments which do not discharge all indebtedness evidenced by such Equipment Trust Certificate shall be made only at the Corporate Trust Office, against presentation for notation of such payment or prepayment, unless the Indenture Trustee and the holder of such Equipment Trust Certificate shall have entered into a home office payment agreement pursuant to Section 1.06.

(c) Payments or prepayments which will discharge all indebtedness evidenced by an Equipment Trust Certificate shall be made only against surrender of such Equipment Trust Certificate at the Corporate Trust Office.

(d) It shall be fully registered.

**SECTION 1.02. TERMS AND ISSUANCE OF EQUIPMENT TRUST CERTIFICATES.**

(a) The Interim and Definitive Equipment Trust Certificates shall be in substantially the respective forms, and comply with the respective specific requirements, respectively contained in Schedules I and II hereto.

(b) On each of the three Loan Closing Dates provided for in the Participation Agreement the Indenture Trustee shall execute, deliver and issue an Interim Equipment Trust Certificate in accordance with the provisions of the Participation Agreement.

(c) On the Escrow Account Termination Date the Indenture Trustee shall execute, deliver and issue four Definitive Equipment Trust Certificates in exchange for the outstanding Interim Equipment Trust Certificates in accordance with this Section 1.02(c) and Schedule II hereto. Pursuant to this Section 1.02(c), the Indenture Trustee shall originally issue a single Definitive Equipment Trust Certificate for each Series, the original principal amount of which shall be equal to the aggregate unpaid principal amount of the Loan Certificates of the Class which corresponds to such Series (determined as of the Escrow Account Termination Date after giving effect to all payments and prepayments due and payable on such Loan Certificates as of such Date).

**SECTION 1.03. TRANSFER, EXCHANGE OR SUBSTITUTION OF EQUIPMENT TRUST CERTIFICATES.**

(a) The Indenture Trustee shall execute, deliver, issue and register one or more new Equipment Trust Certificates ("New Equipment Trust Certificates") to effect a registration of transfer, exchange or substitution of or for one or more Equipment Trust Certificates ("Old Equipment Trust Certificates"), upon compliance by the holder of the Old Equipment Trust Certificates with Section 1.03(b). The New Equipment Trust Certificates shall be dated the same date, be of the same Series and tenor (if Definitive Equipment Trust Certificates), and be in the same aggregate original principal amount as the Old Equipment Trust Certificates then being transferred, exchanged or substituted for. The Indenture Trustee need not execute New Equipment Trust Certificates during any period beginning 15 days before and ending three days after a Payment Date, or beginning 15 days before the giving of notice of any prepayment and ending three days after the date of such prepayment.

### **Sections 1.03, 1.04, 1.05, 1.06**

(b) If a holder wishes to transfer, exchange or substitute for Old Equipment Trust Certificates, it shall deliver them (or the indemnity and security referred to below) to the Indenture Trustee, with either one or more instruments of transfer or a request for such exchange or substitution. The Indenture Trustee may also require the payment of a sum to reimburse it, or provide it with funds, for the payment of any transfer tax or similar governmental charge paid or payable by the Indenture Trustee in connection with the transfer, exchange or substitution. Each such request or instrument of transfer shall be in form satisfactory to the Indenture Trustee, and shall include, among other things, a statement as to the number, denominations and, with respect to Definitive Equipment Trust Certificates, Series of New Equipment Trust Certificates to be issued in connection with such transfer, exchange or substitution, and sufficient information with respect to the new holder thereof to complete the registration of the New Equipment Trust Certificates. In any case involving destroyed, lost or stolen Old Equipment Trust Certificates, the holder thereof shall furnish evidence satisfactory to the Indenture Trustee of such destruction, loss or theft and, in lieu of such Old Equipment Trust Certificates, indemnity and security reasonably satisfactory to the Indenture Trustee against loss or liability, which, if such holder is the Loan Participant or its nominee, shall be the Loan Participant's agreement to indemnify the Indenture Trustee.

(c) The Indenture Trustee shall mark on each New Equipment Trust Certificate the date to which interest shall have been paid, and the proportionate amount of principal allocable to such New Equipment Trust Certificate which shall have been repaid, on the Old Equipment Trust Certificates. Interest and principal shall be deemed to have been paid to the extent marked on the New Equipment Trust Certificate. Each New Equipment Trust Certificate, when issued by the Indenture Trustee, shall be a valid and binding obligation legally enforceable against the Indenture Estate, evidencing the same debt as the Old Equipment Trust Certificates (or allocable portion thereof), and entitled to the benefits and security of this Indenture.

#### **SECTION 1.04. EXECUTION OF EQUIPMENT TRUST CERTIFICATES.**

A Vice President of the Indenture Trustee shall execute each Equipment Trust Certificate, and the Indenture Trustee's corporate seal shall be attested by its Secretary or one of its Assistant Secretaries. If proper officers of the Indenture Trustee shall execute and attest an Equipment Trust Certificate on the actual date of its execution and attestation, such Equipment Trust Certificate shall be validly executed and attested for all purposes of this Indenture even though either or both of such persons were not such officers of the Indenture Trustee on the date such Equipment Trust Certificate was issued.

#### **SECTION 1.05. THE REGISTER.**

The Indenture Trustee will maintain at the Corporate Trust Office a register or registers (the "Register") suitable for the registration and registration of transfer of the Equipment Trust Certificates, and shall maintain therein a record of each Equipment Trust Certificate, the name and address of the holder (showing separate addresses, if requested, for payments, notices and other matters), the date of each transfer, and similar information relating to each transferee.

#### **SECTION 1.06. HOME OFFICE PAYMENT.**

A home office payment agreement is an agreement between the Indenture Trustee and the holder of an Equipment Trust Certificate (or the person for whom such holder is a nominee) to the effect contained in Section 9 of the Participation Agreement. Upon the filing with the Indenture Trustee of a copy of a home office payment agreement with respect to one or more Equipment Trust Certificates, the Indenture Trustee will make payments and prepayments on such Equipment Trust Certificates in accordance with such agreement, instead of in accordance with Section 1.01(b).

**SECTION 1.07. HOLDERS DEEMED OWNERS.**

Prior to due presentment for registration of transfer of any Equipment Trust Certificate the Indenture Trustee may deem and treat the holder of such Equipment Trust Certificate as the absolute owner thereof (whether or not such Equipment Trust Certificate shall be overdue) for all purposes, and the Indenture Trustee shall not be affected by any notice to the contrary. All payments in respect of any Equipment Trust Certificate shall be made only to or upon the order of its holder. All such payments so made, including those made pursuant to Section 1.06, shall be valid and effectual to satisfy and discharge the liability of the Indenture Estate in respect of such Equipment Trust Certificate to the extent of the sum or sums so paid.

**SECTION 1.08. AMORTIZATION SCHEDULES.**

Upon the issuance of any Definitive Equipment Trust Certificate pursuant to Section 1.02 or 1.03, the Indenture Trustee shall procure, at the Lessee's expense, two copies of each of the amortization schedules with respect to such Equipment Trust Certificate, and the Indenture Trustee shall promptly send one of such copies to the holder of such Equipment Trust Certificate. Such amortization schedules shall respectively set forth the components (determined as provided in clause (v) of Schedule II hereto) from which are derived the amount of each Instalment Payment, the portions thereof allocable to principal and interest, and the unpaid principal components of such Equipment Trust Certificate after each Instalment Payment has been made.

**SECTION 1.09. CANCELLATION OF EQUIPMENT TRUST CERTIFICATES.**

All Equipment Trust Certificates surrendered to the Indenture Trustee for payment in full or in connection with an exchange or transfer shall be promptly cancelled by the Indenture Trustee and no Equipment Trust Certificates shall be issued in exchange or substitution therefor *except* in the case of the Definitive Equipment Trust Certificates to be originally issued in exchange for the outstanding Interim Equipment Trust Certificates pursuant to Section 1.02(c) and *except* as otherwise expressly permitted hereby.

**ARTICLE II  
THE LOAN CERTIFICATES**

**SECTION 2.01. ISSUANCE.**

The Indenture Trustee agrees to make a loan to each Owner Trustee, and each Owner Trustee agrees to borrow from the Indenture Trustee, in accordance with provisions contained in the Participation Agreement and this Indenture. Such lending and borrowing will be made on the Escrow Account Closing Dates and shall be evidenced by the Loan Certificates.

**SECTION 2.02. REQUIREMENTS.**

The Loan Certificates shall be in substantially the form, and comply with the specific requirements contained in Schedule III hereto.

**SECTION 2.03. AMORTIZATION SCHEDULES.**

Upon the issuance of each Loan Certificate pursuant to Section 2.01, the Indenture Trustee shall procure, at the Lessee's expense, two copies of an amortization schedule with respect to such Loan Certificate. The amortization schedule shall set forth the amount of each Instalment Payment, the portions thereof allocable to principal and interest, and the unpaid principal of such Loan Certificate after each Instalment Payment has been made.

**ARTICLE III  
PARTICULAR COVENANTS AND AGREEMENTS OF  
THE OWNER TRUSTEES**

Anything in this Indenture or in the Loan Certificates or in any of the other Operative Documents to the contrary notwithstanding, each Owner Trustee, expressly for the benefit of the present and future holders of the Equipment Trust Certificates, covenants and agrees as follows:

**SECTION 3.01. PAYMENT OF LOAN CERTIFICATES.**

Such Owner Trustee will, to the extent funds are available from the Trust Estate of its Trust, punctually pay or cause to be paid the principal of, and the premium, if any, and interest on, the Loan Certificates issued on behalf of such Trust according to the provisions hereof and thereof. Such Owner Trustee will not claim any credit on or make any deduction from the payments thereon by reason of the payment of any taxes levied at any time or from time to time upon the Indenture Estate or any portion thereof, and no deduction shall be made from the taxable value of any property included in the Indenture Estate by reason of this Indenture.

**SECTION 3.02. CORPORATE STANDING.**

Such Owner Trustee is, and in its individual capacity covenants that it shall at all times be, a national banking association or a corporation validly organized and existing in good standing, under the laws of the United States of America or any state thereof, authorized under such laws to exercise corporate trust powers and subject to examination by federal or state authorities; otherwise it shall, and hereby in its individual capacity agrees to, resign as trustee under its Trust Agreement in accordance with Section 10.01 thereof.

**SECTION 3.03. PROTECTION OF INDENTURE ESTATE.**

(a) Such Owner Trustee will from time to time execute and deliver all supplements and amendments hereto and to any instrument included in the Indenture Estate required by the terms hereof or thereof, and all such financing statements, continuation statements, instruments of further assurance and other instruments, and will take such other action on behalf of its Trust, as the Indenture Trustee may reasonably request to (i) better Grant to the Indenture Trustee all or any portion of the Indenture Estate, (ii) maintain or preserve the lien of this Indenture or carry out more effectively the purposes hereof, (iii) perfect, publish notice of or protect the validity of any instrument included in the Indenture Estate or of any Grant made or to be made by or pursuant to this Indenture, (iv) enforce any instrument included in the Indenture Estate, or (v) preserve and defend title to the Indenture Estate and the rights of the Indenture Trustee therein against the claims of all persons and parties so long as any Equipment Trust Certificate remains outstanding.

(b) Such Owner Trustee in its individual capacity covenants that, so long as such Owner Trustee has not been released pursuant to Section 10.04 it will not take affirmative action to dissolve or terminate the Trust created by its Trust Agreement or distribute any of the assets comprising the Trust Estate created pursuant to such Trust Agreement *except* as contemplated in Article IV hereof. Such Owner Trustee, in its individual capacity and at its own cost and expense, further covenants that it will promptly take such action as may be necessary to duly discharge all Lessor's Liens upon or against the Indenture Estate or any part thereof or any rents or other income arising therefrom.

**SECTION 3.04. PERFORMANCE OF OBLIGATIONS.**

(a) Such Owner Trustee will notify the Indenture Trustee of any default by any person under any instrument included in the Indenture Estate promptly after a responsible officer of the Corporate Trust Department of such Owner Trustee obtains actual knowledge thereof.

(b) Such Owner Trustee makes no representation or warranty as to the validity, legality or enforceability of this Indenture, or any other of the Operative Documents or as to the correctness of any statement contained therein; *provided, however*, that such Owner Trustee hereby in its individual capacity represents and warrants that with respect to this Indenture and each of the other Operative Documents to which it is a party (i) it has the corporate power and authority to execute, deliver and perform such document, and (ii) such document has been or will be executed and delivered by one of its officers who is or will be duly authorized to execute and deliver such document on its behalf.

(c) Such Owner Trustee shall be deemed not to have made any representation or warranty, express or implied, as to the title, value, compliance with specifications, condition, merchantability, design, quality, durability, operation or fitness for use or purpose of the Items of Equipment of such Owner Trustee's Trust, *except* that such Owner Trustee in its individual capacity hereby represents and warrants that such Items of Equipment are, and shall be, free of any Lessor's Liens.

**SECTION 3.05. NEGATIVE COVENANTS.**

Such Owner Trustee will not:

(a) sell, lease, transfer, exchange or otherwise dispose of any portion of the Indenture Estate *except* as expressly permitted by Article IV hereof or as permitted or required by any Operative Document;

(b) so long as an Item of Equipment of such Owner Trustee's Trust is subject to the lien of this Indenture, obtain or carry casualty insurance relating to such Item separate from that required or permitted by such Trust's Lease thereof, unless the proceeds of all such policies are payable to the Indenture Trustee under a first mortgage endorsement, and such Owner Trustee shall have promptly furnished evidence of such insurance to the Indenture Trustee.

**SECTION 3.06. PERFORMANCE BY INDENTURE TRUSTEE.**

If the Lessee shall fail to perform, observe or discharge any of the obligations referred to in Section 5(a) of the Participation Agreement, the Indenture Trustee may, but shall not be required to, make advances to perform the same in its behalf. All sums so advanced shall be a lien upon the Indenture Estate and shall be secured hereby prior to the Equipment Trust Certificates, with interest at the rate of 12% per annum from the date of the advance. The Indenture Trustee will make such an advance if requested by the Requisite Holders, and if furnished with funds sufficient therefor, and the Lessee shall repay on demand such sums so advanced on its behalf with interest at the rate of 12% per annum from the date of such advance.

**SECTION 3.07. LIMITATION ON ISSUANCE OF LOAN CERTIFICATES.**

Such Owner Trustee will not issue or permit to be issued Loan Certificates in any manner other than in accordance with the provisions of this Indenture and the agreements herein contained.

**ARTICLE IV**

**POSSESSION, USE AND RELEASE**

**SECTION 4.01. COLLECTION OF MONEY.**

The Indenture Trustee may demand payment or delivery of and shall receive and collect, directly and without the intervention or assistance of any fiscal agent or other intermediary, all money and other property payable to or receivable by the Indenture Trustee pursuant or with respect to any instrument or property included in the Indenture Estate, or pursuant to this Indenture. The Indenture Trustee shall hold all such money and property received by it as part of the Indenture Estate, and shall apply it as provided in this Indenture. If any default occurs in the making of any payment or performance under any of the

respective Leases, or under any other instrument included in the Indenture Estate, the Indenture Trustee may, and upon the request of the Requisite Holders shall, take such action as may be appropriate to enforce such payment or performance, including the institution and prosecution of appropriate Proceedings. Any such action by the Indenture Trustee shall be without prejudice to any right to claim a Default or Event of Default under this Indenture, and to proceed thereafter as provided in Article VII.

**SECTION 4.02. RELEASE OF EQUIPMENT OR OTHER PROPERTY.**

(a) The Indenture Trustee may, if no Event of Default hereunder has occurred and is continuing, and when required by provisions of this Indenture or any instrument included in the Indenture Estate shall, execute and deliver instruments to release property from the lien of this Indenture, or convey its interest in the same in a manner and under circumstances which are not inconsistent with the provisions of this Indenture, including releases of Items or Parts the title to which has vested in the Lessee pursuant to Section 7 of any of the Leases, or which have been conveyed to the Lessee pursuant to Section 8 of any of the Leases or which have been sold pursuant to Section 14 of any of the Leases.

(b) Upon the expiration of the Original Term of any Item, the lien of this Indenture shall terminate *pro tanto* with respect to (i) such Item and (ii) rights Granted to the Indenture Trustee hereby and by the Lease Assignment which relates to the Lease of such Item, such Lease, the Lease Guaranty and Easement Agreement, insofar as they relate to such Item, and upon such partial termination such Item and rights shall revert to the Owner Trustee which Granted them herein or to such person or persons as shall be entitled thereto; *provided, however*, that if an Event of Default is then continuing such termination and reversion shall not occur until such Event of Default shall have been cured or waived. After such partial termination the provisions of this Indenture shall no longer be applicable to such Item and rights, and the Indenture Trustee upon request of such Owner Trustee, and at the expense of the Lessee, shall deliver a writing evidencing such partial termination.

(c) No party relying upon an instrument executed by the Indenture Trustee as provided in this Article IV shall be bound to ascertain the Indenture Trustee's authority, inquire into the satisfaction of any conditions precedent or see to the application of any moneys.

**SECTION 4.03. EVENT OF LOSS.**

The Indenture Trustee may, and upon the request of and satisfactory indemnification by the Requisite Holders shall, participate in any Proceedings with respect to any such Event of Loss with respect to any Item or Items of Equipment subject to the provisions of the Lease or Leases to which such Item or Items are subject.

**SECTION 4.04. AMENDMENTS TO INSTRUMENTS; RIGHTS UNDER OPERATIVE DOCUMENTS.**

(a) In addition to amendments and supplements required by this Indenture, the Indenture Trustee may, without the consent of any holder of the Equipment Trust Certificates, enter into or consent to any amendment or supplement to any instrument included in the Indenture Estate which is contemplated by the Participation Agreement or which is for the purpose of increasing any party's obligations or duties owing to the Indenture Trustee or for any of the purposes specified in Sections 9.02 (a), (b), (c), (d) and (e) which permit the Indenture Trustee to enter into indentures supplemental hereto, *provided*, that without the consent of the Requisite Holders, (i) the provisions of no Operative Document shall be amended, supplemented or waived so as to adversely affect the holders of the Equipment Trust Certificates, and (ii) there shall be no such amendment, modification, supplement or waiver which extends the time or reduces the amount of any payment to be to or for the benefit of the holders of the Equipment Trust Certificates or which affects the absolute and unconditional character of the obligations of the Lessee or the Lease Guarantor to make any such payment. The Indenture Trustee may, in its discretion, decline to enter into or consent to any such supplement or amendment or give such consent if the Indenture Trustee's own rights, duties or immunities shall be affected.

(b) The Indenture Trustee shall at all times have the right to receive all amounts payable to any Trust under or in connection with any Operative Document which have been assigned by such Trust to the Indenture Trustee (other than Excepted Payments payable while no Event of Default is continuing). Each Owner Trustee agrees that if it receives any such amounts (other than Excepted Payments payable while no Event of Default is continuing) it will promptly pay them over to the Indenture Trustee for application in accordance with the provisions of the Indenture. So long as this Indenture shall not have been declared in default, each Owner Trustee shall have and may exercise all other rights it may have under any Operative Document (but not any rights of the Indenture Trustee, the Loan Participant or any holder of any Equipment Trust Certificate pursuant to the terms of such Operative Document); *provided, however*, without the prior written consent of the Indenture Trustee, (which consent may not be given without the consent of the Requisite Holders), such Owner Trustee shall not agree to any amendment, modification, supplement or waiver of any of the provisions of any Operative Document (*except* as contemplated by Section 11 of the Lease of such Owner Trustee's Trust and *except* for amendments or supplements contemplated by the Participation Agreement). If this Indenture shall have been declared in default, the Indenture Trustee shall have and may exercise all rights of each Owner Trustee under each Operative Document; *provided, however*, without the prior written consent of such Owner Trustee the Indenture Trustee shall not have the right to agree to any amendment, modification, supplement or waiver of any of the provisions of such Operative Document which are intended for the benefit of, or have the effect of benefiting, such Owner Trustee or any Owner Participant if the effect of such amendment, modification, supplement or waiver would deprive such Owner Trustee or Owner Participant of such benefit *except* for amendments or supplements contemplated by the Participation Agreement.

(c) Whenever the Indenture Trustee shall have the right or option to consent, approve or take any other action pursuant to any provision of any Lease, it shall request instructions from the Requisite Holders and shall not take any action except in accordance with such instructions.

#### **SECTION 4.05. OPINION OF COUNSEL.**

The Indenture Trustee shall be entitled to receive at least 10 days' notice of any action to be taken pursuant to this Article IV, other than Section 4.01, with copies of any instruments involved. The Indenture Trustee shall also be entitled to receive an opinion of counsel, in form and substance satisfactory to the Indenture Trustee, stating the legal effect of any such action, outlining the steps required to complete same, and concluding that such action will not materially and adversely impair the security for the Equipment Trust Certificates or the rights of the holders of the Equipment Trust Certificates in contravention of the provisions of this Indenture.

#### **SECTION 4.06. REIMBURSEMENT OF INDENTURE TRUSTEE'S EXPENSES.**

On demand of the Indenture Trustee, each Owner Trustee forthwith will request the Lessee to pay or satisfactorily to provide for all expenditures incurred by the Indenture Trustee under this Article IV.

### **ARTICLE V**

#### **APPLICATION OF MONEY**

#### **SECTION 5.01. BASIC AND SUPPLEMENTAL RENT.**

(a) If no Event of Default is continuing, moneys received by the Indenture Trustee as or in respect of Basic Rent due and payable pursuant to a particular Trust's Lease on a particular Payment Date shall be first credited by the Indenture Trustee to payment of the Instalment Payments due and payable on such

Sections 5.01, 5.02

Payment Date on the outstanding Loan Certificates issued on behalf of such Trust and then shall be applied or deposited by the Indenture Trustee as follows:

(i) if such Payment Date is on or prior to the Escrow Account Termination Date, a portion of such moneys equal to the aggregate amount of interest so credited upon such Loan Certificates shall be applied (together with the Net Amount and the Available Earnings to be applied on such Payment Date) to payment of the interest then accrued and unpaid on the outstanding Interim Equipment Trust Certificates and a portion of such moneys equal to the aggregate amount of principal so credited upon such Loan Certificates shall be deposited in Escrow Account II, and then the balance of such moneys shall be remitted simultaneously to or upon the order of the Owner Trustee of such Trust on behalf of such Trust; or

(ii) if such Payment Date is subsequent to the Escrow Account Termination Date, a portion of such moneys equal to the Instalment Payments so credited on the outstanding Loan Certificates issued on behalf of such Trust shall be applied to partial payment of the Instalment Payments due and payable on the outstanding Equipment Trust Certificates, and then the balance of such moneys shall be remitted simultaneously to or upon the order of the Owner Trustee of such Trust on behalf of such Trust.

(b) Supplemental Rent received by the Indenture Trustee shall, unless such Supplemental Rent is to be applied pursuant to another Section of this Article V, be applied for the purposes for which it was paid.

**SECTION 5.02. MONEYS RELATING TO EVENTS OF LOSS OR LEASE TERMINATIONS.**

If no Event of Default is continuing, any moneys (other than moneys to be applied pursuant to another Section of this Article V) received by the Indenture Trustee in connection with an Event of Loss with respect to any Item or Items pursuant to Section 8 of a particular Trust's Lease or in connection with an Early Termination with respect to any Item or Items pursuant to Section 14 of such Lease shall on the Payment Date such moneys are due and payable be first credited by the Indenture Trustee to the prepayment, in whole or in part as the case may be, of the principal of each of the outstanding Loan Certificates issued on behalf of such Trust which are of the same Class as any such Item in an amount equal to the Prepayment Amount which is applicable to such Loan Certificate on such Payment Date, together with the Applicable Premium thereon in the case of an Early Termination, and then shall be applied or deposited by the Indenture Trustee as follows:

(i) if such Payment Date is on or prior to the Escrow Account Termination Date, either (A) a portion of such moneys equal to the aggregate principal prepayments so credited upon such Loan Certificates shall be deposited in Escrow Account II, or (B) in the case of an Early Termination, a portion of such moneys equal to the aggregate principal prepayments so credited upon such Loan Certificates, together with the Applicable Premium thereon, shall be applied to the prepayment of a principal amount of the outstanding Interim Equipment Trust Certificates equal to the aggregate principal prepayments so credited upon such Loan Certificates, at a price equal to 100% of the principal amount being prepaid, together with the Applicable Premium thereon, and then in either such case the balance of such moneys shall be remitted simultaneously to or upon the order of the Owner Trustee of such Trust on behalf of such Trust; or

(ii) if such Payment Date is subsequent to the Escrow Account Termination Date, a portion of such moneys equal to the aggregate principal prepayments, together with the Applicable Premium thereon in the case of an Early Termination, so credited upon such Loan Certificates shall be applied to the prepayment, in whole or in part as the case may be, of the principal of the outstanding Equipment Trust Certificates (the aggregate amount of principal to be so prepaid on the Equipment Trust Certificates of a particular Series to be equal to the principal prepayment so credited on the Loan Certificate of the corresponding Class), at a price equal to 100% of the principal amount being prepaid, together with the Applicable Premium thereon in the case of an Early Termination, and then the balance of such moneys shall be remitted simultaneously to or upon the order of the Owner Trustee of such Trust on behalf of such Trust.

**SECTION 5.03. LIEN OFFSET MONEYS.**

Moneys received by the Indenture Trustee pursuant to paragraph 8(b) of any Lease Assignment shall be applied in the same manner as the Indenture Trustee would have applied the moneys (the "Encumbered Proceeds") the payment or application of which was interfered with. To the extent that it lawfully may, the Indenture Trustee will pay any balance of Encumbered Proceeds held by it to the Lessee but only if (i) funds sufficient for the purpose shall have been applied in the manner in which such Encumbered Proceeds would have been applied but for the interference, and (ii) no Default or Event of Default is continuing.

**SECTION 5.04. APPLICATION OF ESCROW ACCOUNT MONEYS.**

(a) If no Event of Default is continuing, (i) on each Payment Date prior to the Escrow Account Termination Date the Indenture Trustee shall withdraw from the Escrow Account moneys equal to the Available Earnings for such Payment Date and apply such Available Earnings (together with the Basic Rent and the Net Amount to be applied on such Payment Date) to payment of the interest then accrued and unpaid on the outstanding Interim Equipment Trust Certificates, and (ii) on the Escrow Account Termination Date, the Indenture Trustee shall withdraw from the Escrow Account moneys equal to the entire remaining principal of the Escrow Account (including that attributable to Escrow Account I and Escrow Account II) and apply such moneys (together with the Premium Payment, if any, to be applied on such Payment Date) to the partial prepayment of the principal of the outstanding Interim Equipment Trust Certificates, at a price equal to 100% of the principal amount being prepaid, together with the Applicable Premium on the amount, if any, by which the principal being so prepaid from the principal of Escrow Account I, exceeds \$2,100,000.

(b) If no Event of Default is continuing, any moneys held by the Indenture Trustee on any Payment Date subsequent to the Escrow Account Termination Date which are attributable to the earnings from the investment of the principal of the Escrow Account shall be credited by the Indenture Trustee in satisfaction of up to an equivalent dollar amount of the Basic Rent payable by the Lessee on such Payment Date pursuant to the Leases, and the amount so credited shall be credited and applied pursuant to Section 5.01 in the same manner as Basic Rent received directly from the Lessee.

**SECTION 5.05. MONEYS CONSTITUTING THE NET AMOUNT.**

If no Event of Default is continuing, moneys received by the Indenture Trustee as the Net Amount due and payable by the Lessee on a particular Payment Date on or prior to the Escrow Account Termination Date pursuant to paragraph 5(a) of the Interest Guaranty shall be applied by the Indenture Trustee (together with the Basic Rent and the Available Earnings to be applied on such Payment Date) to payment of the interest then accrued and unpaid on the outstanding Interim Equipment Trust Certificates.

**SECTION 5.06. MONEYS CONSTITUTING THE PREMIUM PAYMENT.**

If no Event of Default is continuing, moneys received by the Indenture Trustee as the Premium Payment, if any, due and payable by the Lessee on the Escrow Account Termination Date pursuant to paragraph 5(b) of the Interest Guaranty shall be applied by the Indenture Trustee to the payment of the Applicable Premium payable upon prepayment of the outstanding Interim Equipment Trust Certificates on the Escrow Account Termination Date.

**SECTION 5.07. PROCEEDS OF SALE OF INTERIM EQUIPMENT TRUST CERTIFICATES.**

All moneys received by the Indenture Trustee from the issuance and sale of the Interim Equipment Trust Certificates pursuant to the Participation Agreement shall be deposited in Escrow Account I and applied as provided in Section 5.04 and Article XI.

**SECTION 5.08. INSURANCE AND OTHER PROCEEDS.**

All proceeds of casualty insurance maintained by the Lessee and condemnation awards (or settlements in respect thereof) received by the Indenture Trustee shall be paid over or credited to the

Sections 5.08, 5.09, 5.10, 6.01, 6.02, 6.03

Lessee to the extent and upon the conditions set forth in the Leases. Moneys not so paid over or credited shall be held and applied as part of the Indenture Estate.

**SECTION 5.09. MONEYS NOT REQUIRED TO BE OTHERWISE APPLIED.**

If no Event of Default is continuing, any moneys received by the Indenture Trustee under or pursuant to any Operative Document or other instrument included in the Trust Estate and which are not required by any other provision of this Indenture or of such Operative Document or other instrument to be applied to any purpose or purposes, shall be remitted to or upon the order of the Owner Trustee of the particular Trust entitled to such moneys or, if a particular Trust is not entitled to such moneys, such moneys shall be held by the Indenture Trustee as part of the Indenture Estate.

**SECTION 5.10. APPLICATION OF MONEYS DURING THE CONTINUANCE OF AN EVENT OF DEFAULT.**

If an Event of Default is continuing any moneys received by the Indenture Trustee shall be held by it as part of the Indenture Estate and applied in accordance with Section 7.05.

**ARTICLE VI**

**PREPAYMENT OF EQUIPMENT TRUST CERTIFICATES  
AND LOAN CERTIFICATES**

**SECTION 6.01. GENERAL.**

Equipment Trust Certificates and Loan Certificates shall be prepaid only to the extent expressly permitted by this Indenture. Prepayments pursuant to Article V shall be made as provided in this Article VI. Any prepayment of Equipment Trust Certificates and Loan Certificates shall be in addition to, and shall be made only after payment of, any interest or Instalment Payments on such Equipment Trust Certificates or Loan Certificates, as the case may be, therein specified to be due and payable on the date fixed for such prepayment.

**SECTION 6.02. NOTICE; DEPOSIT.**

(a) The Indenture Trustee shall notify the holders of the Equipment Trust Certificates not less than 20 days prior to any prepayment. The notice shall state the date fixed for prepayment (which date shall be a Payment Date) and the principal amount of each Equipment Trust Certificate to be prepaid. Such notice may be withdrawn up to the tenth day prior to the date fixed for prepayment but only in the event the prepayment was to have been in connection with an Early Termination which was cancelled pursuant to Section 14(a) of a Lease.

(b) The moneys necessary to make any prepayment shall be deposited in Immediately Available Funds with the Indenture Trustee prior to 11:00 A. M., New York City time, on the date fixed for such prepayment. If such deposit is made, interest on the portion of any Equipment Trust Certificate designated for prepayment shall cease on the date fixed for prepayment.

**SECTION 6.03. PARTIAL PREPAYMENTS.**

(a) Partial prepayments of the Definitive Equipment Trust Certificates shall be prorated among all outstanding Definitive Equipment Trust Certificates of the same Series, in proportion to the unpaid principal amount thereof. Partial prepayments of the Interim Equipment Trust Certificates shall be prorated among all outstanding Interim Equipment Trust Certificates, in proportion to the unpaid principal amount thereof. The remaining Instalment Payments on any Definitive Equipment Trust Certificate which has been partially prepaid shall each be reduced by an amount determined by aggregating the respective amounts by which each component (determined as provided in clause (v) of Schedule II) of such Instalment Payment which has been prepaid as part of such prepayment has been reduced upon such prepayment.

(b) Prior to each partial prepayment of the Definitive Equipment Trust Certificates, the Indenture Trustee shall procure, at the Lessee's expense, two copies of each of the amortization schedules with respect to each such Equipment Trust Certificate, and the Indenture Trustee shall promptly send one of such copies to the holder of such Equipment Trust Certificate. The amortization schedules shall in the aggregate set forth the components from which are derived the amount of each reduced Instalment Payment thereafter to be made on the particular Equipment Trust Certificate, the portions thereof allocable to principal and interest, and the unpaid principal components of such Equipment Trust Certificate after each such reduced Instalment Payment has been made. The principal components of each Definitive Equipment Trust Certificate shall be derived from similar amortization schedules to be procured, at the Lessee's expense, by the Indenture Trustee with respect to each outstanding Loan Certificate. Upon each prepayment of any Loan Certificate the remaining Instalment Payments on such Loan Certificate shall each be reduced by a fraction of such Instalment Payment, the numerator of which fraction shall be the amount of such prepayment of the principal of such Loan Certificate and the denominator of which fraction shall be the unpaid principal of such Loan Certificate immediately prior to such prepayment.

**SECTION 6.04. PREPAYMENT AT OWNER TRUSTEES' OPTION.**

In addition to the prepayments required or permitted to be made pursuant to Article V, at the option of the Owner Trustees (to be exercised by all Owner Trustees jointly) the Equipment Trust Certificates may be prepaid in whole on April 15, 1989 or on any Payment Date thereafter, at a price equal to 100% of the unpaid principal amount thereof, together with the Applicable Premium thereon. If the Owner Trustees elect to prepay the Equipment Trust Certificates pursuant to this Section 6.04, they shall give notice of such election to the Indenture Trustee not less than 30 days prior to the Payment Date on which such prepayment is to be made, specifying the Payment Date fixed for prepayment. If the Owner Trustees shall have given notice of their election to prepay the Equipment Trust Certificates pursuant to this Section 6.04, the Owner Trustees may rescind such election only by giving notice of such rescission to the Indenture Trustee before the Indenture Trustee has sent notice of such prepayment to the holders of the Equipment Trust Certificates pursuant to Section 6.02(a).

**ARTICLE VII**

**EVENTS OF DEFAULT AND REMEDIES**

**SECTION 7.01. EVENTS OF DEFAULT.**

Any of the following occurrences or acts shall constitute an Event of Default under this Indenture:

(a) if default shall be made in the payment of (i) any interest payment or Instalment Payment on any Equipment Trust Certificate or Loan Certificate when and as the same shall become due and payable, and such default shall have continued for a period of 15 days, or (ii) any other payment of the principal of or premium on any Equipment Trust Certificate or Loan Certificate, when and as the same shall become due and payable, whether at maturity or by acceleration or as part of any prepayment or otherwise, and such default shall have continued for a period of 15 days; or

(b) if an Event of Default (as defined therein) under any of the respective Leases shall occur and not have been cured by the Owner Trustee as permitted by Section 18 of the Participation Agreement.

**SECTION 7.02. REMEDIES.**

(a) If an Event of Default shall be continuing, upon the request of the Requisite Holders, the Indenture Trustee shall declare this Indenture to be in default by notice in writing to each Owner Trustee and thereafter do one or more of the following (it being understood that the remedies specified in this Article VII may be exercised only after this Indenture has been so declared in default):

(i) give notice to each Owner Trustee, each Owner Participant, the Lessee and the Lease Guarantor declaring (A) the entire unpaid principal amount of the Equipment Trust Certificates and

**Sections 7.02, 7.03**

the Loan Certificates, respectively, (B) all interest accrued and unpaid thereon, respectively, and (C) all other sums payable under this Indenture, to be forthwith due and payable, and demanding that the same be paid, and thereupon all such amounts shall be forthwith due and payable, together with all costs and expenses of collection, notwithstanding any contrary provision contained in this Indenture, any Equipment Trust Certificate or any Loan Certificate;

(ii) institute Proceedings for the collection of all amounts due and payable on the Loan Certificates and under this Indenture, enforce any judgment obtained, and collect moneys adjudged due from the Indenture Estate;

(iii) sell all and singular the Indenture Estate or any portion thereof or rights or interest therein, at one or more public or private sales called and conducted in any manner permitted by law;

(iv) institute Proceedings from time to time for the complete or partial foreclosure of this Indenture;

(v) if an Event of Default (as defined in the Leases) is continuing under the Leases, the Leases have been declared in default pursuant to Section 13 thereof and the Leases have not been terminated, exercise any or all of the lessor's remedies under the Leases; or, if the Leases have been terminated, seize the Equipment or any Item or Items thereof, excluding each Owner Participant, each Owner Trustee and their respective agents and employees therefrom, and freely move the Equipment or any Item or Items thereof from place to place as the Indenture Trustee may deem advisable; and at the expense of the Indenture Estate, use, operate, move, control, repair, alter, add to and insure the Equipment or any Item or Items thereof and operate, manage or lease the same by its agents or employees, install and reinstall the same in such manner as the Indenture Trustee shall see fit; and

(vi) take any other appropriate action (including the institution of Proceedings) to protect and enforce the rights and remedies of the Indenture Trustee hereunder, or under or in respect of any instrument included in the Indenture Estate, or otherwise; *provided*, that, in accordance with Section 17(a) of each Lease, so long as no Event of Default (as defined in such Lease) shall be continuing the Lessee under such Lease shall not be disturbed in its possession, use, management, operation and quiet enjoyment of the Items of Equipment subject to such Lease or the exercise of any of its rights under such Lease by virtue of any action taken with respect to any security interests created in favor of the Indenture Trustee.

(b) The unpaid principal amount of the Equipment Trust Certificates and the Loan Certificates, all interest accrued and unpaid thereon, respectively, and all other sums payable under this Indenture shall be forthwith due and payable upon a Sale whether or not declared to be so pursuant to Section 7.02(a)(i), and notwithstanding any provision to the contrary contained in this Indenture, in any Equipment Trust Certificate or in any Loan Certificate. All earnings, revenues, proceeds, rents, issues, profits and income derived pursuant to Section 7.02(a)(v) (after deducting costs and expenses of operation and other proper charges), all proceeds of any Sale and all other money and property received or recovered by the Indenture Trustee pursuant to this Section 7.02 shall become part of the Indenture Estate. The Indenture Trustee shall be entitled to exercise any remedies under this Article VII personally or by its agents or attorneys.

**SECTION 7.03. SALE OF INDENTURE ESTATE.**

(a) The power to effect any Sale shall not be exhausted by any one or more Sales as to any portion of the Indenture Estate remaining unsold, but shall continue unimpaired until the entire Indenture Estate shall have been sold or all amounts payable on the Equipment Trust Certificates and under this Indenture shall have been paid. The Indenture Trustee may from time to time postpone any Sale by public announcement made at the time and place of such Sale. The Indenture Trustee hereby expressly waives its rights to any amount fixed by law as compensation for any Sale.

(b) The Indenture Trustee may bid for and acquire any portion of the Indenture Estate in connection with a Sale thereof, and may pay the purchase price by crediting upon the Equipment Trust Certificates and the appropriate Loan Certificates or other amounts secured by this Indenture the net proceeds of such Sale after deducting the costs, charges and expenses incurred by the Indenture Trustee in connection therewith. Neither the Equipment Trust Certificates nor the appropriate Loan Certificates need be produced in order to complete any such Sale, or in order to cause there to be credited on the Equipment Trust Certificates and the appropriate Loan Certificates their pro rata share of the net proceeds. The Indenture Trustee may deal with any property so acquired in any manner permitted by law.

(c) The Indenture Trustee shall execute and deliver an appropriate instrument of conveyance transferring its interest in any portion of the Indenture Estate in connection with a Sale thereof. In addition, the Indenture Trustee is hereby irrevocably appointed the agent and attorney-in-fact of each Owner Trustee to transfer and convey its interest in any portion of the Indenture Estate in connection with a Sale thereof. As such, the Indenture Trustee may take all action necessary to effect such Sale including, without limitation, executing and delivering, in the name and on the behalf of each appropriate Owner Trustee, bills of sale or other instruments of transfer, conveyance or assignment. Any Sale of the Loan Certificates issued by a particular Trust shall also constitute a Sale of the entire Trust Estate of such Trust which is subject to the lien of this Indenture (as such Trust Estate is constituted at the time of such Sale).

(d) Any provision of this Article VII to the contrary notwithstanding, there shall not be a Sale of the Loan Certificates or any thereof unless the Indenture Trustee shall have received an opinion of Special Counsel to the effect that:

(i) a registration statement covering such Sale has been filed with the Securities and Exchange Commission under the Securities Act of 1933, as amended, and has been made effective by order of said Commission, that a prospectus meeting the requirements of said Securities Act (a copy of which prospectus shall be attached to such opinion as an exhibit) is then available for delivery to any purchaser or transferee, that an indenture with respect to such Loan Certificates has been qualified under the Trust Indenture Act of 1939, as amended (or that such qualification is not necessary), that no stop order has been issued by said Commission suspending the effectiveness of such registration statement or of the application for qualification, if necessary, of an indenture and that to the best of such counsel's knowledge no proceedings for the issuance of such a stop order are threatened or contemplated, and that applicable provisions of the securities or blue sky laws of each state having jurisdiction over the proposed Sale have been complied with (it being understood and agreed that neither the Indenture Trustee nor any Owner Trustee is obligated to make any such registration or qualification); or

(ii) under existing law the contemplated Sale and delivery of such Loan Certificates is an exempted transaction under the Securities Act of 1933, as amended, and neither the registration of such Loan Certificates under said Securities Act nor the qualification of an indenture with respect thereto under the Trust Indenture Act of 1939, as amended, is required in connection with such transaction.

#### **SECTION 7.04. ACTION ON LOAN CERTIFICATES.**

(a) The Indenture Trustee may seek and recover judgment for all amounts due and payable on the Loan Certificates and under this Indenture either before, after or during the pendency of any other Proceedings or action to obtain relief under or with respect to this Indenture (including, without limitation, any Sale of any portion of the Indenture Estate or the Equipment). The Indenture Trustee's right to seek and recover any such judgment shall not be affected by the obtaining of any such other relief. The Indenture Trustee shall continue to be entitled to enforce payment of and to seek and recover judgment for any amounts remaining due and payable on the Loan Certificates and under this Indenture after the application of any proceeds of a Sale and after any other distribution of the Indenture Estate as provided in this Indenture.

**Sections 7.04, 7.05, 7.06**

(b) The Indenture Trustee shall not be entitled to recover from all sources more than all amounts due and payable on the Equipment Trust Certificates and under this Indenture. The Indenture Trustee shall be entitled to retain possession and control of all of the Indenture Estate notwithstanding the appointment of any receiver, trustee, liquidator or other similar official with respect to the respective Trusts or any Owner Trustee in its capacity as trustee under its Trust Agreement or in its individual capacity or otherwise or with respect to any portion of the Indenture Estate.

(c) Neither the lien of this Indenture nor any rights or remedies of the Indenture Trustee or the holders of the Equipment Trust Certificates hereunder shall be impaired in any way by the recovery of any judgment by the Indenture Trustee against the respective Trusts or by the levy of an execution under such judgment upon any portion of the Indenture Estate.

**SECTION 7.05. DISTRIBUTION OF INDENTURE ESTATE.**

(a) The Indenture Estate, when distributed from time to time, shall be applied by the Indenture Trustee as follows:

*First:* To the payment of all costs, expenses, liabilities and compensation of the Indenture Trustee (including fees and expenses of its agents and counsel) incurred or accrued in connection with any Proceedings brought by the Indenture Trustee or with the maintenance, Sale or other disposition of the Indenture Estate, including all taxes, assessments and other charges paid by the Indenture Trustee with respect thereto.

*Second:* To the repayment of all advances made under this Indenture by the Indenture Trustee, or by any holder or holders of the Equipment Trust Certificates, with interest at the lesser of 12% per annum or the highest rate permitted by applicable law.

*Third:* To the payment of all amounts then due and payable on the Equipment Trust Certificates (whether in respect of principal, interest or premium), ratably in accordance with the aggregate of such amounts due and payable on each Equipment Trust Certificate, without preference, priority or distinction as between any Equipment Trust Certificates or as between principal, interest or premium (to the extent that such payment is made from the proceeds of Sale of property constituting part of the Trust Estate of a particular Trust, the Indenture Trustee shall credit an equivalent amount to payment of amounts then due and payable on the Loan Certificates issued on behalf of such Trust).

*Fourth:* To the payment of all other sums due and payable under this Indenture or on the Equipment Trust Certificates.

*Fifth:* To the payment of any surplus to the appropriate Owner Trustees or any other person or persons legally entitled thereto.

(b) Each payment made pursuant to Section 7.05(a) *Third* shall be made upon the presentation of the Equipment Trust Certificate being paid against notation of the payment on such Equipment Trust Certificate in the case of partial payment or cancellation thereof in the case of payment in whole, as the case may be.

(c) Any provision of this Article VII to the contrary notwithstanding, all amounts paid or credited upon the Equipment Trust Certificates during the continuance of an Event of Default shall, unless such payment or credit results from a payment or credit upon specific Loan Certificates, be credited to the payment of all amounts then due and payable on the Loan Certificates (whether in respect of principal, interest or premium), ratably in accordance with the aggregate of such amounts due and payable on each Loan Certificate, without preference, priority or distinction as between any Loan Certificates or as between principal, interest or premium.

**SECTION 7.06. WAIVER OF VARIOUS RIGHTS BY THE OWNER TRUSTEES.**

(a) Each Owner Trustee hereby waives service of process and agrees to appear voluntarily in any Proceeding brought in the state or federal courts in the State of New York or the Commonwealth of

Kentucky under or in respect of this Indenture. Each Owner Trustee will consent to the entry of a judgment in any such Proceeding for all amounts due and payable on the Loan Certificates issued on behalf of such Owner Trustee's Trust and for such Trust's pro rata share of all amounts due and payable under this Indenture, and for any other relief to which the Indenture Trustee may be entitled. Each Owner Trustee will also consent to the appointment of one or more receivers of all or a portion of the Indenture Estate upon the request of the Indenture Trustee.

(b) Each Owner Trustee hereby waives and agrees that it will never seek or derive any benefit or advantage from any of the following, whether now existing or hereafter in effect:

- (i) any stay, extension, moratorium or other similar law;
- (ii) any law providing for the valuation or appraisal of any portion of the Indenture Estate in connection with a Sale thereof;
- (iii) any law allowing for the redemption of any portion of the Indenture Estate after a Sale thereof; and
- (iv) any right to have any portion of the Indenture Estate or other security for the Equipment Trust Certificates marshalled.

Each Owner Trustee covenants not to hinder, delay or impede the exercise of any right or remedy under or in respect of this Indenture, and agrees to suffer and permit its exercise as though no laws or rights of the character listed above were in effect.

(c) It is understood and agreed each Owner Trustee's waivers, consents and agreements contained in this Section 7.06 shall bind only such Owner Trustee's Trust and shall not apply to such Owner Trustee in its individual capacity.

#### **SECTION 7.07. PERSONS ENTITLED TO ENFORCE.**

(a) No holder of any Equipment Trust Certificate may institute any Proceedings to enforce any right or remedy under this Indenture unless and until:

- (i) an Event of Default is continuing and this Indenture shall have been declared in default pursuant to Section 7.02(a);
- (ii) the Requisite Holders shall have requested the Indenture Trustee to institute such Proceedings in the Indenture Trustee's name and as trustee of an express trust;
- (iii) the Indenture Trustee shall have been offered security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred in connection with such Proceedings; and
- (iv) the Indenture Trustee shall have neglected or refused to institute such Proceedings within 30 days after the foregoing three conditions shall have been met.

The foregoing matters are conditions precedent to the institution of such Proceedings by the holder of any Equipment Trust Certificate. The enforcement of any right or remedy by the holder of any Equipment Trust Certificate as permitted hereby shall be for the equal and ratable benefit of the holders of all of the Equipment Trust Certificates. Each holder of any Equipment Trust Certificate agrees, by its purchase or acceptance of such Equipment Trust Certificate, that it shall not have any right to affect, disturb or prejudice the rights and remedies of any other holder of Equipment Trust Certificates or to enforce any right or remedy *except* as provided in this Section 7.07.

(b) Each holder of any Equipment Trust Certificate, by its purchase or acceptance thereof, agrees and acknowledges that the Indenture Trustee is irrevocably appointed the agent and attorney-in-fact of the holders from time to time of the Equipment Trust Certificates, with authority to do and perform any and all acts as the Indenture Trustee may deem necessary or advisable for the allowance of any claim of the holder of any Equipment Trust Certificate against the respective Trusts or the Indenture Estate in any

**Sections 7.07, 7.08, 7.09, 7.10, 7.11**

Proceeding, including, without limitation, making and filing any proof of debt, amendment to proof of debt, petition or document, executing any other papers or documents, and receiving payment on account of such claim (*except* to the extent that such holder shall have filed an individual claim in such Proceeding on its own behalf). The Indenture Trustee may take any such action in the names and on behalf of the holders of the Equipment Trust Certificates, either respectively or as a class, and may do so whether or not there has been any default in the payment of any interest or principal on the Equipment Trust Certificates. Nothing in this Indenture, however, shall authorize the Indenture Trustee to accept or consent to any plan of reorganization on behalf of the holder of any Equipment Trust Certificate, or to waive or change in any way any right or remedy of the holder of any Equipment Trust Certificate, whether or not the Indenture Trustee may be entitled to do so under the present or future law.

(c) The Indenture Trustee may institute any Proceeding under or in respect of this Indenture without possessing or producing any Equipment Trust Certificate. The Indenture Trustee shall institute all such Proceedings in its name as trustee of an express trust, *except* as otherwise provided in Article VIII, without the necessity of joining any holder as a party.

**SECTION 7.08. WAIVER OF EVENTS OF DEFAULT.**

(a) The Indenture Trustee shall waive any Event of Default upon the request of the Requisite Holders, unless such waiver would be prohibited by Section 7.08(b).

(b) Without the consent of the Requisite Holders, the Indenture Trustee shall waive no Event of Default if another Event of Default is then continuing, unless such other Event of Default would not have existed but for an acceleration of the Equipment Trust Certificates or the Loan Certificates arising out of the Event of Default to be waived.

(c) Any acceleration declared or otherwise effectuated pursuant to Section 7.02 shall be deemed rescinded and annulled upon the waiver, as provided in this Section 7.08, of the Event of Default giving rise thereto. The Indenture Trustee and the holders of the Equipment Trust Certificates shall be restored to their former positions and rights under this Indenture upon the waiver of any Event of Default or upon the discontinuance or abandonment of any Proceeding under or in respect of this Indenture. No waiver shall extend to or affect any subsequent Default or Event of Default.

**SECTION 7.09. RIGHTS CUMULATIVE.**

All rights and remedies from time to time conferred upon or reserved to the Indenture Trustee and the holders of the Equipment Trust Certificates are cumulative, and none is intended to be exclusive of any other. The failure of the Indenture Trustee or the holder of any Equipment Trust Certificate to insist upon the strict observance or performance of any provision of this Indenture, or to exercise any right or remedy, shall not be construed as a waiver or relinquishment of such provision and shall not impair such right or remedy. Every right and remedy under or in respect of this Indenture may be exercised from time to time as often as may be deemed expedient.

**SECTION 7.10. INVOLVEMENT OF HOLDERS.**

The Indenture Trustee shall promptly notify the holders of the Equipment Trust Certificates as to the occurrence, curing and waiver of any Event of Default of which it has actual knowledge. The Requisite Holders shall have the right, by instruments delivered to the Indenture Trustee, to direct the time, method, manner and place of enforcing any right or remedy under or in respect of this Indenture, subject to the provisions of this Indenture with respect to indemnification. If the Indenture Trustee receives no such instrument, the Indenture Trustee may proceed as it sees fit.

**SECTION 7.11. APPLICABLE LAW.**

The rights, remedies and powers provided by this Article VII may be exercised only to the extent permitted by applicable law. All provisions of this Article VII are intended to be subject to applicable

mandatory provisions of law, and to be limited to the extent necessary so that they will not render this Indenture invalid or unenforceable.

**SECTION 7.12. OWNER TRUSTEES' OPTION TO PURCHASE EQUIPMENT TRUST CERTIFICATES.**

Each holder of an Equipment Trust Certificate, by its purchase or acceptance thereof, agrees that at any time after this Indenture has been declared in default pursuant to Section 7.02(a), upon receipt from any Owner Trustee or Owner Trustees of an amount equal to the aggregate unpaid principal amount of all Equipment Trust Certificates then held by such holder, together with accrued interest thereon to the date of payment, plus all other sums then due and payable to such holder hereunder, under the Participation Agreement, the Leases and such Equipment Trust Certificates, such holder will forthwith sell, assign, transfer and convey (without recourse or warranty of any kind) to such Owner Trustee, or ratably to such Owner Trustees in accordance with the amount paid by each, as the case may be, all of the right, title and interest of such holder in and to this Indenture, the Participation Agreement, the Leases and such Equipment Trust Certificates, and such Owner Trustee or Owner Trustees shall assume all of such holder's obligations under the Participation Agreement. If such Owner Trustee or Owner Trustees shall so request, such holder will comply with all the provisions of Section 1.03 to enable New Equipment Trust Certificates to be issued to such Owner Trustee or Owner Trustees in such authorized denominations as such Owner Trustee or Owner Trustees shall request. All charges and expenses required by Section 1.03 in connection with the issuance of any such New Equipment Trust Certificates shall be borne by such Owner Trustee or Owner Trustees.

**ARTICLE VIII  
THE INDENTURE TRUSTEE**

**SECTION 8.01. ACCEPTANCE OF TRUSTS; ACCOUNTABILITY OF INDENTURE TRUSTEE.**

(a) The Indenture Trustee accepts the trusts hereunder and agrees to perform its required duties in accordance with the provisions of this Indenture. The Indenture Trustee shall have the right, power and authority to do any and all things, not inconsistent with the express provisions of this Indenture, in order to enforce the provisions hereof, take any action with respect to an Event of Default or after this Indenture has been declared in default pursuant to Section 7.02(a), institute, appear in or defend any Proceeding, or protect the interests of the holders of the Equipment Trust Certificates. If no Event of Default shall be continuing, the Indenture Trustee shall be responsible for the performance of only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Indenture Trustee. If any Event of Default shall be continuing, the Indenture Trustee shall be responsible for exercising such of its rights and powers hereunder with such degree of skill and care as a prudent man would use or exercise under the circumstances in the conduct of his own affairs. The Indenture Trustee shall not be answerable or accountable under any circumstances, *except* for its own bad faith, wilful misconduct or gross negligence (*provided, however*, that the Indenture 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 Requisite Holders relating to the time, method and place of conducting any Proceeding for any remedy available to the Indenture Trustee, or any trust or power conferred upon the Indenture Trustee under this Indenture). The Indenture Trustee shall be under no obligation to take any action under or in respect of this Indenture or with respect to the Indenture Estate, whether on its own or another's motion, which, in its opinion, shall be likely to involve expense or liability, unless one or more of the holders of the Equipment Trust Certificates shall furnish indemnity, deemed reasonable by the Indenture Trustee, against liability and expense to the Indenture Trustee. The Indenture Trustee may become the holder or pledgee of Equipment Trust Certificates in any capacity, with the same rights which it would have if it were not the Indenture Trustee hereunder. The Indenture Trustee shall be secured hereunder prior to the Equipment Trust Certificates for its compensation and expenses referred to in Section 8.01(b), for its expenses referred to in Article IV and for the Lessee's indemnities provided for in Section 5 of the Participation Agreement and in the Leases. Any such compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust.

**Section 8.01**

(b) The Indenture Trustee shall be entitled to reimbursement for the expenses, disbursements and advances incurred or made by it as trustee hereunder (including the reasonable compensation and the expenses and disbursements of its counsel and agents). The Indenture Trustee shall also be entitled to compensation at the rates heretofore agreed with the Lessee for all services rendered by it hereunder in receiving and disbursing (as provided in Article V) moneys payable pursuant to the instruments included in the Indenture Estate, and to compensation at reasonable rates for any other services rendered or action taken by the Indenture Trustee hereunder including those in connection with an Event of Default or after this Indenture has been declared in default pursuant to Section 7.02(a).

(c) The Indenture Trustee shall incur no liability to anyone in acting upon any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, note or other document or paper believed by it to be genuine. In the administration of the trusts hereunder, the Indenture Trustee may act directly or through its agents or attorneys and shall not be responsible for the act or neglect of agents or attorneys appointed by it with due care. The Indenture Trustee may consult with counsel, appraisers, engineers, accountants and other skilled persons of its choosing, and shall not be liable for anything done, suffered or omitted in good faith in accordance with the advice of any of such persons.

(d) The recitals and statements in this Indenture and the instruments included in the Indenture Estate shall be taken as statements by the party or parties thereto (other than the Indenture Trustee), and shall not be considered as made by, or as imposing any obligation or liability upon, the Indenture Trustee. The Indenture Trustee shall not be held responsible for the value of the Indenture Estate or the title of any Owner Trustee therein or for the sufficiency, legality or validity of this Indenture, the Equipment Trust Certificates, any instrument included in the Indenture Estate or any instrument of further assurance. No representation or warranty respecting the rights or remedies of the holders of the Equipment Trust Certificates or any Owner Trustee's interest in, or the condition of, the Indenture Estate, or the sufficiency of the security for the Equipment Trust Certificates, is made or implied by the Indenture Trustee's execution and delivery of this Indenture, of any Equipment Trust Certificate or any of the other Operative Documents.

(e) Whenever in the administration of the trusts hereunder the Indenture Trustee shall deem it necessary or desirable that a matter be proved or established, such matter (unless other evidence in respect thereof shall be specifically prescribed herein) may be deemed to be conclusively proved and established by a certificate of a party to any instrument included in the Indenture Estate purporting to be signed by an Executive Officer of such party and delivered to the Indenture Trustee. Such certificate shall be full warrant to the Indenture Trustee for any action taken, suffered or omitted on the faith thereof, but in its discretion the Indenture Trustee may require and accept, in lieu thereof, such other evidence of such matter as it deems reasonable. In the absence of bad faith on its part, the Indenture Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates and opinions furnished to it and conforming to the requirements of this Indenture.

(f) The Indenture Trustee shall have no duty to see to or give notice with respect to any required filing, registration, recording, re-filing, reregistration or re-recording in respect of this Indenture or any instrument included in the Indenture Estate or to the payment of any fees, charges or taxes in connection therewith. In addition, the Indenture Trustee shall have no duty in respect of any tax or assessment or other governmental charge which may be levied or assessed on the Indenture Estate or any portion thereof or against any Owner Trustee. The Indenture Trustee shall be under no obligation to see to the payment or discharge of any lien on the Indenture Estate (other than the lien of this Indenture, and then only to the extent herein provided), or to see to the payment of any obligation secured thereby or the delivery to the Indenture Trustee of any property released from such lien.

(g) The Indenture Trustee shall have no duty to check, verify, analyze or compare any amortization schedule, or any financial or other statement or report, furnished pursuant hereto or pursuant to the Participation Agreement, or any instrument included in the Indenture Estate.

(h) The Indenture Trustee shall not be concerned with or accountable to anyone for the use or application of any property or the proceeds thereof released from the lien of this Indenture in accordance with any provision hereof.

(i) In accepting the trusts hereunder and the Indenture Estate, the Indenture Trustee acts solely as trustee hereunder and not in its individual capacity. All persons, other than the Owner Trustee and the holders of the Equipment Trust Certificates, having any claim against the Indenture Trustee arising by reason of the Indenture Estate or the trusts hereunder, shall look only to the Indenture Estate for payment or satisfaction.

(j) As promptly as possible, after obtaining knowledge of an Event of Default, the Indenture Trustee shall transmit by mail, notice of such Event of Default to the Lessee, the Lease Guarantor, each Owner Trustee and the holders of any Equipment Trust Certificates unless such Event of Default shall have been cured or waived. In the event that the Indenture Trustee shall have transmitted a notice of an Event of Default, and such Event of Default is subsequently cured or waived, the Indenture Trustee shall give notice to such effect to the Lessee, the Lease Guarantor, each Owner Trustee and the holders of the Equipment Trust Certificates. The Indenture Trustee shall not be required to ascertain or inquire as to anyone's observance or performance of any provision hereof or of any instrument included in the Indenture Estate. The Indenture Trustee shall not be deemed to have notice or knowledge of any Default or Event of Default hereunder or under any instrument included in the Indenture Estate (*except* default in the payment of moneys to the Indenture Trustee which are required by any provision hereof or of any instrument included in the Indenture Estate to be paid to the Indenture Trustee on or before a specified date or within a specified time after receipt by the Indenture Trustee of a notice or certificate which was in fact received, and default in the delivery of any certificate or opinion expressly required to be delivered to the Indenture Trustee by any provision hereof), unless the Indenture Trustee shall receive notice from the Lessee, any Owner Participant, any Owner Trustee or the holder of any Equipment Trust Certificate, specifying the same. In the absence of such notice the Indenture Trustee may conclusively assume that no such Default or Event of Default exists, *except* as aforesaid.

**SECTION 8.02. RESIGNATION OR REMOVAL.**

The Indenture Trustee may resign and be discharged of the trusts hereunder, by giving notice of such resignation to each Owner Trustee and the holders of the Equipment Trust Certificates, specifying the date (which shall be not less than 60 days after the date of mailing such notice) when such resignation shall take effect. Such resignation shall take effect on the date so specified unless previously a successor trustee shall have been appointed as provided in Section 8.03(a), in which event such resignation shall take effect upon the date the appointment is accepted by such successor and thereby becomes effective. The Indenture Trustee may be removed at any time by the Requisite Holders.

**SECTION 8.03. SUCCESSOR INDENTURE TRUSTEES.**

(a) If at any time the Indenture Trustee shall resign or be removed or otherwise become incapable of acting, or if the Indenture Trustee shall be taken under the control of any public officer or officers or of a receiver appointed by a court, then a successor or successors may be appointed by the Requisite Holders or, if the Requisite Holders have not so acted, by any Owner Trustee. Such Owner Trustee shall promptly notify the holders of the Equipment Trust Certificates and the other Owner Trustees of any such appointment made by it, and any new trustee so appointed by an Owner Trustee shall immediately and without further act be superseded by a trustee appointed by the Requisite Holders.

(b) Any successor to the Indenture Trustee shall execute, acknowledge and deliver to its predecessor and each Owner Trustee an instrument accepting such appointment hereunder, and thereupon such successor trustee, without any further act or instrument, shall become the Indenture Trustee and be vested with all the estates, properties, rights, remedies and trusts of its predecessor with like effect as if originally named as such trustee herein. Nevertheless, on the request of any Owner Trustee or the successor trustee, such predecessor shall execute and deliver an instrument transferring to such successor trustee, upon the trusts hereby created, all the estates, properties, rights, remedies and trusts of such predecessor and shall duly assign, transfer, deliver and pay over to the successor trustee any moneys and other property subject to the lien of this Indenture and held by such predecessor. Should any act or instrument from any Owner

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Trustee or the Indenture Trustee be required by any successor trustee for more fully and certainly vesting in and confirming to such successor trustee such estates, properties, rights, remedies and trusts, then on request any and all such acts and instruments shall, at the expense of the Lessee, be done, made, executed, acknowledged and delivered by each such Owner Trustee or the Indenture Trustee, as the case may be.

(c) Any successor to the Indenture Trustee, however constituted, shall be a bank or trust company organized and existing under the laws of the United States or any state thereof and having capital funds as of the date of appointment of such successor (as shown by its then most recent financial statement distributed to its shareholders) aggregating at least \$100,000,000.

(d) Any corporation into which the Indenture Trustee may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation or conversion to which the Indenture Trustee shall be a party, shall be the successor to the Indenture Trustee under this Indenture without the execution or filing of any paper or any further act on the part of any of the parties hereto, notwithstanding any contrary provision of this Indenture.

**SECTION 8.04. SEPARATE AND CO-TRUSTEES.**

(a) The Indenture Trustee and the Requisite Holders shall each have the power from time to time to appoint one or more persons to act either as co-trustees jointly with the Indenture Trustee, or as separate trustees, for the purpose of conforming to any legal requirement, restriction or condition in any jurisdiction in which any of the Indenture Estate is located. The separate trustees and co-trustees so appointed shall be trustees for the benefit of the holders of all the Equipment Trust Certificates and shall have such powers, rights and remedies as shall be specified in the instrument of appointment. Each Owner Trustee shall join in any such appointment upon the request of the Indenture Trustee or the Requisite Holders, but such joining shall not be necessary for the effectiveness of such appointment.

(b) Every separate trustee and co-trustee shall be appointed subject to the following provisions and conditions:

(i) its powers, rights and remedies shall be limited by applicable law and shall be exercised by the Indenture Trustee and such separate trustee or co-trustee jointly, except to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed the Indenture Trustee shall be incompetent or unqualified to perform such act or acts, in which event such powers, rights and remedies shall be exercised and performed by such separate trustee or co-trustee, but only with the consent of the Indenture Trustee;

(ii) the Indenture Trustee shall maintain custody of all money and securities; and

(iii) the Indenture Trustee or the Requisite Holders may at any time accept the resignation of or remove any separate trustee or co-trustee appointed under this Section 8.04.

(c) Any notice, request or other writing given to the Indenture Trustee shall be deemed to have been given to each of the then separate trustees and co-trustees, as effectively as if given to each of them. Every instrument appointing any separate trustee or co-trustee shall refer to this Indenture and the conditions of this Article VIII. Each separate trustee and co-trustee, upon its acceptance of the trusts conferred, shall be vested with the estates or property specified in its instrument of appointment, either jointly with the Indenture Trustee or separately, as may be provided therein, subject to all the provisions of this Indenture. Every such instrument shall be filed with the Indenture Trustee.

(d) Any separate trustee or co-trustee may, at any time, constitute the Indenture Trustee its agent or attorney-in-fact, with full power and authority, to the extent not prohibited by law, to do any lawful act under or in respect of this Indenture on its behalf and in its name. If any separate trustee or co-trustee shall die, become incapable of acting, resign or be removed, all of its estates, properties, rights, remedies and trusts shall vest in and be exercised by the Indenture Trustee, to the extent permitted by law, without the appointment of a new or successor trustee.

**SECTION 8.05. RESPONSIBILITY FOR OTHER TRUSTEES; INTEREST.**

(a) No trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder *except* to the extent required by law.

(b) Moneys held by the Indenture Trustee hereunder need not be segregated in any manner from any other moneys *except* to the extent required by law and *except* as otherwise provided in this Indenture. All such moneys may be deposited under such general conditions as may be prescribed by law in the general banking department of the Indenture Trustee, and the Indenture Trustee shall not be liable for any interest thereon other than interest which the Indenture Trustee agrees in writing to pay.

**SECTION 8.06. INDENTURE TRUSTEE NOT OBLIGATED TO ACT.**

No provision of this Indenture or any instrument included in the Indenture Estate shall be deemed to impose any duty or obligation on the Indenture Trustee to perform any act or exercise any right or remedy in any jurisdiction in which from time to time (i) it shall be illegal, (ii) the Indenture Trustee shall be unqualified or incompetent to perform such act or to exercise such right or remedy, or (iii) performance or exercise would constitute doing business by the Indenture Trustee in such jurisdiction and the Indenture Trustee is not qualified to do business therein. Instead, all such acts, rights and remedies shall be performed and exercised by a separate trustee or co-trustee appointed under Section 8.04.

**ARTICLE IX**

**SUPPLEMENTAL INDENTURES**

**SECTION 9.01. GENERAL.**

The Owner Trustees and the Indenture Trustee may enter into indentures supplemental hereto as provided in this Article IX. The Indenture Trustee may, in its discretion, decline to enter into any supplemental indenture if the Indenture Trustee's own rights, duties or immunities shall be adversely affected. Whenever the consent of the holder of any Equipment Trust Certificate shall be required for the execution of a supplemental indenture, it shall be sufficient if the substance of the supplemental indenture is consented to, not its particular form.

**SECTION 9.02. WITHOUT HOLDERS' CONSENT.**

Indentures supplemental hereto may be entered into without the consent of the holder of any Equipment Trust Certificate if contemplated by the Participation Agreement or for any of the following purposes:

- (a) to correct or amplify the description of any property subject or intended to be subject to the lien of this Indenture;
- (b) to add property to or release it from the Indenture Estate as permitted or required by this Indenture, or to Grant additional property to the Indenture Trustee;
- (c) to increase any Owner Trustee's obligations or duties owing to the Indenture Trustee, or to surrender any of any Owner Trustee's rights hereunder;
- (d) to cure any ambiguity, or to cure or correct any inconsistent, illegal or defective provision;
- (e) to add or modify any other provisions or agreements in this Indenture in any manner which will not adversely affect the interests of the holders of the Equipment Trust Certificates; and
- (f) to qualify this Indenture under the Trust Indenture Act of 1939, as amended, or any similar federal law, but not to include therein the provisions referred to in Section 316(a)(2) of said Act or any corresponding provision of any similar federal law.

**SECTION 9.03. CONSENT OF ALL HOLDERS.**

Without the consent of the Requisite Holders, no indenture supplemental hereto shall:

- (a) impair the right of the holder of any Equipment Trust Certificate to receive the payments and prepayments of principal, premium and interest on such Equipment Trust Certificate as now provided therein or herein;
- (b) permit the creation of any lien on the Indenture Estate equal or prior to the lien of this Indenture, or deprive the holder of any Equipment Trust Certificate of the benefit of a lien on the Indenture Estate, *except* that any indenture supplemental hereto which Grants additional property to the Indenture Trustee may Grant such property subject to Permitted Encumbrances;
- (c) reduce any of the percentages required as provided in the definition of Requisite Holders; or
- (d) amend or modify Section 7.01(b).

**SECTION 9.04. CONSENT OF LESS THAN ALL HOLDERS.**

*Except* as otherwise provided in Section 9.02 or 9.03, indentures supplemental hereto may be entered into for any purposes with the consent of the Requisite Holders.

**SECTION 9.05. EXCHANGE; LEGEND OR NOTATION; EFFECT.**

(a) The Indenture Trustee shall promptly send to each holder a conformed copy of each indenture supplemental hereto, but the failure to do so will not impair or affect its validity.

(b) Any Owner Trustee or the Indenture Trustee may require that the Equipment Trust Certificates bear a legend or other notation as to any matter provided for in any indenture supplemental hereto, or that New Equipment Trust Certificates be issued in exchange for the Equipment Trust Certificates, as provided in Section 1.03, but modified to conform to any modification effected by such supplemental indenture. Any such legending, notation or exchange shall be at the cost and expense of the Lessee, and all legends, notations and modifications shall be in form approved by the Indenture Trustee.

(c) The Indenture Trustee may require presentation of the Equipment Trust Certificates (on at least 30 days' notice) at the Corporate Trust Office for the purpose of stamping, typing or printing any such legend or notation thereon, or may send stickers bearing such legend or notation to the holders of the Equipment Trust Certificates. The holders of the Equipment Trust Certificates shall affix such stickers to the Equipment Trust Certificates held by them.

(d) Upon the execution of any indenture supplemental hereto this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every holder of Equipment Trust Certificates theretofore or thereafter issued and delivered hereunder shall be bound thereby.

**SECTION 9.06. CONSENTS IN WRITING; OPINION OF COUNSEL.**

(a) Any consent of the holders of Equipment Trust Certificates provided for in this Article IX shall be embodied in or evidenced by one or any number of concurrent instruments of substantially similar tenor and any such consent shall become effective when such instrument or instruments are delivered to the Indenture Trustee.

(b) In executing, or accepting the additional trusts created by, any indenture supplemental hereto permitted by this Article IX or the modifications thereby of the trusts created by this Indenture, the Indenture Trustee shall be entitled to receive and shall be fully protected in relying upon an opinion of counsel satisfactory in form and substance to the Indenture Trustee to the effect that, (i) any such

supplemental indenture will not materially or adversely impair the security of the Equipment Trust Certificates or the rights of the holders thereof in contravention of the provisions of this Indenture, (ii) the execution and delivery of such supplemental indenture is authorized or permitted by this Indenture and complies with the requirements of this Article IX, (iii) such supplemental indenture has been duly authorized, executed and delivered by each Owner Trustee, and (iv) it is proper for the Indenture Trustee to join in the execution of such supplemental indenture.

## ARTICLE X

### DISCHARGE OF INDENTURE; RELEASE OF AN OWNER TRUSTEE

#### SECTION 10.01. DEFEASANCE.

This Indenture and all agreements contained herein shall cease and terminate when all principal, interest, premium and other amounts payable on the Equipment Trust Certificates and all amounts payable under or in respect of this Indenture shall have been paid in full, whether at the maturity of the Equipment Trust Certificates, by acceleration, by prepayment or otherwise, or sufficient moneys are held by the Indenture Trustee for such purposes, and satisfactory provision has been made for paying all sums payable thereunder. Upon the termination of this Indenture, the Indenture Trustee shall execute and deliver, at the cost and expense of the Lessee, and upon delivery to the Indenture Trustee of a certificate signed by an Executive Officer of each Owner Trustee and an opinion of counsel to the Owner Trustees that all conditions precedent contained herein to the satisfaction and discharge of this Indenture have been complied with, such instruments as shall be reasonably requested by any Owner Trustee to satisfy and discharge the lien of this Indenture. The Indenture Trustee shall then cancel the Loan Certificates and transfer to the appropriate Owner Trustees or any other person or persons entitled thereto the property held in the Indenture Estate, other than money unclaimed by the holders entitled thereto.

#### SECTION 10.02. DISPOSITION OF UNCLAIMED FUNDS.

The Indenture Trustee shall hold in trust all money remaining in its control and unclaimed by the holders entitled thereto for a period of six years after the discharge of this Indenture. At the expiration of such six-year period such trust shall automatically cease and terminate, and any money remaining in the possession of the Indenture Trustee and still unclaimed by the holders entitled thereto shall be paid to or upon the order of the appropriate Owner Trustees. Such holders shall thereafter look only to such Owner Trustees for payment.

#### SECTION 10.03. NOTICE OF DISCHARGE.

Upon the complete satisfaction and discharge of this Indenture, the Indenture Trustee shall give notice thereof to each Owner Trustee, the Lessee and the Lease Guarantor.

#### SECTION 10.04. RELEASE OF AN OWNER TRUSTEE.

In the event that (i) all the Loan Certificates issued by an Owner Trustee of a particular Trust shall be paid in full, (ii) no Item of Equipment of such Owner Trustee shall be subject to the lien of this Indenture, and (iii) no Event of Default shall be continuing, then such Owner Trustee shall be released from this Indenture and all of its agreements contained herein, and the lien of this Indenture on any remaining property of such Owner Trustee shall be discharged. Upon the release of an Owner Trustee of a particular Trust from this Indenture, the Indenture Trustee shall execute and deliver, at the cost and expense of the Lessee, and upon delivery to the Indenture Trustee of a certificate signed by an Executive Officer of such Owner Trustee and an opinion of counsel to such Owner Trustee that all conditions precedent contained herein to the release of such Owner Trustee have been complied with, such instruments as shall be reasonably requested by such Owner Trustee to evidence such release and discharge.

**ARTICLE XI  
ESCROW ACCOUNT**

**SECTION 11.01. INVESTMENT OF MONEYS IN ESCROW ACCOUNT; MAINTENANCE.**

(a) Any moneys held by the Indenture Trustee as part of the Escrow Account shall from time to time, at the request of the Lessee, so long as no Event of Default is continuing, be invested or reinvested by the Indenture Trustee according to directions of the Lessee included in such request in any one or more of the following: (i) any bond or other obligation, or any repurchase agreement (including repurchase agreements of The Chase Manhattan Bank (National Association)) in respect thereof, which as to principal and interest constitutes a direct obligation of the United States of America, the Federal National Mortgage Association, the Federal Intermediate Credit Corporation, Federal Home Loan Banks, Banks for Cooperatives or Federal Land Banks; (ii) any obligation which constitutes a security exempted from the provisions of the Securities Act of 1933, as amended, by paragraph (3) of subsection 3(a) thereof, *provided* that such obligation shall be acquired by purchase in the open market, and *provided further* that, at the date of purchase, such obligation shall be rated prime by a nationally recognized credit agency and such obligation shall not be in default; (iii) any obligation, including obligations of The Chase Manhattan Bank (National Association), which constitutes a security exempted from the provisions of the Securities Act of 1933, as amended, by paragraph (2) of subsection 3(a) thereof, *provided* that, *except* with respect to certificates of deposit, such obligation shall be acquired by purchase in the open market, and *provided further* that, at the date of purchase, such obligation shall be rated prime by a nationally recognized credit agency and such obligation shall not be in default; and (iv) any bond or other debt obligation which is a direct obligation of or obligation guaranteed as to principal or interest by a state or any political subdivision thereof or any agency or instrumentality of a state or any political subdivision thereof or any municipal corporate instrumentality of one or more states, the interest on which is excludable from gross income for federal income tax purposes, *provided* that such obligation shall be acquired by purchase on the open market, and *provided further* that, at the date of purchase, such obligation shall be rated prime by a nationally recognized credit agency and such obligation shall not be in default. No such bond, security or obligation shall mature later than April 13, 1979, or if Lessee has given the Indenture Trustee written notice that it expects the Escrow Account Termination Date to be a specified Payment Date earlier than April 15, 1979, no such bond, security or obligation thereafter acquired shall mature later than 2 days prior to such earlier specified Payment Date. All such bonds, securities and obligations and all income from, or other earnings on the principal of the Escrow Account shall be held by the Indenture Trustee as part of the Escrow Account. Upon a like request of the Lessee or at any time when the Indenture Trustee shall determine that money is required in the Escrow Account for any purpose of this Indenture, the Indenture Trustee, by telephone confirmed by an instrument addressed to the Lessee, shall offer to sell to the Lessee all or any designated part of such bonds, securities or obligations, at a price in lawful money of the United States equal to the amount invested (inclusive of commissions) in the bonds, securities or obligations so offered for sale by the Indenture Trustee, plus interest accrued but unpaid thereon to the date of sale by the Indenture Trustee, and the Lessee, within 2 days from the date on which it shall receive said telephonic advice, shall purchase from the Indenture Trustee at said price the bonds, securities or obligations so offered, regardless of the validity or form of transfer or market value thereof at the time of purchase; *provided*, that if the Lessee shall not make any such purchase within the time permitted or if the Lessee shall request the Indenture Trustee so to do, the Indenture Trustee may, at its option, sell any or all of the bonds, securities or obligations so offered to the Lessee. The Lessee shall not be excused from any default in respect of its obligations under this Article XI (agreed to by the Lessee in the Participation Agreement) or under the Lease nor shall the Indenture Trustee be in any way held liable, by reason of the inability of the Indenture Trustee to make payments from the Escrow Account pursuant to any provision of this Indenture because of any insufficiency of the Escrow Account resulting from any loss of investment, by sale on the open market or otherwise, in any such bond, security or obligation, invested in or reinvested in by the Indenture Trustee at the request of the Lessee as herein provided.

(b) The Indenture Trustee, by an instrument addressed to the Lessee, shall from time to time request the Lessee to pay to the Indenture Trustee an amount equal to any realized loss of investment, whether

realized by sale on the open market or otherwise, in any bond, security or obligation invested in or reinvested in by the Indenture Trustee at the request of the Lessee as provided in Section 11.01(a); and the Lessee shall promptly pay to the Indenture Trustee any amounts so requested. Any moneys paid to the Indenture Trustee pursuant to this Section 11.01(b) shall be held by the Indenture Trustee as part of the Escrow Account.

(c) For the purpose of determining whether any investment or reinvestment which the Lessee directs the Indenture Trustee to make is permitted by Section 11.01(a), the Indenture Trustee shall be entitled but shall not be required to receive and may conclusively rely on an opinion of counsel to the effect that the bond, security or other obligation is of the character permitted by clauses (i) through (iv) of Section 11.01(a) and the Indenture Trustee shall incur no liability to anyone for making any such investment or reinvestment in reliance on such an opinion of counsel.

**SECTION 11.02. WITHDRAWAL FROM ESCROW ACCOUNT I UPON APPLICATION OF OWNER TRUSTEE.**

On each Escrow Account Closing Date the Indenture Trustee shall withdraw moneys from the principal of Escrow Account I in an amount equal to the aggregate principal amount of the Loan Certificates accompanying the Application delivered to the Indenture Trustee on such Closing Date pursuant to Section 11.02(a), and shall pay the same to the Owner Trustee of the Trust scheduled to participate on such Closing Date pursuant to the Participation Agreement, but only if prior to or concurrently with any such withdrawal the Indenture Trustee shall have received a certificate of the Lessee and the Lease Guarantor, respectively, stating that the conditions required by Section 3 of the Participation Agreement to be satisfied on or prior to such Closing Date shall have been satisfied or waived by the Loan Participant and the Trust Participants of such Trust and the Indenture Trustee shall have received the following:

(a) an Application of such Owner Trustee, dated as of the date of such withdrawal and signed by an Executive Officer thereof, requesting the withdrawal from the principal of Escrow Account I of money in a stated amount (which amount shall not exceed the principal of Escrow Account I) equal to the aggregate principal amount of the Loan Certificates issued on behalf of such Trust and then being delivered to the Indenture Trustee pursuant to Section 11.02(b); and

(b) the Loan Certificates issued on behalf of such Trust on such Closing Date as provided in Section 2(f) of the Participation Agreement.

**SECTION 11.03. WITHDRAWAL OF ESCROW ACCOUNT INCOME.**

The Indenture Trustee shall withdraw moneys from the income from, or other earnings on, the principal of the Escrow Account and apply the same as provided in Section 5.04(a)(i) or 5.04(b). The Indenture Trustee's determination, as of any particular time, as to the portion of the Escrow Account then constituting the principal thereof, and as to the portion of the Escrow Account then constituting income from, or other earnings on, the principal thereof, and as to the respective amounts thereof attributable to Escrow Account I and Escrow Account II, respectively, shall be conclusive.

**SECTION 11.04. WITHDRAWAL OF ESCROW ACCOUNT PRINCIPAL ON ESCROW ACCOUNT TERMINATION DATE.**

The entire principal remaining in the Escrow Account on the Escrow Account Termination Date shall be withdrawn from the Escrow Account and applied by the Indenture Trustee as provided in Section 5.04(a)(ii).

**ARTICLE XII  
MISCELLANEOUS**

**SECTION 12.01. PAYMENTS FROM INDENTURE ESTATE ONLY.**

All payments to be made by the Indenture Trustee under and pursuant to the Equipment Trust Certificates and this Indenture shall be made only from the income and the proceeds from the Indenture

Estate and only to the extent that the Indenture Trustee shall have received sufficient income or proceeds from the Indenture Estate to make such payments in accordance with the terms of Article V. Each holder of an Equipment Trust Certificate, by its acceptance of such Equipment Trust Certificate, agrees that, as to the Indenture Trustee, it will look solely to the income and proceeds from the Indenture Estate to the extent available for distribution to such holder as herein provided and that the Indenture Trustee is not liable in its individual capacity to the holder of any Equipment Trust Certificate for any amounts payable on such Equipment Trust Certificate or under this Indenture or, *except* as provided herein, for any liability under this Indenture.

**SECTION 12.02. BENEFIT OF THIS INDENTURE.**

This Indenture is for the exclusive benefit of the Indenture Trustee, the holders of the Equipment Trust Certificates and, to the extent expressly provided herein, each Owner Trustee, each Owner Participant, the Lessee and the Lease Guarantor. Nothing in this Indenture shall be construed to give any other person any right, remedy or claim under or in respect of any provision hereof.

**SECTION 12.03. PROOF OF INSTRUMENTS.**

Any instrument or other communication delivered under or in respect of this Indenture shall be in writing and shall be signed by the person giving the same or by his duly appointed attorney. The fact and date of the execution by any person of any such instrument or of a writing appointing any such agent may be proved conclusively in favor of the Indenture Trustee for any purpose of this Indenture by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the person signing such instrument or writing acknowledged to him the execution thereof.

**SECTION 12.04. NOTICES.**

All notices, requests and demands under this Indenture shall be in writing and shall be deemed to have been given when delivered, or when mailed by first class registered or certified mail, postage prepaid, and addressed, in each case as follows: (i) if to the Indenture Trustee, at the Corporate Trust Office, Attention: Corporate Trust Administration Division, (ii) if to any Owner Trustee, at its address set forth above, Attention: Corporate Trust Department, (iii) if to the Lessee, at 1100 Superior Avenue, Cleveland, Ohio 44114, Attention: Secretary, (iv) if to the Lease Guarantor, at 336 Fayetteville Street, Raleigh, North Carolina 27602, Attention: Treasurer, (v) if to any Owner Participant, at 399 Park Avenue, New York, New York 10022, in care of First National City Bank, Attention: Merchant Banking Group, Specialized Leasing Department, or (vi) if to the holder of any Equipment Trust Certificate, at its address for notices specified in the Register. Any of the foregoing persons may change its address for notice hereunder by giving notice of such change to the Lessee, the Lease Guarantor, the holders of the Equipment Trust Certificates and all parties hereto. Any notice required to be given under this Indenture may be waived in writing by the person entitled to receive it, either before or after the time when such notice was required to have been given.

**SECTION 12.05. POWERS AND AGENCIES.**

Whenever in this Indenture the Indenture Trustee is granted a power of attorney or is appointed the agent and attorney-in-fact with respect to any person, such grant or appointment is irrevocable and coupled with an interest. The Indenture Trustee shall have full power of substitution and delegation in respect of all such grants and appointments.

**SECTION 12.06. LIABILITY OF OWNER TRUSTEES.**

*Except* to the extent expressly stated herein, each Owner Trustee acts hereunder solely as trustee under its Trust Agreement and not in its individual capacity. All persons, other than the Indenture Trustee and

the holders of the Equipment Trust Certificates (and the Owner Participants, to the extent provided in the Trust Agreements) having any claim against any Owner Trustee by reason of the transactions contemplated hereby shall, subject to the lien and priorities of payment as provided herein, and *except* as provided in Section 3.03(b), look only to the Indenture Estate for payment or satisfaction thereof. No Owner Trustee shall be answerable or accountable in its individual capacity under any circumstances *except* for its own gross negligence or wilful misconduct and *except* to the extent expressly stated herein. In no case whatsoever shall any Owner Participant be personally liable on or for any loss in respect of any of the representations, warranties, agreements or obligations of any Owner Trustee hereunder or under any Loan Certificates.

**SECTION 12.07. SEPARABILITY.**

No provision of this Indenture or the Equipment Trust Certificates or the Loan Certificates shall require the payment or permit the collection of interest in excess of the maximum permitted by applicable law, any contrary provision in this Indenture or the Equipment Trust Certificates or the Loan Certificates notwithstanding. If any provision of this Indenture or the Equipment Trust Certificates or the Loan Certificates or its application shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of all other provisions and applications hereof and thereof shall not in any way be affected or impaired.

**SECTION 12.08. BINDING EFFECT.**

All provisions of this Indenture shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto. Any action by the holder of any Equipment Trust Certificate shall bind every future holder of the same Equipment Trust Certificate and of New Equipment Trust Certificates issued in respect thereof.

**SECTION 12.09. APPLICABLE LAW.**

This Indenture, the Equipment Trust Certificates and the Loan Certificates shall in all respects be governed by, and construed and enforced in accordance with, the laws of the State of New York, including all matters of construction, validity and performance.

**SECTION 12.10. COUNTERPART EXECUTION; CONSTRUCTION.**

The table of contents and section and article headings herein are for convenience of reference only, and shall not limit or otherwise affect the meaning hereof. This Indenture may be executed in several counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument.

**SECTION 12.11. PAYMENTS TO BE MADE ON BUSINESS DAYS.**

Any payment if stated to be due hereunder or on any Equipment Trust Certificate or Loan Certificate on a day which is not a Business Day, shall be payable on the Business Day next preceding such day.

**ARTICLE XIII  
DEFINED TERMS**

When used in this Indenture, each term defined in this Article XIII shall have the meaning indicated:

“After-Acquired Property”—all alterations, modifications, repairs and betterments, of, and additions to, any Item of Equipment, including replacement Parts, hereafter installed by the Lessee and acquired by any Owner Trustee pursuant to its Lease, any and all moneys and other property (including each amendment or supplement to any and all instruments included in the Indenture Estate) which may from time to time, by delivery to the Indenture Trustee or by any instrument, including this Indenture, be subjected to the lien hereof by any Owner Trustee or anyone on the behalf or with the consent of any Owner Trustee, or which may come into the possession or be subject to the control of the Indenture Trustee pursuant to this Indenture, or pursuant to any instrument included in the Indenture Estate.

“Applicable Premium” means the premium, expressed as a percentage of the principal amount of Equipment Trust Certificates or Loan Certificates, as the case may be, to be prepaid with premium pursuant to this Indenture, which is set forth below opposite the period during which such prepayment is made, if applicable:

(i) if the Interim Equipment Trust Certificates are to be prepaid pursuant to Section 5.04(a)(ii), the Applicable Premium shall be 10¾%.

(ii) if Equipment Trust Certificates or Loan Certificates, as the case may be, are to be prepaid pursuant to Section 5.02(i)(B) or 5.02(ii) because of an Early Termination, or pursuant to Section 6.04 at the option of the Lessee, the Applicable Premium shall be as follows:

Annual Period Commencing January 1 in the Year	Applicable Premium	Annual Period Commencing January 1 in the Year	Applicable Premium
1978 and prior thereto.....	10.75%	1990.....	4.89%
1979.....	10.27%	1991.....	4.40%
1980.....	9.78%	1992.....	3.91%
1981.....	9.29%	1993.....	3.43%
1982.....	8.80%	1994.....	2.94%
1983.....	8.31%	1995.....	2.45%
1984.....	7.82%	1996.....	1.96%
1985.....	7.33%	1997.....	1.47%
1986.....	6.85%	1998.....	.98%
1987.....	6.36%	1999.....	.49%
1988.....	5.87%	2000 and thereafter.....	.00%
1989.....	5.38%		

“Application”—an instrument signed by an Executive Officer requesting the Indenture Trustee to take an action under a Section of this Indenture specified in such instrument, and shall consist of, and not be deemed to be made or complete until the Indenture Trustee shall have been furnished with, such funds, instruments, certificates and opinions as may be required by such Section to establish the right of the person making such Application to have such action taken by the Indenture Trustee.

“Available Earnings”—as defined in the Interest Guaranty.

“Basic Rent”—as defined in the Leases.

“Business Day”—as defined in the Leases.

“Capitalized Cost”—as defined in the Leases.

“Closing Date”—as defined in the Participation Agreement.

“Corporate Trust Office”—the office of the Indenture Trustee located at 1 Chase Manhattan Plaza, New York, New York 10015, or at such other address as the Indenture Trustee may designate from time to time by notice to the holders of the Equipment Trust Certificates, each Owner Participant, each Owner Trustee, the Lessee and the Lease Guarantor.

“date of delivery of this Indenture”—October 30, 1975.

“Default”—any act or occurrence which, with notice or lapse of time, or both, would constitute an Event of Default under this Indenture.

“Definitive Equipment Trust Certificates”—the 10¼% Equipment Trust Certificates, Series A, B, C and D issued by the Indenture Trustee and unless the context otherwise specifies or requires, outstanding under this Indenture, to be issued in exchange for the Interim Equipment Trust Certificates on the Escrow Account Termination Date.

“Early Termination”—with respect to any Item, a termination of the Lease with respect to such Item pursuant to Section 14 of the Lease of such Item.

“Easement Agreement”—the Easement Agreement of even date herewith, recorded on \_\_\_\_\_, 1975 in Deed Book \_\_\_\_\_, Page \_\_\_\_\_ of the Pike County Court Clerk’s Office, Pikeville, Kentucky, between the Lessee, each Owner Trustee and the Indenture Trustee, as the same may be amended or supplemented from time to time as permitted thereby and by this Indenture, granting an easement with respect to the real property described in Exhibit A to this Indenture.

“Encumbered Proceeds”—as defined in Section 5.03 of this Indenture.

“Equipment”—all of the Items, collectively.

“Escrow Account”—the fund held by the Indenture Trustee pursuant to Article XI, from time to time consisting of any or all of the following: (i) moneys deposited with or paid to the Indenture Trustee from time to time which are to be held in Escrow Account I or Escrow Account II, as the case may be; (ii) bonds, securities and obligations, invested in and reinvested pursuant to Section 11.01; and (iii) the proceeds of sale of, and any interest received on, such bonds, securities and obligations.

“Escrow Account I”—a separate fund constituting part of the Escrow Account, the principal of which shall be at any particular time on or prior to the Escrow Account Termination Date an amount equal to the then aggregate proceeds from the sale of the Interim Equipment Trust Certificates less the aggregate amount theretofore withdrawn from Escrow Account I and applied by the Indenture Trustee to purchase Loan Certificates.

“Escrow Account II”—a separate fund constituting part of the Escrow Account, the principal of which shall be at any particular time on or prior to the Escrow Account Termination Date an amount equal to the then aggregate principal payments and prepayments credited upon Loan Certificates pursuant to Sections 5.01(a)(i) and 5.02(i)(A).

“Escrow Account Closing Date”—as defined in the Participation Agreement.

“Escrow Account Termination Date”—April 15, 1979 or the Payment Date next following the final Escrow Account Closing Date (determined in accordance with the Participation Agreement), whichever shall first occur; *provided, however*, that if the Equipment Trust Certificates are prepaid pursuant to Section 5.02(i)(B), the date of such prepayment shall be deemed to be the Escrow Account Termination Date and, for the purposes of determining the amount of the Applicable Premium, if any, pursuant to Section 5.04(a)(ii), the prepayment pursuant to Section 5.02(i)(B) shall be deemed to be a separate and distinct prepayment occurring immediately prior to any prepayment pursuant to Section 5.04(a)(ii).

“Equipment Trust Certificates”—prior to the Escrow Account Termination Date, the Interim Equipment Trust Certificates, and thereafter the Definitive Equipment Trust Certificates.

“Event of Default”—any occurrence or act designated an Event of Default in Section 7.01.

“Event of Loss”—as defined in the Leases.

“Excepted Payments”—as defined in the Lease Assignments.

"Executive Officer"—with respect to any corporation, the Chairman of the Board of Directors, the President, any Vice President, the Secretary or any Assistant Secretary, or the Treasurer or any Assistant Treasurer of such corporation; with respect to any partnership, any general partner thereof; and with respect to any bank or trust company acting as trustee of an express trust, the term also includes any trust officer thereof.

"Grant"—to grant, bargain, sell, warrant, alien, demise, release, convey, assign, transfer, mortgage, pledge, deposit, set over, confirm and create a security interest. A Grant relating to any Lease or any other document shall include, unless specifically excluded in the instrument of Grant or in Section 4.04(b), all rights, powers and options (but none of the obligations) of the Granting party thereunder, including without limitation, the immediate and continuing right to claim for, collect, receive and receipt for rents, insurance proceeds, condemnation awards, purchase prices and all other moneys payable thereunder, to give and receive notices and other communications, to make waivers or other agreements, to exercise all rights and options, to bring Proceedings in the name of the Granting party or otherwise, and generally to do anything which the Granting party is or may be entitled to do thereunder or with respect thereto.

"holder"—with respect to any Equipment Trust Certificate, the person whose name appears on the Register as the registered holder of such Equipment Trust Certificate, *provided* that until an Equipment Trust Certificate has been registered in the Register the holder thereof shall be deemed to be the person in whose name such Equipment Trust Certificate has been issued; and with respect to any Loan Certificate, the Indenture Trustee.

"Immediately Available Funds"—as defined in the Leases.

"Indenture"—as defined in the initial paragraph of this Indenture.

"Indenture Estate"—all money, instruments and other property subject or intended to be subject to the lien of this Indenture as of any particular time (including, without limitation, all property and interests Granted in the Granting Clauses of this Indenture), and all estate, right, title and interest of the Indenture Trustee in, to and under the Operative Documents and all money and property received by the Indenture Trustee pursuant thereto. The term "instruments included in the Indenture Estate" shall include instruments in which only certain interests are actually included in the Indenture Estate.

"Indenture Trustee"—as defined in the initial paragraph of this Indenture.

"Instalment Payments"—the amounts described as Instalment Payments in Schedule I, II or III hereto.

"Instruments of Transfer and Acceptance"—as defined in the Leases.

"Interest Guaranty"—the Guaranty and Agreement of even date herewith, among the Lessee, the Indenture Trustee and the Loan Participant, as the same may be amended or supplemented from time to time as permitted thereby and by this Indenture.

"Interim Equipment Trust Certificates"—the 10¾% Interim Equipment Trust Certificates issued by the Indenture Trustee and, unless the context otherwise specifies or requires, outstanding under this Indenture, to be exchanged for Definitive Equipment Trust Certificates on the Escrow Account Termination Date.

"Item" or "Item of Equipment"—each separate item of equipment referred to in Granting Clause First.

"Lease"—each Lease Agreement of even date herewith, between an Owner Trustee as lessor and the Lessee as lessee, as the same may be amended or supplemented from time to time by each Lease Supplement No. 1 and as permitted thereby and by the Lease Assignment of such Lease and this Indenture, collectively the "Leases".

"Lease Assignment"—each Assignment of Lease and Agreement, among an Owner Trustee as assignor, the Lessee and the Indenture Trustee as assignee, as the same may be amended or supplemented from time to time as permitted thereby and by this Indenture, collectively, the "Lease Assignments".

“Lease Guarantor”—Carolina Power & Light Company, a North Carolina corporation, together with any corporation succeeding thereto by merger, consolidation or acquisition of all or substantially all of its assets.

“Lease Guaranty”—the Lease Guaranty and Completion Agreement of even date herewith, among the Lease Guarantor, each Owner Trustee and the Indenture Trustee, as the same may be amended or supplemented from time to time as permitted thereby and by this Indenture.

“Lease Supplement No. 1”—as defined in the Leases.

“Lessee”—Leslie Coal Mining Company, a Delaware corporation, together with any corporation succeeding thereto by merger, consolidation, or acquisition of all or substantially all of its assets and its permitted successors and assigns.

“Lessor’s Liens”—as defined in the Lease of the particular Owner Trustee.

“Lien”—as defined in the Leases.

“lien of this Indenture”—the lien, security interest or other interest or charge Granted to the Indenture Trustee by this Indenture (including the after-acquired property clauses hereof) or pursuant hereto (whether made by any Owner Trustee, any Owner Participant or any other person) or otherwise created, effectively constituting any property a part of the security held by the Indenture Trustee for the benefit of the holders of the Equipment Trust Certificates.

“Loan Certificates”—the 10¾% Class A, B, C or D Loan Certificates issued by the respective Owner Trustees and, unless the context otherwise specifies or requires, outstanding under this Indenture.

“Loan Closing Date”—as defined in the Participation Agreement.

“Loan Participant”—John Hancock Mutual Life Insurance Company.

“Net Amount”—as defined in the Interest Guaranty.

“New Equipment Trust Certificates”—as defined in Section 2.03(a) of this Indenture.

“Old Equipment Trust Certificates”—as defined in Section 2.03(a) of this Indenture.

“Operative Documents”—as defined in the Participation Agreement.

“Original Term”—as defined in the Leases.

“Owner Participant” or “Owner Participants”—as defined in the Participation Agreement.

“Owner Trustee” or “Owner Trustees”—as defined in the initial paragraph of this Indenture.

“outstanding”—with respect to Equipment Trust Certificates as of any particular time, all Equipment Trust Certificates *except*

(i) Equipment Trust Certificates previously cancelled by the Indenture Trustee or surrendered to the Indenture Trustee for cancellation;

(ii) Equipment Trust Certificates previously paid in full or Equipment Trust Certificates required to be prepaid in whole within 30 days thereafter, provided that, in the case of Equipment Trust Certificates to be prepaid, moneys sufficient for such prepayment shall have been deposited with the Indenture Trustee in accordance with the provisions of this Indenture and notice of such prepayment shall have been given or provision therefor satisfactory to the Indenture Trustee shall have been made; and

(iii) Equipment Trust Certificates for which New Equipment Trust Certificates shall have been issued pursuant to Section 1.03;

and *except also* that for the purpose of determining whether the holders of the requisite unpaid principal amount of Equipment Trust Certificates have made or concurred in any notice, request, demand, direction, consent, approval, order, waiver, acceptance, appointment or other instrument or

communication under or pursuant to this Indenture, Equipment Trust Certificates registered in the name of, or owned beneficially by, any Owner Trustee, any Owner Participant, the Lessee or the Lease Guarantor, or any affiliate thereof, shall be deemed not to be outstanding.

“outstanding”—with respect to Loan Certificates as of any particular time, all Loan Certificates *except*

(i) Loan Certificates previously cancelled by an Owner Trustee or surrendered to an Owner Trustee for cancellation; and

(ii) Loan Certificates previously paid in full or Loan Certificates required to be prepaid in whole within 30 days thereafter, provided that, in the case of Loan Certificates to be prepaid, moneys sufficient for such prepayment shall have been deposited with the Indenture Trustee in accordance with the provisions of this Indenture.

“Participation Agreement”—the Participation Agreement of even date herewith, among the Lessee, Citicorp Lescaman, Inc., each Owner Trustee, the Indenture Trustee and the Loan Participant, as the same may be amended or supplemented from time to time as permitted thereby.

“Parts”—as defined in each Lease.

“Payment Date”—January 15, April 15, July 15 and October 15 of each year, commencing with the first such date after the issuance of the first Interim Equipment Trust Certificate and continuing until the Equipment Trust Certificates have been paid in full.

“Permitted Encumbrances”—with respect to any property, but only to the extent applicable to such property, Liens of the character permitted by the Leases with respect to the Equipment except for Lessor’s Liens (as defined in the Leases).

“person”—any individual, partnership, corporation, trust, unincorporated association or joint venture, a government or any department or agency thereof, or any other entity.

“Premium Payment”—as defined in the Interest Guaranty.

“Prepayment Amount”—with respect to a particular Loan Certificate to be prepaid on a particular Payment Date, an aggregate amount determined by multiplying (i) the percentage of Capitalized Cost used in determining the principal amount of such Loan Certificate pursuant to Section 2(f) of the Participation Agreement, by (ii) the aggregate Capitalized Costs of all Affected Items, by (iii) the percentage set forth opposite the number of the Payment Date on which such prepayment will occur (such number being the number of Payment Dates which have elapsed since the date such Loan Certificate was issued) on the Schedule to this Indenture which bears the same letter as the class of such Loan Certificate. The term “Affected Items” shall mean each Item with respect to which occurred the Event of Loss or Early Termination which occasioned the particular prepayment.

“Proceeding”—any suit in equity, action at law or other judicial, administrative or arbitration proceeding.

“Project”—as defined in the Participation Agreement.

“Register”—as defined in Section 1.05 of this Indenture.

“Requisite Holders”—the holders of not less than a particular percentage of the unpaid principal amount of the Equipment Trust Certificates then outstanding, which percentage shall be (i) 40% in the case of Sections 3.06, 7.02(a), 7.07(a)(ii) and 8.04, (ii) 51% in the case of Sections 4.01, 4.03, 4.04(c), 7.10, 8.02 and 8.03, (iii) 66⅔% in the case of Sections 4.04(a)(i), 7.08(a), 9.04 and the definition of Special Counsel, and (iv) 100% in the case of Sections 4.04(a)(ii), 4.04(b), 7.08(b) and 9.03.

“Sale”—a sale of any portion of the Indenture Estate pursuant to Section 7.02(a)(iii) or (iv).

“Special Counsel”—special counsel for the Loan Participant named in the Participation Agreement or any other counsel acceptable to the Requisite Holders.

“Stipulated Loss Value”—with respect to any Item, as defined in the Lease thereof.

“Supplemental Rent”—as defined in each Lease.

“Termination Value”—with respect to any Item, as defined in the Lease thereof.

“Trust” or “Trusts”—as defined in the Participation Agreement.

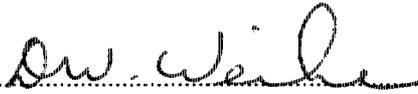
“Trust Agreement”—each Trust Agreement of even date herewith, between an Owner Participant or Owner Participants and an Owner Trustee, as the same may be amended or supplemented from time to time as permitted thereby and by this Indenture, collectively the “Trust Agreements”.

“Trust Estate”—as defined in each of the respective Trust Agreements.

“Trust Participant” or “Trust Participants”—as defined in the Participation Agreement.

IN WITNESS WHEREOF, the Owner Trustees and the Indenture Trustee have caused this Indenture to be executed and delivered and their respective corporate seals to be hereunto affixed and attested by their respective officers thereunto duly authorized, all as of the day and year first above written.

FIRST NATIONAL BANK OF LOUISVILLE,  
*as Owner Trustees*

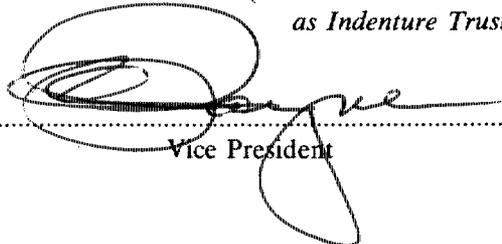
By.....  .....  
Vice President and Trust Officer

[CORPORATE SEAL]

Attest:

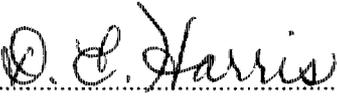
.....  .....  
Assistant Secretary

THE CHASE MANHATTAN BANK (NATIONAL ASSOCIATION),  
*as Indenture Trustee*

By.....  .....  
Vice President

[CORPORATE SEAL]

Attest:

.....  .....  
Assistant Secretary

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

On this 30th day of October 1975, before me personally came D.W. Weine, to me known, who, being by me duly sworn, did depose and say that he resides at 3401 E. outside Dr. Louisville, KY; that he is a V.P. & T.O. of FIRST NATIONAL BANK OF LOUISVILLE, one of the corporations described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

[NOTARIAL SEAL]

My commission expires

*Rosemary A. Abbott*

Notary Public

ROSEMARY A. ABBOTT  
NOTARY PUBLIC, State of New York  
No. 30-4528468  
Qualified in Nassau County  
Certificate filed in New York County  
Commission Expires March 30, 1976

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

On this 30th day of October 1975, before me personally came L. A. PAYNE, to me known, who, being by me duly sworn, did depose and say that he resides at Mail Box 350 Hiram, Ga; that he is a Vice President of THE CHASE MANHATTAN BANK (National Association), one of the corporations described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

[NOTARIAL SEAL]

My commission expires

*Rosemary A. Abbott*

Notary Public

ROSEMARY A. ABBOTT  
NOTARY PUBLIC, State of New York  
No. 30-4523468  
Qualified in Nassau County  
Certificate filed in New York County  
Commission Expires March 30, 1976

## EXHIBIT A

The real property referred to in the definition of "Easement Agreement" in Article XIII of this Indenture consists of the following described real property located in Pike County, Kentucky:

### SMITH FARM:

PARCEL NO. 1: Lying and being in Pike County, Kentucky, on the waters of Big Creek, and being the land conveyed to the first party by Thomas B. Smith and Etta Smith by deed dated 21st day of May, 1943, which is duly recorded in Deed Book 234, Page 153, Pike County Court Clerk's Office, and also deed from Thomas G. Smith and Etta Marie Smith to Fayette Smith dated the 9th day of July, 1945, which is duly recorded in Deed Book 254, Page 485, containing 200 acres, more or less.

PARCEL NO. 2: Being a tract or parcel of land lying and being in Pike County, Kentucky, on the waters of Big Creek, and being the same land conveyed from Layton Smith and Armilda Smith to Fayette M. Smith by deed dated the 29th day of June, 1945, Page 483, Pike County Court Clerk's Office, containing 75 acres, more or less.

These tracts being more particularly described and bounded as follows:

PARCEL NO. 1: Beginning at a cross on a rock on the right hand side of the branch at the corner of the garden at the residence of Ken Smith on Big Creek; thence running up the point with the center thereof to a chestnut oak on line of lands formerly owned by J.S. Polley, and with line of said Polley along the ridge to a hickory on line of tract formerly owned by J.S. Polley, and to lands of Ken Smith; thence in a southwesterly direction with the S.S. Polley line to the line of Lora Little; thence with the line of said Little to a cross on a planted stone on the knob; a corner of lands of Gordon Maynard; thence with his lines to the line of lands owned by John Polley; thence with his lines to line of lands owned by T.J. Bevins; thence with the line of the T.J. Bevins land to the line of lands of Willie Bevins, and with his line to a chestnut oak on a spur; thence down the point with the center thereof to a beech; thence to the Beginning so as to include all the lands described herein.

PARCEL NO. 2: Beginning at a marked stone up upper end of garden on right of Ken Smith Branch; thence running up the point on the right hand side to the top of hill; thence running down fork ridge to a maple the corner of Daniel Roberts; thence down the hill with his line to Big Creek; thence running up the creek to mouth of Ken Smith Branch; thence up with said branch to the beginning, so as to include all the lands in said boundary, further beginning on a beech tree, a corner tree in line of Willie Bevins standing on the hillside back of road about 50 feet from Big Creek; thence up and with said Willie Bevins line to the top of a spur to a chestnut oak; thence leaving line of Willie Bevins and running down a point to an oak on the point; thence down said point to a beech; thence to a rock marked by an X by the side of the branch; thence down and with said branch to Big Creek; thence up and with Big Creek to a station opposite the Beginning; thence to the Beginning; so as to include all the land within said boundary.

Being part of the property conveyed (i) by Russell Vanover, Deputy Master Commissioner of the Pike Circuit Court, for and on behalf of H.J. Bailey et al, to Ashland Discount Association, Inc. (name later changed to Ashland Finance Company) by deed dated August 3, 1964, and recorded in Deed Book 451, Page 403, of the Pike County Court Clerk's Office, Pikeville, Kentucky, (ii) by Ashland Finance Company to Pickands Mather & Co. by deed dated January 4, 1974, and recorded in Deed Book 519, Page 349 of the Pike County Court Clerk's Office, Pikeville, Kentucky, and (iii) by Pickands Mather & Co. to Leslie Coal Mining Company by deed dated May 14, 1974, and recorded in Deed Book 527, Page 1 of the Pike County Court Clerk's Office, Pikeville, Kentucky.

**SCHEDULE A**

**PERCENTAGES FOR DETERMINING PREPAYMENT AMOUNTS  
ON CLASS A LOAN CERTIFICATES**

<u>Number of Payment Date on which Prepayment Occurs</u>	<u>Percentage of Capitalized Costs of Affected Items</u>
1.....	97.9891248%
2.....	95.9242073%
3.....	93.8037952%
4.....	91.6263970%
5.....	89.3904812%
6.....	87.0944752%
7.....	84.7367640%
8.....	82.3156893%
9.....	79.8295483%
10.....	77.2765922%
11.....	74.6550254%
12.....	71.9630040%
13.....	69.1986345%
14.....	66.3599726%
15.....	63.4450217%
16.....	60.4517315%
17.....	57.3779966%
18.....	54.2216551%
19.....	50.9804869%
20.....	47.6522123%
21.....	44.2344903%
22.....	40.7249170%
23.....	37.1210239%
24.....	33.4202762%
25.....	29.6200709%
26.....	25.7177351%
27.....	21.7105240%
28.....	17.5956191%
29.....	13.3701262%
30.....	9.0310731%
31.....	4.5754080%

**SCHEDULE B**

**PERCENTAGES FOR DETERMINING PREPAYMENT AMOUNTS  
ON CLASS B LOAN CERTIFICATES**

<u>Number of Payment Date on which Prepayment Occurs</u>	<u>Percentage of Capitalized Costs of Affected Items</u>
1.....	98.5770675%
2.....	97.1158937%
3.....	95.6154508%
4.....	94.0746835%
5.....	92.4925081%
6.....	90.8678118%
7.....	89.1994517%
8.....	87.4862545%
9.....	85.7270151%
10.....	83.9204961%
11.....	82.0654269%
12.....	80.1605027%
13.....	78.2043837%
14.....	76.1956940%
15.....	74.1330208%
16.....	72.0149132%
17.....	69.8398815%
18.....	67.6063958%
19.....	65.3128852%
20.....	62.9577365%
21.....	60.5392932%
22.....	58.0558542%
23.....	55.5056728%
24.....	52.8869553%
25.....	50.1978597%
26.....	47.4364947%
27.....	44.6009180%
28.....	41.6891352%
29.....	38.6990982%
30.....	35.6287040%
31.....	32.4757929%
32.....	29.2381473%
33.....	25.9134900%
34.....	22.4994825%
35.....	18.9937236%
36.....	15.3937474%
37.....	11.6970219%
38.....	7.9009469%
39.....	4.0028523%

**SCHEDULE C**

**PERCENTAGES FOR DETERMINING PREPAYMENT AMOUNTS  
ON CLASS C LOAN CERTIFICATES**

<u>Number of Payment Date on which Prepayment Occurs</u>	<u>Percentage of Capitalized Costs of Affected Items</u>
1.....	99.0954622%
2.....	98.1666149%
3.....	97.2128049%
4.....	96.2333612%
5.....	95.2275950%
6.....	94.1947988%
7.....	93.1342462%
8.....	92.0451913%
9.....	90.9268680%
10.....	89.7784898%
11.....	88.5992489%
12.....	87.3883159%
13.....	86.1448391%
14.....	84.8679439%
15.....	83.5567321%
16.....	82.2102815%
17.....	80.8276450%
18.....	79.4078502%
19.....	77.9498984%
20.....	76.4527641%
21.....	74.9153943%
22.....	73.3367077%
23.....	71.7155939%
24.....	70.0509127%
25.....	68.3414932%
26.....	66.5861330%
27.....	64.7835975%
28.....	62.9326189%
29.....	61.0318952%
30.....	59.0800896%
31.....	57.0758292%
32.....	55.0177043%
33.....	52.9042673%
34.....	50.7340317%
35.....	48.5054710%
36.....	46.2170177%
37.....	43.8670623%
38.....	41.4539518%
39.....	38.9759890%
40.....	36.4314309%
41.....	33.8184878%
42.....	31.1353219%
43.....	28.3800459%
44.....	25.5507218%
45.....	22.6453596%
46.....	19.6619158%
47.....	16.5982920%
48.....	13.4523333%
49.....	10.2218270%
50.....	6.9045008%
51.....	3.4980215%

**SCHEDULE D**

**PERCENTAGES FOR DETERMINING PREPAYMENT AMOUNTS  
ON CLASS D LOAN CERTIFICATES**

<u>Number of Payment Date on which Prepayment Occurs</u>	<u>Percentage of Capitalized Costs of Affected Items</u>	<u>Number of Payment Date on which Prepayment Occurs</u>	<u>Percentage of Capitalized Costs of Affected Items</u>
1 .....	99.7433491%	47 .....	76.3358430%
2 .....	99.4798007%	48 .....	75.4432179%
3 .....	99.2091694%	49 .....	74.5266035%
4 .....	98.9312649%	50 .....	73.5853551%
5 .....	98.6458917%	51 .....	72.6188106%
6 .....	98.3528491%	52 .....	71.6262902%
7 .....	98.0519310%	53 .....	70.6070958%
8 .....	97.7429257%	54 .....	69.5605106%
9 .....	97.4256159%	55 .....	68.4857984%
10 .....	97.0997784%	56 .....	67.3822033%
11 .....	96.7651840%	57 .....	66.2489491%
12 .....	96.4215974%	58 .....	65.0852387%
13 .....	96.0687769%	59 .....	63.8902536%
14 .....	95.7064744%	60 .....	62.6631533%
15 .....	95.3344350%	61 .....	61.4030746%
16 .....	94.9523970%	62 .....	60.1091313%
17 .....	94.5600918%	63 .....	58.7804133%
18 .....	94.1572434%	64 .....	57.4159860%
19 .....	93.7435684%	65 .....	56.0148897%
20 .....	93.3187759%	66 .....	54.5761390%
21 .....	92.8825671%	67 .....	53.0987218%
22 .....	92.4346352%	68 .....	51.5815990%
23 .....	91.9746651%	69 .....	50.0237036%
24 .....	91.5023333%	70 .....	48.4239397%
25 .....	91.0173076%	71 .....	46.7811822%
26 .....	90.5192468%	72 .....	45.0942756%
27 .....	90.0078007%	73 .....	43.3620334%
28 .....	89.4826094%	74 .....	41.5832371%
29 .....	88.9433036%	75 .....	39.7566357%
30 .....	88.3895040%	76 .....	37.8809444%
31 .....	87.8208210%	77 .....	35.9548439%
32 .....	87.2368547%	78 .....	33.9769794%
33 .....	86.6371943%	79 .....	31.9459598%
34 .....	86.0214180%	80 .....	29.8603566%
35 .....	85.3890927%	81 .....	27.7187028%
36 .....	84.7397737%	82 .....	25.5194920%
37 .....	84.0730042%	83 .....	23.2611774%
38 .....	83.3883153%	84 .....	20.9421706%
39 .....	82.6852254%	85 .....	18.5608405%
40 .....	81.9632399%	86 .....	16.1155122%
41 .....	81.2218511%	87 .....	13.6044657%
42 .....	80.4605374%	88 .....	11.0259348%
43 .....	79.6787634%	89 .....	8.3781059%
44 .....	78.8759793%	90 .....	5.6591166%
45 .....	78.0516203%	91 .....	2.8670545%
46 .....	77.2051067%		

**SCHEDULE I**  
**to**  
**Indenture**

**Specific Requirements and Form of Interim Equipment Trust Certificates**

The Interim Equipment Trust Certificates shall be designated "10¾% Interim Equipment Trust Certificates" and limited in principal amount (exclusive of any New Interim Equipment Trust Certificates issued pursuant to Sections 1.02 and 1.03) to \$21,000,000. In addition, the Interim Equipment Trust Certificates shall:

- (i) each be dated the Loan Closing Date on which it is issued and sold;
- (ii) each mature, unless sooner paid in full pursuant to the provisions thereof and of this Indenture, on the Escrow Account Termination Date;
- (iii) each bear interest (computed as if each full calendar year consisted of 360 days and each full calendar month consisted of 30 days) on the unpaid principal amount thereof from the date thereof to maturity, whether by acceleration or otherwise, at the rate of 10¾% per annum, and on any overdue principal, premium and interest, at the rate of 12% per annum (or in each such case at the highest rate, if any, permitted by applicable law, whichever is less);
- (iv) each be due and payable as to interest accrued from the date thereof, to the extent then accrued and unpaid, on each Payment Date occurring after the date thereof to and including the Escrow Account Termination Date;
- (v) each be due and payable as to the entire unpaid principal amount thereof on the Escrow Account Termination Date; *provided*, that the Interim Equipment Trust Certificates are subject to exchange for Definitive Equipment Trust Certificates on the Escrow Account Termination Date as provided in this Indenture;
- (vi) be prepayable only as provided in Articles V and VI; and
- (vii) be substantially in the form and bear thereon a marking grid substantially in the form, hereinafter set forth in this Schedule I, with such omissions, insertions and variations as the Indenture Trustee may determine and as are not inconsistent with the provisions of this Indenture or as may be provided for in this Indenture.

[ FORM OF INTERIM EQUIPMENT TRUST CERTIFICATE AND MARKING GRID ]

**THE CHASE MANHATTAN BANK (National Association)**  
**AS INDENTURE TRUSTEE UNDER THE TRUST INDENTURE AND SECURITY AGREEMENT**  
**DATED AS OF SEPTEMBER 30, 1975**  
**(Leslie Coal Mining Company Equipment Trusts)**

**10¾% INTERIM EQUIPMENT TRUST CERTIFICATE**

No. —

§

THE CHASE MANHATTAN BANK (National Association), a national banking association, as Trustee (herein, in such capacity, together with its permitted successors in the trusts under the Indenture hereinafter referred to, called the "Indenture Trustee"), under the Trust Indenture and Security Agreement dated as of September 30, 1975 (herein, as the same may be amended or supplemented from time to time as permitted thereby, called the "Indenture"), from First National Bank of Louisville, a national banking association, as trustee under each of the respective Trust Agreements referred to in the Indenture, for value received, hereby not individually but solely as Indenture Trustee promises to pay to

, or registered assigns, on or before the Escrow Account Termination Date, as hereinafter provided, the principal sum of \_\_\_\_\_ Dollars, and to pay interest on the unpaid principal amount thereof from the date hereof to maturity at the rate of 10¾% per annum, and to pay interest on any overdue principal, premium and interest, at the rate of 12% per annum (or in each case at the highest rate, if any, permitted by applicable law, whichever is less), in each case computed as if each full calendar year consisted of 360 days and each full calendar month consisted of 30 days. Such principal, premium, if any, and interest shall be payable against presentation of this Equipment Trust Certificate (except as otherwise provided in Section 1.06 of the Indenture hereinafter referred to) at the Corporate Trust Office, in lawful money of the United States, in the following manner:

interest accruing from the date hereof, to the extent then accrued and unpaid, shall be due and payable on each Payment Date occurring after the date hereof to and including the Escrow Account Termination Date; and

The entire principal amount of this Equipment Trust Certificate shall be due and payable on the Escrow Account Termination Date; *provided*, that the Interim Equipment Trust Certificates are subject to exchange for Definitive Equipment Trust Certificates on the Escrow Account Termination Date as provided in the Indenture.

This Equipment Trust Certificate is a 10¾% Interim Equipment Trust Certificate and constitutes one of the "Equipment Trust Certificates" which are to be secured as provided in the Indenture. Reference is hereby made to the Indenture for a description of the property subject or intended to be subject to the lien thereof, the provisions upon which Equipment Trust Certificates are to be issued and secured thereunder, the nature and extent of the security for said Equipment Trust Certificates and the rights of the holders thereof, the Indenture Trustee and others in respect of such security and otherwise. The terms used in this Equipment Trust Certificate and not hereinabove defined have the meanings indicated in Article XIII of the Indenture. As provided in the Indenture, the Equipment Trust Certificates are limited in aggregate principal amount (exclusive of those issued pursuant to Sections 1.02 and 1.03) to \$21,000,000, and are issuable thereunder only as fully registered Equipment Trust Certificates in denominations of \$10,000 or more.

This Equipment Trust Certificate is subject to prepayment in the manner, to the extent, under the circumstances and at the price provided for in the Indenture.

Upon the occurrence and during the continuance of an Event of Default under the Indenture, the principal hereof and the interest accrued and unpaid hereon may be declared to be due and payable forthwith as provided in the Indenture.

Prior to due presentment of this Equipment Trust Certificate for registration of transfer the Indenture Trustee may deem and treat the person in whose name this Equipment Trust Certificate is registered on the Register as the absolute owner hereof (whether or not this Equipment Trust Certificate shall be overdue) for the purpose of receiving payment and for all other purposes, and the Indenture Trustee shall not be affected by any notice to the contrary. In accordance with the provisions of the Indenture, the transfer of this Equipment Trust Certificate may be registered at the Corporate Trust Office, and this Equipment Trust Certificate may be exchanged for other Equipment Trust Certificates of authorized denominations.

By acceptance of this Equipment Trust Certificate the holder hereof agrees as provided herein and in Sections 7.07(a), 7.07(b), 7.12, 9.05(b), 9.05(c) and 12.01 of the Indenture, confirms the appointment of the Indenture Trustee as the attorney-in-fact of the holder hereof for the purposes specified in Section 7.07(b) and agrees that the provisions of the letter referred to in Section 1(d)(ii) of the Participation Agreement shall be binding on the holder hereof to the extent provided in such letter.

All payments to be made by the Indenture Trustee under and pursuant to this Equipment Trust Certificate and the Indenture shall be made only from the income and the proceeds from the Indenture Estate and only to the extent that the Indenture Trustee shall have received sufficient income or proceeds from the Indenture Estate to make such payments in accordance with the terms of Article V of the Indenture. The holder of this Equipment Trust Certificate, by its acceptance hereof, agrees that, as to the Indenture Trustee, it will look solely to the income and proceeds from the Indenture Estate to the extent

available for distribution to such holder as provided in the Indenture and that the Indenture Trustee is not liable in its individual capacity to the holder of this Equipment Trust Certificate for any amounts payable on this Equipment Trust Certificate or under the Indenture or, except as provided therein, for any liability under the Indenture.

IN WITNESS WHEREOF, the Indenture Trustee has caused this Equipment Trust Certificate to be duly executed by one of its Vice Presidents and its corporate seal to be affixed hereto and attested by its Secretary or one of its Assistant Secretaries.

Dated: \_\_\_\_\_, 197

THE CHASE MANHATTAN BANK (National Association),  
*as Indenture Trustee*

By .....  
*Vice President*

[ CORPORATE SEAL ]

Attest:

.....  
*Assistant Secretary*



## SCHEDULE II

### to Indenture

#### Specific Requirements and Form of Definitive Equipment Trust Certificates

The Definitive Equipment Trust Certificates shall be designated "10¾% Equipment Trust Certificates, Series A, B, C or D", respectively, and limited in aggregate principal amount (exclusive of any New Definitive Equipment Trust Certificates issued pursuant to Sections 1.02 and 1.03) to \$21,000,000 and shall be originally issued pursuant to Section 1.02 only on the Escrow Account Termination Date in exchange for Interim Equipment Trust Certificates having unpaid principal amounts (determined as of the Escrow Account Termination Date after giving effect to all payments and prepayments due and payable on such Loan Certificates as of such Date) equal in the aggregate to the aggregate principal amount of the Definitive Equipment Trust Certificates being so issued. In addition, the Definitive Equipment Trust Certificates of each Series shall:

- (i) each be dated the Escrow Account Termination Date;
- (ii) correspond to the Loan Certificates of the Class which is designated by the same letter as such Series;
- (iii) each mature, unless sooner paid in full pursuant to the provisions thereof and of the Indenture, on the same date as the last Loan Certificate of the corresponding Class matures;
- (iv) each bear interest (computed as if each full calendar year consisted of 360 days and each full calendar month consisted of 30 days) on the unpaid principal amount thereof from the date thereof to maturity, whether by acceleration or otherwise, at the rate of 10¾% per annum, and on any overdue principal, premium and interest, at the rate of 12% per annum (or in each such case at the highest rate, if any, permitted by applicable law, whichever is less);
- (v) each be due and payable on each Payment Date occurring after the date thereof to and including the last Payment Date on which an Instalment Payment is due on any Loan Certificate of the corresponding Class in the same number of quarter-annual Instalment Payments as the Instalment Payments payable on the last issued Loan Certificate of the corresponding Class after the date of such Definitive Equipment Trust Certificate, each such Instalment Payment to contain both principal and interest and to be in an amount which bears the same proportion to the aggregate amount of the Instalment Payments due and payable on all Loan Certificates of the corresponding Class on such Payment Date as the unpaid principal amount of such Definitive Equipment Trust Certificate bears to the aggregate unpaid principal amount of all Definitive Equipment Trust Certificates of such Series (such proportionate amount of the Instalment Payment due on each such Payment Date on each of the respective Loan Certificates of the corresponding Class shall constitute a component part of the Instalment Payment payable on such Definitive Equipment Trust Certificate on such Payment Date); each Instalment Payment, when paid, to be applied first to the payment of all interest accrued and unpaid on such Definitive Equipment Trust Certificate and then to payment on account of the principal thereof; *provided*, that upon any partial prepayment of the principal of such Definitive Equipment Trust Certificate pursuant to Section 5.02, the amount of the Instalment Payments thereafter to be made on such Definitive Equipment Trust Certificate shall be reduced as provided in the Indenture;
- (vi) be prepayable only as provided in Articles V and VI; and
- (vii) be substantially in the form and bear thereon a marking grid substantially in the form, hereinafter set forth in this Schedule II, with such omissions, insertions and variations as the Indenture Trustee may determine and as are not inconsistent with the provisions of this Indenture or as may be provided for in this Indenture.

**THE CHASE MANHATTAN BANK (National Association)**  
**AS INDENTURE TRUSTEE UNDER THE TRUST INDENTURE AND SECURITY AGREEMENT**  
**DATED AS OF SEPTEMBER 30, 1975**  
**(Leslie Coal Mining Company Equipment Trusts)**  
**10¾% EQUIPMENT TRUST CERTIFICATE, SERIES**

No.

§

THE CHASE MANHATTAN BANK (National Association), a national banking association, as Trustee (herein, in such capacity, together with its permitted successors in the trusts under the Indenture hereinafter referred to, called the "Indenture Trustee") under the Trust Indenture and Security Agreement dated as of September 30, 1975 (herein, as the same may be amended or supplemented from time to time as permitted thereby, called the "Indenture"), from First National Bank of Louisville, a national banking association, as trustee under each of the respective Trust Agreements referred to in the Indenture, for value received, hereby not individually but solely as Indenture Trustee promises to pay to

, or registered assigns, on or before \_\_\_\_\_, as hereinafter provided, the principal sum of \_\_\_\_\_ Dollars, and to pay interest on the unpaid principal amount thereof from the date hereof to maturity at the rate of 10¾% per annum, and to pay interest on any overdue principal, premium and interest, at the rate of 12% per annum (or in each case at the highest rate, if any, permitted by applicable law, whichever is less), in each case computed as if each full calendar year consisted of 360 days and each full calendar month consisted of 30 days. Such principal, premium, if any, and interest shall be payable against presentation of this Equipment Trust Certificate (except as otherwise provided in Section 1.06 of the Indenture hereinafter referred to) at the Corporate Trust Office, in lawful money of the United States, in the following manner:

quarter-annual Instalment Payments, containing both principal and interest, each such Instalment Payment being in an amount equal to the aggregate amount of the Instalment Payments set forth on Schedules No. 1 through 13 attached hereto opposite the particular Payment Date, shall respectively be due and payable on each Payment Date occurring after the date hereof to and including \_\_\_\_\_; *provided*, that upon any partial prepayment of the principal of this Equipment Trust Certificate pursuant to Section 5.02 of the Indenture, the amount of the Instalment Payments thereafter to be made hereon shall be reduced as provided in the Indenture.

Each Instalment Payment, when paid, shall be applied first to the payment of all interest accrued and unpaid on this Equipment Trust Certificate and then to payment on account of the principal hereof.

This Equipment Trust Certificate is a 10¾% Equipment Trust Certificate, Series \_\_\_\_\_ and constitutes one of the "Equipment Trust Certificates" which are to be secured as provided in the Indenture. Reference is hereby made to the Indenture for a description of the property subject or intended to be subject to the lien thereof, the provisions upon which Equipment Trust Certificates are to be issued and secured thereunder, the nature and extent of the security for said Equipment Trust Certificates and the rights of the holders thereof, the Indenture Trustee and others in respect of such security and otherwise. The terms used in this Equipment Trust Certificate and not hereinabove defined have the meanings indicated in Article XIII of the Indenture. As provided in the Indenture, the Equipment Trust Certificates are limited in aggregate principal amount (exclusive of those issued pursuant to Sections 1.02 and 1.03) to \$21,000,000, and are issuable thereunder only as fully registered Equipment Trust Certificates in denominations of \$10,000 or more.

This Equipment Trust Certificate is subject to prepayment in the manner, to the extent, under the circumstances and at the price provided for in the Indenture.

Upon the occurrence and during the continuance of an Event of Default under the Indenture, the principal hereof and the interest accrued and unpaid hereon may be declared to be due and payable forthwith as provided in the Indenture.

Prior to due presentment of this Equipment Trust Certificate for registration of transfer the Indenture Trustee may deem and treat the person in whose name this Equipment Trust Certificate is registered on the Register as the absolute owner hereof (whether or not this Equipment Trust Certificate shall be overdue) for the purpose of receiving payment and for all other purposes, and the Indenture Trustee shall not be affected by any notice to the contrary. In accordance with the provisions of the Indenture, the transfer of this Equipment Trust Certificate may be registered at the Corporate Trust Office, and this Equipment Trust Certificate may be exchanged for other Equipment Trust Certificates of authorized denominations.

By acceptance of this Equipment Trust Certificate the holder hereof agrees as provided herein and in Sections 7.07(a), 7.07(b), 7.12, 9.05(b), 9.05(c) and 12.01 of the Indenture, confirms the appointment of the Indenture Trustee as the attorney-in-fact of the holder hereof for the purposes specified in Section 7.07(b) and agrees that the provisions of the letter referred to in Section 1(d)(ii) of the Participation Agreement shall be binding on the holder hereof to the extent provided in such letter.

All payments to be made by the Indenture Trustee under and pursuant to this Equipment Trust Certificate and the Indenture shall be made only from the income and the proceeds from the Indenture Estate and only to the extent that the Indenture Trustee shall have received sufficient income or proceeds from the Indenture Estate to make such payments in accordance with the terms of Article V of the Indenture. The holder of this Equipment Trust Certificate, by its acceptance hereof, agrees that, as to the Indenture Trustee, it will look solely to the income and proceeds from the Indenture Estate to the extent available for distribution to such holder as provided in the Indenture and that the Indenture Trustee is not liable in its individual capacity to the holder of this Equipment Trust Certificate for any amounts payable on this Equipment Trust Certificate or under the Indenture or, except as provided therein, for any liability under the Indenture.

IN WITNESS WHEREOF, the Indenture Trustee has caused this Equipment Trust Certificate to be duly executed by one of its Vice Presidents and its corporate seal to be affixed hereto and attested by its Secretary or one of its Assistant Secretaries.

Dated: \_\_\_\_\_, 197

THE CHASE MANHATTAN BANK (National Association),  
*as Indenture Trustee*

By .....  
*Vice President*

[CORPORATE SEAL]

Attest:

.....  
*Assistant Secretary*



### SCHEDULE III

#### Specific Requirements and Form of Loan Certificates

The Loan Certificates shall be designated "10 $\frac{3}{4}$ % Loan Certificates, Class A, B, C or D", respectively, and limited in aggregate principal amount to \$21,000,000. In addition, the Loan Certificates shall:

(i) each be dated the fifteenth day of the month in which it is issued and sold;

(ii) each mature, unless sooner paid in full pursuant to the provisions thereof and of the Indenture as follows:

Class A—on the eighth anniversary of the date thereof;

Class B—on the tenth anniversary of the date thereof;

Class C—on the thirteenth anniversary of the date thereof; and

Class D—on the twenty-third anniversary of the date thereof;

(iii) each bear interest (computed as if each full calendar year consisted of 360 days and each full calendar month consisted of 30 days) on the unpaid principal amount thereof from the date thereof to maturity, whether by acceleration or otherwise, at the rate of 10 $\frac{3}{4}$ % per annum, and on any overdue principal, premium and interest, at the rate of 12% per annum (or in each such case at the highest rate, if any, permitted by applicable law, whichever is less);

(iv) each be due and payable as follows:

Class A—on each Payment Date occurring after the date thereof to and including the eighth anniversary of the date thereof in 32 quarter-annual Instalment Payments, containing both principal and interest, each such Instalment Payment to be in an amount equal to 4.6983752% of the original principal amount of such Loan Certificate;

Class B—on each Payment Date occurring after the date thereof to and including the tenth anniversary of the date thereof in 40 quarter-annual Instalment Payments, containing both principal and interest, each such Instalment Payment to be in an amount equal to 4.1104325% of the original principal amount of such Loan Certificate;

Class C—on each Payment Date occurring after the date thereof to and including the thirteenth anniversary of the date thereof in 52 quarter-annual Instalment Payments, containing both principal and interest, each such Instalment Payment to be in an amount equal to 3.5920378% of the original principal amount of such Loan Certificate; and

Class D—on each Payment Date occurring after the date thereof to and including the twenty-third anniversary of the date thereof in 92 quarter-annual Instalment Payments, containing both principal and interest, each such Instalment Payment to be in an amount equal to 2.9441509% of the original principal amount of such Loan Certificate;

each Instalment Payment, when paid, to be applied first to the payment of all interest accrued and unpaid on the particular Loan Certificate and then to payment on account of the principal thereof; *provided*, that upon any partial prepayment of the principal of such Loan Certificate, the amount of the Instalment Payments thereafter to be made on such Loan Certificate shall be reduced as provided in this Indenture;

(v) be prepayable only as provided in this Indenture; and

(vi) be substantially in the form and bear thereon a marking grid substantially in the form, hereinafter set forth in this Schedule III, with such omissions, insertions and variations as the Indenture Trustee may determine and as are not inconsistent with the provisions of this Indenture or as may be provided for in this Indenture.

[ FORM OF LOAN CERTIFICATE AND MARKING GRID ]

FIRST NATIONAL BANK OF LOUISVILLE,  
AS OWNER TRUSTEE UNDER THE TRUST AGREEMENT DATED AS OF SEPTEMBER 30, 1975  
(Leslie Coal Mining Company Equipment Trust No. )

10¾% LOAN CERTIFICATE, CLASS—

No.

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FIRST NATIONAL BANK OF LOUISVILLE, a national banking association, as Owner Trustee (herein, in such capacity, together with its permitted successors in the trusts under the Trust Agreement hereinafter referred to, called the "Owner Trustee"), under the Trust Agreement (Leslie Coal Mining Corporation Equipment Trust No. ) dated as of September 30, 1975 between the Owner Trustee and Citicorp Lescaman, Inc., a Delaware corporation, for value received, hereby promises to pay to the order of THE CHASE MANHATTAN BANK (National Association), a national banking association, as Trustee under the Indenture hereinafter referred to (herein, in such capacity, together with its permitted successors in the trusts under such Indenture, called the "Indenture Trustee"), on or before , 19 , as hereinafter provided, the principal sum of Dollars, and to pay interest on the unpaid principal amount thereof from the date hereof to maturity at the rate of 10¾% per annum, and to pay interest on any overdue principal, premium and interest, at the rate of 12% per annum (or in each case at the highest rate, if any, permitted by applicable law, whichever is less), in each case computed as if each full calendar year consisted of 360 days and each full calendar month consisted of 30 days. Such principal, premium, if any, and interest shall be payable in lawful money of the United States, in the following manner:

quarter-annual Instalment Payments, containing both principal and interest, each such Instalment Payment being in an amount equal to % of the original principal amount of this Loan Certificate, shall respectively be due and payable on each Payment Date occurring after the date hereof to and including ; provided, that upon any partial prepayment of the principal of this Loan Certificate, the amount of the Instalment Payments thereafter to be made hereon shall be reduced as provided in the Indenture.

Each Instalment Payment, when paid, shall be applied first to the payment of all interest accrued and unpaid on this Loan Certificate and then to payment on account of the principal hereof.

This Loan Certificate is a 10¾% Loan Certificate, Class A of the above-named Trust and constitutes one of the Owner Trustee's "Loan Certificates" which are and are to be issued pursuant to and subject to the provisions of the Trust Indenture and Security Agreement dated as of September 30, 1975 (herein, as the same may be amended or supplemented from time to time as permitted thereby, called the "Indenture"), from the Owner Trustee and the other Owner Trustees referred to therein to the Indenture Trustee. The terms used in this Loan Certificate and not hereinabove defined have the meanings indicated in Article XIII of the Indenture. As provided in the Indenture, the Loan Certificates are limited in aggregate principal amount to \$21,000,000.

This Loan Certificate is subject to prepayment in the manner, to the extent, under the circumstances and at the price provided for in the Indenture. This Loan Certificate may not be transferred or sold except as provided in the Indenture.

Upon the occurrence and during the continuance of an Event of Default under the Indenture, the principal hereof and the interest accrued and unpaid hereon may be declared to be due and payable forthwith as provided in the Indenture.

Should the indebtedness represented by this Loan Certificate or any part thereof be collected in any Proceeding, or this Loan Certificate be placed in the hands of attorneys for collection after default, there

shall be payable hereon, in addition to the principal, premium, if any, and interest due and payable hereon, all costs of collecting this Loan Certificate, including reasonable attorneys' fees and expenses.

All payments to be made by the Owner Trustee under and pursuant to this Loan Certificate shall be made only from the income and the proceeds from the Indenture Estate and only to the extent that the Indenture Trustee shall have received sufficient income or proceeds from the Indenture Estate to make such payments in accordance with the terms of Article V of the Indenture. Each holder of this Loan Certificate, by its acceptance of such Loan Certificate, agrees that, as to the Owner Trustee, it will look solely to the income and proceeds from the Indenture Estate to the extent available for distribution to such holder as therein provided and that neither the Owner Trustee in its individual capacity nor any Owner Participant is liable to such holder for any amounts payable on such Loan Certificate or under the Indenture.

IN WITNESS WHEREOF, the Owner Trustee has caused this Loan Certificate to be duly executed by one of its Vice Presidents and its corporate seal to be affixed hereto and attested by its Secretary or one of its Assistant Secretaries.

Dated: \_\_\_\_\_, 197

FIRST NATIONAL BANK OF LOUISVILLE,  
*as Owner Trustee*

By .....  
*Vice President and Trust Officer*

[ CORPORATE SEAL ]

Attest:

.....  
*Assistant Secretary*



This instrument was drafted by the undersigned, Stephen G. Nordquist, attorney at law, whose address is c/o Dewey, Ballantine, Bushby, Palmer & Wood, 140 Broadway, New York, New York 10005.

*Stephen G. Nordquist*