

RECORDATION NO. 8241 Filed & Recorded

MAR 16 1976 9 10 AM

INTERSTATE COMMERCE COMMISSION

*See Pg 13+14
+ 17*

DELAWARE AND HUDSON RAILWAY COMPANY

TO

UNITED STATES RAILWAY ASSOCIATION

MORTGAGE

Plotted in 9

Dated March 15, 1976

TABLE OF CONTENTS

	Page
Parties.....	1
Recitals.....	1
Loan Agreement.....	1
Borrowings pursuant to Loan Agreement.....	1
Ownership and operation of properties.....	1
Mortgage and pledge of properties as security.....	1
Authorization by Board of Directors.....	2
Compliance with legal requirements.....	2
Consideration clause.....	2
Granting Clauses.....	3
First: General property.....	3
Second: Lines of railroad.....	4
Third: Appurtenances.....	12
Fourth: Communications facilities.....	13
Fifth: Equipment, etc.	13
Sixth: Securities pledged.....	14
Seventh: Additions, betterments and improvements.....	15
Eighth: Corporate franchises, etc.	15
Ninth: Leases, trackage rights, joint facility contracts.....	16
Tenth: All interests hereafter acquired in the mortgaged property.....	16
Eleventh: After-acquired property or securities.....	16
Twelfth: Property hereafter mortgaged.....	16
Thirteenth: Other and after-acquired property.....	17
Fourteenth: Property subject to First Mortgage.....	17
Fifteenth: Income.....	17
Excepted properties.....	18
Habendum clause.....	20
Subject clause.....	20
Grant in trust.....	20
Covenant clause.....	21

ARTICLE ONE

Definitions

Sec. 1.01. Definitions.....	22
Accounting Rules.....	22
Affiliate.....	22
Air Rights.....	23

	Page
Board of Directors.....	23
Certified Resolution.....	23
Class A Note.....	23
Class B Note.....	23
Conditional Sale Agreement.....	24
Corporation.....	24
Equipment.....	24
Equipment Agreement.....	24
Events of Default.....	24
Excepted Encumbrances.....	24
Excepted Properties.....	26
First Mortgage.....	26
lines of railroad.....	26
Loan Agreement.....	27
Loan Documents.....	27
Locomotive.....	27
Mortgage.....	27
Mortgaged Property.....	27
Note.....	27
Officers' Certificate.....	28
Opinion of Counsel.....	28
Prior Lien.....	28
Prior Lien Securities.....	28
Receiver.....	28
Request.....	29
securities.....	29
Subsidiary.....	29
USRA.....	29
USRA Release.....	29

ARTICLE TWO

Particular Covenants of the Corporation

Sec. 2.01.	To perform all covenants under Loan Agreement.....	30
Sec. 2.02.	To pay principal and interest.....	30
Sec. 2.03.	Ownership, lawful possession and authority to mortgage property.....	30
	Further assurances.....	31
	Annual report to USRA as to acquisitions.....	32
	To deliver to USRA securities held by trustee under First Mortgage.....	32
Sec. 2.04.	To comply with requirements of any Equipment Agreement, reserving right to extend or refinance, etc.	33

	Page
Sec. 2.05. To pay Prior Lien Securities.....	34
Sec. 2.06. To pay taxes.....	34
Sec. 2.07. To make payments under leases, trackage agreements, etc.	35
Sec. 2.08. To suffer no prior lien.....	35
Sec. 2.09. Issue or disposition of First Mortgage Bonds.....	35
Sec. 2.10. To record; annual report to USRA	36
Sec. 2.11. To preserve rights and franchises and maintain property.....	37
Sec. 2.12. To insure property.....	37
Adjustment of casualties by USRA.....	37
Application of insurance proceeds.....	37
Sec. 2.13. Annual report to USRA as to compliance with covenants; additional information.....	39

ARTICLE THREE

Releases of Mortgaged Property and Subordinations

Sec. 3.01. Evidence required for release of property.....	40
Sec. 3.02. Release of property by USRA.....	42
Sec. 3.03. Sale, exchange or disposition of property released...	44
Sec. 3.04. Abandonments.....	44
Sec. 3.05. Eminent domain and governmental purchase.....	44
Sec. 3.06. Changes of location.....	45
Sec. 3.07. Sales without release up to \$100,000 per year.....	46
Confirmatory releases.....	46
Sec. 3.08. Property unfit for use, etc.	47
Sec. 3.09. Granting of leases, etc. of any part of its property by the Corporation subject to the lien of this Mortgage.....	48
Changes in leases, etc. of property subject to the lien of this Mortgage.....	48

	Page
Granting of leases, etc. superior to the lien of this Mortgage.....	49
Sec. 3.10. Substitute property and rights subject to Mortgage.....	49
Sec. 3.11. When Receiver in possession.....	49
Sec. 3.12. Subordinating lien on Equipment to liens of Equipment Agreements in certain cases.....	50
Sec. 3.13. Quitclaim deeds as to property not subject to lien of Mortgage.....	51
ARTICLE FOUR	
Pledged Securities	
Sec. 4.01. Definitions.....	52
To be held by USRA.....	52
Sec. 4.02. Power to vote and right to dividends, interest, principal payments, etc.	53
ARTICLE FIVE	
Remedies of USRA	
Sec. 5.01. Events of Default; appointment of a Receiver.....	56
Sec. 5.02. Acceleration.....	56
Covenant to pay to USRA on default.....	57
USRA entitled to judgment.....	57
Sec. 5.03. USRA may enforce rights.....	58
Sec. 5.04. Power of sale.....	58
Sec. 5.05. Annulment of proceedings without prejudice for the future.....	59
Sec. 5.06. Sale as perpetual bar.....	59
Waiver of marshalling.....	59
Sec. 5.07. Personalty disposed of in accordance with Uniform Commercial Code.....	59
USRA a secured party.....	60
Sec. 5.08. Receipt of USRA sufficient to discharge purchaser.....	60

	Page
Sec. 5.09. Application of proceeds of sale.....	60
Sec. 5.10. Waiver of stay, extension, appraisalment, redemption, etc.....	62
Sec. 5.11. Remedies cumulative.....	63
Sec. 5.12. Delays and omissions.....	63

ARTICLE SIX

Possession until Default--Defeasance Clause

Sec. 6.01. Possession until Default.....	64
Sec. 6.02 Defeasance	64
Instrument of release and satisfaction.....	65

ARTICLE SEVEN

Miscellaneous Provisions

Sec. 7.01. For the benefit of parties only.....	66
Sec. 7.02 Basis for Opinion of Counsel.....	66
Sec. 7.03. Certification as to amount secured by Mortgage at time of its execution and delivery pursuant to Tax Law of New York....	66
Sec. 7.04. Waiver by USRA of provisions of Mortgage.....	66
Sec. 7.05. Binding effect; assignments.....	67
Sec. 7.06. Table of Contents and headings of Articles not to affect construction of Mortgage.....	68
Sec. 7.07. Severability.....	68
Sec. 7.08. Mortgage may be executed in counterparts.....	68
Testimonium	68
Signatures	69
Mortgagee's Certificate	70
Acknowledgements.....	71

THIS MORTGAGE is made and entered into this 15th day of March, 1976, by and between the mortgagor, DELAWARE AND HUDSON RAILWAY COMPANY (the "Corporation"), a Delaware corporation having its principal office at 40 Beaver Street, Albany, New York 12207, and the mortgagee, UNITED STATES RAILWAY ASSOCIATION ("USRA"), established pursuant to section 201 of the Regional Rail Reorganization Act of 1973 as a non-profit government corporation organized under the District of Columbia Non-Profit Corporation Act and having its principal office at 2100 Second Street, S.W., Washington, D. C. 20595.

WITNESSETH:

WHEREAS, the Corporation and USRA have entered into a loan agreement dated March 15, 1976 (the "Loan Agreement"), pursuant to which USRA has agreed to loan to the Corporation up to an aggregate amount of \$28,000,000 upon the terms and conditions set forth in the Loan Agreement; and

WHEREAS, borrowings by the Corporation pursuant to the Loan Agreement are to be evidenced by the Corporation's notes (the "Notes") issued pursuant to Article III of the Loan Agreement; and

WHEREAS, the Corporation owns, or is in possession of, under leases or other arrangements, and operates, lines of railroad in the States of New York, Pennsylvania and Vermont; and

WHEREAS, pursuant to the requirements of Article IV of the Loan Agreement, the Corporation desires to mortgage and pledge properties of the Corporation hereinafter described or mentioned to

secure the due and punctual payment by the Corporation of the principal of and interest on the Notes and the performance by the Corporation of all its other obligations under the Loan Agreement; and

WHEREAS, the Board of Directors of the Corporation has approved the form and terms of this Mortgage and has duly authorized and directed the execution and delivery of this Mortgage to USRA; and

WHEREAS, all acts and things prescribed by law and by the Certificate of Incorporation and By-Laws of the Corporation necessary to make the Loan Agreement and the Notes, when executed and delivered by the Corporation, the valid and binding obligations of the Corporation, and to make this Mortgage a valid and binding mortgage and agreement for the collateral security of the Notes, interest thereon, and all other obligations of the Corporation under the Loan Agreement, have been done and performed, and the Corporation has executed this Mortgage in the exercise of legal right, power and authority in it vested;

NOW, THEREFORE, in consideration of the premises and the covenants hereinafter contained, in consideration of the execution of the Loan Agreement by USRA, of the loans to be made to the Corporation by USRA thereunder, and of the acceptance of the Notes by USRA evidencing borrowings by the Corporation under the Loan Agreement; in order to secure the payment of the principal of and interest on all Notes at any time issued and outstanding under the

Loan Agreement when and as the same shall become payable, and to secure the payment of all other amounts due pursuant to, and the performance and observance of all the agreements, undertakings, covenants and conditions contained in, the Notes, the Loan Agreement, this Mortgage and all other Loan Documents; and in order to charge with such payment and with such performance and observance the premises, railroads, railroad property and appurtenances, rights, privileges, franchises, estates, leaseholds, securities, and other property, real and personal, hereinafter described, the Corporation has executed and delivered this Mortgage and has mortgaged, pledged, granted, given, bargained, sold, aliened, remised, released, conveyed, confirmed, assigned, transferred and set over and by these presents does mortgage, pledge, grant, give, bargain, sell, alien, remise, release, convey, confirm, assign, transfer and set over unto USRA and to its successors and assigns:

FIRST: All the premises, property, rights and franchises of the Corporation now or hereafter owned, constructed or acquired, of every character whatever and wherever situated, except as hereinafter expressly excepted in the Excepted Properties clause or otherwise excepted herein, including, among other things, and without limiting the generality of the foregoing, those referred to in the following Granting Clauses (reference to or enumeration of any particular kind, class or item of property shall not be deemed to exclude from the lien of this Mortgage any kind, class or item not so referred to or enumerated).

SECOND: All right, title and interest of the Corporation on the date of this Mortgage in and to all of the Corporation's lines of railroad, including specifically, but not exclusively, the following:

A. The main line of railroad of the Corporation having an aggregate length of approximately 473 miles now operated by the Corporation, beginning at Wilkes-Barre, in the County of Luzerne, Commonwealth of Pennsylvania, and running northeasterly to Hudson, in the County of Luzerne; also beginning at Buttonwood in the County of Luzerne, and running northeasterly to Hudson and running thence northeasterly through Green Ridge to Carbondale, in the County of Lackawanna, and thence through the counties of Lackawanna, Wayne and Susquehanna to Jefferson Junction, in the County of Susquehanna, all in the Commonwealth of Pennsylvania, and thence running northeasterly through the County of Broome, State of New York, to Nineveh, in the County of Chenango, State of New York; also beginning at Binghamton in the County of Broome, and running through Nineveh, in the County of Chenango, Sidney, in the County of Delaware, Oneonta and Cooperstown Junction, in the County of Otsego, Cobleskill, in the County of Schoharie, to Delanson, in the County of Schenectady, all in the State of New York, where one main line continues easterly to Albany, in the County of Albany, thence northerly through Watervliet, Mechanicville, Coons and Crescent to Ballston Lake in the County of Saratoga, all in the State of New York, to a connection with the other main line extending northeasterly from Delanson through Schenectady to Glenville Junction, in the County of Schenectady, and from Glenville Junction, to Crescent, in the County of Saratoga, to

a connection with the Boston and Maine Railroad, all in the State of New York, and to a connection with the main line of the Corporation running north from Albany to Ballston Lake; also continuing northerly from Glenville Junction through Ballston Spa, Saratoga Springs, and Moreau Junction, in the County of Saratoga, through Fort Edward and Whitehall, in the County of Washington, Fort Ticonderoga, in the County of Essex, South Junction, Plattsburg, and Rouses Point, in the County of Clinton, State of New York, and continuing northerly to the dividing line between the State of New York and the Dominion of Canada.

All of said main line of railroad (but excluding the interest of the State of New York in improvements to said line financed by grants from that State) being now owned by the Corporation except (a) those portions of the main line in the State of New York between Schenectady, in the County of Schenectady, and Saratoga Springs, in the County of Saratoga, and between Albany, in the County of Albany, and Waterford Junction, in the County of Saratoga, and that portion of the main line in the Commonwealth of Pennsylvania between Wilkes-Barre, in the County of Luzerne, and Green Ridge, in the County of Lackawanna, said portions of the main line being operated by the Corporation under leasehold interests referred to below, and (b) those portions of the main line in the Commonwealth of Pennsylvania, between Buttonwood and Hudson, in the County of Luzerne, that portion of one main track in the State of New York, between Crescent and Coons in the County of Saratoga, and

that portion of main line between W. Y. Cabin, Mechanicville and Coons, in the County of Saratoga, State of New York, which said portions are now owned by other railroad companies and upon which the Corporation has the trackage rights referred to below.

B. The branch lines of railroad now operated by the Corporation, including the following:

1. Plymouth Branches, in Plymouth, Larksville Borough and City of Wilkes-Barre, County of Luzerne, Commonwealth of Pennsylvania, running from a connection with the Wilkes-Barre Connecting Railroad Company to South Wilkes-Barre and Plymouth Junction.

2. Minooka-Taylor Branch beginning on the main line at Minooka Junction in the Borough of Moosic, and running across the Lackawanna River to a connection with Erie Lackawanna Railway Company in the Borough of Taylor, all in the county of Lackawanna, Commonwealth of Pennsylvania.

3. Scranton Branch beginning at Carbon Street Junction, and running southerly to the former Scranton station, all in the City of Scranton, County of Lackawanna, Commonwealth of Pennsylvania.

4. Vine Street Branch beginning at Green Ridge, and extending to Vine Street, all in the City of Scranton, County of Lackawanna, Commonwealth of Pennsylvania.

5. Poplar Street Branch off the Vine Street Branch, beginning at the Vine Street Branch and extending to Poplar Street,

all in the City of Scranton, County of Lackawanna, Commonwealth of Pennsylvania.

6. Northeastern Industrial Park Branch beginning on the main line at Voorheesville Junction in the Town of New Scotland and running to the Northeastern Industrial Park in the Town of Guilderland, all in the County of Albany, State of New York.

7. Green Island Branch beginning on the main line at Watervliet Junction and extending easterly to Green Island, all in the County of Albany, State of New York.

8. Troy Branch beginning on the Green Island Branch at Green Island, in the County of Albany, extending northerly to Waterford Junction on the main line, in the County of Saratoga, State of New York.

9. Adirondack Branch beginning on the main line at Saratoga Springs, in the County of Saratoga, and running northerly through Thurman to North Creek, in the County of Warren, State of New York, also from Thurman to Warrensburg, in the County of Warren, State of New York.

10. South Glens Falls Branch beginning on the main line at Moreau Junction, in the County of Saratoga, and running northerly to South Glens Falls, in the County of Saratoga, State of New York.

11. Glens Falls Branch beginning on the main line at Fort Edward, in the County of Washington, and running northerly to Glens Falls, in the County of Warren, State of New York.

12. Castleton Branch beginning on the main line at Whitehall, in the County of Washington, State of New York and running easterly to Castleton, in the County of Rutland, State of Vermont.

13. Washington Branch beginning at Rutland, in the County of Rutland, State of Vermont, and running southerly through Castleton and Poultney, in the County of Rutland, State of Vermont, Granville, in the County of Washington, State of New York, West Pawlet, in the County of Rutland, State of Vermont, Rupert, in the County of Bennington, State of Vermont, and Greenwich Junction, in the County of Washington, State of New York, to Eagle Bridge, in the County of Rensselaer and Mechanicville, in the County of Saratoga, State of New York.

14. Salem Branch beginning at Greenwich Junction on the Washington Branch, and running southerly to Greenwich in the County of Washington, State of New York.

15. Baldwin Branch beginning on the main line at Delano Junction, in the County of Essex, and running northerly to Ticonderoga, in the County of Essex, State of New York.

16. Ticonderoga Branch beginning on the Baldwin Branch at Ticonderoga Junction, in the County of Essex, and running northerly to Ticonderoga, in the County of Essex, State of New York.

17. Ausable Branch beginning on the main line at South Junction, in the County of Clinton, and running southerly to Salmon River Junction and Ausable Forks, in the County of Clinton, State of New York.

18. Chateaugay Branch beginning at a point of connection on the Ausable Branch at Salmon River Junction and running westerly to Dannemora, all in the County of Clinton, State of New York.

19. Binghamton-Waverly Branch beginning on the main line at Binghamton, in the County of Broome, and running westerly to Waverly, in the County of Tioga, State of New York.

All of the above mentioned branches (but excluding the interest of the State of New York in improvements to said branches financed by grants from that State) being now owned by the Corporation except (a) the Plymouth Branches, the Scranton Branch, that portion of the Castleton Branch between the New York - Vermont State Line and Castleton, Vermont, and that portion of the Chateaugay Branch between Salmon River Junction and Dannemora, which are operated by the Corporation under leasehold interests referred to below, and (b) that portion of the Washington Branch between Eagle Bridge, in the County of Rensselaer, and Mechanicville, in the County of Saratoga, State of New York, and the Binghamton-Waverly Branch, which are owned by other railroad companies and upon which the Corporation has the trackage rights referred to below.

C. Any and all other lines of railroad owned at the date of this Mortgage or hereafter acquired by the Corporation.

D. The following leasehold estates in lines of railroad:

1. The perpetual leasehold estate owned by the Corporation in the line of railroad of The Saratoga and Schenectady

Rail Road Company, extending southerly on that portion of the main line from Saratoga Springs, in the County of Saratoga, to Schenectady, in the County of Schenectady, all in the State of New York;

2. The perpetual leasehold estate owned by the Corporation in the line of railroad of The Albany and Vermont Rail Road Company extending southerly on that portion of the main line from Waterford Junction, in the County of Saratoga, to Albany, in the County of Albany, all in the State of New York;

3. The perpetual leasehold estate owned by the Corporation in the line of railroad of Northern Coal and Iron Company (all of the capital stock of which is now owned by the Corporation) extending southerly on that portion of the main line from Green Ridge, in the County of Lackawanna, to Wilkes-Barre and Plymouth, in the County of Luzerne, all in the Commonwealth of Pennsylvania;

4. The perpetual leasehold estate owned by the Corporation in the line of railroad of the Rutland and Whitehall Rail Road Company, running easterly from the New York - Vermont State line to Castleton, in the County of Rutland, State of Vermont, forming a part of the Castleton Branch; and,

5. The leasehold estate of the Corporation (formerly owned by The Chateaugay and Lake Placid Railway Company), expiring July 1, 1979, in the line of railroad of The Plattsburgh and Dannemora Railroad extending easterly from Dannemora

to a connection with the Ausable Branch at Salmon River Junction, all in the County of Clinton, State of New York. together with any and all other leases owned at the date of this Mortgage or hereafter acquired by the Corporation and granting to the Corporation the right to use lines of railroad (or facilities appurtenant thereto) owned by others and appurtenant to any line of railroad at any time subject to the lien of this Mortgage, or relating to the ownership, use or operation of any terminals or stations situated along, or at the terminus of, any such lines of railroad, and all amendments, renewals and extensions of any lease at any time subject to the lien of this Mortgage.

E. The Corporation's trackage rights and privileges acquired or existing with other railroad companies, including the following lines:

1. Trackage rights, subject to termination upon 90 days' notice, upon the line of railroad of the Boston and Maine Railroad Company from the point of connection at W. Y. Cabin, Mechanicville, New York, on the main line of the railroad and extending northerly to Coons, New York, and from Coons, New York, extending westerly over one track of the Boston and Maine to Crescent, New York.

2. Perpetual trackage rights upon the line of railroad of the Wilkes-Barre Connecting Railroad Company from the point of connection at Hudson, on the main line of the Corporation and extending southerly to Buttonwood, all in the County of Luzerne, Commonwealth of Pennsylvania.

3. Trackage rights, subject to termination upon 90 days' notice, upon the line of railroad of the Boston and Maine Railroad Company from the point of connection at Eagle Bridge on the Washington Branch of the Corporation, in the County of Rensselaer, and extending in a westerly direction to Mechanicville, in the County of Saratoga, State of New York.

4. Trackage rights until December 1, 2002 (subject, however, to termination upon three years' notice), upon the line of railroad of the Erie-Lackawanna Railroad Company from the point of connection at Binghamton, County of Broome, with the main line of the Corporation and extending in a westerly direction to Waverly, County of Tioga, all in the State of New York.

together with any and all other trackage, joint facility or other operating contracts or agreements owned at the date of this Mortgage or hereafter acquired by the Corporation and granting to the Corporation the right to use lines of railroad (or facilities appurtenant thereto) owned by others and appurtenant to any line of railroad at any time subject to the lien of this Mortgage, or relating to the ownership, use or operation of any terminals or stations situated along, or at the terminus of, any such lines of railroad, and all amendments, renewals and extensions of any trackage, joint facility or other operating contract or agreement at any time subject to the lien of this Mortgage.

THIRD: Any and all rights of way, easements, lands,

estates, tenements and hereditaments, fixtures, structures and improvements of whatever kind or description and wherever situated, now or hereafter owned by the Corporation and appurtenant to or used in transportation service upon or in connection with any of the Corporation's lines of railroad or other real property subject to the lien of this Mortgage, including, without limitation, any and all main, branch, spur, industrial, switch, connecting, storage, yard or terminal tracks, superstructures, roadbeds, bridges, trestles, culverts, viaducts, buildings, depots, stations, stock-yards, warehouses, elevators, carhouses, engine houses, freight houses, machine shops and other shops, turntables, fuel stations, water stations, signals, interlocking plants, telegraph, telephone and other communication facilities, fences, docks, structures and fixtures, and all other things of whatsoever kind now or hereafter owned by the Corporation and appurtenant to or used for transportation service upon or in connection with any of the Corporation's lines of railroad or other real property subject to the lien of this Mortgage.

FOURTH: All rights to the use of any and all telegraph, telephone or other communication facilities along the Corporation's lines of railroad subject to the lien of this Mortgage, as they may be used from time to time or may be subject to use by the Corporation.

FIFTH: All right, title and interest of the Corporation in and to all Equipment, machinery, tools, implements, materials

and supplies used or useful in the business of railroad transportation and assigned for use on or appurtenant to the Corporation's lines of railroad subject to the lien of this Mortgage, now or hereafter owned by, or the title to which is vested in, the Corporation, including all right, title and interest vested in the Corporation in and to any and all such Equipment, including without limitation railroad cars, locomotives and other rolling stock, leased to or possessed by the Corporation under any equipment trust agreement and lease or other instrument evidencing the lease, conditional sale or bailment of any such Equipment (and including, without limitation, the Locomotives possessed by the Corporation under the Conditional Sale Agreement).

SIXTH: All right, title and interest of the Corporation in and to the following securities:

1. 2,250 shares of common stock of the Greenwich & Johnsonville Railway Company, constituting the entire stock of said company, which owns and operates approximately 7 miles of road between Greenwich and Thomson, in the County of Washington, State of New York.
2. 15,000 shares of common stock of Northern Coal and Iron Company, constituting the entire stock of said company.
3. 3,448 shares of capital stock of The Saratoga and Schenectady Rail Road Company, constituting 76.62% of the stock of said company.
4. 4,561 shares of capital stock of The Albany and Vermont Rail Road Company, constituting 76.02% of the stock of said company.
5. 2,030 shares of capital stock of the Hudson River Estates, Inc., constituting the entire stock of said company.
6. 100 shares of capital stock of the Delaware and Hudson Communications Company, constituting the entire stock of said company.

7. 100 shares of capital stock of the Northern New York Development Company, constituting the entire stock of said company.

8. 23,910 shares of capital stock of The Napierville Junction Railway Company, constituting 99.62% of the stock of said company.

9. 1,826 shares of capital stock of the Wilkes-Barre Connecting Railroad Company, constituting 50% of the stock of said company.

10. 500 shares of capital stock of the Albany Port Railroad Corporation, constituting 50% of the stock of said company.

11. 374,965 shares of capital stock of the Wyoming Valley Improvement Company (formerly The Hudson Coal Company), constituting the entire stock of said company.

12. 553 shares of capital stock of the Rutland and Whitehall Rail Road Company, constituting 21.63% of the stock of said company.

13. 100 shares of capital stock of The New York Business Development Corporation.

14. 3,063 shares of capital stock of The Pullman Company.

together with any and all additional securities of any of said corporations, or of any other corporation, hereafter acquired by the Corporation.

SEVENTH: All right, title and interest of the Corporation in and to any and all additions, betterments and improvements hereafter acquired or constructed upon or appurtenant to any of the Corporation's lines of railroad subject to the lien of this Mortgage or any other property subject to the lien of this Mortgage, including any and all additions, betterments and improvements to Equipment subject to the lien of this Mortgage.

EIGHTH: Any and all corporate rights, powers, franchises, privileges and immunities now or hereafter owned or possessed by

the Corporation which may be necessary for or appurtenant to the use, operation, management, maintenance, renewal, alteration or improvement of the Corporation's lines of railroad subject to the lien of this Mortgage or any other property subject to the lien of this Mortgage.

NINTH: All right, title and interest of the Corporation on the date of this Mortgage or hereafter acquired in, to or under all leases and trackage, joint facility or other operating contracts or agreements, leasing or granting to others the right to use lines of railroad owned by the Corporation and subject to the lien of this Mortgage or facilities appurtenant thereto.

TENTH: All the right, title and interest which the Corporation at any time hereafter may acquire in or to any property at the time subject to the lien of this Mortgage.

ELEVENTH: All the right, title and interest which the Corporation at any time hereafter may acquire in or to any property or securities if such property or securities shall become subject to the lien hereof pursuant to any of the provisions of this Mortgage.

TWELFTH: Any and all property of every kind and description which, at any time hereafter, may be expressly conveyed, mortgaged or pledged, delivered, assigned or transferred to USRA by the Corporation, or with its consent by anyone in its behalf, USRA being hereby authorized at any time and at all times to receive such conveyance, mortgage, pledge, delivery, assignment, or

transfer and to hold and apply any and all such property subject to the trusts and lien of this Mortgage.

THIRTEENTH: Any and all other property of every character whatsoever, which the Corporation now owns and which it may hereafter acquire, except as hereinafter expressly excepted in the Excepted Properties clause or otherwise excepted herein. It is the intention and it is hereby agreed that all property and interests in property, mortgaged hereby or intended so to be, hereafter acquired by the Corporation, and required to be subjected to the lien of this Mortgage or intended so to be by the provisions hereof, forthwith upon acquisition thereof by the Corporation shall be as fully embraced within the lien hereof as if such property and interests in property were now owned by the Corporation and were specifically described herein and mortgaged hereby.

FOURTEENTH: Any and all property which is now or may at any time hereafter be subject to the lien of the First Mortgage.

FIFTEENTH: All the rents, issues, tolls, profits and other income from the property herein or hereafter subject to the lien hereof pursuant to any of the provisions of this Mortgage or intended so to be, to the extent permitted by law.

EXCEPTED PROPERTIES

Anything hereinabove contained to the contrary notwithstanding, the Corporation excepts and reserves, from the grants hereby made and the lien hereof, the following described properties of the Corporation, whether now owned or hereafter acquired (hereinafter sometimes termed collectively "Excepted Properties"):

(1) all cash on hand or in banks, contracts, choses in action, notes and accounts receivable, patents, patent rights, patent applications, trade names, trademarks, claims, credits, judgments, choses in action and other intangible rights, other than any of the foregoing which are specifically by the express provisions of this Mortgage subjected or required to be subjected to the lien hereof;

(2) all materials and supplies or construction materials;

(3) all tools or machinery not constituting fixtures;

(4) all rents, issues, tolls, profits or other income of the property herein or hereafter subject to the lien hereof;

(5) all marine equipment, buses, trucks, automobiles or airplanes;

(6) all office equipment, furniture and fixtures and all accessories, attachments and supplies used or intended for use in connection therewith;

(7) all Air Rights, provided that the use of such Air Rights does not unreasonably interfere with or adversely affect the use for railroad purposes of the surface of the earth beneath such Air Rights;

(8) all insurance policies and rights thereunder in respect of any Excepted Properties;

(9) all certificates of public convenience and necessity and similar certificates and franchises for motor carrier operations and for water carrier operations, and all vehicles, boats, barges and other equipment, machinery, tools, implements, materials and supplies used in connection therewith;

(10) the last day of the term of each leasehold estate (oral or written, or any agreement therefor) subject to the lien of this Mortgage and now or hereafter enjoyed by the Corporation; and

(11) all franchises, permits, grants, leases or other interests in property which by their terms or by reason of applicable law would become void or voidable if mortgaged or pledged by the Corporation; provided, however, upon the occurrence of any Event of Default, all or such part of the Excepted Properties described above

in paragraphs(1) to (9), inclusive, then owned or thereafter acquired by the Corporation shall immediately become subject to the lien hereof to the extent permitted by law.

TO HAVE AND TO HOLD the premises, railroads, railroad property and appurtenances, rights, privileges, franchises, estates, leaseholds, securities, and other property (hereinafter sometimes termed collectively the "Mortgaged Property") hereby mortgaged and conveyed unto USRA, its successor or successors and assigns, forever;

SUBJECT, HOWEVER, (a) as to the properties (whether now owned or hereafter acquired) embraced therein or affected thereby to the First Mortgage to the extent that the lien thereof attaches, (b) to Excepted Encumbrances, (c) in respect of existing Equipment, to Equipment Agreements now in effect or hereafter executed in accordance with the provisions hereof and (d) in respect of property or Equipment acquired after the date of this Mortgage, to liens thereon permitted by the provisions hereof.

BUT IN TRUST NEVERTHELESS for the benefit and security of the present and any future holder of the Notes, and for the enforcement of the payment of the principal of the Notes and interest thereon, as and when payable, and the payment of all other amounts due pursuant to, and the performance

of and compliance with the agreements, undertakings, covenants and conditions of, this Mortgage, the Loan Agreement, and all other Loan Documents.

AND IT IS HEREBY COVENANTED AND DECLARED that the Mortgaged Property is to be held and disposed of by USRA, upon and subject to the covenants, conditions, uses and trusts hereinafter set out.

ARTICLE ONE

Definitions

Section 1.01. The terms defined in this Section 1.01, whenever used in this Mortgage, shall, unless the context shall otherwise require, have the respective meanings hereinafter in this Section 1.01 specified and shall include the plural as well as the singular.

"Accounting Rules" shall mean the Interstate Commerce Commission's Uniform System of Accounts for Railroad Companies, as in effect at the time in question, or the accounting rules of any other Federal authority having jurisdiction over the accounts of railroad companies, or, to the extent not determined thereby or in case there be no such accounting rules of the Interstate Commerce Commission or other Federal authority in effect at such time and applicable to railroad companies, generally accepted accounting principles.

"Affiliate" shall mean any person or corporation directly or indirectly controlling or controlled by or under direct or indirect common control with the Corporation, the terms "control," "controlling" and "controlled" meaning or referring to the right to vote a majority of the outstanding shares of capital stock having the right to elect a majority of the board of directors of the corporation in question.

"Air Rights" shall mean any estate or interest in space above the surface of the earth, together with any estate or interest in the surface or subsurface below such space which is conveyed with such space for the purpose of providing support for, or access to, or any other right necessary in connection with, any structure or structures within such space or to be constructed within such space.

"Board of Directors" shall mean the Board of Directors of the Corporation as from time to time constituted, and if there shall be an Executive Committee of the Corporation, such Executive Committee.

"Certified Resolution" shall mean a resolution of the Board of Directors certified by the Secretary or an Assistant Secretary of the Corporation under its corporate seal to have been duly adopted at a meeting of the Board of Directors at which a quorum was present and acting throughout and to remain in full force and effect at the date of such certification.

"Class A Note" shall mean any Note issued and delivered by the Corporation pursuant to Article III of the Loan Agreement, the proceeds from the issuance of which are to be used for purposes other than the purchase of Locomotives.

"Class B Note" shall mean the Note issued and delivered by the Corporation pursuant to Article III of the Loan Agreement, the proceeds from the issuance of which are to be used for the purchase of Locomotives.

"Conditional Sale Agreement" shall mean a conditional sale agreement executed in connection with the financing of the purchase of Locomotives as described in Section 4.03(a) of the Loan Agreement.

"Corporation" shall mean Delaware and Hudson Railway Company, a Delaware corporation.

"Equipment" shall mean all property classified at the time of acquisition as equipment under the Accounting Rules.

"Equipment Agreement" shall mean any equipment trust agreement and lease or any conditional sale agreement or any lease or any chattel mortgage pertaining to Equipment.

"Events of Default" shall mean the events enumerated in Section 7.01 of the Loan Agreement, continued for the period of time, if any, therein designated.

"Excepted Encumbrances" shall mean, as of any particular time, any of the following:

(1) liens for taxes, assessments or governmental charges not then delinquent; liens for workmen's compensation awards and similar obligations not then delinquent; liens or encumbrances in connection with litigation against the Corporation concerning claims for personal injuries or damages to property arising out of the operation of its business if entitled to priority over the lien of this Mortgage by operation of law; other liens not exceeding \$100,000 in the aggregate arising out of litigation against the Corporation;

liens for the payment or discharge of which provisions satisfactory to USRA have been made; mechanics', laborers', materialmen's and similar liens not then delinquent; any liens of the character referred to in this subparagraph (1), irrespective of amount, whether or not delinquent, the validity of which is being contested at the time by the Corporation in good faith by appropriate proceedings; and undetermined liens or charges incidental to construction and not at the time due;

(2) liens securing indebtedness neither payable nor assumed nor guaranteed by the Corporation or any Affiliate or Subsidiary, nor on which any of them customarily pays interest, on property with respect to which the Corporation owns easements or rights of way;

(3) rights reserved to or vested in any governmental authority or agency or in any municipality, by the terms of any franchise, grant, license or permit or by any provision of law, to terminate such franchise, grant, license or permit, or to purchase or appropriate or recapture, or to designate a purchaser of, any of the Mortgaged Property or to demand and collect any tax or other compensation for the use of streets or other public places or to control or regulate the Mortgaged Property;

(4) any obligation or duty affecting the Mortgaged Property or the use, removal, control or regulation thereof by any public authority, under any franchise, grant, license or permit or provision of law;

(5) rights of lessees under leases from the Corporation, and interests of others than the Corporation in property owned jointly or in common; and

(6) easements, rights of way, exceptions, reservations, restrictions, conditions, limitations, covenants, adverse rights or interests and any other defects or irregularities in title affecting the Mortgaged Property which do not materially affect the use of the Mortgaged Property for the purposes for which it is held by the Corporation.

"Excepted Properties" shall mean the properties of the Corporation excepted and reserved from the grants made by and the lien of this Mortgage, as described in the Excepted Properties clause.

"First Mortgage" shall mean the First and General Mortgage dated as of May 1, 1963 between the Corporation and CITIBANK, N. A. (formerly First National City Bank), as Trustee, as heretofore amended and supplemented by a Supplemental Indenture dated as of July 1, 1968 and a Second Supplemental Indenture dated as of March 1, 1971, both between the Corporation and CITIBANK, N. A. (formerly First National City Bank), as Trustee.

References to "lines of railroad" shall mean the whole of the Corporation's interest in the real estate, ballast, ties, rails and all structures and edifices constituting or erected for transportation use upon the right of way of said lines of

railroad; and the term shall include any main or branch lines of railroad which the Corporation may own either solely or jointly or over which the Corporation may operate or have any right to operate under any lease or trackage agreement or otherwise.

"Loan Agreement" shall mean the loan agreement, dated March 15, 1976, between USRA and the Corporation.

"Loan Documents" shall have the meaning set forth in Article I of the Loan Agreement.

"Locomotive" shall mean one of the twenty (20) GP 39-2 locomotives being constructed upon the order of the Corporation by the Electro-Motive Division of General Motors Corporation, as described in Article I of the Loan Agreement.

"Mortgage" shall mean this Mortgage dated March 15, 1976 by and between the Corporation, as mortgagor, and USRA, as mortgagee.

"Mortgaged Property" shall mean the premises, railroads, railroad property and appurtenances, rights, privileges, franchises, estates, leaseholds, securities, and other property mortgaged and conveyed unto USRA, its successor or successors and assigns, pursuant to this Mortgage.

"Note" shall mean any Class A Note and the Class B Note issued and delivered by the Corporation pursuant to Article III of the Loan Agreement to evidence a borrowing by the Corporation thereunder.

"Officers' Certificate" shall mean a certificate signed (a) by the Chairman of the Board, the President or a Vice President of the Corporation and (b) by the chief finance officer, chief accounting officer, Comptroller or Treasurer of the Corporation, or by the chief engineer of the Corporation, or by an assistant comptroller or assistant treasurer of the Corporation, and dated not more than thirty days prior to the date when such certificate is filed with USRA.

"Opinion of Counsel" shall mean a written opinion of counsel satisfactory to USRA, who may be counsel for the Corporation.

"Prior Lien" shall mean any mortgage or other lien (other than an Excepted Encumbrance) constituting a charge on property subject to the lien of this Mortgage prior to the lien of this Mortgage.

"Prior Lien Securities" shall mean all indebtedness secured by the First Mortgage and all other indebtedness secured by any other Prior Lien.

"Receiver" shall mean a receiver or receivers of all or a substantial part of the property of the Corporation appointed in an action in a court of competent jurisdiction or a trustee or trustees appointed in reorganization proceedings under Section 77 of the Bankruptcy Act or any other official or officials having powers

similar to those of such a receiver or trustee and having possession of or title to (or both) all or a substantial part of the property of the Corporation.

"Request" shall mean a written request for the action therein specified, duly executed on behalf of the Corporation by the Chairman of the Board or the President or any Vice President of the Corporation.

All references herein to "securities" shall, unless the context shall otherwise require, include bonds and stock as such terms are defined in Section 4.01 hereof.

"Subsidiary" shall mean any corporation, more than 50% of the capital stock of which having general voting power for the election of directors is owned by the Corporation and all of the capital stock of which owned by the Corporation is subject to the lien of this Mortgage.

"USRA" shall mean United States Railway Association, established pursuant to the Regional Rail Reorganization Act of 1973 as a non-profit government corporation organized under the District of Columbia Non-Profit Corporation Act.

"USRA Release" shall have the meaning set forth in Section 3.02 hereof.

ARTICLE TWO

Particular Covenants of the Corporation

Section 2.01. The Corporation will duly perform and comply with all its covenants and obligations under the Loan Agreement.

Section 2.02. The Corporation will duly and punctually pay the principal of and interest on the Notes at the date and place and in the manner prescribed in the Notes and in the Loan Agreement, with interest, to the extent permitted by law, on any overdue installments of interest at the respective rates specified in the Notes on which such interest is in default. When and as paid in full, all Notes shall be returned to the Corporation and cancelled.

Section 2.03. The Corporation, as of the date of the execution and delivery of this Mortgage, owns and is lawfully possessed of the lines of railroad, real property and appurtenances, securities and other property described in the Granting Clauses hereof as owned by it, and is duly authorized to grant, assign, convey, mortgage and pledge the Mortgaged Property as security for the Notes to the extent provided in this Mortgage, and to operate said lines of railroad, and covenants and agrees to do any and all acts or things necessary or proper to defend its title to the same or any thereof.

All lines of railroad and appurtenances and other property of every kind which the Corporation has covenanted by this Mortgage to convey or pledge or assign to USRA and all property at any time acquired by the Corporation and provided by this Mortgage to become subject to this Mortgage shall, immediately upon the acquisition thereof by the Corporation and without any further conveyance or assignment, become and be subject to the lien of this Mortgage as fully and completely as though specifically described in the Granting Clauses hereof; but whenever required by USRA, the Corporation will mortgage, grant, convey, confirm, assign, transfer and set over unto USRA the estate, right, title and interest of the Corporation in and to all real and personal property, estates, rights and franchises which the Corporation may hereafter acquire and which by the Granting Clauses or other provisions of this Mortgage are subjected to the lien of this Mortgage or intended so to be, and will, subject to the requirements of the First Mortgage, deliver to USRA all such property which consists of securities, and the Corporation will also do, execute, acknowledge and deliver, or it will cause to be done, executed, acknowledged and delivered, all such further acts, deeds, mortgages, transfers, conveyances and assurances for the better assuring, mortgaging, conveying and confirming unto USRA all and singular the Mortgaged Property hereby mortgaged or intended so to be, as USRA shall request for better accomplishing the purposes of this Mortgage and for securing the payment of the principal of, and

interest on, the Notes, and the payment of all other amounts due pursuant to, and the performance of and compliance with the agreements, undertakings, covenants and conditions of, this Mortgage, the Loan Agreement and all other Loan Documents.

The Corporation will deliver to USRA annually on or before the fifteenth day of February in each year, commencing in 1977, an Officers' Certificate setting forth in reasonable detail a description of any substantial items of property acquired during the previous calendar year (the first such Officers' Certificate to cover the period from the date of the execution and delivery of this Mortgage to the end of the year 1976) which are required or intended by the Granting Clauses or other provisions of this Mortgage to be subjected to the lien hereof, and an Opinion of Counsel stating either (a) that no further acts, deeds, mortgages, transfers or conveyances are necessary to subject to the lien of this Mortgage the items of property described in such certificate, or (b) that each deed, mortgage or other document delivered to USRA with such Opinion of Counsel is sufficient for that purpose and has been or is being recorded and filed in accordance with the provisions of Section 2.10 hereof.

In all cases in which, pursuant to the requirements of the First Mortgage, securities which would otherwise be required to be deposited with USRA are deposited with the trustee under the First Mortgage, the Corporation will forthwith, upon

the discharge and cancellation of the First Mortgage, cause to be deposited with USRA any and all of such securities remaining at the time of such discharge and cancellation with the trustee of the First Mortgage so discharged and cancelled. The Corporation hereby authorizes and directs the trustee under the First Mortgage, upon such discharge and cancellation thereof, to deposit with USRA all such securities so remaining. The Corporation covenants to deliver a certified copy of this Mortgage to the trustee under the First Mortgage and to furnish USRA with evidence of such delivery.

Section 2.04. The Corporation will make, or cause to be made, any and all payments required to be made under and by the terms of any Equipment Agreement or other instrument constituting a lien on or claim of ownership to Equipment in the possession of or used by the Corporation and will do or cause to be done all and every such further acts as may be necessary to assure to the Corporation the use of such Equipment and the ultimate acquisition of title thereto if such ultimate acquisition of title is contemplated by the Equipment Agreement or other instrument.

Nothing contained in this Section 2.04, and nothing in any other provision of this Mortgage expressed or implied, is intended or shall be construed to limit the right or power of the Corporation, which is hereby expressly reserved, to extend the time of payment of the balance of the rental or other payments remaining

to be paid under any such Equipment Agreement or other instrument or secured thereby or to refinance the same as provided in Section 3.12 hereof or to take any other action permitted by Article Three hereof.

Section 2.05. The Corporation will pay or cause to be paid the interest on all outstanding Prior Lien Securities, when and as the same shall become due and payable, and at or immediately after the stated maturity of such Prior Lien Securities will pay or acquire all such Prior Lien Securities and will cancel the same or cause the trustee under the First Mortgage to cancel the same.

Section 2.06. The Corporation will pay and discharge or cause to be paid and discharged all taxes, assessments and governmental charges, the lien of which would be prior to or on an equality with the lien hereof, lawfully imposed upon the Mortgaged Property or any part thereof or upon the income and profits thereof, and also will pay and discharge all taxes, assessments and governmental charges lawfully imposed upon the interest of USRA in the Mortgaged Property or the income or profits therefrom, so that the lien and priority of this Mortgage shall be preserved at the cost of the Corporation and without expenses to USRA or any subsequent holder of the Notes.

Section 2.07. The Corporation will pay and discharge all sums which it shall be obligated to pay under or by virtue of any lease or joint facility, terminal, trackage or other agreement held by it and subject to the lien of this Mortgage, and will perform and observe all obligations on its part to be performed or observed under said instruments.

Section 2.08. The Corporation will not create, assume or suffer to be created or to exist any debt, lien, charge or encumbrance having priority or preference over or equality with the lien of this Mortgage upon the Mortgaged Property or any part thereof or upon the income and profits therefrom except (a) liens or encumbrances permitted under the terms of Section 6.07(g) of the Loan Agreement, (b) the lien imposed by the First Mortgage, and (c) Excepted Encumbrances. Within six months after the same shall accrue the Corporation will pay, or cause to be discharged, or make adequate provision for the satisfaction and discharge of, all lawful claims and demands of suppliers, mechanics, laborers, materialmen and others which if unpaid might by law be given precedence over this Mortgage as a lien or charge upon the Mortgaged Property or a part thereof, or on the income and profits therefrom.

Section 2.09. The Corporation will not issue or permit to be issued any additional bonds under the First Mortgage except

(a) additional bonds pledged to USRA pursuant to Sections 4.01 and 4.02 of the Loan Agreement, and (b) bonds issued in connection with transfers or exchanges of bonds now outstanding under the First Mortgage or in substitution for outstanding bonds which are lost, destroyed or stolen. The Corporation will not sell, pledge or otherwise dispose of any bonds owned by it at the date of execution and delivery of this Mortgage and outstanding under the First Mortgage, provided that the Corporation may surrender any of said bonds to the trustee under the First Mortgage in order to obtain credit under the sinking fund provisions of said mortgage, or for cancellation.

Section 2.10. The Corporation, with all convenient speed, at its expense will duly record, register, file, rerecord, reregister and refile this Mortgage, and every additional mortgage, deed or other document which hereafter may be executed as may be required by law in order to protect the lien hereof on the property covered hereby or by such additional mortgage, deed or other document, and will furnish as promptly as practicable after the date of this Mortgage, and annually on or before the fifteenth day of February in each year thereafter to USRA an Opinion of Counsel that the Corporation has taken all action during the preceding calendar year (or, in the case of the first such Opinion of Counsel, during the period since the date of this Mortgage) necessary to comply with the provisions of this Section 2.10.

Section 2.11. Subject to the provisions of Article Three hereof, the Corporation will diligently maintain, preserve and keep all of its rights and franchises subject to the lien hereof and every part thereof, and will at all times maintain, preserve and keep its properties subject to the lien of this Mortgage in good repair, working order and condition and will from time to time make all needed and proper repairs thereto and renewals and replacements thereof and will at all times keep the lines of railroad and appurtenant facilities subject to the lien hereof supplied with sufficient Equipment, machinery, tools and other supplies for the operation thereof.

Section 2.12. The Corporation will insure its property subject to the lien of this Mortgage in such manner and to such extent as is customary for railroad companies in the United States.

Any single casualty resulting in a loss exceeding the sum of \$300,000, or any series of casualties resulting in losses exceeding the sum of \$500,000 in the aggregate during any calendar year, shall, at the option of USRA, be adjusted solely by USRA in consultation with the Corporation.

If the proceeds from any insurance upon property subject to the lien of this Mortgage shall be less than the sum of \$300,000 but more than the sum of \$50,000 in respect of any one loss or shall be less than the sum of \$500,000 in respect of losses suffered

during any calendar year, such proceeds shall, subject to the requirements of any mortgage or other instrument constituting a Prior Lien on such property, be applied by the Corporation to the repair, restoration and replacement of the property damaged or destroyed, or to the purchase of other transportation property, real or personal, including Equipment. Such repairs, restorations, replacements and purchases shall be made by the Corporation upon the condition that the same are, or upon payment therefor will become, subject to the lien of this Mortgage as a first lien thereon, subject only to Prior Liens which existed on the property with respect to which such insurance proceeds were paid, and to Excepted Encumbrances, if any, but in the case of property repaired or restored only in the same manner and to the same extent as the property damaged or destroyed.

If the proceeds from any insurance upon property subject to the lien of this Mortgage shall exceed the sum of \$300,000 in respect of any one loss or shall exceed the sum of \$500,000 in respect of losses suffered during any calendar year, such proceeds shall, at the option of USRA but subject to the requirements of any mortgage or other instrument constituting a Prior Lien on such property, (a) be applied by the Corporation to the prepayment of the Notes pursuant to Section 3.05 of the Loan Agreement, or (b) be applied by the Corporation to the repair, restoration and

replacement of the property damaged or destroyed, or to the purchase of other transportation property, real or personal, including Equipment, as set forth in the preceding paragraph of this Section 2.12.

Section 2.13. The Corporation will deliver to USRA annually on or before the fifteenth day of February in each year, commencing in 1977, an Officers' Certificate stating that the Corporation is in full compliance with all its covenants set forth in this Mortgage, and the Corporation will furnish USRA with such additional information as USRA may reasonably request with respect to the performance by the Corporation of its covenants in this Mortgage.

ARTICLE THREE

Releases of Mortgaged Property and Subordinations

Section 3.01. From time to time the Corporation may request release by USRA from the lien of this Mortgage of any of the Mortgaged Property; the Corporation may dispose of such portion of the Mortgaged Property as may be released by USRA; and the Corporation may dispose of without release the various kinds of property in this Article Three described as so disposable; all on the conditions and subject to the limitations herein set forth.

Whenever requesting the release of any property pursuant to this Article Three, the Corporation shall, except as hereinafter in this Article Three specifically provided, deliver to USRA

(1) a Request for the release of the property described in the Officers' Certificate required by subparagraph (2) of this paragraph;

(2) an Officers' Certificate which shall:

(a) set forth a description of the property sought to be released;

(b) state such facts as shall be necessary to show that the release sought is authorized under the provisions and restrictions of this Article Three;

(c) set forth the selling price of the property sought to be released, if it is to be sold, or a description of any property to be received in exchange

therefor and of any Prior Liens thereon, or, if the property sought to be released is to be otherwise disposed of, the benefits to be received by the Corporation or the resulting enhancement in value of the remainder of its property subject to the lien of this Mortgage; and

(d) set forth the fair value of the property sought to be released and state that such fair value is not greater than the price at which it is to be sold, or is not greater than the fair value of the property (including any cash) to be received in exchange therefor, as the case may be, or, in the case of a disposition of property otherwise than by sale or exchange, is not greater than the benefits to be received by the Corporation or the resulting enhancement in value of the remainder of its property subject to the lien of this Mortgage, with appropriate adjustment for Prior Liens to which any of the property referred to in this subparagraph (2) may be subject;

(3) a Certified Resolution approving such release, which may be in general terms and relate to classes of releases;

(4) an Opinion of Counsel stating that the action so requested is authorized by the provisions of this Article Three;

that no authorization of any governmental agency other than USRA is required for any sale, exchange or other disposition referred to in said Officers' Certificate or that any such authorization which is required has been obtained and is in full force and effect, specifying the same; that to the knowledge of counsel there are no Prior Liens on any property to be received in exchange for property to be released except those specified in the Officers' Certificate required by the foregoing subparagraph (2) and that the instruments furnished to USRA in connection with the action so requested are in compliance with the provisions of this Section 3.01; and where necessary or appropriate that no conveyances, declarations or instruments of further assurance are necessary for the purpose of subjecting such property to the lien of this Mortgage (as a first lien thereon, subject only to the First Mortgage to the extent the lien thereof attaches, and to such other Prior Liens, if any, as may be specified in such Opinion of Counsel and to Excepted Encumbrances) except such conveyances, declarations or instruments of further assurance, if any, as may be delivered to USRA with such Opinion of Counsel for such purpose, and, if any conveyances, declarations or instruments of further assurance be delivered to USRA with such Opinion of Counsel, that the same accomplish such purpose; and

(5) such other information as USRA may request.

Section 3.02. Upon receipt of the documents and information specified in Section 3.01 hereof, USRA may at its sole option and in its sole discretion release from the lien of this Mortgage any of the Mortgaged Property covered by the Request for

release delivered by the Corporation pursuant to Section 3.01, but shall not be required so to do except as specified in Sections 3.04, 3.05, and 3.07. Notwithstanding anything contained herein to the contrary, upon receipt of the documents and information specified in Section 3.01 hereof with respect to any of the Mortgaged Property which the trustee under the First Mortgage, acting pursuant to Article Six thereof, shall have released from the lien of the First Mortgage, USRA shall release such Mortgaged Property from the lien of this Mortgage; provided, however, in the event that the Corporation sells, transfers or otherwise assigns such Mortgaged Property and receives during any year net proceeds therefrom in excess of an aggregate of \$100,000, USRA shall have the option to reduce any advance to which the Corporation shall otherwise be entitled under Section 3.01 of the Loan Agreement for the year in which such sale, transfer or assignment occurs in an amount equal to the value of the proceeds received by the Corporation for such sale, transfer or assignment, and in the event that such sale, transfer or assignment shall occur after the year 1979, then, at the option of USRA, the proceeds thereof shall be applied to the prepayment of the Notes issued pursuant to the Loan Agreement. Any such release by USRA (hereinafter sometimes

referred to as a "USRA Release") shall be in writing and shall contain any conditions which USRA may impose.

Section 3.03. From time to time the Corporation, subject to the conditions, authorizations and limitations prescribed in this Article Three, and upon receipt of a USRA Release, may sell, exchange for other property or otherwise dispose of, subject to the conditions imposed by the USRA Release, any of the Mortgaged Property released from the lien of this Mortgage by the USRA Release.

Section 3.04. USRA shall release upon Request from the lien of this Mortgage any franchise or portion thereof which is to be surrendered and any tracks, structures and other property to be abandoned if such surrender or abandonment is to be made (a) pursuant to the authority of the Interstate Commerce Commission or (b) by virtue of an agreement with or action by the Federal government or any State, municipality, or other political division or subdivision of a State or any governmental agency or (c) in accordance with some other legal requirement, upon compliance by the Corporation with the requirements of Section 3.01 hereof and upon receiving a certified copy of any order or agreement pursuant to which such abandonment or surrender is made.

Section 3.05. Should any of the Mortgaged Property be taken by exercise of the power of eminent domain or should any

governmental body or agency exercise any right which it may have to purchase any part of the Mortgaged Property, USRA, without requiring compliance with any of the provisions of any of the other Sections of this Article Three, shall release the property so taken or purchased upon receipt by USRA of an Officers' Certificate and an Opinion of Counsel (accompanied by a copy of the documents pursuant to which such power or right has been exercised) to the effect that such property has been taken by exercise of the power of eminent domain or purchased by a governmental body or agency in the exercise of a right which it had to purchase the same.

Section 3.06. The Corporation may at any time, provided that either the general integrity of, and continuity between the principal points then served by, its lines will not be broken thereby or the security for the Notes will not be adversely affected to a material degree thereby, make any change in location of its lines, tracks, station houses, buildings or other structures situated upon any part of the Mortgaged Property to other premises, or may move any machine tools, machinery or other fixtures to other premises, whether or not such other premises be subject to the lien of this Mortgage; provided, however, that if such other premises are not subject to the lien of this Mortgage the Corporation shall deliver to USRA, promptly after any such change in location, a conveyance to USRA subjecting to the lien of this Mortgage (as a first lien thereon, subject only to such Prior Liens, if any, upon the old premises as may be specified in the Opinion of Counsel referred to

below in this Section 3.06 and to Excepted Encumbrances) the new or relocated lines, tracks, station houses, buildings or other structures, and the property on which the same are situated, together with an Opinion of Counsel that such conveyance is effective for such purpose, and that such property is not subject to any Prior Liens, other than such Prior Liens upon the old premises as may be specified in such Opinion of Counsel.

Section 3.07. The Corporation may from time to time sell, exchange or otherwise dispose of, free from the lien of this Mortgage and without release by USRA, any property, other than securities at any time subject to the lien hereof, which is not used, or, in the opinion of the Corporation, useful, for railroad purposes, not exceeding in any one calendar year a total of \$100,000 in fair value. The Corporation agrees that it will, within a reasonable time thereafter, expend the net cash proceeds of any such sales or other dispositions to replace the property so sold or otherwise disposed of with other property (including improvements to property), not necessarily of the same character, which in its judgment is of at least equal fair value. All property resulting from such expenditures and all property received in exchange for property which was subject to the lien hereof shall forthwith become subject to the lien hereof.

USRA from time to time, upon receipt of a Request so to do and an Officers' Certificate specifying the property sold, exchanged or otherwise disposed of and the value thereof at the date of disposition, stating that it is not used or useful for railroad purposes of the Corporation and stating the value at such date of

all property theretofore sold, exchanged or otherwise disposed of by the Corporation pursuant to this Section 3.07 within the calendar year in which such property was sold, exchanged or otherwise disposed of, shall execute and deliver confirmatory releases or certificates that such property is free from the lien of this Mortgage.

Section 3.08. The Corporation shall have full power, in its discretion, without notice to, or action by, USRA, from time to time (a) to alter, remove, demolish or retire from service, otherwise than by sale or exchange, any building or structure or industry tracks or side tracks or yard tracks or other similar portion of the Mortgaged Property which may have become unfit, obsolete, or undesirable for use or which it may deem necessary or advantageous to alter, remove, demolish or retire in connection with the maintenance or operation of or in the improvement of the Mortgaged Property, and (b) to sell or dispose of, free from the lien of this Mortgage, any portion of the Equipment (other than Locomotives), machinery, tools, implements, materials, supplies and portable personal property at any time held subject to the lien hereof, which in the opinion of the Corporation may have become obsolete or otherwise unfit or undesirable for use or which it may not be necessary or advantageous longer to retain for use upon the Mortgaged Property and to sell or dispose of, free from the lien of this Mortgage, or use in the construction of new Equipment, machinery or apparatus, any scrap or other material accumulated from any above mentioned alteration, removal, demolition or retirement,

and the Corporation agrees that it will replace the same with, or substitute therefor, other properties, not necessarily of the same character but having a value at least equal to the then value of the old property at the time of its disposition or, if it be sold, to the consideration therefor received by the Corporation, and such new property shall become subject to the lien of this Mortgage.

Section 3.09. The Corporation shall have full power, in its discretion, without notice to, or action by, USRA from time to time

(1) to make any lease of, or to grant trackage rights upon, or to grant easements for any purpose in respect of, any part of the Mortgaged Property or to amend or to enter into any contract affecting the same, in each case expressly subject to the prior lien of this Mortgage; and

(2) to make amendments in, or substitutions for, any leases and any trackage, joint facility or other operating contracts or agreements leasing or granting the rights to use lines of railroad or appurtenant facilities owned by others, the rights of the Corporation under which are subject to this Mortgage; provided, however, (a) that the Corporation is not thereby prevented (except to an extent which will not adversely affect to a material degree the security for the Notes) from maintaining and operating continuous lines of railroad between the principal points then served by it and (b) that any amended or supplemental lease or trackage, joint facility or other contract or agreement

forthwith shall be subject to this Mortgage in the same manner and to the same extent as that previously existing.

The Corporation shall have the right, with the written consent of USRA, to make any lease of, or to make any agreement granting trackage, joint facility or other operating rights upon or to grant easements in respect of, any part of the Mortgaged Property, on such terms that the rights of the lessee under such lease or the person to whom such trackage, joint facility or other operating rights or such easement are granted shall be superior to the lien of this Mortgage; provided, however, that no such lease or agreement shall be made unless the rent or other consideration to be received thereunder is fair and adequate in the circumstances. Any lease or agreement made pursuant to this paragraph may thereafter be amended or terminated with the written consent of USRA.

Section 3.10. Any property or rights received by the Corporation in exchange, replacement or substitution for any property or rights released or otherwise freed under any provisions of this Article Three from the lien of this Mortgage shall be and become subject to the lien of this Mortgage as fully as if specifically mortgaged hereby.

Section 3.11. In case the Mortgaged Property shall be in the possession of a Receiver, the powers conferred by this Article Three upon the Corporation may be exercised by such Receiver with the approval of USRA irrespective of the happening

of any Event of Default. In any case of the exercise of said powers by a Receiver, such Receiver shall deliver to USRA, in lieu of any Certified Resolutions, Officers' Certificates and Opinions of Counsel required by any provision of this Article Three to be delivered to USRA by the Corporation, appropriate orders of court, certificates of such Receiver and Opinions of Counsel.

Section 3.12. In order to permit the Corporation to refinance or refund any obligations outstanding under any Equipment Agreement, in a manner which will effect a saving or advantage to the Corporation, and for no other purpose, USRA shall execute an instrument subordinating to a new Equipment Agreement, to the extent necessary to enable such refinancing or refunding to be consummated, the lien of this Mortgage on any Equipment then subject to the lien hereof as the Corporation shall describe in the Certified Resolution hereinafter in this paragraph provided for; provided, however, that (a) the aggregate principal amount of the Corporation's obligations outstanding at the time under Equipment Agreements shall not be increased by such refinancing or refunding, and (b) the Corporation shall deliver to USRA a Certified Resolution requesting such subordination, together with an Officers' Certificate stating that such refinancing or refunding has been or is to be made upon terms which will effect a saving or advantage to the Corporation.

If under the provisions of any Equipment Agreement the Corporation shall be required to convey Equipment to replace Equipment thereunder which has been destroyed, retired or otherwise disposed of, the Corporation may so convey Equipment which is subject to the lien of this Mortgage. Whenever requesting subordination of the lien of this Mortgage on any Equipment so conveyed, the Corporation shall deliver to USRA a Certified Resolution requesting the subordination of the lien of this Mortgage on such Equipment to such Equipment Agreement, together with an Officers' Certificate that the Corporation has no Equipment not subject to the lien of this Mortgage which can be so conveyed in replacement; and upon receipt of such Certified Resolution and Officers' Certificate USRA shall execute an appropriate instrument of subordination.

Section 3.13. USRA, upon receipt of a Request so to do, shall execute and deliver to the Corporation a quitclaim deed or disclaimer, or shall join with the Corporation in the execution and delivery of a quitclaim deed, relating solely to property or rights which are not at the time subject to the lien of this Mortgage. The Corporation, when requesting any action under this Section 3.13, shall deliver to USRA:

(1) an Officers' Certificate which shall set forth a description of the property or rights a quitclaim of which or a disclaimer in respect of which is requested; and

(2) an Opinion of Counsel that such property or rights are not subject to the lien of this Mortgage.

ARTICLE FOUR

Pledged Securities

Section 4.01. As used in this Article Four the word "corporation" shall include any other similar legal entity; the word "bonds" shall include notes and other evidences of indebtedness (including purchase money mortgages and conditional sale and similar agreements), whether secured or unsecured; the words "stock" and "stock certificates" shall be construed to denote proprietary interests in a corporation or the certificates evidencing the same, as the context may require; and, except as the context may otherwise require, the word "pledged" shall mean required to be pledged with USRA by any of the provisions of this Mortgage, or actually pledged with USRA hereunder at any time, or subject to the lien of this Mortgage but pledged under the First Mortgage.

Subject to the provisions of the First Mortgage, all pledged securities shall be delivered to USRA accompanied by proper instruments of assignment and transfer and shall be held by USRA subject to the terms and provisions of this Mortgage; provided, however, that upon satisfaction and release of the First Mortgage, all pledged securities held by the trustee thereunder shall be promptly delivered to USRA and held by USRA as aforesaid.

Section 4.02. Unless (a) a Receiver shall be in possession of the Mortgaged Property or a substantial part thereof or (b) one or more of the Events of Default shall have happened and be continuing--(i) the Corporation shall have the right, with the same force and effect as though such stock had not been pledged hereunder, to vote, or to give any approval, consent or waiver in respect of, all pledged stock and all other pledged securities having voting rights, for all purposes not contrary to any provision of this Mortgage, and from time to time USRA, upon receipt of a Request so to do, shall execute and deliver, or shall cause to be executed and delivered, to the Corporation or its nominees, any required powers of attorney or proxies to enable the Corporation so to vote or take action; (ii) the Corporation shall be entitled to receive all interest, cash dividends and principal payments on any of the pledged securities whether before, at or after maturity; (iii) USRA shall not, except upon receipt of a Request so to do, enforce any of the provisions of pledged bonds or the mortgages, trust deeds or other instruments under which any of the pledged bonds are issued or by which the same are secured unless in the opinion of USRA the security of this Mortgage will be impaired or endangered without such enforcement; (iv) from time to time, upon receipt of a Request so to do, USRA shall deliver to the Corporation any coupons which are about to

mature for such interest on pledged bonds in order that the Corporation may receive payment thereof for its own use, and shall deliver to the Corporation suitable revocable orders in favor of the Corporation, or its nominee or nominees, for the payment of such interest and dividends on pledged bonds and stock, and, except as hereinafter provided in this Section 4.02, the Corporation may collect all coupons and interest and dividends which the Corporation is entitled to receive, as aforesaid; and (v) USRA, at the expense of the Corporation, shall assign and transfer to persons designated by the Corporation a sufficient number of pledged shares to qualify such persons to act as directors of, or in any other official relation to, the several corporations which issued such shares, upon receipt of a Request so to do, stating that the Corporation has no shares for that purpose under its control, other than shares held hereunder.

In case of the happening of any of the contingencies specified in clauses (a) and (b) of the preceding paragraph of this Section 4.02, USRA shall be entitled to vote all the pledged stock, and other pledged securities having voting rights, to collect and receive all interest, dividends, and principal payments on the pledged securities, and, as the holder of the pledged securities, to perform any and all acts and to make and execute

any and all transfers, requests and requisitions or other instruments which may be necessary or proper to carry out the provisions of this Mortgage and to enforce all of the provisions of such pledged securities.

ARTICLE FIVE

Remedies of USRA

Section 5.01. If one or more of the Events of Default, as defined in Section 7.01 of the Loan Agreement, shall have occurred and be continuing, then, subject to any valid order to the contrary of a court having jurisdiction in the premises, USRA shall be entitled as a matter of right, (a) to the appointment of a Receiver of the Mortgaged Property and of the earnings, rents, issues, profits, tolls, charges, revenues and income therefrom with such powers as the court making such appointment shall confer, and (b) to the entry of an order directing that the earnings, rents, issues, profits, tolls, charges, revenues and other income of the premises and property comprised in the Mortgaged Property be segregated, sequestered and impounded for the benefit of USRA.

Section 5.02. The Corporation covenants that if one or more of the Events of Default shall have occurred and be continuing, then upon a declaration to such effect by USRA, the full principal amount of the Notes, all interest accrued thereon, and all such further amounts as may be due to USRA by virtue of the provisions of the Notes, of this Mortgage, of the Loan Agreement and of the other Loan Documents, shall become immediately due and payable,

and thereupon the Corporation will pay to USRA the whole amount then so owing, with interest on the overdue principal of the Notes and, to the extent permitted by law, on any overdue installments of interest and on other amounts so due, from the respective dates when the same became payable, at the respective rates specified in the Notes; and in case the Corporation shall fail to pay the same forthwith upon such demand, USRA shall be entitled to recover judgment for the whole amount so due and unpaid.

USRA shall be entitled to recover judgment, as aforesaid, either before, or after, or during the pendency of any proceedings for the enforcement of the lien of this Mortgage upon the Mortgaged Property, and the right of USRA to recover such judgment shall not be affected by any sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the provisions of this Mortgage or the foreclosure of the lien hereof; and in case of a sale of the Mortgaged Property as a whole, or any part thereof, and of the application of the proceeds of sale to the payment of the debt hereby secured, USRA shall be entitled to enforce payment of, and to receive, all amounts then remaining due and unpaid upon any and all amounts hereby secured and then outstanding, and shall be entitled to recover judgment for any portion of such debt remaining unpaid, with interest thereon as above provided.

No recovery of any judgment by USRA and no levy of any execution upon or by virtue of any such judgment upon the Mortgaged Property, or part thereof, or on any other property, shall in any manner, or to any extent, affect the lien of this Mortgage on the Mortgaged Property or any part thereof, or any rights, powers or remedies of USRA hereunder or under the Loan Agreement, but such lien, rights, powers and remedies shall continue unimpaired as before.

Section 5.03. If one or more of the Events of Default shall have occurred and be continuing, then USRA may proceed to protect and to enforce its rights by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement contained herein or in the Loan Agreement, or in aid of the execution of any power herein or therein granted, or to prevent any impairment of the security hereof, or for the foreclosure of this Mortgage and the sale of the Mortgaged Property, or for the enforcement of any other appropriate legal or equitable remedy as USRA shall deem most effectual to protect and enforce any of its rights under this Mortgage and under the Loan Agreement.

Section 5.04. If one or more of the Events of Default shall have occurred and be continuing, then to the extent permitted by applicable law, USRA may take possession of and sell the Mortgaged Property at public auction, and at such time and place, upon such terms and conditions and after such previous public notice, with such postponement of sale, as USRA shall deem appropriate, all subject to the requirements of any applicable law.

Section 5.05. In case USRA shall have proceeded to enforce any right under this Mortgage by foreclosure or otherwise, and such proceedings shall have been discontinued or abandoned by USRA for any reason, or shall have been determined adversely to USRA, then and in every such case the Corporation and USRA shall be restored to their former positions and rights hereunder in respect of the Mortgaged Property, and all rights, remedies and powers of USRA and of the Corporation shall continue in the future as though no such proceedings had been taken.

Section 5.06. Any sale or sales made pursuant to this Mortgage, under or by virtue of any judicial proceedings or otherwise, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Corporation of, in and to the premises and property sold, and shall be a perpetual bar, both at law and in equity, against the Corporation, its successors and assigns, and against any and all persons claiming the premises and property sold, or any part thereof, from, through or under the Corporation, its successors or assigns.

The Corporation, for itself and all persons and corporations hereafter claiming through or under it, hereby expressly waives and releases all right to have the properties and estate comprised in the security intended to be created by this Mortgage marshalled upon any foreclosure or other enforcement hereof.

Section 5.07. In any sale or sales made pursuant to this Mortgage, USRA may elect to cause any property conveyed or intended to be conveyed by or pursuant to this Mortgage which is deemed to

be personal property or chattels, to be disposed of in any manner now or hereafter permitted by the Uniform Commercial Code as adopted in any jurisdiction in which any portion of the Mortgaged Property is located, or in accordance with any other remedy provided by law. In such event, USRA shall have all of the rights and remedies of a secured party under the Uniform Commercial Code or similar law in effect in the respective jurisdiction.

Section 5.08. The receipt of USRA or of any other person authorized by USRA to receive the same for the purchase money paid at any such sale shall be sufficient discharge therefor to any purchaser of the property, or any part thereof, sold as aforesaid, and no such purchaser, or his representatives, grantees or assigns, after paying such purchase money and receiving such receipt, shall be bound to see to the application of such purchase money or any part thereof upon or for any trust or purpose of this Mortgage, or, in any manner whatsoever, be answerable for any loss, misapplication or nonapplication of any such purchase money, or any part thereof, or be bound to inquire as to the authorization, necessity, expediency or regularity of any such sale.

Section 5.09. The purchase money, proceeds and avails of any such sale shall be applied as follows:

First. To the payment of the costs and expenses of such sale, including reasonable compensation to the agents and attorneys of USRA, and of all expenses, liabilities and advances made or incurred by USRA under this Mortgage and to the payment

of all taxes, assessments and Prior Liens, except taxes, assessments and Prior Liens, if any, subject to which the property shall have been sold;

Second. In case the principal of the Class A Notes and the Class B Note then outstanding shall not have become due and payable by declaration or automatically, to the payment of interest on the Class A Notes and the Class B Note at the rates specified therein and to the payment of the principal of the Class A Notes and the Class B Note in accordance with their terms;

Third. In case the principal of the Class A Notes and the Class B Note then outstanding shall have become due and payable by declaration or automatically, to the payment of the whole amount then owing and unpaid upon all Class A Notes and the Class B Note then outstanding for principal and interest, and, in case such money shall be insufficient to pay in full the whole amount so due and payable, first to the payment of the Class A Notes, and after all principal and interest due thereon has been paid, to the payment of the Class B Note; and in case such moneys shall be insufficient to pay in full the whole amount so due and payable with respect to a particular class, to the payment of such principal and interest ratably within the class, without preference or priority of principal over interest or of interest over principal or of any installment of interest over any other installment of interest or of any Note within the class over any other Note within

the class, ratably to the aggregate of such principal and accrued and unpaid interest;

Fourth. To the payment in full of all other obligations of the Corporation under this Mortgage, the Loan Agreement, and all other Loan Documents;

Fifth. To the payment of the surplus, if any, to the Corporation, its successors or assigns, or to whosoever may be lawfully entitled to receive the same.

Section 5.10. The Corporation will not at any time insist upon or plead, or in any manner whatever claim or take the benefit or advantage of, any law, wherever enacted, in aid of debtors (other than Section 20b of the Interstate Commerce Act or other law granting similar relief) or any law, wherever enacted, for staying actions in respect of mortgages or mortgage indebtedness or extending the time of payment of such indebtedness now or at any time hereafter in force in any locality where the Mortgaged Property, or any part thereof, may or shall be situate, nor will it claim, take or insist on any benefit or advantage from any law now or hereafter in force, wherever enacted, providing for the valuation or appraisalment of the Mortgaged Property, or any part thereof, prior to any sale or sales thereof to be made pursuant to the decree, judgment or order of any court of competent jurisdiction; nor after any such sale or sales will it claim or exercise any right under any statute heretofore or hereafter enacted by

the United States, or by any State, or otherwise, to redeem the property so sold or any part thereof; and the Corporation hereby expressly waives all benefit and advantage of any such law or laws, and covenants that it will not hinder, delay or impede the execution of any power herein granted or delegated to USRA, but that it will suffer and permit the execution of every such power, as though no such law or laws had been made or enacted.

Section 5.11. Except as herein expressly provided to the contrary, no remedy herein conferred upon or reserved to USRA is intended to be exclusive of any other remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

Section 5.12. No delay by USRA in exercising any right or power accruing upon any default continuing as aforesaid and no omission to exercise any such right or power shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by this Article Five to USRA may be exercised from time to time, and as often as may be deemed expedient, by USRA.

ARTICLE SIX

Possession until Default--Defeasance Clause

Section 6.01. Unless and until (a) a Receiver shall have entered into possession of the Mortgaged Property or a substantial part thereof or (b) some one or more of the Events of Default shall have occurred and be continuing, the Corporation, its successors and assigns, shall be suffered and permitted to retain actual possession of all of the Mortgaged Property and to manage, operate and use the same and every part thereof with the rights and franchises appertaining thereto and to collect, receive, take, use and enjoy the rents, earnings, income, issues and profits thereof.

Section 6.02. If when all of the Notes shall become due and payable at maturity, by declaration, or otherwise, the Corporation shall pay or cause to be paid the whole amount of the principal and interest owing on all of the Notes then outstanding and all other amounts owing to USRA thereunder or pursuant to the Loan Agreement, this Mortgage or any other Loan Document, then upon delivery to USRA of a Certified Resolution expressing the Corporation's election that action be taken under this Section 6.02, all property, rights and interests hereby mortgaged, conveyed,

assigned or pledged shall revert to the Corporation, its successors or assigns, and the estate, right, title, and interest of USRA shall thereupon cease and determine and become void; and USRA in such case shall execute an instrument of release and satisfaction of this Mortgage.

ARTICLE SEVEN

Miscellaneous Provisions

Section 7.01. Nothing in this Mortgage expressed or implied is intended or shall be construed to give to any person, firm or corporation other than the parties hereto and their respective successors and assigns any legal or equitable right, remedy or claim under or in respect of this Mortgage, or any covenant, condition or provision herein contained, all the covenants, conditions and provisions hereof being and intended to be for the sole and exclusive benefit of the parties hereto and their respective successors and assigns.

Section 7.02. Any Opinion of Counsel may be based, in so far as it relates to factual matters, information with respect to which is in possession of the Corporation, upon the certificate of an officer or officers of the Corporation, unless such counsel knows that such certificate is erroneous.

Section 7.03. Pursuant to Section 259 of the Tax Law of the State of New York, the Corporation hereby certifies that the amount which at the time of the execution and delivery of this Mortgage has been advanced or accrued hereon or is secured hereby is the sum of \$4,200,000.

Section 7.04. USRA may waive any provision of this Mortgage, the performance by the Corporation of any covenants

set forth herein, and any Event of Default and its consequences, provided that (a) USRA may impose any reasonable conditions on any such waiver, (b) any such waiver shall be made in a written instrument duly executed on behalf of USRA by its President or such other person as may be from time to time designated to perform the duties of President, or by a designee of its President, (c) no such waiver shall be considered a waiver of any rights of USRA with respect to the particular obligations of the Corporation beyond the rights as expressly waived, or a waiver in any respect with regard to any other rights of USRA with respect to any other obligations of the Corporation, and (d) no failure or delay on the part of USRA in exercising any power or right under this Mortgage shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power preclude any other or further exercise thereof or the exercise of any other right or power under this Mortgage.

Section 7.05. This Mortgage shall be binding upon and inure to the benefit of USRA and the Corporation and their respective successors and assigns, provided that the Corporation may not assign its rights under this Mortgage or any interest herein, or attempt to have any other person assume its obligations under this Mortgage, without the prior written consent of USRA. Nothing in this Mortgage shall be construed to preclude assignment by USRA of any or all of its rights under this Mortgage or the Notes to any other agency of the United States Government that lawfully accepts and thereby becomes lawfully bound by this Mortgage.

Section 7.06. The headings of the several Articles hereof and the statements contained in the Table of Contents prefixed hereto are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

Section 7.07. In case any one or more of the provisions contained in this Mortgage shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

Section 7.08. This Mortgage may be executed in several counterparts, each of which shall be an original, and all collectively shall constitute but one instrument, which shall be sufficiently proved by the production of any one of said counterparts.

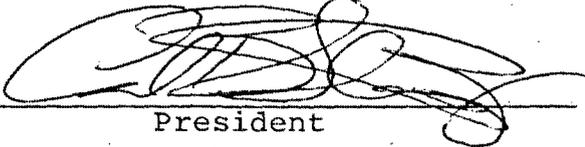
IN WITNESS WHEREOF, the said DELAWARE AND HUDSON RAILWAY COMPANY has caused these presents to be signed in its corporate name by CARL B. STERZING, JR., its President, attested by RALPH T. MURRAY, its Secretary, and GEORGE H. KLEINBERGER, its Assistant Secretary, and its corporate seal to be hereunto affixed, on the date first hereinabove set forth, and does hereby constitute and appoint CARL B. STERZING, JR., its true and lawful attorney-in-fact, for it and in its name to acknowledge and deliver these presents as its act and deed; and the said UNITED STATES RAILWAY ASSOCIATION has

caused these presents to be signed in its corporate name by ALAN L. DEAN, its Vice-President, attested by DONALD C. COLE, its Secretary, and CARY W. DICKIESON, its Assistant Secretary, and its corporate seal to be hereunto affixed, on the date first hereinabove set forth, and does hereby constitute and appoint ALAN L. DEAN its true and lawful attorney-in-fact, for it and in its name to acknowledge and deliver these presents as its act and deed.

DELAWARE AND HUDSON RAILWAY COMPANY

[CORPORATE SEAL]

By


President

ATTEST:

R. T. Murray

G. H. Kirby

UNITED STATES RAILWAY ASSOCIATION

[CORPORATE SEAL]

By


Vice-President

ATTEST:

Donald C. Cole

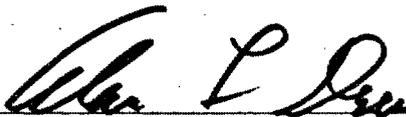
Cary W. Dickieson

MORTGAGEE'S CERTIFICATE

The undersigned, the mortgagee described in the foregoing instrument, hereby certifies that the precise residence of the mortgagee entitled to interest thereunder is:
UNITED STATES RAILWAY ASSOCIATION, 2100 Second Street, S. W.,
Washington, D. C. 20595.

UNITED STATES RAILWAY ASSOCIATION

By: _____

A handwritten signature in cursive script, appearing to read "Alan L. Owen", is written over a horizontal line.

CERTIFICATE OF ACKNOWLEDGEMENT

DISTRICT OF COLUMBIA: SS

I, Jo Anne C. Draney, a notary public in and for the District of Columbia, do hereby certify that CARL B. STERZING, JR., being personally well-known to me as the person who executed the foregoing instrument, bearing date on the 15th day of March, 1976, personally appeared before me in said District and, being by me duly sworn, acknowledged that he is the President of DELAWARE AND HUDSON RAILWAY COMPANY, that the foregoing instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and that the execution of the foregoing instrument was the free act and deed of such corporation and of himself.

Given under my hand and seal this 15th day of March, 1976.

[SEAL]

Jo Anne C. Draney
Notary Public

My commission expires:

My Commission Expires January 1, 1980

CERTIFICATE OF ACKNOWLEDGEMENT

DISTRICT OF COLUMBIA: SS

I, Nancy K. Dumas, a notary public in and for the District of Columbia, do hereby certify that ALAN L. DEAN, being personally well-known to me as the person who executed the foregoing instrument, bearing date on the 15th of March, 1976, personally appeared before me in said District and, being by me duly sworn, acknowledged that he is the Vice-President of UNITED STATES RAILWAY ASSOCIATION, that the foregoing instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and that the execution of the foregoing instrument was the free act and deed of such corporation and of himself.

Given under my hand and seal this 15th day of March, 1976.

[SEAL]

Nancy K. Dumas
Notary Public

My commission expires:

Sept. 30, 1976

CERTIFICATE OF ACKNOWLEDGEMENT

DISTRICT OF COLUMBIA: SS

On this, the 15th day of March, 1976, before me, John C. Draney, the undersigned officer, personally appeared CARL B. STERZING, JR., who acknowledged himself to be the President of DELAWARE AND HUDSON RAILWAY COMPANY, a corporation, and that he, as such President being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[SEAL]

John C. Draney
Notary Public

My commission expires:

My Commission Expires January 1, 1980

CERTIFICATE OF ACKNOWLEDGEMENT

DISTRICT OF COLUMBIA: SS

On this, the 15 th day of March, 1976, before me, Nancy K. Duma, the undersigned officer, personally appeared ALAN L. DEAN, who acknowledged himself to be the Vice-President of UNITED STATES RAILWAY ASSOCIATION, a corporation, and that he, as such Vice-President, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Vice-President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[SEAL]

Nancy K. Duma
Notary Public

My commission expires:

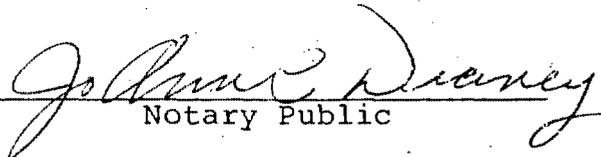
Sept. 30, 1976

CERTIFICATE OF ACKNOWLEDGEMENT

DISTRICT OF COLUMBIA: SS

On the 15 th day of March, in the year 1976, before me personally came CARL B. STERZING, JR., to me known, who, being by me duly sworn, did depose and say that he resides at 23 West Bayberry Road, Glenmont, New York; that he is the President of DELAWARE AND HUDSON RAILWAY COMPANY, the corporation 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.

[SEAL]


Notary Public

My commission expires:

My Commission Expires January 1, 1980

CERTIFICATE OF ACKNOWLEDGEMENT

DISTRICT OF COLUMBIA: SS

On the 15 th day of March, in the year 1976, before me personally came ALAN L. DEAN, to me known, who, being by me duly sworn, did depose and say that he resides at 3037 North Stafford Street, Arlington, Virginia; that he is Vice-President of UNITED STATES RAILWAY ASSOCIATION, the corporation 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.

[SEAL]

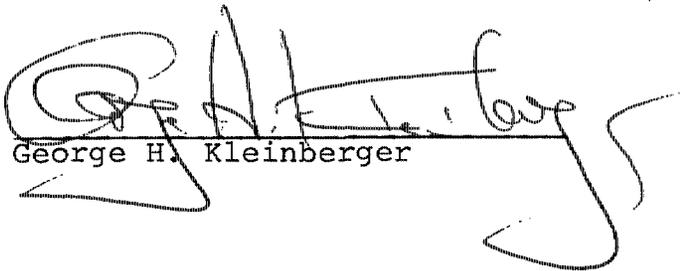
Nancy K. Dumas
Notary Public

My commission expires:

Sept. 30, 1976

CERTIFICATE OF NOTARY PUBLIC

George H. Kleinberger, a Notary Public in and for the State of New York, County of Albany, hereby certifies that on this 18th day of March, 1976, he has compared the attached copy of a Mortgage entered into by and between Delaware and Hudson Railway Company and United States Railway Association on March 15, 1976, with an original of said Mortgage, and that it is a true and correct copy in all respects, including the dates, signatures and acknowledgements.


George H. Kleinberger