

RECORDATION NO. 7465
APR 5 1974 - 3 35 PM
Filed & Recorded
INTERSTATE COMMERCE COMMISSION

TRUST AGREEMENT

Waukee Road Equipment Trust No. 1974-1)

THIS TRUST AGREEMENT dated as of January 1, 1974, among the Trustors listed on the signature pages hereof (hereinafter called individually a Trustor and collectively the Trustors), J.M. NACHBIN and M.A. MARINI, not in their individual capacities but solely as trustees hereunder (hereinafter for convenience collectively referred to as the Trustee) and CONTINENTAL ILLINOIS LEASING CORPORATION, as fiscal agent hereunder (hereinafter called the Agent).

W I T N E S S E T H:

On December 28, 1973, Cobak Corporation, Continental Illinois Leasing Corporation and Continental Illinois National Bank and Trust Company of Chicago, not in its individual capacity but solely as trustee (hereinafter called the "Original Trustee") entered into an Equipment Leasing Trust Agreement No. 401 (herein called the Original Trust Agreement). The parties hereto desire amend the Original Trust Agreement in certain respects and to restate the Original Trust Agreement, as so amended, in this Trust Agreement. This Trust Agreement, therefore, hereby amends and restates the Original Trust Agreement in its entirety.

ARTICLE I

Purpose; Definitions; Authority to Execute
the Lease and other Documents; Declaration
of Trust

Section 1.01. This Trust is formed for the purpose of the acquisition and leasing by the Trustee of 550 rebuilt railroad freight train cars (the "Equipment", and each such freight train being sometimes referred to as a "unit") to be leased by the Trust as lessor, to Chicago, Milwaukee, St. Paul and Pacific Railroad Company, a Wisconsin corporation (hereinafter called the Lessee) under a Lease Agreement to be dated as of January 1, 1974 (herein called the Lease). The Trustors agree to furnish to the Trustee, on the Commencement Date under the Lease, funds immediately available to the Trustee on such date in an amount equal to that

percentage of Lessor's Cost for the units of Equipment as is set forth next to such Trustor's name on Schedule A hereto (which percentage is sometimes hereinafter called the Participation of such Trustor); provided, however, that in no event shall such Trustor be required to furnish funds in excess of its commitment set forth on said Schedule A. If the terms and conditions of Section 24 of the Lease have not been complied with in a manner satisfactory to a particular Trustor on the date of a requested payment for any group of units of Equipment under the Lease (as set forth in Section 3.03 hereof) and such Trustor so notifies the Trustee and the Lessee in writing, then the amount to be furnished by that Trustor on the Commencement Date shall be its Participation in the Lessor's Cost of all units of Equipment delivered to and accepted by the Lessor under the Lease prior to such date, it being understood and agreed that except for such noncompliance by Lessee with a condition precedent under said Section 24, each Trustor will be obligated on the Commencement Date to furnish funds to the Trustee equal to its Participation of Lessor's Cost for all units of Equipment then under lease.

Section 1.02. For all purposes of this Trust Agreement, (a) the following terms shall have the meanings assigned to them in the Lease: "Acquisition Cost", "additional rent", "Certificate of Acceptance", "Commencement Date", "Equipment", "event of default", "interim rent", "Lessee", "Lessor", "Lessor's Cost", "Reconstruction Cost", "Reconstruction Agreement" and "rent", and (b) the following terms shall have the following meanings:

"Interim Loan Agreement" shall mean the Interim Loan Agreement dated as of January 1, 1974 between the Trustee and the Interim Lender, as it may from time to time be amended, modified or supplemented.

"Interim Lender" shall mean Continental Illinois Leasing Corporation, a Delaware corporation.

"Interim Note" shall mean a non-recourse promissory note of the Trustee in the form of Exhibit A to the Interim Loan Agreement evidencing a loan by the Interim Lender to the Trustee.

"Interim Security Agreement" shall mean the Interim Security Agreement dated as of January 1, 1974 from the Trustee to the Interim Lender granting the Interim Lender a security interest in the Equipment, the Loan and all amounts payable under the Lease.

Section 1.03. The Trustors hereby authorize and direct the Trustee, on the terms and conditions hereinafter set forth, to execute and deliver the Lease, the Reconstruction Agreement, the Interim Loan Agreement, the Interim Notes, the Interim Security Agreement and any supplements thereto, and from time to time as the Trustors may direct, any and all other agreements, documents and instruments which may be required in order to acquire, purchase, reconstruct, repair, accept, lease, operate, sell or otherwise deal with the Equipment, including, without limitation, any agreements, documents or instruments referred to in, or required in connection with the transactions contemplated by, the Lease (the Lease, the Interim Loan Agreement, the Interim Notes, the Interim Security Agreement and any supplements thereto, the Reconstruction Agreement and such other agreements, documents and instruments being hereinafter called individually a Document and collectively the Documents) and, subject to the terms of this Trust Agreement, to exercise the rights and perform the duties of the Lessor under the Lease and under the Reconstruction Agreement, and to take such other action in connection with the foregoing as the Trustors may from time to time direct.

Section 1.04. The Trustee hereby declares that it will hold all estate, right, title and interest of the Trustee in and to the Equipment and any Document, including, without limitation, all amounts of rent, interim rent, additional rent, insurance proceeds, indemnity, Stipulated Loss Value and other payments of any kind for or with respect to any unit of Equipment (all such estate, right, title and interest being hereinafter sometimes called the Trust Estate), upon the trusts hereinafter set forth for the use and benefit of the Trustors in accordance with the Participation of each Trustor and the Trustee agrees for the benefit of the Lessee under the Lease to perform the obligations of the Lessor under the terms of the Lease.

ARTICLE II

Receipt, Distribution and Application of Income from the Trust Estate

Section 2.01. The Trustee shall apply each payment received by it under or pursuant to the Lease (including, without limitation, all rent, interim rent, additional rent and any other payments received or amounts realized by the Trustee under the Lease or otherwise with respect to any unit of Equipment or the sale thereof) shall be applied first, to the reimbursement of the Trust for any expenses not reimbursed by the Lessee under the Lease, under this Trust Agreement or otherwise and second, to the Trustors as a distribution in accordance with their respective Participations.

provided, however, that on and before the Commencement Date, payments so received under the Lease shall be applied by the Trustee in accordance with Sections 3.04 and 3.05 hereof.

Section 2.02. Any payments received by the Trustee, other than those referred to in Section 2.01, for which no provision as to the application thereof is made in any Document or in this Article II shall, unless the Trustors shall have instructed the Trustee otherwise in writing, be distributed to the Trustors in accordance with their respective Participations.

Section 2.03. All payments to be made by the Trustee under this Trust Agreement shall be made only from the income and the proceeds from the Trust Estate and only to the extent that the Trustee shall have received sufficient income or proceeds from the Trust Estate to make such payments. Each Trustor, by its execution of this Trust Agreement, agrees that it will look solely to the income and proceeds from the Trust Estate to the extent available for distribution to such Trustor as herein provided and that neither the Trustors, the Agent nor the Trustee is personally liable to any Trustor for any amounts payable under this Trust Agreement or, except as provided in this Trust Agreement, for any liability under this Trust Agreement.

Section 2.04. The Trustee shall make distributions to the Trustors pursuant to this Article II by paying the amounts to be distributed to the Trustors at their respective addresses set forth on Schedule A hereto, or as such Trustors may otherwise direct in writing.

Section 2.05. During the period from the date hereof to the Commencement Date, the Trustee shall hold the Trust Estate for the use and benefit of the Trustors, subject during such period to the liens of the Interim Security Agreement.

ARTICLE III

Execution of Documents; Acceptance of Equipment; and Interim Loan Agreement

Section 3.01. The Trustors hereby authorize and direct the Trustee to, and the Trustee agrees for the benefit of each Trustor, that it will on the date hereof execute and deliver the Lease, the Reconstruction Agreement, the Interim Loan Agreement and the Interim Security Agreement.

Section 3.02. The Trustors hereby authorize and direct the Trustee to, and the Trustee agrees for the benefit of each Trustor that, on the date of delivery of each group of units of Equipment, it will, subject to due compliance with the terms of Section 3.03 hereof:

(a) to the extent not previously accomplished by a prior authorization, authorize a representative of the Trustee (who shall be an employee of the Lessee) to accept delivery of the units of Equipment then being delivered pursuant to Section 5 of the Lease;

(b) accept the appropriate invoices, bills of sale, certificates and opinions of counsel with respect to such units of Equipment as may be provided for in the Reconstruction Agreement or the Lease;

(c) execute and deliver the Certificate of Acceptance covering each such unit of Equipment;

(d) execute and deliver an Interim Note evidencing the borrowing on such date under the Interim Loan Agreement of an amount equal to the Acquisition Cost and Reconstruction Cost of the units of Equipment then being delivered pursuant to the Reconstruction Agreement; and

(e) pay such amounts as are borrowed by the Trustee under clause (d) above to the Lessee under and in accordance with the Reconstruction Agreement and the Lease.

Section 3.03. In the case of each unit of Equipment, the obligation of the Trustee to take the action required by Section 3.02 hereof with respect to such unit of Equipment shall be subject to the condition precedent that on such date of delivery thereof the terms and conditions of Section 24 of the Lease with respect to such units of Equipment shall have been complied with in a manner satisfactory to the Trustee and the Trustors and the Trustee shall have received the proceeds of the borrowing under the Interim Loan Agreement as set forth in Section 3.02(d).

Section 3.04. The Trustors hereby authorize and direct the Trustee to, and the Trustee hereby agrees for the benefit of each Trustor that it will (subject to receipt by the Trustee of

the applicable payments from the Lessee) on March 31, June 30 and September 30, 1974, and on the Commencement Date, accept the interim rent and commitment fees then payable by Lessee under the Lease and pay such amounts to the Interim Lender as accrued interest and commitment fees due under the Interim Loan Agreement.

Section 3.05. The Trustors hereby authorize and direct the Trustee to, and the Trustee hereby agrees for the benefit of each Trustor that it will, on the Commencement Date:

(a) accept the Participation of each Trustor in accordance with Section 1.01 hereof;

(b) accept the interim rent and commitment fees then payable by Lessee under the Lease and pay such amounts to the Interim Lender as accrued interest and commitment fees due under the Interim Loan Agreement; and

(c) pay the outstanding principal and accrued interest on the Interim Notes;

provided, however, that the Trustee shall not be obligated to take such action on the Commencement Date unless (i) each Trustor shall have made its Participation available to the Trustee, and (ii) the Trustee shall have received the applicable payments referred to in clause (b) above from the Lessee.

ARTICLE IV

Duties of the Trustee

Section 4.01. In the event the Trustee shall have knowledge of an event of default, the Trustee shall give prompt written notice of such event of default to the Trustors by first class mail, postage prepaid, unless such event of default shall have been remedied before the giving of such notice. Subject to the terms of Section 4.04 hereof, the Trustee shall take such action with respect to such event of default as the Trustee shall be instructed in writing by Trustors having 100% of the beneficial interest in the Trust Estate. If the Trustee shall not have received such instructions as above provided within 20 days after mailing notice of such event of default to the

Trustors, the Trustee may, subject to instructions received pursuant to the preceding sentence, take such action with respect to such event of default as it shall deem advisable in the best interests of the Trustors. For all purposes of this Trust Agreement, in the absence of actual knowledge, the Trustee shall not be deemed to have knowledge of an event of default (except as disclosed by notice received from an insurer pursuant to Section 11 of the Lease) until notified in writing by the Trustors. Subject in all respects to the terms and provisions hereof, and subject further to the terms of Section 4.04 hereof, the Trustee shall take such action with respect to any unit of Equipment as the Trustors shall direct by written notice to the Trustee, including, without limitation, the application of moneys furnished by the Trustors and moneys in the Trust Estate.

Section 4.02. Subject to the terms of Sections 4.01 and 4.04 hereof, upon the written request at any time and from time to time of Trustors having 100% of the beneficial interest in the Trust Estate, the Trustee will take such of the following actions as may be specified in such request: (i) give such notice or direction or exercise such right or power under any Document with respect to any unit of Equipment, including, without limitation, the right to transfer, assign or convey the Trustee's interest in such Document or any unit of Equipment as shall be specified in such request; and (ii) convey all of the Trustee's right, title and interest in and to such unit of Equipment for such amount, on such terms and to such purchaser or purchasers as shall be designated in such request, or retain, lease or otherwise dispose of such unit of Equipment as shall be designated in such request.

Section 4.03. The Trustee shall prepare and send to the Trustors an annual statement of cash receipts and disbursements for the Trust Estate and provide such other information as the Trustors may from time to time reasonably request.

Section 4.04. The Trustee shall not be required to take any action under Section 4.01 or Section 4.02 hereof unless the Trustee shall have been indemnified by the Trustors, in manner and form satisfactory to the Trustee, against any liability, cost or expense (including counsel fees) which may be incurred in connection with such action. The Trustee shall not be required to take any action under Section 4.01 or Section 4.02 hereof, nor shall any other provision of this Trust Agreement be deemed to impose a duty on the Trustee to take any action, if the Trustee shall determine or shall have been advised by counsel, that such action is likely to result in personal liability or is otherwise contrary to law.

Section 4.05. It is agreed that the Trustee shall not have any duty or obligation to manage, control, use, sell, dispose or otherwise deal with any Equipment or any other part of the Trust Estate, or to otherwise take or refrain from taking any action upon or in connection with, any Document, except as expressly provided by the terms of this Trust Agreement or as expressly provided in written instructions from the Trustors received pursuant to the terms of Section 4.01 or Section 4.02 hereof; and no implied duties or obligations shall be read into this Trust Agreement against the Trustee; provided, however, that nothing contained in this Article IV shall limit in any manner the obligations of the Trustee set forth in Article II hereof.

Section 4.06. The Trustee agrees that it will not manage, control, use, sell, dispose of or otherwise deal with any unit of Equipment or any other part of the Trust Estate except (i) in accordance with the powers granted to, or the authority conferred upon, the Trustee pursuant to this Trust Agreement or (ii) in accordance with written instructions from the Trustors pursuant to Section 4.01 or Section 4.02 hereof.

ARTICLE V

The Trustee

Section 5.01. The Trustee accepts the trusts hereby created and agrees to perform the same but only upon the terms of this Trust Agreement. The Trustee shall not be answerable or accountable under any circumstances, except for its own willful misconduct or gross negligence.

Section 5.02. Except in accordance with written instructions furnished pursuant to Sections 4.01 and 4.02 hereof, and without limitation of the generality of Section 4.05 hereof, the Trustee shall have no duty (i) to see to any recording, filing or depositing of any Document or of this Trust Agreement, or of any amendments or supplements thereto or of any other documents contemplated thereunder or to see to the maintenance of any such recording or filing or depositing or to any rerecording, refileing or redepositing of any thereof, (ii) to see to any insurance on the Equipment or to effect or maintain any such insurance, (iii) to see to the payment or discharge of any tax, assessment or other governmental charge or any lien or encumbrance of any kind owing with respect to, assessed or levied against, any part of the Trust Estate, (iv) to confirm or verify any reports of the Lessee, other than to furnish the Trustors

with a copy of each such report furnished the Trustee by the Less (and not otherwise required under the related Document to be furnished by Lessee to the Trustors) or (v) to inspect the Equipm at any time or ascertain or inquire as to the performance or observance of the Lessee's covenants under the Lease with respect to the Equipment.

Section 5.03. The Trustee makes (i) no representation or warranty as to the value, condition or fitness for use of the Equipment or any unit of Equipment or as to its title thereto, or any other representation or warranty with respect to the Equipmen or any unit of Equipment whatsoever, and (ii) no representation o warranty as to the validity, legality or enforceability of this T Agreement or any Document, or as to the correctness of any statem contained in any thereof.

Section 5.04. No moneys received by the Trustee hereun need be segregated in any manner except to the extent required by law and the Trustee shall not be liable for any interest thereon.

Section 5.05. The Trustee shall incur no liability to anyone in acting upon any signature, instrument, notice, resoluti request, consent, order, certificate, report, opinion, bond or other document or paper believed by it to be genuine and believed by it to be signed by the proper party or parties. The Trustee may accept a copy of a resolution of the Board of Directors of an corporate party, certified by the Secretary or an Assistant Secre of said party, as duly adopted and in full force and effect, as conclusive evidence that such resolution has been duly adopted by Board and that the same is in full force and effect. As to any f or matter the manner of ascertainment of which is not specificall described herein, the Trustee may for all purposes hereof rely on certificate, signed by or on behalf of the proper party executing the same, as to such fact or matter, and such certificate shall constitute full protection to the Trustee for any action taken or omitted to be taken by it in good faith in reliance thereon. In the administration of the trusts hereunder, the Trustee may execu any of the trusts or powers hereof and perform its powers and dut hereunder directly or through other agents or attorneys and may, the expense of the Trust Estate, seek advice of counsel, accounta and other skilled persons to be selected and employed by it, and Trustee shall not be liable for anything done, suffered or omitte in good faith by it in accordance with the advice or opinion of a such counsel, accountants or other skilled persons.

Section 5.06. In accepting the trusts hereby created, each individual Trustee acts solely as trustee hereunder and not his individual capacity; and all persons, other than the Trustors having any claim against the Trustee by reason of the transaction contemplated hereby shall look only to the Trust Estate for payme or satisfaction thereof.

Section 5.07. The Trustee, or any successor thereto, from time to time serving hereunder shall have the absolute right acting independently, to take any action and to exercise any right remedy, power or privilege conferred upon the Trustee hereunder; any action taken by any individual Trustee from time to time serv hereunder shall be binding upon the other individual Trustee and person dealing with either of such individual Trustees from time time serving hereunder shall be obligated to confirm the power an authority of such Trustee to act without the concurrence of the other individual Trustee.

Section 5.08. The Trustee shall be entitled to receive reasonable compensation for its services hereunder and under the Lease of the Equipment, provided that no individual serving as Trustee hereunder shall be entitled to receive compensation for services rendered hereunder, or to be reimbursed for expenses incurred with respect thereto except with respect to any action taken by such individual upon the specific request of the Trustor

Section 5.09. All actions required or permitted to be taken hereunder by the Trustee shall be the actions of each indiv Trustee, provided that the consent of only one such individual Trustee shall be required to render such action the valid, legal action of this Trust.

ARTICLE VI

Indemnification of Trustee by the Trustors

Section 6.01. The Trustors hereby agree, whether or no any of the transactions contemplated hereby shall be consummated, to assume liability for, and do hereby indemnify, protect save an

keep harmless the Trustee, the Agent and their respective successors, assigns, legal representatives, agents and servants, from and against any and all liabilities, obligations, losses, damages, penalties, taxes (such term "taxes" or the term "tax" as used in this Section 6.01 shall include all taxes specifically related to this Trust Agreement and the Trust Estate created hereby excluding, however, any income taxes on fees or other compensation received by the Trustee in its capacity as Trustee), claims, actions, suits, costs, expenses or disbursements (including legal fees and expenses) of any kind and nature whatsoever which may be imposed on, incurred or asserted against the Trustee (whether or not also indemnified against by the Lessee under the Lease or also indemnified against by any other person) in any way relating to or arising out of this Trust Agreement, the Lease or any Document, or the performance or enforcement of any of the terms of any thereof, or in any way relating to or arising out of the manufacture, purchase, acceptance, rejection, ownership, delivery, installation, lease, possession, use, operation, condition, sale, return or other disposition of the Equipment or any unit of Equipment (including, without limitation, latent and other defects, whether or not discoverable and any claim for patent, trademark or copyright infringement), or in any way relating to or arising out of the administration of the Trust Estate or the action or inaction of the Trustee hereunder except only in the case of willful misconduct or gross negligence on the part of the Trustee in the performance of its duties hereunder. The indemnities contained in this Section shall survive the termination of this Trust Agreement. In addition, if necessary the Trustee shall be entitled to indemnification from the Trust Estate for any liability, obligation, loss, damage, penalty, tax, claim, action, suit, cost, expense or disbursements indemnified against pursuant to this Section 6.01 to the extent not reimbursed by the Lessee, the Trustors or any other person; and, to secure the same, the Trustee shall have a lien on the Trust Estate prior to any interest therein of the Trustors.

ARTICLE VII

Transfer of the Trustor's Interests

Section 7.01. No assignment, conveyance or transfer of all or any portion of its beneficial interest under this Trust Agreement shall be made by any Trustor (hereinafter called the Transferring Trustor) without the written consent of all of the

Trustors. Any transferee of all or any portion of the beneficial interest of any Transferring Trustor shall become a party to the Trust Agreement and shall agree to be bound by all the terms of and shall undertake all of the obligations of the Transferring Trustor contained in this Trust Agreement in such manner as is satisfactory to the Trustee. No such assignment, conveyance or transfer shall violate any provision of law or regulation or create a relationship which would be in violation thereof. In any event, until the Transferring Trustor shall have received the prior written consent of the Trustee, without limiting the primary liability of the transferee, the Transferring Trustor shall remain secondarily liable to perform the obligations undertaken but not performed by such transferee. Upon any such disposition by the Transferring Trustor to a transferee as above provided, such transferee shall be deemed a "Trustor" for all purposes hereof, and shall be deemed to have made all the payments previously made by the Transferring Trustor and each reference herein to such Transferring Trustor shall thereafter be deemed a reference to such transferee. It is agreed that any transferee of all or any portion of the beneficial interest of any Transferring Trustor shall be a corporation which is (a) formed under the laws of the United States or of any state thereof and (b) a financial institution, or financing corporation, of recognized standing.

Section 7.02. If the Transferring Trustor shall propose to transfer all or any portion of its interests hereunder pursuant to Section 7.01 hereof, it shall give written notice to the Trustee, specifying the name and address of the proposed transferee and enclosing the agreement or agreements referred to in said Section 7.01.

ARTICLE VIII

Successor Trustees

Section 8.01.

(a) The Trustee, any individual Trustee or any successor thereto may resign at any time without cause by giving at least 30 days prior written notice to the Trustors, such resignation to be effective on the date specified in such notice. In addition, the Trustors having 100% of the beneficial interest in the Trust Estate may at any time remove the

Trustee or any individual Trustee without cause by an instrument in writing delivered to the Trustee or such individual Trustee. In the case of resignation or removal of any Trustee, the Trustors having 100% of the beneficial interest in the Trust Estate may appoint a successor Trustee by an instrument signed by such Trustors. If the Trustors shall not have appointed a successor Trustee within 30 days after such resignation or removal, either individual Trustee, if any, may apply to any court of competent jurisdiction to appoint a successor Trustee to act until such time, if any, as a successor shall have been appointed by the Trustors as above provided. Any successor Trustee so appointed by such court shall immediately and without further act be superseded by any successor Trustee appointed by the Trustors within one year from the date of the appointment by such court. Any individual or corporation becoming a successor Trustee hereunder shall be deemed the "Trustee" for all purposes hereof, and each reference herein to the Trustee shall thereafter be deemed a reference to such individual or corporation.

(b) Any successor Trustee, whether appointed by a court or by the Trustors, shall execute and deliver to the predecessor Trustee an instrument accepting such appointment, and thereupon such successor Trustee, without further act, shall become vested with all the estates, properties, rights, powers, duties and trusts of the predecessor Trustee in the trusts hereunder with like effect as if originally named as Trustee herein; but nevertheless upon the written request of such successor Trustee, such predecessor Trustee shall execute and deliver an instrument transferring to such successor Trustee, upon the trusts herein expressed, all the estates, properties, rights, powers and trusts of such predecessor Trustee, and such predecessor Trustee shall duly assign,

transfer, deliver and pay over to such successor Trustee any property or moneys then held by such predecessor Trustee upon the trusts herein expressed.

(c) Any successor Trustee shall be either a corporation which is a bank or trust company incorporated under the laws of the United States or of any state thereof, having its principal place of business in the United States of America and having a combined capital and surplus of at least \$20,000,000 or an individual, provided that if a corporation is not appointed as a successor Trustee, there shall be at least two successor individual Trustees.

(d) If the successor Trustee is a corporation, any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation to which substantially all the business of the Trustee may be transferred, shall, subject to the terms of this Section 8.01, be the Trustee under this Trust Agreement without any further act.

ARTICLE IX

Supplements and Amendments to this Trust Agreement and Other Documents

Section 9.01. At any time and from time to time, upon a written request of the Trustors, (i) the Trustee and the Trustors shall execute a supplement hereto for the purpose of adding provisions to, or changing or eliminating provisions of, this Trust Agreement as specified in such request and (ii) the Trustee shall enter into or consent to such written amendment of or supplement to the Lease or any Document as the Trustors and the Lessee may agree to and as may be specified in such request, or execute and deliver such written waiver or modification of the terms of the Lease or any Document as may be specified in such request.

Section 9.02. If in the opinion of the Trustee any document required to be executed pursuant to the terms of Section 9.01 hereof affects any right or duty of, or immunity or indemnity in favor of the Trustee under this Trust Agreement, the Lease or any Document, the Trustee may in its discretion decline to execute such document.

Section 9.03. It shall not be necessary for any written request of the Trustors furnished pursuant to Section 9.01 hereof specify the particular form of the proposed document to be executed pursuant to said Section but it shall be sufficient if such request shall indicate the substance thereof.

Section 9.04. Promptly after the execution by the Trust of any document entered into pursuant to Section 9.01 hereof, the Trustee shall mail a conformed copy thereof to the Trustors, but the failure of the Trustee to mail such conformed copy shall not impair or affect the validity of such document.

ARTICLE X

The Agent

Section 10.01. Appointment of Agent.

(a) The Trustors hereby request the Agent to act, and do hereby constitute and appoint the Agent, as the fiscal agent hereunder and of the trust hereby created and provided for. The Trustee does hereby irrevocably authorize and direct the Lessee and each and every person, firm or corporation at any time or from time to time indebted to the Trustee or holding any money, credits or other property of any kind or nature payable, distributable or deliverable to the Trustee, to pay, distribute or deliver the same to the Agent; and the Trustee in furtherance of the foregoing agrees from time to time to execute and deliver such notices, directions and other instruments as may be necessary or appropriate to cause all such money, credits or other property to be paid, distributed or delivered to the Agent. From time to time as any money, credits or other property constituting part of the Trust Estate, or any instruments, title papers or other documents are received by the Trustee or in any other

manner come into possession or control of the Trustee, the Trustee agrees forthwith to deliver the same to the possession and custody of the Agent.

(b) It is the intent and purpose of the foregoing that notwithstanding any of the terms hereof, the possession and custody of all such money, credits or other property and of all such instruments, title papers and other documents shall at all times be and remain with the Agent and shall be by the Agent, on behalf of the Trustee and in the manner, amounts and at the times required of the Trustee hereunder, paid, distributed or delivered to the parties entitled thereto; provided, however, that the Trustee shall nevertheless retain all powers and directions herein granted and the power and authority under the Lease to enforce the terms and provisions of the Lease, to collect and receive rentals payable thereunder, and otherwise to exercise the rights, powers and privileges of the Lessor as provided for by the Lease to the fullest extent permitted by applicable law.

Section 10.02. Agent's Acceptance of Appointment. The Agent by joining in the execution hereof agrees to act as such Agent for the Trustee hereunder and to receive possession and custody of all such money, credits, other property, instruments, certificates title papers and other documents and agrees that if and to the extent that such items or any of them are received by the Trustee hereunder, then the Agent shall be liable for the safekeeping, custody and distribution thereof to the Trustors.

ARTICLE XI

Miscellaneous

Section 11.01. This Trust Agreement and the trust created hereby in any event shall terminate and this Trust Agreement shall be of no further force or effect upon the earlier of (a) the sale, transfer or other final disposition by the Trustee of all property including all right, title and interest of the Trustee in and to the Lease and any Document and the units of Equipment at any time part

the Trust Estate and the final distribution by the Trustee of all money, other property and proceeds constituting the Trust Estate, as the Trustors may at any time direct, or (b) the earlier of (i) December 31, 1994, or (ii) 21 years less one day after the date of the death of the last survivor of the lineal descendants of the late Joseph P. Kennedy, father of the late John F. Kennedy, President of the United States, living on January 1, 1974; otherwise this Trust Agreement and the trusts created hereby shall continue in full force and effect in accordance with the terms hereof.

Section 11.02. No Trustor shall have legal title to any part of the Trust Estate. No transfer, by operation of law or otherwise, of the right, title and interest of any Trustor in and to the Trust Estate or hereunder shall operate to terminate this Trust Agreement or the trusts hereunder or entitle any successor or transferee of any Trustor to an accounting or to the transfer to him of legal title to any part of the Trust Estate.

Section 11.03. Any assignment, sale, transfer or other conveyance by the Trustee of the interest of the Trustee in any unit of Equipment, made pursuant to the terms of this Trust Agreement, Lease or any Document, shall bind the Trustors and shall be effective to transfer or convey all right, title and interest of the Trustee in and to such unit of Equipment. No purchaser or grantee shall be required to inquire as to the authorization, necessity, expediency or regularity of such assignment, sale, transfer or conveyance or as to the application of any sale or other proceeds with respect thereto by the Trustee.

Section 11.04. Nothing in this Trust Agreement, whether express or implied, shall be construed to give to any person other than the Trustee and the Trustors and their respective successors assigns, any legal or equitable right, remedy or claim under or in respect of this Trust Agreement; but this Trust Agreement shall be held to be for the sole and exclusive benefit of the Trustee and Trustors and their respective successors and assigns.

Section 11.05. Unless otherwise expressly specified or permitted by the terms hereof, all notices shall be in writing, mailed by regular mail, postage prepaid, (i) if to the Trustee (or the Agent), addressed to the Trustee (or Agent) at 231 South LaSalle Street, Chicago, Illinois 60693, and (ii) if to the Trustors, addressed to them at their respective addresses set forth on

Schedule A hereto. Whenever any notice in writing is required to be given by the Trustee to the Trustors, such notice shall be deemed given and such requirement satisfied if such notice is mailed by regular mail, postage prepaid, addressed to the Trustors at their respective addresses set forth on Schedule A hereto.

Section 11.06. Any provision of this Trust Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 11.07. No term or provision of this Trust Agreement may be changed, waived, discharged or terminated orally, but only an instrument in writing signed by the party or other person against whom enforcement of the change, waiver, discharge or termination is sought; and any waiver of the terms hereof shall be effective only in the specific instance and for the specific purpose given.

Section 11.08. This Trust Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 11.09. All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the Trustee and its successors and assigns, and the Trustors and their successors and, to the extent permitted by Article VII hereof, the assigns. Any request, notice, direction, consent, waiver or other instrument or action by any Trustor shall bind its successors and assigns.

Section 11.10. The headings of the various articles herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

Section 11.11. This Trust Agreement shall in all respects be governed by, and construed in accordance with, the laws of the State of Illinois, including all matters of construction, validity and performance.

Section 11.12. The Trust created hereunder may for convenience be called the "Milwaukee Road Equipment Trust No. 197

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed all as of the date first above written.

TRUSTEE:

J.M. NACHBIN AND M.A. MARINI,
as Trustee as aforesaid

J.M. Nachbin
M.A. Marini

TRUSTORS:

CONTINENTAL ILLINOIS LEASING
CORPORATION

By [Signature]
Vice President

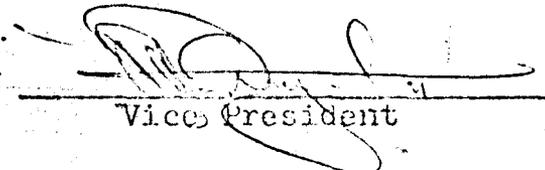
COBAK CORPORATION

By [Signature]
Second Vice President

HARRISCORP LEASING, INC.

By Roger A. Molyah
Vice President

MELLON NATIONAL LEASING CORPORATION

By 
Vice President

AGENT:

CONTINENTAL ILLINOIS LEASING
CORPORATION

By 
Second Vice President

Resignation of Original Trustee

Continental Illinois National Bank and Trust Company of Chicago hereby resigns as trustee under Equipment Leasing Trust Agreement No. 401, effective as of January 1, 1974.

CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO,
as trustee

By 
Second Vice President

SCHEDULE A

<u>Name and Address of Trustor</u>	<u>Commitment</u>	<u>Participation of Trustor</u>
Continental Illinois Leasing Corporation 231 South LaSalle Street Chicago, Illinois 60693	\$1,412,225	46.07%
Cobak Corporation 213 South LaSalle Street Chicago, Illinois 60693	153,275	5.00%
Harriscorp Leasing, Inc. 111 West Monroe Street Chicago, Illinois 60604	500,000	16.31%
Mellon National Leasing Corporation 6400 Steubenville Pike Robinson Township McKees Rocks, Pennsylvania 15136	1,000,000	32.62%
	<u>\$3,065,500</u>	<u>100%</u>

STATE OF PENNSYLVANIA)
))
COUNTY OF ALLEGHENY)) SS.

On this 26th day of March, 1974, before me personally appeared ALLEN E. NUGENT II, to me personally known, who being by me duly sworn, says that he is VICE PRES of MELLON NATIONAL LEASING CORPORATION, that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Matilda Berni
Notary Public

(SEAL)

My Commission Expires:

MAILED 3/29/74, Notary Public
Pittsburgh, Pa.
My term expires
October 21, 1975