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INTERSTATE COMMERCE COMMISSION

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## **Deed of Trust and Mortgage**

Dated as of September 15, 1974

By

**Union Tank Car Company**

In Favor of

**The First National Bank of Chicago**

**TRUSTEE**

Providing for the issue and securing of  
\$23,850,000 (U. S.) principal amount of

**10½% FIRST MORTGAGE SINKING FUND  
EQUIPMENT NOTES**

due September 15, 1994  
(Series C-1)

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**Deed of Trust and Mortgage** dated as of September 15, 1974, between UNION TANK CAR COMPANY (hereinafter called the "Company"), a corporation organized under the laws of the State of Delaware, United States of America, having its principal office at 111 West Jackson Boulevard, Chicago, Illinois 60604, and THE FIRST NATIONAL BANK OF CHICAGO, as Trustee (hereinafter called the "Trustee"), a national banking association organized under the laws of the United States of America, having its principal office at One First National Plaza, Chicago, Illinois 60670.

WHEREAS, the Company has determined to create and issue up to \$23,850,000 (U.S.) Union Tank Car Company 10½% First Mortgage Sinking Fund Equipment Notes due September 15, 1994 (Series C-1) (hereinafter called the "Notes") in the manner hereinafter set forth;

WHEREAS, the Company desires to secure the Notes by this Deed of Trust and Mortgage (hereinafter referred to as the "Trust Deed" or "Deed");

WHEREAS, all things necessary have been done to make the Notes, when executed by the Company and authenticated and delivered by the Trustee and duly issued as provided in this Trust Deed, valid obligations of the Company with the benefits set forth herein; and

WHEREAS the text of the Notes is to be in substantially the following form:

## [FORM OF NOTE]

THE REGISTERED HOLDER HEREOF HAS REPRESENTED THAT IT HAS ACQUIRED THIS NOTE FOR INVESTMENT AND NOT FOR RESALE. ACCORDINGLY, THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AND MAY NOT BE SOLD, TRANSFERRED, PLEDGED OR HYPOTHECATED UNLESS AN EXEMPTION FROM REGISTRATION IS AVAILABLE.

No.

\$

## UNION TANK CAR COMPANY

10½% FIRST MORTGAGE SINKING FUND EQUIPMENT NOTE  
DUE SEPTEMBER 15, 1994  
(SERIES C-1)

Total Authorized Issue \$23,850,000 (U.S.)

THE FIRST NATIONAL BANK OF CHICAGO,

TRUSTEE

UNION TANK CAR COMPANY (hereinafter called the "Company"), for value received, promises to pay to

or registered assigns on September 15, 1994, or on such earlier date as the principal amount hereof becomes payable in accordance with the Deed of Trust and Mortgage hereinafter mentioned, the sum of  
Dollars

(U.S.) upon presentation and surrender of this Note at the principal corporate trust office of The First National Bank of Chicago in the City of Chicago, State of Illinois, and to pay interest thereon from the date hereof until the principal amount hereof shall have become due at the rate of 10½% per annum, payable on March 15 and September 15 in each year, beginning March 15, 1975, with interest on any overdue principal and interest, to the extent legally enforceable, at the rate of 11½% per annum; principal and interest being payable to the registered holder hereof at said corporate trust office in such coin or currency of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts. Interest on this Note shall be calculated on the basis of a 360-day year of twelve 30-day months.

This Note is one of an issue of not exceeding \$23,850,000 (U.S.) principal amount of Union Tank Car Company 10½% First Mortgage Sinking Fund Equipment Notes due September 15, 1994 (Series C-1) (herein sometimes called the "Notes") authorized under a Deed of Trust and Mortgage dated as of September 15, 1974, between the Company and The First National Bank of Chicago, as Trustee (hereinafter called the "Trustee"), which Deed is hereinafter referred to as the "Trust Deed." As more fully provided in the Trust Deed, certain railroad equipment owned by the Company (hereinafter called the "Trust Equipment") has been made subject to a security interest, hypothecated, mortgaged and pledged to and in favor of the Trustee (or, in lieu thereof, cash or obligations defined in the Trust Deed as "Investment Securities" are held by the Trustee) for the equal and ratable benefit of the registered holders of the Notes issued thereunder. Reference is made to the Trust Deed (copies of which are on file with the Trustee at its said office) for a more complete statement of the terms and provisions thereof, to all of which the registered holder hereof, by accepting this Note, assents.

The Notes are issuable as fully registered Notes in denominations of \$1,000 and any integral multiple of \$1,000. The Notes are interchangeable in authorized denominations upon presentation thereof for that purpose at said office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Trust Deed.

As a sinking fund for the Notes, the Trust Deed provides for the payment by the Company to the Trustee, on or before September 15 in each year, commencing September 15, 1978, and continuing to and including September 15, 1993, of moneys in an amount sufficient to redeem \$1,416,000 aggregate principal amount of Notes. As more fully provided in the Trust Deed, the Notes are subject to redemption through the application of such moneys on September 15, 1978, and on each September 15 thereafter to and including September 15, 1993, on not less than 30 days' prior notice given as provided in the Trust Deed, at 100% of the principal amount thereof, together with accrued and unpaid interest to the date fixed for redemption. The Trust Deed further provides that cash deposited by the Company with the Trustee by reason of certain Trust Equipment having suffered a Casualty Occurrence (as defined in the Trust Deed) may,

at the option of the Company, be used for the pro rata prepayment of the principal amount of the Notes, together with accrued and unpaid interest to the date fixed for prepayment.

The registration of transfer of this Note may be effected by the registered holder hereof in person or by duly authorized attorney on the books of the Trustee upon surrender to the Trustee at its said office of this Note accompanied by a written instrument of transfer, duly executed by the registered holder in person or by such attorney, in form satisfactory to the Trustee, and thereupon a new Note or Notes in authorized denominations for the same aggregate principal amount will be issued to the transferee in exchange hereof. The Trustee and the Company may deem and treat the person in whose name this Note is registered as the absolute owner hereof for the purpose of receiving payment of principal and interest and for all other purposes and shall not be affected by any notice to the contrary. *Since partial payments of principal on this Note are not required to be noted on this Note, inquiries should be made at said office of the Trustee as to the principal amount at any time remaining unpaid hereon.*

In case of the happening of an Event of Default (as defined in the Trust Deed) the principal amount represented by this Note may become or be declared due and payable in the manner and with the effect provided in the Trust Deed.

This Note shall not be valid until it shall have been authenticated by the Trustee.

IN WITNESS WHEREOF, the Company has caused this Note to be signed by one of its Vice Presidents and its corporate seal to be affixed hereon and to be attested by the signature of its Secretary or its Assistant Secretary.

Dated as of

UNION TANK CAR COMPANY

By

*Vice President*

Attest:

*Assistant Secretary*

## TRUSTEE'S CERTIFICATE

This Note is one of the Union Tank Car Company 10½% First Mortgage Sinking Fund Equipment Notes due September 15, 1994 (Series C-1), issued under the Trust Deed referred to herein.

THE FIRST NATIONAL BANK OF CHICAGO,  
*Trustee*

By

*Authorized Officer*

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

## ARTICLE ONE

## DEFINITIONS

SECTION 1.01. *Definitions.* The following terms (except as otherwise expressly provided or unless the context otherwise requires) for all purposes of this Trust Deed shall have the respective meanings hereinafter specified:

*Affiliate* of any corporation shall mean any corporation which, directly or indirectly, controls or is controlled by, or is under direct or indirect common control with, such corporation. For the purposes of this definition, *control* (including *controlled by* and *under common control with*), as used with respect to any corporation, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities or by contract or otherwise.

*Board of Directors* shall mean either the board of directors of the Company or any duly authorized committee of that board.

*Company* shall mean Union Tank Car Company and any successor or successors to it complying with the provisions of Section 5.01.

*Corporate Trust Office* shall mean the principal office of the Trustee at which the corporate trust business of the Trustee shall, at the time in question, be administered, which office is, at the date of execution of this Trust Deed, located at One First National Plaza, Chicago, Illinois 60670.

*Cost*, when used with respect to Equipment not built by the Company or any Affiliate of the Company, shall mean the actual cost thereof, and, with respect to Equipment built by the Company or any such Affiliate, shall mean so-called "car builder's cost" including direct cost of labor and material and overhead, but excluding any manufacturing profit.

*Deed, Trust Deed, herein, hereof, hereto* and words of similar import refer to this Deed of Trust and Mortgage as a whole, and not to any particular Article, Section, paragraph or subdivision hereof.

*Deposited Cash* shall mean the aggregate of (a) cash on deposit with or to the credit of the Trustee as provided in Section 2.01, (b) any Investment Securities purchased by the use of such cash pursuant to the provisions of Section 8.05, and (c) any sums restored to Deposited Cash pursuant to Section 5.05(a)(2) and Section 8.05 and on deposit with or to the credit of the Trustee.

*Engineer's Certificate* shall mean a certificate signed by the President, any Vice President or any officer or employee of the Company, who is also an engineer, appraiser or other expert as the case may require, appointed by the Company and approved by the Trustee in the exercise of reasonable care.

*Equipment* shall mean standard-gauge railroad equipment (other than passenger or work equipment) first put into use on or after August 1, 1973.

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

The word *holder*, when used with respect to Notes, shall mean the registered holder of such Notes and shall include the plural as well as the singular number.

*Independent Engineer* shall mean an engineer, appraiser or other expert appointed by the Company and approved by the Trustee in the exercise of reasonable care, who (a) is in fact independent, (b) does not have any substantial interest, direct or indirect, in the Company or in any other obligor on the Notes or in any Affiliate of the Company or any such other obligor and (c) is not connected with the Company or any other obligor on the Notes or any Affiliate of the Company or any such other obligor as an officer, employee, promoter,

underwriter, trustee, partner, director or person performing similar functions.

*Interest Payment Date* shall mean the date specified in the form of Note hereinbefore set forth as a fixed date on which an instalment of interest on the Notes is payable.

*Investment Securities* shall mean (a) bonds, notes or other direct obligations of the United States of America or obligations for which the full faith and credit of the United States is pledged to provide for the payment of the interest and principal and which mature within three years of the date of purchase, (b) open market commercial paper of any company incorporated and doing business under the laws of the United States of America or one of the States thereof given a rating of "A-1" or "A-2" by Standard & Poor's Corporation or "prime-1" or better by NCO/Moody's Commercial Paper Division of Moody's Investors Service, Inc. or an equivalent rating by a successor thereto or a similar rating service substituted therefor and (c) certificates of deposit of or time deposits in banks or trust companies, including the Trustee, incorporated and doing business under the laws of the United States of America or one of the States thereof having a capital and surplus aggregating at least \$50,000,000.

*Mortgage, pledge, charge, hypothec* and words of similar import shall include the grant of a security interest.

*Notes* shall mean Union Tank Car Company First Mortgage Sinking Fund Equipment Notes due September 15, 1994 (Series C-1) issued and authenticated hereunder.

*Officers' Certificate* shall mean a certificate signed by the Chairman of the Board or the President or any Vice President and by the Treasurer or any Assistant Treasurer or the Secretary or any Assistant Secretary of the Company. Each such certificate shall include the statements provided for in Section 11.03 if and to the extent required by the provisions thereof.

*Opinion of Counsel* shall mean an opinion in writing signed by legal counsel who shall be satisfactory to the Trustee and who may, unless in a particular instance the Trustee shall otherwise require, be an employee of or of counsel to the Company, except that with respect to the matters referred to in Section 4.02(c) (v) and (vi) and sub-

paragraph (4) (v) and (vi) of the second paragraph of Section 5.02, in so far as they relate to the laws of Canada or any Province or Territory thereof, such counsel shall be Osler, Hoskin & Harcourt or other independent Canadian counsel satisfactory to the Trustee. Each such opinion shall include the statements provided for in Section 11.03 if and to the extent required by the provisions thereof. The acceptance by the Trustee of, and its failure to object to, an Opinion of Counsel shall be sufficient evidence that such counsel is satisfactory to the Trustee.

*Overdue Interest Rate* shall mean the rate of interest on any overdue principal or interest, as specified in the form of Note hereinbefore set forth.

The word *principal* shall include any premium.

*Request* shall mean a written request for the action therein specified, delivered to the Trustee, dated not more than ten days prior to the date of delivery to the Trustee and signed on behalf of the Company by the Chairman of the Board or the President or a Vice President of the Company.

*Responsible Officer* shall mean the chairman of the board of directors or the board of trustees, the vice chairman of the board of directors or the board of trustees, the chairman of the executive committee or the standing committee, the vice chairman of the executive committee or the standing committee, the president, any vice president, the cashier, the secretary, the treasurer, any trust officer, any assistant trust officer, any assistant vice president, any assistant cashier, any assistant secretary, any assistant treasurer, or any other officer or assistant officer of the Trustee customarily performing functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of his knowledge of and familiarity with the particular subject.

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

*Trustee* shall mean The First National Bank of Chicago, a national banking association, and, subject to the provisions of Article Eight, any successor as trustee hereunder.

## ARTICLE TWO

## NOTES AND ISSUANCE THEREOF

SECTION 2.01. *Issuance of Notes.* The net proceeds of the sale of any of the Notes shall, forthwith upon the issuance thereof, be deposited in cash with the Trustee. Thereupon, without waiting for the recording or filing of this Deed or of any other instrument respecting the Trust Equipment, the Trustee shall authenticate and deliver, as the Company shall direct by Request, Notes in the aggregate principal amount so sold.

The aggregate principal amount of Notes authorized to be issued hereunder shall be limited to the sum of \$23,850,000, except as provided in Sections 2.06, 2.07 and 3.02.

SECTION 2.02. *Interest; Denominations; Payment.* The principal amount of each Note shall be due and payable on September 15, 1994. Each of the Notes shall bear interest at the rate per annum specified in the form thereof hereinbefore set forth, payable semiannually in each year on each Interest Payment Date.

The Notes shall be in denominations of \$1,000 and any integral multiple thereof.

The principal of and interest on the Notes shall be payable at the Corporate Trust Office in such coin or currency of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts.

SECTION 2.03. *Form of Notes.* The Notes shall be in substantially the form hereinbefore set forth, with such numbers, descriptions or identifications as the Company may determine.

SECTION 2.04. *Execution by Company.* The Notes shall be signed in the name and on behalf of the Company by the manual or facsimile signature of its President or one of its Vice Presidents, and its corporate seal or a facsimile thereof shall be affixed or imprinted thereon and attested by the manual or facsimile signature of its Secretary or one of its Assistant Secretaries. In case any officer of the Company whose signature, whether facsimile or not, shall appear on any of the Notes shall cease to be such officer of the Company before the Notes shall have been authenticated and delivered by the Trustee

or shall not have been acting in such capacity on the date of the Notes, such Notes shall bind the Company and may be authenticated and delivered by the Trustee as though such person had not ceased to be or had then been such officer of the Company.

SECTION 2.05. *Authentication by Trustee.* At any time and from time to time after the execution of this Deed, the Company may deliver Notes executed by the Company to the Trustee for authentication; and the Trustee shall authenticate and deliver such Notes as in this Deed provided and not otherwise. No Note shall be entitled to any benefit of this Deed or be valid or obligatory for any purpose, unless there appears on such Note a certificate of authentication substantially in the form provided for herein executed by the Trustee by the manual signature of a Responsible Officer, and such certificate upon any Note shall be conclusive evidence, and the only evidence, that such Note has been authenticated and delivered hereunder and that the holder thereof is entitled to the benefit of the security of this Deed.

SECTION 2.06. *Characteristics of Notes.* (a) The Notes shall be registered, as to both principal and interest, in the name of the holder, shall be transferable upon presentation and surrender thereof for registration of transfer at the Corporate Trust Office, accompanied by appropriate instruments of assignment and transfer, duly executed by the registered holder of the surrendered Note or Notes or by duly authorized attorney, in form satisfactory to the Company and to the Trustee, and shall be dated as of the date of issue unless issued in exchange for another Note or Notes bearing unpaid interest from an earlier date, in which case they shall be dated as of such earlier date, and in any case shall entitle the registered holder to interest from the date thereof.

(b) The Notes shall be interchangeable in authorized denominations at the Corporate Trust Office.

(c) Anything contained herein to the contrary notwithstanding, the parties hereto may deem and treat the registered holder of any Note as the absolute owner of such Note for all purposes and shall not be affected by any notice to the contrary.

(d) The Trustee shall cause to be kept at the Corporate Trust Office books for the registration and registration of transfer of the Notes.

(e) For any registration or transfer or exchange the Trustee shall require the payment of a sum sufficient to reimburse it for any governmental charge connected therewith.

(f) Each Note delivered pursuant to any provision of this Deed in exchange or substitution for, or upon the registration of transfer of, the whole or any part, as the case may be, of one or more other Notes, shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by the whole or such part, as the case may be, of such one or more other Notes, and, notwithstanding anything contained in this Deed, such Note shall be so dated that neither gain nor loss in interest shall result from such exchange, substitution or registration of transfer.

(g) The Trustee shall not be required (i) to register the transfer of or exchange any Note for a period of ten business days next preceding any Interest Payment Date, or (ii) to issue, register the transfer of or exchange any Note during a period beginning at the opening of business ten business days before any selection of Notes to be redeemed and ending at the close of business on the day of the mailing of the relevant notice of redemption, or (iii) to register the transfer of or exchange any Note called or being called for redemption in whole or in part, except in the case of any Note to be redeemed in part, the portion thereof not to be so redeemed.

(h) Upon Request, the Trustee shall deliver to the Company canceled Notes held by the Trustee or, if so directed by the Company, may destroy such Notes and deliver to the Company a certificate of destruction.

SECTION 2.07. *Replacement of Lost Notes.* In case any Note shall become mutilated or defaced or be lost, destroyed or stolen, then on the terms herein set forth, and not otherwise, the Company shall execute, and the Trustee shall authenticate and deliver, a new Note of like tenor and date, and bearing such identifying number or designation as the Company may determine, in exchange and substitution for, and upon cancellation of, the mutilated or defaced Note, or in lieu of

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

### ARTICLE THREE

#### REDEMPTION OF NOTES—SINKING FUND

SECTION 3.01. *Right of Redemption and Redemption Price.* The Notes are subject to redemption through the application of sinking fund payments to be made to the Trustee pursuant to Section 5.05(d), on September 15, 1978, and on each September 15 thereafter to and including September 15, 1993, at 100% of the principal amount thereof, together with accrued and unpaid interest to the date fixed for redemption.

SECTION 3.02. *Selection of Notes for Redemption; Notice of Redemption.* On or before August 15, 1978, and on or before August 15 in each year thereafter to and including August 15, 1993, the Trustee shall select for redemption a principal amount of Notes so as to exhaust the amount of the sinking fund payment to be made by the Company to it in cash pursuant to Section 5.05(d) on the next succeeding September 15. The Notes to be redeemed shall be selected by the Trustee by prorating, as nearly as may be, the principal amount of Notes to be redeemed among the holders of the Notes. In any proration pursuant to this Section 3.02, the Trustee shall make such adjustments as it shall deem proper to the end that the principal amount of Notes so prorated shall be \$1,000 or a multiple thereof, by increasing or decreasing the amount which would be

allocable to any holder on the basis of exact proportion by an amount not exceeding \$1,000. The Trustee in its discretion may determine the particular Notes (if there are more than one) registered in the name of any holder which are to be redeemed, in whole or in part.

The Trustee shall mail a notice of redemption at least 30 days prior to each sinking fund redemption date to the holders of Notes so to be redeemed in whole or in part, at their last addresses as they shall appear upon the registry books. Failure to give such notice, or any defect therein, as to any Note shall not affect the validity of the proceedings for the redemption of any other Note. Any notice which is mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the holder receives the notice.

The notice of redemption shall specify the date for redemption and shall state that payment of the principal amount of the Notes or portions thereof to be redeemed (together with all accrued and unpaid interest thereon) will be made (provided the Company has deposited the necessary cash for such redemption) at the Corporate Trust Office upon presentation and surrender of such Notes, that accrued interest to the date fixed for redemption will be paid as specified in said notice, and that from and after said date interest thereon or on the portions thereof to be redeemed will cease to accrue (provided as aforesaid). The notice of redemption shall also state the aggregate principal amount of Notes to be redeemed; and in case there shall have been selected as aforesaid less than the entire principal amount of any Note, the notice shall identify such Note and the principal amount thereof called for redemption, and shall state that upon surrender of such Note, the holder will receive, without charge, a new Note for the principal amount thereof remaining unredeemed.

SECTION 3.03. *Payment of Notes Called for Redemption.* Notice of redemption having been completed as above provided, and the Company on or before the redemption date specified in the notice of redemption having deposited with the Trustee an amount in cash sufficient to redeem all the Notes or portions thereof called for redemption, the Notes or portions thereof called for redemption shall

become due and payable on such redemption date at the Corporate Trust Office, and from and after such redemption date interest on such Notes or portions thereof shall cease to accrue and such Notes or portions thereof shall no longer be deemed to be outstanding hereunder and shall cease to be entitled to the benefit of this Deed except to receive payment from the moneys reserved therefor in the hands of the Trustee. The Trustee shall hold the redemption moneys in trust for the holders of the Notes or portions thereof called for redemption and shall pay the same to such holders respectively upon presentation and surrender of such Notes.

Except as provided in Section 3.02, all Notes redeemed and paid under this Article Three shall be canceled by the Trustee and no Notes shall be issued hereunder in place thereof.

#### ARTICLE FOUR

##### MORTGAGE OF TRUST EQUIPMENT; DEPOSITED CASH

SECTION 4.01. *Mortgage of Trust Equipment.* The Company hereby mortgages, pledges, charges and hypothecates by way of a first, fixed and specific mortgage, pledge, charge and hypothec to and in favor of the Trustee, as trustee for the benefit of the holders of the Notes issued and to be issued hereunder, to secure payment of the sum of \$23,850,000 (U.S.) and all interest thereon as herein provided and of all other sums, if any, from time to time due hereunder to the holders of the Notes or to the Trustee, the following described property:

(a) The units of Trust Equipment described in Schedule A annexed hereto;

(b) All additional property of any kind or description, including cash, which may from time to time on or after the date of this Deed be delivered or by writing of any kind be conveyed, mortgaged, pledged, charged, hypothecated, assigned or transferred to the Trustee by the Company as expressly permitted by the terms of this Deed and accepted by the Trustee, to be held as part of the trust estate; and the Trustee is hereby authorized to accept and receive any such property and any such conveyance, mortgage, pledge, charge, hypothec, assignment and transfer, as and for additional security hereunder, and to hold and control any and all such property subject to and

in accordance with the terms and provisions upon which such conveyance, mortgage, pledge, assignment or transfer shall be made;

(c) All property, whether now owned by the Company or hereafter acquired, conveyed, mortgaged, pledged, charged, hypothecated, assigned or transferred to the Trustee in replacement of or substitution for any of the property described or referred to in subparagraphs (a) and (b) of the first paragraph of this Section 4.01;

(d) All property whether now owned by the Company or hereafter acquired, which may be at any time installed in, attached to or incorporated in any of the properties described or referred to in subparagraphs (a), (b) and (c) of the first paragraph of this Section 4.01 so long as the same shall be so installed, attached or incorporated therein or thereto or shall be appurtenant thereto;

(e) All tolls, rents, revenues, issues, income, insurance proceeds, products and profits, and all the estate, right, title, interest and claims whatsoever, at law as well as in equity, which the Company now has or now possesses or to which the Company may hereafter become legally or equitably entitled, in or to the property subjected or required to be subjected to the lien of this Deed;

*To Have and To Hold* all and singular the above property whether now owned or hereafter acquired, unto the Trustee, and its successors in the trust, and its assigns forever;

*But In Trust, Nevertheless*, with power of sale, for the equal and proportionate benefit and security of the holders of all Notes authenticated and delivered hereunder pursuant to the provisions hereof, and for the enforcement of the payment of the Notes when payable and the performance of and compliance with the covenants and conditions of this Deed, without any preference, distinction or priority as to lien or otherwise of any Note or Notes by reason of the difference in time of the actual authentication, delivery, issue, sale or negotiation thereof or for any other reason whatsoever, except as herein otherwise expressly provided; and so that each and every Note authenticated and delivered thereunder shall have the same lien, and so that the principal of and interest on every Note shall, subject to the terms hereof, be equally and proportionately secured hereby, as if it had been made, executed,

authenticated, delivered, sold and negotiated simultaneously with the execution and delivery hereof;

*Provided, However,* and these presents are upon the condition that if the Company, its successors or assigns, shall pay or cause to be paid, or shall make provision for payment, unto the holders of the Notes of the principal and interest to become due in respect thereof at the time and in the manner stipulated therein and herein, and shall keep, perform and observe all and singular the covenants and promises in the Notes and in this Deed expressed as to be kept, performed and observed by or on the part of the Company, then this Deed and the estate and rights hereby granted shall cease, determine and be void, otherwise to remain in full force and effect;

*And It Is Hereby Covenanted, Declared and Agreed* by and between the parties hereto that the mortgage, pledge, charge and hypothec hereby made shall be effective whether or not the monies secured thereby shall be advanced before or after or at the same time as the issue of any of the Notes intended to be secured thereby or before or after or upon the date of the execution of this Deed.

SECTION 4.02. *Payment of Deposited Cash.* From time to time upon Request, the Trustee shall pay to the Company out of Deposited Cash an amount not in excess of 75% of the aggregate Cost of the Trust Equipment subject to the charge hereof, as specified in the Officers' Certificate furnished to the Trustee pursuant to this Section 4.02. The Trustee shall not pay out any such Deposited Cash unless and until it shall have received from the Company:

(a) an Officers' Certificate which shall state (i) that such Trust Equipment is Equipment as herein defined, (ii) that the Cost of such Trust Equipment is an amount therein specified or is not less than an amount therein specified, (iii) the date each unit of such Trust Equipment was first put into use or that such unit was first put into use not earlier than a specified date, (iv) whether such Trust Equipment has, within six months prior to the date of its acquisition by the Company, been used or operated, by a person or persons other than the Company or a wholly-owned Affiliate of the Company, in a business similar to that in which it has been or is to be used or operated by the Company and (v) that, in the opinion of the signers, all conditions prece-

dent provided for in this Deed, relating to the payment in question, have been complied with;

(b) an Engineer's Certificate which shall state the fair value to the Company, in the opinion of the signer, of such Trust Equipment as of the date of the above-mentioned Request; and

(c) an Opinion of Counsel to the effect (i) that this Deed is valid and effective, either alone or in connection with any other instrument referred to in such opinion, to subject the Trust Equipment described in Schedule A hereto to the specific charge hereof free from all other liens and encumbrances (including leasehold interests) other than the rights of the Company hereunder, (ii) that in case of any Trust Equipment not specifically described herein, a proper supplement hereto in respect of such Trust Equipment has been duly executed by the Trustee and the Company, (iii) that this Deed has been duly authorized, executed and delivered by the Company and constitutes, insofar as the Company is concerned, a legal, valid and binding obligation, (iv) that this Deed has been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, (v) that this Deed has been duly filed and recorded in each Province or Territory of Canada wherein such filing or recordation is necessary for the protection of the rights of the Trustee in this Deed and in and to such Trust Equipment (subject to the qualification contained in the proviso to the first paragraph of Section 7.02), (vi) that no other filing, recordation or deposit is necessary for the protection of the rights of the Trustee in and to such Trust Equipment and this Deed in the United States of America or in Canada or any Province or Territory thereof (subject to such qualification), and (vii) that, in the opinion of such counsel, all conditions provided for in this Deed, relating to the payment in question, have been complied with; provided, however, that in the case of Trust Equipment covered by a supplement hereto to be made subject to the specific charge hereof, no Opinion of Counsel need be furnished by Canadian counsel if the Company shall furnish to the Trustee an Officers' Certificate to the effect that none of such Trust Equipment is located in any jurisdiction in Canada.

If the Trust Equipment has, within six months prior to the date of its acquisition by the Company, been used or operated, by a person or persons other than the Company, or a wholly-owned Affiliate of the Company, in a business similar to that in which it has been or is to be used or operated by the Company, and the fair value to the

Company of such Trust Equipment is not less than 1% of the aggregate principal amount of Notes at the time outstanding, the Engineer's Certificate referred to in subparagraph (b) above shall be signed by an Independent Engineer.

Any Officers' Certificate delivered pursuant to this Section 4.02 may state that the Cost of the Trust Equipment therein referred to is tentatively determined, subject to final adjustment to be evidenced in a final Officers' Certificate to be delivered to the Trustee as promptly as practicable after final determination but in any event not later than September 15, 1975.

If the aggregate final Cost or fair value, whichever is less, as specified in the certificates theretofore delivered to the Trustee pursuant to this Section 4.02, of the Trust Equipment hypothecated, mortgaged, pledged and charged to and in favor of the Trustee pursuant to this Deed shall be less than 133 $\frac{1}{3}$ % of the aggregate principal amount of Notes issued pursuant to Section 2.01, the Company will cause to be hypothecated, mortgaged, pledged and charged to and in favor of the Trustee additional Equipment in such amount and of such Cost that the aggregate final Cost or fair value, whichever is less, of the Trust Equipment will be at least 133 $\frac{1}{3}$ % of the aggregate principal amount of said Notes.

## ARTICLE FIVE

### USE OF TRUST EQUIPMENT BY THE COMPANY

SECTION 5.01. *Possession of Trust Equipment.* Except as provided in this Section 5.01, the Company will not assign or transfer its rights hereunder, or transfer or lease the Trust Equipment or any part thereof, without the written consent of the Trustee first had and obtained; and the Company shall not, without such written consent, except as herein provided, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment. An assignment or transfer to a corporation which shall acquire all or substantially all of the property of the Company (whether by merger, consolidation or otherwise) and which, by execution of an appropriate instrument satisfactory to the Trustee, shall assume and agree to perform each and all of the obligations and covenants of the Company hereunder shall not be deemed a

breach of this covenant. The appointment of a receiver or receivers in equity or reorganization or a trustee or trustees in bankruptcy or reorganization for the Company or for its property shall not be deemed an unauthorized assignment if, prior to any action by the Trustee to exercise the remedies herein provided, such receiver or receivers or trustee or trustees shall be discharged or such receiver or receivers or trustee or trustees shall, pursuant to court order or decree, in writing duly assume and agree to pay or perform each and all of the obligations and covenants of the Company hereunder in such manner that such obligations shall have the same status as obligations incurred by such receiver or receivers or trustee or trustees.

So long as the Company shall not be in default under this Deed, the Company and any of its Affiliates shall be entitled to the possession and use of the Trust Equipment in accordance with the terms hereof, and the Company may also (a) furnish the Trust Equipment or any part thereof to railroad companies for use upon the lines of railroad owned or operated by them or over which they have trackage rights and upon connecting and other carriers in the usual interchange of traffic, or to others than railroad companies for use in their business, or (b) lease all or any part of the Trust Equipment, but only, in either case, upon and subject to all the terms and conditions of this Deed, and to all rights of the Trustee hereunder.

Any such lease may provide that the lessee, so long as it shall not be in default under such lease, shall be entitled (subject to the rights of the Trustee upon the happening of an Event of Default) to the possession of the Trust Equipment included in such lease and the use thereof, and may provide for lettering or marking upon such Equipment for convenience of identification of the leasehold interest of such lessee therein. Every such lease shall expressly subject the rights of the lessee under such lease to the rights of the Trustee in respect of the Trust Equipment covered by such lease in the event of the happening of an Event of Default.

SECTION 5.02. *Substitution and Replacement of Equipment.* Upon Request, the Trustee shall, at any time and from time to time, release from the lien hereof any or all of the Trust Equipment by delivering to the Company a release and such other instruments as

may be necessary to assign and transfer to the Company all the security interest of the Trustee in and to such Trust Equipment; *provided, however*, that no interest of the Trustee in any unit of Trust Equipment shall be so released (except as provided in Sections 5.04 and 5.06) unless simultaneously (a) there shall be hypothecated, mortgaged, pledged and charged to and in favor of the Trustee in the same manner provided in Section 4.01 hereof other Equipment of a fair value to the Company not less than the fair value, as of the date of such Request, of the Trust Equipment so released by the Trustee or (b) there shall be paid to the Trustee cash in an amount not less than the fair value, as of said date, of the Trust Equipment so released by the Trustee.

At the time of delivery of any Request pursuant to the first paragraph of this Section 5.02, the Company shall, if other Equipment is to be hypothecated, mortgaged, pledged and charged to and in favor of the Trustee in substitution for the Trust Equipment to be released by the Trustee, deliver to the Trustee the following papers:

(1) an Engineer's Certificate stating (i) the fair value, as of the date of said Request, of the Trust Equipment so to be released by the Trustee, (ii) that such release will not impair the security under this Deed in contravention of the provisions hereof and (iii) the fair value to the Company of such substituted units of Equipment as of such date;

(2) an Officers' Certificate stating (i) the date each unit of Trust Equipment so to be released by the Trustee was first put into use (or that such unit was first put into use not later than a specified date), (ii) the original Cost of the Equipment so to be substituted and the date such Equipment was first put into use (or that such Equipment was first put into use not earlier than a specified date), (iii) that each such unit so to be substituted is Equipment as herein defined, (iv) that no Event of Default has occurred and is continuing and (v) that, in the opinion of the signers, all conditions precedent provided for in this Deed, relating to such substitution, have been complied with;

(3) a supplemental deed or deeds and such other instruments as may be necessary to subject such substituted Equipment to the lien hereof; and

(4) an Opinion of Counsel to the effect (i) that such supplemental deed or deeds are valid and effective, either alone or together with any other instruments referred to in and accom-

panying such opinion, to hypothecate, mortgage, pledge and charge such substituted Equipment to and in favor of the Trustee free from all liens and encumbrances (including any leasehold interest therein) other than the rights of the Company hereunder, (ii) that a proper supplement hereto in respect of such substituted Equipment has been duly executed by the Trustee and the Company, (iii) that such supplemental deed or deeds have been duly authorized, executed and delivered by the Company and constitute, in so far as the Company is concerned, a legal, valid and binding obligation, (iv) that such supplemental deed or deeds have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, (v) that such supplemental deed or deeds have been duly filed and recorded in each Province or Territory of Canada wherein such filing or recordation is necessary for the protection of the rights of the Trustee in and to such Trust Equipment or such supplemental deed or deeds (subject to the qualification contained in the proviso to the first paragraph of Section 7.02), (vi) that no other filing, recordation or deposit is necessary for the protection of the rights of the Trustee in and to such Trust Equipment or such supplemental deed or deeds in the United States of America or in Canada or any Province or Territory thereof (subject to such qualification), and (vii) that, in the opinion of such counsel, all conditions precedent provided for in this Deed, with respect to such substitution, have been complied with; provided, however, that in the case of Trust Equipment covered by a supplement hereto to be made subject to the specific charge hereof, no Opinion of Counsel need be furnished by Canadian counsel if the Company shall furnish to the Trustee an Officers' Certificate to the effect that none of such Trust Equipment is located in any jurisdiction in Canada.

If the fair value of the Trust Equipment to be released by the Trustee, together with all other property so released since the commencement of the then current calendar year, as set forth in the certificate or certificates required by this Section 5.02, is 10% or more of the aggregate principal amount of Notes at the time outstanding, the Engineer's Certificate referred to in subparagraph (1) above shall be signed by an Independent Engineer unless the fair value of the Trust Equipment to be released, as set forth in such certificate, is less than 1% of the aggregate principal amount of Notes at the time outstanding. If any Equipment to be hypothecated, mortgaged, pledged, charged and made subject to a security interest

to and in favor of the Trustee pursuant to this Section 5.02 has, within six months prior to the date of its acquisition by the Company, been used or operated, by a person or persons other than the Company or a wholly-owned Affiliate of the Company, in a business similar to that in which it has been or is to be used or operated by the Company, and the fair value to the Company of such Equipment is not less than 1% of the aggregate principal amount of Notes at the time outstanding, the Engineer's Certificate referred to in subparagraph (1) above shall be signed by an Independent Engineer.

At the time of delivery of any Request pursuant to the first paragraph of this Section 5.02, the Company shall, if cash is to be paid to the Trustee in respect of the Trust Equipment to be released by the Trustee, deliver to the Trustee papers corresponding to those set forth in the second paragraph of this Section 5.02 in so far as they relate to the action requested.

Cash deposited with the Trustee pursuant to this Section 5.02 or pursuant to Section 5.04 (except as otherwise provided herein) shall, from time to time, be paid over by the Trustee to the Company upon Request, against the hypothecation, mortgage, pledge and charge to and in favor of the Trustee of Equipment having a fair value, as of the date of said Request, not less than the amount of cash so paid, and upon compliance by the Company with all of the provisions of the second paragraph of this Section 5.02 insofar as they relate to the action requested.

For all purposes of this Section 5.02, where fair value is not required to be determined by an Independent Engineer, fair value shall be determined as follows (and the manner of such determination shall be set forth in each Engineer's Certificate furnished in respect thereof, including a statement of actual fair value or fair value to the Company, as the case may be, without reference to the provisions of subparagraphs (1) and (2) of this paragraph):

(1) The fair value of any unit of Trust Equipment released by the Trustee as provided in this Section 5.02 shall be deemed to be the greater of (a) the actual fair value thereof and (b) the Cost thereof as theretofore certified to the Trustee less 1/20th of such Cost for each full period of one year elapsed between the date such unit was first put into use as certified to the Trustee and the date as of which fair value is to be determined.

(2) The fair value of any unit of Equipment hypothecated, mortgaged, pledged and charged to and in favor of the Trustee as provided in this Section 5.02 shall be deemed to be the lesser of (a) the actual fair value thereof and (b) the Cost of such unit, if new, or, in case of any unit of Equipment not new, (i) the depreciated book value thereof on the books of the owner thereof, as of the date of the hypothecation, mortgage, pledge and charge to and in favor of the Trustee, or (ii) the Cost thereof, less 1/20th of such Cost for each full period of one year elapsed between the date such unit was first put into use and the date of the hypothecation, mortgage, pledge and charge thereof to and in favor of the Trustee or (iii) the value thereof, as of said last mentioned date, as determined in accordance with the Code of Rules Governing the Condition of and Repairs to Freight and Passenger Cars for the Interchange of Traffic, Adopted by the Association of American Railroads, Operations and Maintenance Department, Mechanical Division, as in effect at the time in question (or, if there is no such Code then in effect, sound accounting principles), whichever shall be less, not exceeding, however, in any case, the estimated Cost of such unit if it had been constructed on or about September 15, 1974, less depreciation for such unit at the rate of 1/20th of such Cost for each full period of one year that shall have elapsed since such unit was first put into use.

For all purposes of this Section 5.02, where fair value is required to be determined by an Independent Engineer, such fair value shall be determined without requiring reference to the provisions of subparagraphs (1) and (2) of the next preceding paragraph.

Any Officers' Certificate delivered pursuant to this Section 5.02 may state that the Cost of the Trust Equipment therein referred to is tentatively determined, subject to final adjustment to be evidenced in a final Officers' Certificate to be delivered to the Trustee.

In the event that the Company shall, as provided in this Section 5.02, cause to be hypothecated, mortgaged, pledged and charged to and in favor of the Trustee other Equipment in addition to or in substitution for any of the Equipment herein specifically described or subjected hereto, such other Equipment shall be included as part of the Trust Equipment and shall be subject to all the terms and conditions hereof in all respects as though it had been part of the Trust Equipment herein specifically described.

SECTION 5.03. *Marking of Trust Equipment.* The Company agrees that as soon as practicable after the execution and delivery of this Deed and each supplement hereto, there shall be plainly, distinctly, permanently and conspicuously placed and fastened upon each side of each unit of Trust Equipment covered by this Deed or such supplement, as the case may be, a metal plate bearing the following words, or such words shall be otherwise plainly, distinctly, permanently and conspicuously marked on each side of each such unit, in either case in letters not less than three-eighths inch in height:

OWNERSHIP SUBJECT TO A SECURITY AGREEMENT  
RECORDED UNDER SECTION 20c OF THE INTERSTATE  
COMMERCE ACT.

Such plates or marks shall be such as to be readily visible and as to indicate plainly the Trustee's interest in each unit of Trust Equipment.

In case, prior to the cancellation of this Deed, any of such plates or marks shall at any time be removed, defaced or destroyed, the Company shall forthwith cause the same to be restored or replaced. The Company shall not change, or permit to be changed, the numbers of any of the Trust Equipment at any time covered hereby (or any numbers which may have been substituted as herein provided) except in accordance with a statement of new numbers to be substituted therefor which previously shall have been filed with the Trustee by the Company and which shall be filed and recorded in like manner as this Deed.

The Trust Equipment may be lettered UNION TANK CAR COMPANY, PROCOR LIMITED, UTLX, or in some other appropriate manner for convenience of identification of the interest of the Company therein, and may also be lettered, in case of a lease of any equipment made pursuant to Section 5.01 hereof, in such manner as may be appropriate for convenience of identification of the leasehold interest therein; but the Company, during the continuance of this Deed, will not allow any lettering or designation to be placed on any of the Trust Equipment claiming a security interest therein by any person, firm, association or corporation other than the Trustee.

SECTION 5.04. *Maintenance of Trust Equipment; Optional Prepayment of Notes.* The Company agrees that it will maintain and keep all

the Trust Equipment in good order and proper repair at its own cost and expense, unless and until it becomes worn out, unsuitable for use, lost, destroyed, stolen or irreparably damaged from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (each such occurrence being hereinafter called a Casualty Occurrence). Whenever any of the Trust Equipment shall suffer a Casualty Occurrence, the Company shall, within 30 days after it shall have been informed of such Casualty Occurrence, deliver to the Trustee an Engineer's Certificate describing such Trust Equipment and stating the fair value thereof as of the date such Trust Equipment suffered such Casualty Occurrence. When the total fair value of all of the Trust Equipment having suffered a Casualty Occurrence (exclusive of Trust Equipment having suffered a Casualty Occurrence in respect of which a payment shall have been made to the Trustee pursuant to this Section) shall amount to 2% of the principal amount of Notes then outstanding (or such lesser amount as the Company may elect), the Company shall, within 30 days of its having been informed of such event, deposit with the Trustee an amount in cash equal to the fair value of such Trust Equipment as of the date of the Casualty Occurrence in respect thereof. The rights and remedies of the Trustee to enforce or to recover any of the payments required to be made by the Company hereunder shall not be affected by reason of any Casualty Occurrence. For all purposes of this paragraph, fair value shall be determined in the manner provided in subparagraph (1) of the sixth paragraph of Section 5.02.

Upon the deposit of cash with the Trustee pursuant to this Section 5.04, the Trustee shall execute and deliver to the Company a release and such other instruments as may be necessary to assign and transfer to the Company all the security interest of the Trustee in and to the Trust Equipment which has suffered a Casualty Occurrence and in respect of which such deposit is made.

By Request delivered within 30 days after the deposit of cash with the Trustee pursuant to this Section 5.04, the Company may direct that all or any portion of such cash be applied by the Trustee to the prepayment of Notes together with, in each case, accrued and unpaid interest to the date fixed for prepayment. In the absence of such

Request, such cash shall be held and applied as provided in the fifth paragraph of Section 5.02.

In case the Company desires to prepay Notes pursuant to this Section 5.04, it shall deliver to the Trustee with such Request an Officers' Certificate specifying the aggregate principal amount of Notes to be prepaid and the date fixed for prepayment (which date shall be at least 60 days after delivery of such Officers' Certificate). The procedure for such prepayment of Notes shall be the same as the procedure for redemption of Notes, as set forth in Sections 3.02 (excluding the first sentence thereof) and 3.03 hereof.

The Company covenants and agrees to furnish to the Trustee, whenever required by the Trustee, and at least once, on or before November 1, in every calendar year commencing in 1975 and continuing until the cancellation of this Deed pursuant to Section 5.06, an Officers' Certificate, dated as of the preceding July 31, stating (1) the amount, description and numbers of all Trust Equipment that has suffered a Casualty Occurrence since the date of the last preceding statement (or the date of this Deed in the case of the first statement) and (2) that in the case of all the Trust Equipment painted or repaired since the date of the last preceding statement (or the date of this Deed in the case of the first statement) the marking required by Section 5.03 has been preserved or that such Trust Equipment when painted or repaired has been again marked as required thereby. The Trustee, by its agents, shall have the right once in each calendar year, but shall be under no duty, to inspect the Trust Equipment at the then existing locations thereof.

SECTION 5.05. *Payments by the Company.* The Company covenants and agrees to pay to the Trustee at the Corporate Trust Office (or, in the case of taxes, to the proper taxing authority), in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, moneys which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable:

- (a) from time to time upon demand of the Trustee (1) the necessary and reasonable expenses of the trust hereby created, including compensation and expenses provided for herein, and
- (2) an amount equal to any expenses incurred or loss of prin-

principal (including interest accrued thereupon at time of purchase) in connection with any purchase, sale or redemption by the Trustee of Investment Securities;

(b) from time to time upon demand of the Trustee any and all taxes, assessments and governmental charges upon or on account of the income or property of the trust, or upon or on account of this Deed, which the Trustee as such may be required to pay;

(c) (1) the amounts of the interest payable on the Notes, when and as the same shall become payable, and (2) interest at the Overdue Interest Rate from the due date, upon any amounts payable under this paragraph (c) and the following paragraphs (d) and (e) which shall not be paid when due, to the extent legally enforceable;

(d) as a sinking fund for the Notes, on or before September 15 in each year, commencing September 15, 1978, and continuing to and including September 15, 1993, an amount in cash sufficient to redeem at 100% of the principal amount thereof, together with accrued and unpaid interest to the redemption date, \$1,416,000 aggregate principal amount of Notes (or such lesser amount as equals the total principal amount of the Notes then outstanding); and

(e) the principal of the Notes (other than those redeemed pursuant to Article Three or prepaid pursuant to Section 5.04) upon the maturity thereof, whether by declaration or otherwise.

Nothing herein or in the Notes contained shall be deemed to impose on the Trustee or on the Company any obligation to pay to the holder of any Note any tax, assessment or governmental charge required by any present or future law of the United States of America, or of any state, county, municipality or other taxing authority thereof, to be paid in behalf of, or withheld from the amount payable to, the holder of any Note.

The Company shall not be required to pay any tax, assessment or governmental charge so long as it shall in good faith and by appropriate legal proceedings contest the validity thereof, provided that the rights or interests of the Trustee or of the holders of the Notes will not be materially endangered thereby and the Company shall have furnished the Trustee with an Opinion of Counsel to such effect.

SECTION 5.06. *Cancellation of Deed.* After all payments due or to become due from the Company hereunder shall have been completely

and fully paid to the Trustee, (1) any moneys remaining in the hands of the Trustee after providing for payment in full of all outstanding Notes and after paying the expenses of the Trustee, including its reasonable compensation, shall be paid to the Company, (2) title of the Company to all the Trust Equipment shall be free of the charge hereof, and (3) the Trustee shall execute for record in public offices, at the expense of the Company, such release and other instruments as reasonably shall be requested by the Company in order to make clear upon public records the Company's title to all the Trust Equipment free of the charge hereof under the laws of any jurisdiction; *provided, however*, that until that time title to and ownership of all the Trust Equipment shall be and remain subject to this Deed in favor of the Trustee, notwithstanding the possession and use thereof by the Company.

SECTION 5.07. *Patent Indemnity.* The Company covenants and agrees to indemnify the Trustee against any and all claims arising out of or connected with the ownership or use of any of the Trust Equipment, and particularly against any and all claims arising out of the use of any patented inventions in and about the Trust Equipment, and to comply in all respects with the laws of the United States of America and of all the states and other jurisdictions in which the Trust Equipment, or any thereof, may be operated, and with all lawful acts, rules, regulations and orders of any commissions, boards and other legislative, executive, administrative or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including without limitation all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; *provided, however*, that the Company may in good faith contest the validity of any such law, act, rule, regulation or order, or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the holders of the Notes. The Company shall not be relieved from any of its obligations hereunder by reason of the assertion or enforcement of any such claims or the commencement or prosecution of any litigation in respect thereof.

## ARTICLE SIX

## REMEDIES IN EVENT OF DEFAULT

SECTION 6.01. *Events of Default.* The Company covenants and agrees that in case

(a) the Company shall default in the payment of any part of the principal of or interest on any of the Notes or in the payment of any sums required to be paid under Article Three hereof in respect of the sinking fund for more than 10 days after the same shall have become due and payable, or

(b) the Company shall make or suffer any unauthorized assignment or transfer of its rights hereunder or shall make any unauthorized transfer or lease of any of the Trust Equipment, or, except as herein authorized, shall part with the possession of any of the Trust Equipment, and shall fail or refuse either to cause such assignment or transfer or lease to be canceled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within 30 days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said 30 days to deposit with the Trustee a sum in cash equal to the Cost, or, in the case of Trust Equipment hypothecated, mortgaged, pledged and charged to and in favor of the Trustee pursuant to Section 5.02 hereof, the fair value (as of the date of hypothecation, mortgage, pledge and charge), of the Trust Equipment so assigned or transferred or leased or the possession of which shall have been parted with otherwise than as herein authorized, as certified to the Trustee pursuant to Section 5.02 (any sum so deposited to be returned to the Company upon the cancellation of such assignment, transfer or lease and the recovery of possession by the Company of such Trust Equipment), or

(c) the Company shall, for more than 30 days after the Trustee shall have demanded in writing performance thereof, fail or refuse to comply with any other of the terms and covenants hereof on its part to be kept and performed, or to make provision satisfactory to the Trustee for such compliance, or

(d) an event of default shall occur under any lease, agreement, equipment trust agreement or indenture under which the Company is an obligor and the Trustee is also acting as trustee thereunder (the term "event of default" being used in this paragraph (d) to mean any event which, after any applicable notice and/or period of grace provided for in the instrument in question, permits the trustee thereunder to declare the principal amount of

the obligation issued or secured thereby to become immediately due and payable), or

(e) a decree or order shall have been entered by a court of competent jurisdiction adjudging the Company bankrupt or insolvent or approving as properly filed a petition seeking reorganization of the Company under the Bankruptcy Act or any other Federal, state, commonwealth or territorial law relating to bankruptcy or insolvency or appointing a receiver or decreeing or ordering the winding up or liquidation of the affairs of the Company, and any such decree or order shall remain in force undischarged and unstayed for a period of 60 days; or any substantial part of the Company shall be sequestered or attached and shall not be returned to the possession of the Company or released from such attachment within 90 days thereof, or

(f) the Company shall institute proceedings to be adjudicated a bankrupt or insolvent or shall consent to the institution of bankruptcy or insolvency proceedings against it or shall file a petition or answer or consent seeking reorganization or relief under the Bankruptcy Act or any other Federal, state, commonwealth or territorial law relating to bankruptcy or insolvency or shall consent to the filing of any such petition or shall consent to the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency of it or of a substantial part of its property, or shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due,

then, in any such case (herein sometimes called an Event of Default), the Trustee, by notice in writing to the Company, or the holders of not less than 25% in principal amount of the then outstanding Notes, by notice in writing to the Company and the Trustee, may declare to be due and payable forthwith (i) the unpaid principal amount of all Notes then outstanding and (ii) the entire amount of the moneys payable by the Company as set forth in Section 5.05 and not theretofore paid (excluding moneys required for the payment of interest accruing after the date of such declaration or pursuant to Section 5.05(d) after the date of such declaration). Thereupon the entire amount of such principal and such other moneys shall forthwith be-

come and shall be due and payable immediately without further demand, together with interest at the Overdue Interest Rate, to the extent legally enforceable, on any portion thereof overdue.

In case the Company shall fail to pay any moneys payable pursuant to Section 5.05(c), (d) or (e) when and as the same shall have become due and payable hereunder, and such default shall have continued for a period of 10 days, the Trustee, in its own name and as trustee of an express trust for the benefit of the holders of the Notes, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the moneys so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Company or other obligor upon the Notes and collect in the manner provided by law out of the property of the Company or other obligor upon the Notes wherever situated the moneys adjudged or decreed to be payable.

In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or any other obligor upon the Notes under the Bankruptcy Act or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of the Company or such other obligor, or in case of any other judicial proceedings relative to the Company or such other obligor, or to the creditors or property of the Company or such other obligor, the Trustee, irrespective of whether the principal of the Notes or any other payments required to be made by the Company hereunder shall then be due and payable as herein or therein expressed whether by declaration or otherwise and irrespective of whether the Trustee shall have made any demand or declaration pursuant to the provisions of this Section 6.01, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the entire amount of the moneys payable by the Company pursuant to Section 5.05 (excluding moneys required for the payment of interest accruing after the date of such declaration or moneys payable pursuant to Section 5.05(d) after the date of such claim or claims) and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee, its agents, attorneys and counsel, and for reimbursement of all expenses

and liabilities incurred, and all advances made, by the Trustee except as a result of its negligence or bad faith) and of the holders of the Notes allowed in such proceedings and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the holders of the Notes and of the Trustee on their behalf, provided, however, that nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any holder of Notes any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any holder thereof, or to authorize the Trustee to vote in respect of the claim of any holder of Notes in any such proceeding; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized by each of the holders of the Notes to make payments to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to the holders of the Notes, to pay to the Trustee such amount as shall be sufficient to cover reasonable compensation to the Trustee, its agents, attorneys and counsel, and all other expenses and liabilities incurred, and all advances made, by the Trustee except as a result of its negligence or bad faith.

All rights of action and to assert claims under this Deed, or under any of the Notes, may be enforced by the Trustee without the possession of any of the Notes or the production thereof on any trial or other proceedings relative thereto, and any such action or proceedings instituted by the Trustee shall be brought in its own name as trustee of an express trust for the benefit of the holders of the Notes, and any recovery of judgment shall be for the ratable benefit of the holders of the Notes. In any proceedings brought by the Trustee (and also any proceedings involving the interpretation of any provision of this Deed to which the Trustee shall be a party) the Trustee shall be held to represent all the holders of the Notes, and it shall not be necessary to make any holders of the Notes parties to such proceedings.

**Section 6.02. Remedies.** In case of the happening of any Event of Default, the Trustee may by its agents enter upon the premises of the Company and of any Affiliate of the Company or of any lessee where any of the Trust Equipment may be and take possession of all or any part of the Trust Equipment and withdraw the same from said

premises, retaining all payments which up to that time may have been made hereunder, and shall be entitled to collect, receive and retain all unpaid *per diem*, mileage or other charges of any kind earned by the Trust Equipment or any part thereof, and may lease the Trust Equipment or any part thereof, or with or without taking possession thereof (but only after declaring due and payable the entire amount of moneys payable by the Company pursuant to Section 5.05 as provided in Section 6.01 hereof) may sell the same or any part thereof, free from any and all claims of the Company at law or in equity, in one lot and as an entirety or in separate lots, insofar as may be necessary to perform and fulfill the trust hereunder, at public or private sale, for cash or upon credit, in its discretion, and may proceed otherwise to enforce its rights and the rights of the holders of the Notes in the manner herein provided. Upon any such sale, the Trustee itself may bid for the property offered for sale or any part thereof. Any such sale may be held or conducted at such place and at such time as the Trustee may specify, or as may be required by law, and without gathering at the place of sale the Trust Equipment to be sold, and in general in such manner as the Trustee may determine, but so that the Company may and shall have a reasonable opportunity to bid at any such sale. Upon such taking possession or withdrawal or lease or sale of the Trust Equipment, the Company shall cease to have any rights or remedies in respect of the Trust Equipment hereunder, but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Company, and no payments theretofore made by the Company shall, in case of the happening of any Event of Default and such taking possession, withdrawal, lease or sale by the Trustee, give to the Company any legal or equitable interest in the Trust Equipment or any of it or any cause or right of action at law or in equity in respect of the Trust Equipment against the Trustee or the holders of the Notes. No such taking possession, withdrawal, lease or sale of the Trust Equipment by the Trustee shall be a bar to the recovery by the Trustee from the Company of moneys then or thereafter due and payable, and the Company shall be and remain liable for the same until such sums shall have been realized as, with the proceeds of the lease or sale of the Trust Equipment, shall be sufficient for the discharge and payment in full of all the items mentioned in Section 5.05 (other than interest not then accrued or moneys payable

pursuant to Section 5.05(d) due after the date of the declaration referred to in Section 6.01), whether or not they shall have then matured. The foregoing provisions are subject to all applicable mandatory requirements of law.

SECTION 6.03. *Application of Proceeds.* If, in case of the happening of any Event of Default, the Trustee shall exercise any of the powers conferred upon it by Sections 6.01 and 6.02, all payments made by the Company to the Trustee hereunder after such Event of Default, and the proceeds of any judgment collected from the Company by the Trustee hereunder, and the proceeds of every sale or lease by the Trustee hereunder of any of the Trust Equipment, together with any other sums which may then be held by the Trustee under any of the provisions hereof (other than sums held in trust for the payment of specific Notes), shall be applied by the Trustee to the payment, in the following order of priority, (a) of all proper charges, expenses or advances made or incurred by the Trustee in accordance with the provisions of this Deed, (b) of the interest then due to the last preceding Interest Payment Date, with interest on overdue interest at the Overdue Interest Rate to the extent legally enforceable and (c) of the principal of all the outstanding Notes, with interest thereon at the Overdue Interest Rate to the extent legally enforceable from the last preceding Interest Payment Date, whether such Notes shall have matured by their terms or not, all such payments to be in full if such proceeds shall be sufficient, and if not sufficient, then *pro rata* without preference between principal and interest.

After all such payments shall have been made in full, all the right, title and interest of the Trustee in and to any of the Trust Equipment remaining unsold shall be conveyed by the Trustee to the Company free from any further liabilities or obligations to the Trustee hereunder. If after applying all such sums of money realized by the Trustee as aforesaid there shall remain any amount due to the Trustee under the provisions hereof, the Company agrees to pay the amount of such deficit to the Trustee. If after applying as aforesaid the sums of money realized by the Trustee there shall remain a surplus in the possession of the Trustee, such surplus shall be paid to the Company.

SECTION 6.04. *Waivers of Default.* Prior to the declaration of the acceleration of the maturity of all the Notes and of the maturity of the payments to be made by the Company hereunder as provided in Section 6.01, the holders of not less than 66 $\frac{2}{3}$ % in aggregate principal amount of the Notes at the time outstanding may on behalf of the holders of all the Notes waive any past Event of Default and its consequences, except an Event of Default in the payment of any moneys payable pursuant to Section 5.05(c), (d) or (e) but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

If at any time after the principal of all the Notes shall have been declared and become due and payable or if at any time after the entire amount of other moneys payable by the Company hereunder shall have been declared and become due and payable, all as in Section 6.01 provided, but before September 15, 1994, all arrears of such moneys (with interest at the Overdue Interest Rate upon any overdue instalments, to the extent legally enforceable), the expenses and reasonable compensation of the Trustee, together with all expenses of the trust occasioned by the Company's default, and all other sums which shall have become due and payable by the Company hereunder (other than the principal of Notes, and any other payments to be made hereunder, which shall not at the time have matured according to their terms) shall be paid by the Company before any sale or lease by the Trustee of any of the Trust Equipment, and every other default in the observance or performance of any covenant or condition hereof shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then, and in every such case, the Trustee, if so requested by the holders of not less than 66 $\frac{2}{3}$ % in aggregate principal amount of the Notes then outstanding and which shall not have matured (other than by declaration) according to their terms, shall by written notice to the Company waive the default by reason of which there shall have been such declaration or declarations and the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

SECTION 6.05. *Obligations of Company Not Affected by Remedies.* No taking of possession of the Trust Equipment by the Trustee, or any withdrawal, lease or sale thereof, nor any action or failure or

omission to act against the Company or in respect of the Trust Equipment, on the part of the Trustee or on the part of the holder of any Note, nor any delay or indulgence granted to the Company by the Trustee or by any such holder, shall affect the obligations of the Company hereunder. The Company hereby waives presentation and demand in respect of any of the Notes and waives notice of presentation, of demand and of any default in the payment of the principal of and interest on the Notes.

SECTION 6.06. *Company to Deliver Trust Equipment to Trustee.* In case the Trustee shall rightfully demand possession of any of the Trust Equipment in pursuance of this Deed, the Company will, at its own expense, forthwith and in the usual manner and at usual speed, cause such Trust Equipment to be drawn to such point or points as shall reasonably be designated by the Trustee and will there deliver or cause to be delivered the same to the Trustee; or, at the option of the Trustee, the Trustee may keep such Trust Equipment, at the expense of the Company, on any lines of railroad or premises approved by the Trustee until the Trustee shall have leased, sold or otherwise disposed of the same. The performance of the foregoing covenant is of the essence of this Deed and upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company requiring the specific performance thereof.

SECTION 6.07. *Trustee to Give Notice of Default, but May Withhold Under Certain Circumstances.* The Trustee shall give to the holders of the Notes notice of each default hereunder known to the Trustee within 30 days after the occurrence thereof, unless such default shall have been remedied or cured before the giving of such notice. The term "default" as used in this Section 6.07 shall mean the happening of any event defined as an Event of Default in Section 6.01, except that, for the purposes of this Section 6.07 only, there shall be eliminated from the definition of any such event as specified in Section 6.01 any reference to the making of a written demand or the continuance, or the continuance in force, for any period of days of any default or failure on the part of the Company referred to in such definition.

SECTION 6.08. *Limitations on Suits by Holders of Notes.* No holder of any Note shall have any right by virtue or by availing of any provision of this Deed to institute any action or proceedings at law or in equity or in bankruptcy or otherwise, upon or under or with respect to this Deed, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless such holder previously shall have given to the Trustee written notice of default and of the continuance thereof, as hereinbefore provided, and unless also the holders of a majority in aggregate principal amount of the Notes then outstanding shall have made written request to the Trustee to institute such action or proceedings in its own name as trustee hereunder and shall have offered to the Trustee such reasonable indemnity as it may require against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee for 60 days after its receipt of such notice, request and offer of indemnity shall have failed to institute any such action or proceedings and no direction inconsistent with such written request shall have been given to the Trustee pursuant to Section 6.10; it being understood and intended, and being expressly covenanted by the holder of every Note with every other holder and the Trustee, that no one or more holders of Notes shall have any right in any manner whatever, by virtue or by availing of any provision of this Deed, to affect, disturb, or prejudice the rights of any other holder of Notes, or to obtain or seek to obtain priority over or preference to any other such holder or to enforce any right under this Deed, except in the manner herein provided and for the equal, ratable and common benefit of all holders of Notes. For the protection and enforcement of the provisions of this Section 6.08, each and every holder of a Note and the Trustee shall be entitled to such relief as can be given either at law or in equity.

SECTION 6.09. *Unconditional Right of Holders of Notes to Sue for Principal and Interest.* Notwithstanding any other provision in this Deed, the right of any holder of any Note to receive payment of the principal of, and interest on, such Note, on or after the respective due dates expressed in such Note, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such holder, except no such suit shall be instituted if and to the extent that the institution or prosecution thereof or the entry of judgment therein would,

under applicable law, result in the surrender, impairment, waiver or loss of the charge of this Deed upon any property subject hereto.

SECTION 6.10. *Control by Holders of Notes.* The holders of a majority in aggregate principal amount of the Notes at the time outstanding shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee; *provided, however,* that, subject to the provisions of Section 8.02, the Trustee shall have the right to decline to follow any such direction if the Trustee, being advised by counsel, determines that the action so directed may not lawfully be taken.

SECTION 6.11. *Right of Court to Require Filing of Undertaking to Pay Costs.* All parties to this Deed agree, and each holder of any Note by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Deed, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 6.11 shall not apply to any suit instituted by the Trustee, to any suit instituted by any holder of a Note, or group of holders of the Notes, holding in the aggregate more than 10% in principal amount of the Notes outstanding, or to any suit instituted by any holder of a Note for the enforcement of the payment of the principal of, or interest on, any Note on or after the due date expressed in such Note.

SECTION 6.12. *Remedies Cumulative.* The remedies in this Deed provided in favor of the Trustee and the holders of the Notes, or any of them, shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity.

## ARTICLE SEVEN

ADDITIONAL COVENANTS AND AGREEMENTS  
BY THE COMPANY

SECTION 7.01. *Discharge of Liens.* The Company covenants and agrees that it will pay and discharge, or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of, any debt, tax, charge (other than the charge hereof), assessment, obligation or claim which if unpaid might become a lien or charge upon or against any of the Trust Equipment; but this provision shall not require the payment of any such debt, tax, charge, assessment, obligation or claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings, provided that such contest will not materially endanger the rights or interests of the Trustee or of the holders of the Notes and the Company shall have furnished the Trustee with an Opinion of Counsel to such effect.

SECTION 7.02. *Payment of Expenses; Recording.* The Company covenants and agrees to pay the expenses incident to the preparation and execution of the Notes to be issued hereunder, or connected with the preparation, execution, recording and filing hereof and of any instruments executed under the provisions hereof with respect to the Trust Equipment. The Company will, promptly after the execution and delivery of this Deed and each supplement hereto, respectively, cause this Deed and such supplement to be duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Company will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register and record any and all further instruments, and file, register and record this Deed and each supplement hereto in all other jurisdictions, required by law or reasonably requested by the Trustee for the purposes of proper protection of the lien of the Trustee and the rights of the holders of the Notes and of fully carrying out and effectuating this Deed and the intent hereof; *provided, however,* that the Company shall not be required to take any such action if (1) the Company deems such action unduly burdensome and (2) after giving effect to the failure to take such action, the Company has taken all action required by law so as to protect the interests of the Trustee in units of Equipment having a fair value of not less

than 90% of the aggregate fair value of all of the Trust Equipment (such fair value to be determined in the manner provided in subparagraph (1) of the sixth paragraph of Section 5.02).

Promptly after the execution and delivery of each supplement hereto, the Company will furnish to the Trustee an Opinion of Counsel stating that, in the opinion of such counsel, such supplement has been properly recorded and filed so as effectively to protect the security interest of the Trustee in the Trust Equipment and its rights and the rights of the holders of the Notes hereunder and thereunder and reciting the details of such action or stating that in the opinion of such Counsel no such action is necessary; and the Company shall furnish to the Trustee, not more than three months after the anniversary in each year, commencing with the year 1975, of the first recording of filing of this Deed, an Opinion of Counsel stating either that, in the opinion of such counsel, (i) such action has been taken with respect to the recording, filing, rerecording and refiling of this Deed and each supplement hereto as is necessary for the proper protection of the security interest of the Trustee in the Trust Equipment and the rights of the Trustee and holders of the Notes hereunder and thereunder and reciting the details of such action (subject to the qualification contained in the proviso to the next preceding paragraph hereof), or (ii) no such action is necessary for any of such purposes (subject to such qualification).

SECTION 7.03. *Further Assurances.* The Company covenants and agrees from time to time to do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Deed and the intent hereof.

## ARTICLE EIGHT

### THE TRUSTEE

SECTION 8.01. *Acceptance of Trusts.* The Trustee hereby accepts the trust for the benefit of the holders of the Notes imposed upon it by this Deed, and covenants and agrees to perform the same as herein expressed.

SECTION 8.02. *Duties and Responsibilities of the Trustee; During Default; Prior to Default.* In case an Event of Default has occurred (which has not been cured or waived), the Trustee shall exercise such of the rights and powers vested in it by this Deed, and use the

same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

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

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

(1) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Deed, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Deed, and no implied covenants or obligations shall be read into this Deed against the Trustee; and

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

(b) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts; and

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

The provisions of this Section 8.02, which have been made specifically applicable to the Trustee, shall also apply to any co-trustee or separate trustee appointed pursuant to Section 8.11.

SECTION 8.03. *Certain Rights of the Trustee.* Except as otherwise provided in Section 8.02:

(a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) the Trustee may consult with counsel, and any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with such Opinion of Counsel;

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

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

(e) no provision of this Deed shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if there shall be reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

The provisions of this Section 8.03, which have been made specifically applicable to the Trustee, shall also apply to any co-trustee or separate trustee appointed pursuant to Section 8.11.

SECTION 8.04. *Application of Moneys Paid to Trustee; Responsibility of Trustee to Insure or Record.* The Trustee covenants and agrees to apply the moneys received by it under Section 5.05 when and as the same shall be received, and to the extent that such moneys shall be sufficient therefor, for the purposes specified in said Section 5.05.

Except as otherwise provided in Section 8.02, the Trustee shall not be required to undertake any act or duty in the way of insuring,

taking care of or taking possession of the Trust Equipment or to undertake any other act or duty under this Deed until fully indemnified by the Company or by one or more of the holders of the Notes against all liability and expenses; and, except as aforesaid, the Trustee shall not be responsible for the filing or recording or refiling or rerecording of this Deed or of any supplement hereto or statement of new numbers. The provisions of this paragraph, which have been made specifically applicable to the Trustee, shall also apply to any co-trustee or separate trustee appointed pursuant to Section 8.11.

SECTION 8.05. *Funds May Be Held by Trustee; Investments in Investment Securities.* Any money at any time paid to or held by the Trustee hereunder until paid out by the Trustee as herein provided may be carried by the Trustee on deposit with itself, and, if and to the extent permitted by applicable law or regulations of governmental authorities having jurisdiction over the Trustee, the Trustee will allow interest upon any such moneys held by it in trust at the rate generally prevailing among banks and trust companies located in the city where the Corporate Trust Office of the Trustee is located, or allowed by it upon deposits of a similar character.

At any time, and from time to time, if at the time no Event of Default shall have occurred and be continuing, the Trustee, on Request, shall invest and reinvest Deposited Cash held by it or cash deposited with it pursuant to Section 5.02 or Section 5.04 (hereinafter in this Section 8.05 called Replacement Funds) in Investment Securities, of such type and at such prices, including any premium and accrued interest, as are set forth in such Request, such Investment Securities to be held by the Trustee in trust for the benefit of the holders of the Notes.

The Trustee shall, on Request, or the Trustee may, in the event funds are required for payment to the Company against the hypothecation, mortgage, pledge and charge of Trust Equipment as provided herein, sell such Investment Securities, or any portion thereof, and restore to Deposited Cash or Replacement Funds, as the case may be, the proceeds of any such sale up to the amount paid for such Investment Securities, including accrued interest. The Trustee shall restore to Deposited Cash or Replacement Funds, as the case may be, moneys received by it for that purpose under the provisions of Section 5.05 (a) (2).

The Company, if not to the knowledge of the Trustee in default under the terms hereof, shall be entitled to receive any interest allowed as provided in the first paragraph of this Section 8.05, or any interest paid by any bank or trust company on deposits to the credit of the Trustee with such bank or trust company, and any interest (in excess of accrued interest, brokers' fees or other expenses paid from Deposited Cash at the time of purchase) or other profit which may be realized from any sale or redemption of Investment Securities.

SECTION 8.06. *Trustee Not Liable for Defects in Equipment or Title; May Perform Duties By Agents; Reimbursement of Expenses; Holding of Notes; Moneys Held in Trust.* Except as otherwise provided in Section 8.02, the Trustee shall not be liable to anyone for any default on the part of the Company, or for any defect in any of the Trust Equipment or in the title thereto, nor shall anything herein be construed as a warranty on the part of the Trustee in respect thereof or as a representation on the part of the Trustee in respect of the value thereof or in respect of the title thereto or in respect of the nature, extent, priority or validity of the charge created by this Trust Deed or the Notes.

Except as otherwise provided in Section 8.02, the Trustee may perform its powers and duties hereunder by or through such attorneys, agents and servants as it shall appoint, and shall be answerable for only its own acts, negligence and wilful defaults and not for the default or misconduct of any attorney, agent or servant appointed by it with reasonable care. The Trustee shall not be responsible in any way for the recitals herein contained or for the execution or validity of this Deed or of the Notes (except for its own authentication thereof).

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

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

Any moneys at any time held by the Trustee or any paying agent hereunder shall, until paid out or invested by the Trustee or any paying agent as herein provided, be held by it in trust as herein provided for the benefit of the holders of the Notes.

The provisions of this Section 8.06, which have been made specifically applicable to the Trustee, shall also apply to any co-trustee or separate trustee appointed pursuant to Section 8.11.

SECTION 8.07. *Persons Eligible for Appointment as Trustee.* There shall at all times be a Trustee hereunder which (other than a co-trustee or separate trustee appointed pursuant to Section 8.11) shall be a corporation organized and doing business under the laws of the United States of America or of the State of Illinois or of the State of New York, having its principal office and place of business in the City of Chicago, State of Illinois, or the Borough of Manhattan, City and State of New York, having a combined capital and surplus of at least \$50,000,000, and which is authorized under such laws to exercise corporate trust powers and is subject to supervision or examination by federal or state authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the aforesaid supervising or examining authority, then for the purposes of this Section 8.07, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 8.07, the Trustee shall resign immediately in the manner and with the effect specified in Section 8.08.

SECTION 8.08. *Resignation and Removal; Appointment of Successor Trustee.* (a) The Trustee may at any time resign by giving written notice of resignation to the Company and by mailing notice of resignation to all holders of Notes at their last addresses appearing on the registry books. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors of the Company, one copy of which instrument shall be delivered to the Trustee so resigning and one copy to the successor trustee. If no successor trustee shall have been so appointed and have accepted

appointment within 30 days after the giving of such notice of resignation, the resigning trustee may petition any court of competent jurisdiction for the appointment of a successor trustee, or any holder of a Note who has been a bona fide holder of a Note or Notes for at least six months may, subject to the provisions of Section 6.11, on behalf of himself and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(b) In case at any time any of the following shall occur:

(1) the Trustee shall cease to be eligible in accordance with the provisions of Section 8.07 and shall fail to resign after written request therefor by the Company or by any such holder of a Note, or

(2) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, the Company may remove the Trustee and appoint a successor trustee by written instrument, in duplicate, executed by order of its Board of Directors, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 6.11, any holder of a Note who has been a bona fide holder of a Note or Notes for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(c) The holders of a majority in aggregate principal amount of the Notes at the time outstanding may at any time remove the Trustee and appoint a successor trustee by delivering to the Trustee to be removed, to the successor trustee so appointed and to the Company the evidence provided for in Section 9.01 of the action taken by the holders of the Notes.

(d) Any resignation or removal of the Trustee and any appointment of a successor trustee pursuant to any of the provisions of this Section 8.08 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 8.09.

The provisions of this Section 8.08, which have been made specifically applicable to the Trustee, shall also apply to any co-trustee or separate trustee appointed pursuant to Section 8.11.

SECTION 8.09. *Acceptance of Appointment by Successor Trustee.* Any successor trustee appointed as provided in Section 8.08 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder; but, nevertheless, on the written request of the Company or of the successor trustee, upon payment of its charges then unpaid, the trustee ceasing to act shall execute and deliver an instrument transferring to such successor trustee all the rights and powers of the trustee so ceasing to act. Upon request of any such successor trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a lien upon all property or funds held or collected by such trustee to secure any amounts then due it pursuant to the provisions of Section 8.06.

No successor trustee shall accept appointment as provided in this Section 8.09 unless at the time of such acceptance such successor trustee shall be eligible under the provisions of Section 8.07.

Upon acceptance of appointment by a successor trustee as provided in this Section 8.09, the Company shall mail notice of the succession of such trustee hereunder to the holders of the Notes at their last addresses appearing on the registry books. If the Company fails to mail such notice within ten days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be mailed at the expense of the Company.

SECTION 8.10. *Merger or Consolidation of Trustee.* 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 or conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation shall be eligible under the provisions of Section 8.07, without the execution or filing of any paper or any further act on the part of the parties hereto, anything herein to the contrary notwithstanding.

SECTION 8.11. *Appointment of Co-Trustees or Separate Trustees.* If at any time or times it shall be necessary or prudent in order to conform to any law of any jurisdiction in which the Trust Equipment or any thereof is located, or the Trustee shall be advised by counsel, satisfactory to it, that it is so necessary or prudent in the interest of the holders of the Notes, the Trustee and the Company shall execute and deliver all instruments and agreements necessary or proper to constitute another bank or trust company or one or more persons approved by the Trustee and the Company, either to act as co-trustee or co-trustees, jointly with the Trustee, or to act as separate trustee or trustees hereunder. In the event the Company shall have not joined in the execution of such instruments and agreements within ten days after the receipt of a written request from the Trustee so to do, or in case an Event of Default shall happen and be continuing, the Trustee may act under the foregoing provisions of this Section 8.11 without the concurrence of the Company; and the Company hereby appoints the Trustee its agent and attorney to act for it under the foregoing provisions of this Section 8.11 in either of such contingencies.

Every additional trustee hereunder shall, to the extent permitted by law, be appointed and act and be such and the Trustee and its successors shall act and be such, subject to the following provisions and conditions, namely:

- (1) the Notes shall be authenticated and delivered, and all powers, duties, obligations and rights conferred upon the Trustee in respect of the custody, control and management of moneys, papers or securities shall be exercised, solely by The First National Bank of Chicago or its successors as Trustee hereunder;

(2) all rights, powers, duties and obligations conferred or imposed upon the Trustee shall be conferred or imposed upon and exercised or performed by The First National Bank of Chicago or its successor as Trustee, and such additional trustee or trustees jointly, except to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed, the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such rights, powers, duties and obligations shall be exercised and performed by such additional trustee or trustees;

(3) no power given to, or which it is provided hereby may be exercised by, any such additional trustee or trustees, shall be exercised by such additional trustee or trustees, except jointly with, or with the consent in writing of, The First National Bank of Chicago or its successor as Trustee, anything herein contained to the contrary notwithstanding;

(4) no trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder; and

(5) the Company and the Trustee, at any time, by an instrument in writing, executed by them jointly, may remove any such additional trustee, and in that case, by an instrument in writing executed by them jointly, may appoint a successor or successors to such additional trustee or trustees, as the case may be, anything herein contained to the contrary notwithstanding. In the event that the Company shall not have joined in the execution of any such instrument within ten days after the receipt of a written request from the Trustee so to do, the Trustee shall have the power to remove any such additional trustee and to appoint a successor additional trustee without the concurrence of the Company; the Company hereby appointing the Trustee its agent and attorney to act for it in such connection in such contingency. In the event that the Trustee alone shall have appointed an additional trustee or trustees as above provided, it may at any time, by an instrument in writing, remove any such additional trustee, the successor to any such additional trustee so removed to be appointed by the Company and the Trustee, or by the Trustee alone, as hereinbefore in this Section 8.11 provided.

The provisions of the second and third paragraphs of Section 6.01 and the provisions of Section 6.07, which have been made specifically applicable to the Trustee, shall also apply to any co-trustee or separate trustee appointed pursuant to this Section 8.11.

## ARTICLE NINE

## CONCERNING THE HOLDERS OF NOTES

SECTION 9.01. *Evidence of Action Taken by Holders of Notes.* Whenever in this Deed it is provided that the holders of a specified percentage in aggregate principal amount of the Notes may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action the holders of such specified percentage have joined therein may be evidenced by any instrument or any number of instruments of similar tenor executed by holders of Notes in person or by agent or proxy appointed in writing.

SECTION 9.02. *Proof of Execution of Instruments and of Holding of Notes.* Subject to the provisions of Section 8.02, proof of the execution of any instrument by a holder of Notes or his agent or proxy and proof of the holding by any person of any of the Notes shall be sufficient if made in the following manner:

The fact and date of the execution by any such person of any instrument may be proved by the certificate of any notary public or other officer of any jurisdiction within the United States of America authorized to take acknowledgments of deeds to be recorded in such jurisdiction that the person executing such instrument acknowledged to him the execution thereof, by an affidavit of a witness to such execution sworn to before any such notary or other such officer, or a guarantee of the signature of such person by a member of the New York Stock Exchange, or in any other manner the Trustee shall deem sufficient.

The ownership of Notes may be proved by the register of such Notes or by a certificate of the registrar thereof.

The Trustee may require such additional proof of any matter referred to in this Section 9.02 as it shall deem necessary.

SECTION 9.03. *Notes Owned by Company Deemed Not Outstanding.* In determining whether the holders of the requisite principal amount of the Notes have concurred in any direction, request or consent under this Deed, Notes which are owned by the Company or by any other obligor on the Notes or by any Affiliate of the Company or any

such other obligor shall be disregarded, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, request or consent, only Notes which the Trustee knows are so owned shall be disregarded.

SECTION 9.04. *Right of Revocation of Action Taken.* At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 9.01, of the taking of any action by the holders of the percentage in aggregate principal amount of the Notes specified in this Deed in connection with such action, any holder of a Note the serial number of which is shown by the evidence to be included in the Notes the holders of which have consented to such action may, by filing written notice with the Trustee at its Corporate Trust Office and upon proof of holding as provided in Section 9.02, revoke such action so far as concerns such Note. Except as aforesaid any such action taken by the holder of any Note shall be conclusive and binding upon such holder and upon all future holders and owners of such Note and of any Note issued in exchange or substitution therefor, irrespective of whether or not any notation in regard thereto is made upon such Note. Any action taken by the holders of the percentage in aggregate principal amount of the Notes specified in this Deed in connection with such action shall be conclusive and binding upon the Company, the Trustee and the holders of all the Notes.

## ARTICLE TEN

### SUPPLEMENTAL DEEDS AND OTHER INSTRUMENTS

SECTION 10.01. *Supplemental Deeds and Other Instruments without Consent of Holders.* Without the consent of the holders of any Notes, the Company, when authorized by a resolution of its Board of Directors, and the Trustee, at any time and from time to time, may enter into one or more deeds or other instruments supplemental hereto, in form satisfactory to the Trustee, for any of the following purposes:

- (1) to evidence the succession of another corporation to the Company, and the assumption by any such successor of the covenants of the Company herein contained, all as provided in Section 5.01 hereof; or

(2) to add to the covenants of the Company, for the benefit of the holders of the Notes, or to surrender any right or power herein conferred upon the Company; or

(3) to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Deed which shall not be inconsistent with the provisions of this Deed, *provided* such action shall not adversely affect the interests of the holders of the Notes.

The Trustee is hereby authorized to join with the Company in the execution of any supplemental deed or other instrument authorized or permitted by the terms of this Deed and to make any further appropriate agreements and stipulations which may be therein contained, but the Trustee shall not be obligated to enter into any such supplemental deed or other instrument which affects the Trustee's own rights, duties or immunities under this Deed or otherwise.

A supplemental deed or other instrument authorized by the provisions of this Section 10.01 may be executed by the Company and the Trustee without the consent of the holders of any of the Notes at the time outstanding, notwithstanding any of the provisions of Section 10.02.

SECTION 10.02. *Supplemental Deeds and Other Instruments with Consent of Holders.* With the consent (evidenced as provided in Section 9.01) of the holders of not less than 66 $\frac{2}{3}$ % in aggregate principal amount of the Notes at the time outstanding, the Company, when authorized by a resolution of its Board of Directors, and the Trustee may from time to time and at any time enter into a deed or other instrument supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Deed or of any supplemental deed or other instrument or modifying in any manner the rights and obligations of the holders of the Notes and of the Company; *provided, however*, that no such supplemental deed or other instrument shall, without the consent of the holder of each outstanding Note,

(1) change the fixed maturity of the principal of, or any instalment of interest on, any Note, or change the dates upon which moneys are payable with respect to such principal at

maturity or any instalment of interest or sinking fund, or reduce the principal amount thereof or the interest thereon or any moneys payable with respect to such principal or interest or any sinking fund instalment, or change the coin or currency in which any Note or the interest thereon or any moneys relating thereto is payable, or impair the right to institute suit for the enforcement of such payment on or after the fixed maturity or date of payment thereof (or, in the case of redemption, on or after the date fixed for redemption); or

(2) create any lien or other encumbrance with respect to the Trust Equipment ranking prior to, or on a parity with, the charge hereof or deprive any holder of the benefit of the charge hereof in all or any part of the Trust Equipment; or

(3) reduce the percentage in principal amount of the outstanding Notes, the consent of whose holders is required for any such supplemental deed or other instrument, or the consent of whose holders is required for any waiver (or compliance with certain provisions of this Deed or certain defaults hereunder and their consequences) provided for in this Deed; or

(4) modify any of the provisions of this Section 10.02, or Section 10.03, except to increase any such percentage or to provide that certain other provisions of this Deed cannot be modified or waived without the consent of the holder of each Note.

Upon the request of the Company, accompanied by a copy of a resolution of its Board of Directors certified by the Secretary or an Assistant Secretary of the Company authorizing the execution of any such supplemental deed or other instrument, and upon the filing with the Trustee of evidence of the consent of the holders as aforesaid, the Trustee shall join with the Company in the execution of such supplemental deed or other instrument unless such supplemental deed or other instrument affects the Trustee's own rights, duties or immunities under this Deed or otherwise, in which case the Trustee may in its discretion but shall not be obligated to enter into such supplemental deed or other instrument.

It shall not be necessary for the consent of the holders under this Section 10.02 to approve the particular form of any proposed supplemental deed or other instrument, but it shall be sufficient if such consent shall approve the substance thereof.

SECTION 10.03. *Effect of Supplemental Deeds and Other Instruments.* Upon the execution of any supplemental deed or other instrument pursuant to the provisions of this Article Ten, this Deed shall be deemed to be modified and amended in accordance therewith and the respective rights, limitations of rights, obligations, duties and immunities under this Deed of the Trustee, the Company and the holders of Notes shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental deed or other instrument shall be and be deemed to be part of the terms and conditions of this Deed for any and all purposes.

SECTION 10.04. *Reference in Notes to Supplemental Deeds and Other Instruments.* Notes issued and delivered after the execution of any supplemental deed or other instrument pursuant to the provisions of this Article Ten may bear a notation in form approved by the Trustee as to any matter provided for in such supplemental deed or other instrument; and, in such case, suitable notation may be made upon outstanding Notes after proper presentation and demand. If the Trustee shall so determine, new Notes so modified to conform, in the opinion of the Trustee and the Board of Directors of the Company, to any modification of this Deed contained in any such supplemental deed or other instrument, or any action taken at any such meeting, may be prepared by the Company, executed by the Company, and authenticated by the Trustee, and such new Notes may be delivered in exchange for the Notes then outstanding, without cost to the holders thereof, upon surrender of such Notes.

SECTION 10.05. *Opinion of Counsel to the Trustee.* The Trustee, subject to the provisions of Section 8.02, may receive an Opinion of Counsel as conclusive evidence that any supplemental deed or other instrument executed pursuant to this Article Ten is authorized or permitted by the terms of this Deed and that it is not inconsistent herewith.

## ARTICLE ELEVEN

### MISCELLANEOUS

SECTION 11.01. *Rights Confined to Parties and Holders.* Nothing expressed or implied herein is intended or shall be construed to confer

upon or to give to any person, firm, or corporation, other than the parties hereto and the holders of the Notes, any right, remedy or claim under or by reason of this Deed or of any term, covenant or condition hereof, and all the terms, covenants, conditions, promises and agreements contained herein shall be for the sole and exclusive benefit of the parties hereto and their successors and of the holders of the Notes.

SECTION 11.02. *No Recourse.* No recourse under any obligation, covenant or agreement of this Deed shall be had against any stockholder, officer or director of the Company, as such, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute or otherwise; it being expressly agreed and understood that this Deed is solely a corporate obligation, and that no personal liability whatever shall attach to or be incurred by the stockholders, officers or directors of the Company, as such, or any of them, under or by reason of any of the obligations, covenants or agreements contained in this Deed, or implied therefrom, and that any and all personal liability, either at common law or in equity, or by statute or constitution, of every such stockholder, officer or director is hereby expressly waived as a condition of and consideration for the execution of this Deed.

SECTION 11.03. *Officers' Certificates and Opinions of Counsel; Statements to Be Contained Therein.* Upon any application or demand by the Company to the Trustee to take any action under any of the provisions of this Deed (other than the authentication of Notes), the Company shall furnish to the Trustee an Officers' Certificate stating that all conditions precedent provided for in this Deed relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent have been complied with.

Each certificate or opinion provided for in this Deed and delivered to the Trustee with respect to compliance with a condition or covenant provided for in this Deed shall include (a) a statement that the person making such certificate or opinion has read such condition or covenant; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions con-

tained in such certificate or opinion are based; (c) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such condition or covenant has been complied with; and (d) a statement as to whether or not in the opinion of such person, such condition or covenant has been complied with.

SECTION 11.04. *Binding Upon Assigns.* Except as otherwise provided herein, the provisions of this Deed shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

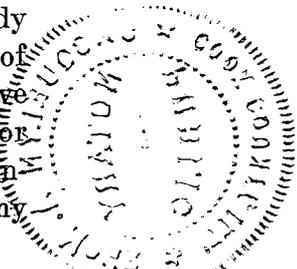
SECTION 11.05. *Notices.* All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered at or mailed by registered mail to (a) in the case of the Company, 111 West Jackson Boulevard, Chicago, Illinois 60604, or such other address as may hereafter be furnished to the Trustee in writing by the Company and (b) in the case of the Trustee, Corporate Trust Division, One First National Plaza, Chicago, Illinois 60670, or such other address as may hereafter be furnished to the Company in writing by the Trustee. An affidavit by any person representing or acting on behalf of the Company or the Trustee, as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 11.06. *Effect of Headings.* The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 11.07. *Counterparts.* This Deed has been simultaneously executed in several counterparts each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

SECTION 11.08. *Date Executed.* This Deed shall be deemed to have been executed on the date of the acknowledgment thereof by the officer of the Trustee who signed it on behalf of the Trustee.

SECTION 11.09. *Governing Law.* The provisions of this Deed, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of Illinois. The Company, being a body corporate, hereby agrees that The Limitation of Civil Rights Act of the Province of Saskatchewan, and amendments thereto, shall have no application to this Deed or any extensions or renewals thereof, or to any agreement collateral thereto, or to the rights, powers or remedies of the Trustee or any other person under this Deed, or any extension or renewal hereof, or any agreement collateral hereto.



IN WITNESS WHEREOF, the Company and the Trustee have caused their names to be signed hereto by their respective officers thereunto duly authorized and their respective corporate seals, duly attested, to be hereunto affixed as of the day and year first written.

THE FIRST NATIONAL BANK OF CHICAGO,

Trustee,

By

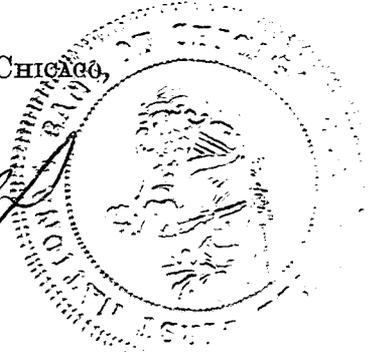
*[Handwritten signature]*

Vice President.

[CORPORATE SEAL]

Attest: *[Handwritten signature]*

Trust Officer.



UNION TANK CAR COMPANY,

By

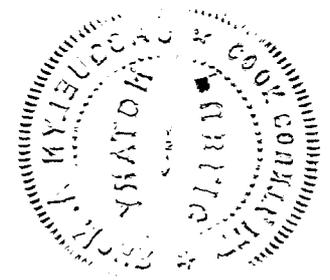
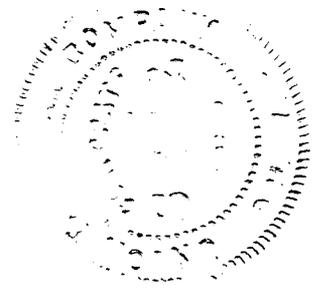
*[Handwritten signature]*

Treasurer.

[CORPORATE SEAL]

Attest: *[Handwritten signature]*

Assistant Secretary.



STATE OF ILLINOIS }  
COUNTY OF COOK } ss.:

On this 23rd day of September, 1974, before me personally appeared J. R. GRIMES, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE FIRST NATIONAL BANK OF CHICAGO, a national banking association, that one of the seals affixed to the foregoing instrument is the seal of said bank, that said instrument was signed and sealed on behalf of said bank 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 bank.

*Jacquelyn A Mohr*  
Notary Public

My commission expires

**My Commission Expires May 10 1975**  
[NOTARIAL SEAL]

STATE OF ILLINOIS }  
COUNTY OF COOK } ss.:

On this 23rd day of September, 1974, before me personally appeared P. J. JOHNSON, to me personally known, who, being by me duly sworn, says that he is the Treasurer of UNION TANK CAR COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

*Jacquelyn A Mohr*  
Notary Public

My commission expires

**My Commission Expires May 10, 1975**  
[NOTARIAL SEAL]

## SCHEDULE A

## DESCRIPTION OF TRUST EQUIPMENT

<u>Quantity</u>	<u>A.A.R. Mechanical Designation Code</u>	<u>Capacity In Gallons</u>	<u>Road Numbers</u>
20	TM	13,800	14240- 14259
25	TM	20,000	46049- 46073
1	TM	20,000	46079
1	TM	20,000	46081
1	TM	20,000	46084
1	TM	20,000	46086
4	TM	20,000	46093- 46096
1	TM	20,000	46108
3	TM	20,000	46112- 46114
1	TM	20,000	46117
1	TM	20,000	46120
1	TM	20,000	46124
1	TM	20,000	46126
1	TM	20,000	46135
1	TM	20,000	46141
1	TM	20,000	46148
1	TM	20,000	46158
1	TM	20,000	46163
1	TM	20,000	46165
1	TM	20,000	46167
38	TM	20,000	46184- 46221
1	TM	20,000	46261
43	TM	20,000	46309- 46351
17	TM	20,000	46353- 46369
4	TM	20,000	46430- 46433
16	TM	20,000	46435- 46450
5	TM	20,000	46467- 46471
7	TM	20,000	47983- 47989
7	TM	20,000	58062- 58068
16	TM	20,000	73284- 73299
1	TM	20,000	73692
21	TM	22,800	73727- 73747
1	TM	24,000	4411
27	TM	29,200	40762- 40788
25	TM	29,200	46475- 46499
2	TP	33,800	29463- 29464
1	TP	33,800	29466
6	TP	33,800	29468- 29473
4	TP	33,800	29475- 29478
17	TP	33,800	29480- 29496
1	TP	33,800	29499
3	TP	33,800	29508- 29510
1	TP	33,800	29514
1	TP	33,800	29518
2	TP	33,800	29520- 29521
12	TP	33,800	29523- 29534

## SCHEDULE A (Continued)

## DESCRIPTION OF TRUST EQUIPMENT (Continued)

Quantity	A.A.R. Mechanical Designation Code	Capacity In Gallons	Road Numbers
4	TP	33,800	29536- 29539
3	TP	33,800	29541- 29543
3	TP	33,800	29545- 29547
1	TP	33,800	29549
7	TP	33,800	29552- 29558
17	TP	33,800	29560- 29576
2	TP	33,800	29578- 29579
1	TP	33,800	29581
5	TP	33,800	29584- 29588
1	TP	33,800	29591
1	TP	33,800	29594
4	TP	33,800	29596- 29599
6	TP	33,800	29602- 29607
2	TP	33,800	29609- 29610
3	TP	33,800	29613- 29615
2	TP	33,800	29618- 29619
9	TP	33,800	29621- 29629
1	TP	33,800	29631
5	TP	33,800	29633- 29637
16	TP	33,800	29640- 29655
1	TP	33,800	29658
9	TP	33,800	29660- 29668
7	TP	33,800	29670- 29676
1	TP	33,800	29678
5	TP	33,800	29681- 29685
1	TP	33,800	29687
6	TP	33,800	29691- 29696
1	TMI	15,500	79819
11	TMI	20,000	73266- 73276
6	TMI	20,000	73278- 73283
5	TMI	20,000	73693- 73697
3	TMI	20,000	73782- 73784
2	TMI	21,400	28885- 28886
2	TMI	21,400	28888- 28889
1	TMI	22,800	73500
29	TMI	22,800	73698- 73726
1	TMI	22,800	73748
8	TMI	22,800	73750- 73757
1	TMI	22,800	77686
1	TMI	22,800	77698
1	TMI	22,800	77716
2	TMI	22,800	77727- 77728
1	TMI	22,800	77735
1	TMI	22,800	77737
1	TMI	22,800	77740
1	TMI	22,800	77752

## SCHEDULE A (Continued)

## DESCRIPTION OF TRUST EQUIPMENT (Continued)

Quantity	A.A.R. Mechanical Designation Code	Capacity In Gallons	Road Numbers
1	TMI	22,800	77754
1	TMI	22,800	77758
1	TMI	22,800	77764
2	TMI	22,800	77769- 77770
1	TMI	22,800	77774
1	TMI	22,800	77777
1	TMI	22,800	77780
1	TMI	22,800	77786
2	TMI	22,800	77803- 77804
1	TMI	22,800	77824
1	TMI	22,800	77832
1	TMI	22,800	77841
1	TMI	22,800	77852
1	TMI	22,800	77861
1	TMI	22,800	77868
1	TMI	22,800	77882
1	TMI	22,800	77885
2	TMI	22,800	77887- 77888
1	TMI	22,800	77914
2	TMI	22,800	77921- 77922
2	TMI	22,800	77927- 77928
1	TMI	22,800	77933
2	TMI	22,800	77935- 77936
1	TMI	22,800	77939
1	TMI	22,800	77943
1	TMI	22,800	77945
1	TMI	22,800	77950
3	TMI	22,800	77952- 77954
2	TMI	22,800	77956- 77957
1	TMI	22,800	77959
1	TMI	22,800	77963
3	TMI	22,800	77968- 77970
2	TMI	22,800	77972- 77973
1	TMI	22,800	77975
1	TMI	22,800	77977
4	TMI	22,800	77980- 77983
2	TMI	22,800	77990- 77991
2	TMI	22,800	77994- 77995
2	TMI	22,800	77997- 77998
1	TMI	23,500	73411
49	TMI	23,500	73417- 73465
1	TMI	23,500	73467
2	TMI	24,500	28964- 28965
20	Bulkhead Flat	100 ton	173000-173019 (Lettered FFIX)
160	Bulkhead Flat	100 ton	173020-173179 (Lettered UNPX)
2	Covered Hoppers	4,700 cu. ft.	44810- 44811 (Lettered UNPX)

**SCHEDULE A (Concluded)****DESCRIPTION OF TRUST EQUIPMENT (Concluded)**

<u>Quantity</u>	<u>A.A.R. Mechanical Designation Code</u>	<u>Capacity In Gallons</u>	<u>Road Numbers</u>
3	Covered Hoppers	4,700 cu. ft.	44814- 44816 (Lettered UNPX)
6	Covered Hoppers	4,700 cu. ft.	44818- 44823 (Lettered UNPX)
3	Covered Hoppers	4,700 cu. ft.	44825- 44827 (Lettered UNPX)
23	Covered Hoppers	4,700 cu. ft.	44835- 44857 (Lettered UNPX)
26	Covered Hoppers	4,700 cu. ft.	44859- 44884 (Lettered UNPX)
10	Covered Hoppers	4,700 cu. ft.	121000-121009 (Lettered UNPX)
1	Covered Hoppers	4,700 cu. ft.	121011 (Lettered UNPX)
2	Covered Hoppers	4,700 cu. ft.	121013-121014 (Lettered UNPX)
3	Covered Hoppers	4,700 cu. ft.	121016-121018 (Lettered UNPX)
3	Covered Hoppers	4,700 cu. ft.	121021-121023 (Lettered UNPX)
3	Covered Hoppers	4,700 cu. ft.	121025-121027 (Lettered UNPX)
3	Covered Hoppers	4,700 cu. ft.	121029-121031 (Lettered UNPX)
143	Covered Hoppers	2,931 cu. ft.	121100-121242 (Lettered UNPX)
115	Rotary Dump Gondola	100 ton	100325-100439 (Lettered UNPX)
76	Rotary Dump Gondola	100 ton	100500-100575 (Lettered UNPX)
64	Rotary Dump Gondola	100 ton	100600-100663 (Lettered UNPX)
<u>Total</u>	<u>1,324</u>		

*All Trust Equipment is Lettered UTLX  
Except Where Otherwise Indicated*