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RECORDATION NO. 8833 ^B Filed & Recorded

Date MAY 27 1977
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MAY 27 1977 - 11 00 AM

ROSENTHAL AND SCHANFIELD
PROFESSIONAL CORPORATION
ATTORNEYS

RECORDATION NO. 8833 ^A Filed & Recorded

CC Washington, D. C.

MAY 27 1977 - 11 00 AM

MID-CONTINENTAL PLAZA
SUITE 4620
55 EAST MONROE STREET
CHICAGO, ILLINOIS 60603
PHONE: 312-236-5622

INTERSTATE COMMERCE COMMISSION

INTERSTATE COMMERCE COMMISSION

- | | |
|-----------------------|---------------------|
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| WILLIAM P. ROSENTHAL | DAVID M. ROSENTHAL |
| STANLEY R. WEINBERGER | DANIEL P. STERNBERG |
| NORMAN L. ROTHENBAUM | ROBERT I. BERGER |
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| MARVIN COHN | ROSS P. BENJAMIN |
| MARTIN K. BLONDER | MARTIN J. FRIEDMAN |
| HARVEY J. BARNETT | |
| I. WALTER DEITCH | |
| ROBERT R. TEPPER | |

May 26, 1977

Office of the Secretary
Interstate Commerce Commission
Washington, D. C.

RECORDATION NO. 8833 Filed & Recorded

MAY 27 1977 - 11 00 AM

INTERSTATE COMMERCE COMMISSION

RE: Equipment Trust Agreement dated as of
March 1, 1977 - Series 14

Gentlemen:

Pursuant to Section 20c of the Interstate Commerce Act and the rules and regulations promulgated thereunder, we hand you herewith for filing eleven (11) executed counterparts of the above referenced Equipment Trust Agreement and ten (10) executed counterparts each of two (2) separate Assignments of Lease and Agreement, each dated as of April 29, 1977, all as more fully described below:

- Vendor-Lessee: United States Railway Leasing Company
2200 East Devon Avenue
Des Plaines, Illinois 60018
- Vendee-Lessor: Girard Trust Bank, as Trustee
Four Girard Plaza
Philadelphia, Pennsylvania 19101
- Guarantor: United States Railway Equipment Co.
2200 East Devon Avenue
Des Plaines, Illinois 60018
- Guarantor: Evans Transportation Company
2200 East Devon Avenue
Des Plaines, Illinois 60018

The parties to the two (2) separate Assignments of Lease and Agreement are:

Handwritten signature: C. A. Kappeler

FEE OPERATIONS
MAY 27 10 56 AM '77
RECORDED

ROSENTHAL AND SCHANFIELD

Office of the Secretary
Interstate Commerce Commission
Washington, D.C.
May 26, 1977
Page Two

Assignor: United States Railway Leasing Company
2200 East Devon Avenue
Des Plaines, Illinois 60018

Assignee: Girard Trust Bank, as Trustee
Four Girard Plaza
Philadelphia, Pennsylvania 19101

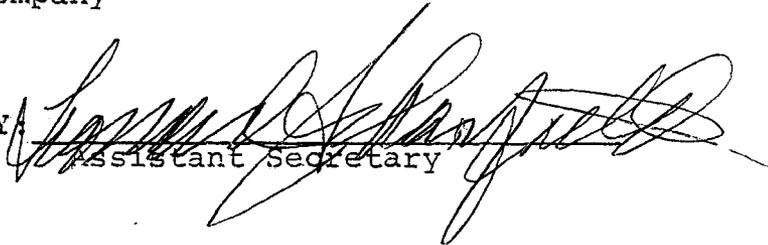
A description, including lettering and car reporting numbers of the equipment covered by the Equipment Trust Agreement and of the leases covered by the Assignments of Lease and Agreement, is set forth in Exhibits A and B attached hereto.

Enclosed is Rosenthal and Schanfield Check No. 21188 in the amount of \$70.00 in full payment of all filing and recording fees. Since the above mentioned documents are being delivered to you by hand, we would appreciate it if you would return to the person delivering the same duly stamped copies of the documents not required to be kept by you. If this is not possible, please return the same by mail to:

I. Walter Deitch, Esq.
ROSENTHAL AND SCHANFIELD
55 East Monroe Street, Suite 4620
Chicago, Illinois 60603

Very truly yours,

United States Railway Leasing
Company

BY: 
Assistant Secretary

LS:nev
Enc.

DESCRIPTION OF TRUST EQUIPMENT

<u>Quantity and Description of Cars</u>	<u>Initial and Car Nos.</u>	<u>Initial Lease Term</u>
Two Hundred Fifty (250) 52' 5", 70-ton Insulated Box Cars, equipped with 16' door opening (two 8' plug doors) and 20" cushion underframe	BCIT 800400-800649, both inclusive	Five years
One Hundred Forty-Eight (148) 52' 5", 70-ton Insulated Box Cars, equipped with 16' door opening (two 8' plug doors) and 20" cushion underframe	BCIT 800200-800349, both inclusive, except BCIT 800251 and BCIT 800325	Five years

EXHIBIT A

EXISTING LEASES

<u>No. of Cars</u>	<u>Name of Lessee</u>	<u>Date of Lease</u>	<u>Initial Lease Term</u>	<u>ICC Recordation No. and Date of Recordation</u>
250	British Columbia Railway Co.	July 16, 1973	Five years	7261 December 6, 1973
148	British Columbia Railway Co.	July 16, 1973	Five years	7262 December 7, 1973

EXHIBIT B

Interstate Commerce Commission
Washington, D.C. 20423

5/27/77

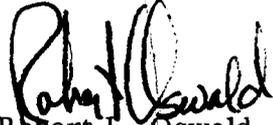
OFFICE OF THE SECRETARY

I. Walter Deitch, Esq
Rosenthal And Schanfield
55 East Monroe Street, Suite 2620
Chicago, Illinois 60603

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 5/27/77 at 11:00am and assigned recordation number(s) 8833, 8833-A, 8833-B

Sincerely yours,


Robert L. Oswald
Secretary

Enclosure(s)

SE-30
(5/76)

REGISTRATION NO. **8833** Filed & Recorded

MAY 27 1977-11 00 AM

INTERSTATE COMMERCE COMMISSION

**UNITED STATES RAILWAY LEASING COMPANY
EQUIPMENT TRUST**

Series 14

EQUIPMENT TRUST AGREEMENT

By and Among

**GIRARD TRUST BANK,
Trustee**

and

**UNITED STATES RAILWAY LEASING COMPANY
EVANS TRANSPORTATION COMPANY
UNITED STATES RAILWAY EQUIPMENT CO.**

Dated as of March 1, 1977

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EQUIPMENT TRUST AGREEMENT, dated as of March 1, 1977, by and among GIRARD TRUST BANK, a Pennsylvania banking corporation, as Trustee (hereinafter called the Trustee), and UNITED STATES RAILWAY LEASING COMPANY, an Illinois corporation (hereinafter called the Company), EVANS TRANSPORTATION COMPANY, an Illinois corporation (hereinafter called Manufacturing) and UNITED STATES RAILWAY EQUIPMENT Co., an Illinois corporation (hereinafter called Railway, and together with Manufacturing, hereinafter called the Guarantors).

WHEREAS, the Company has agreed to cause to be sold, transferred and delivered to the Trustee the railroad equipment described herein; and

WHEREAS, title to such railroad equipment is to be vested in and is to be retained by the Trustee, subject to the Existing Leases (as defined in Section 1.01) between the Company and British Columbia Railway Co., a corporation duly organized and existing under the laws of the Province of British Columbia, which Existing Leases are to be assigned to the Trustee pursuant to separate Assignments (as defined in Section 1.01) until title is retransferred to the Company under the provisions hereof; and

WHEREAS, United States Railway Leasing Company 10½% Equipment Trust Certificates due December 1, 1989 Series 14 (hereinafter called the Trust Certificates), are to be issued and sold in the aggregate principal amount not exceeding \$7,500,000; and

WHEREAS, in addition to the guarantee of the Trust Certificates by the Company hereinafter referred to, Railway, which is the owner of all the outstanding stock of the Company, and Manufacturing, which is the owner of all the outstanding stock of Railway, are entering into this Agreement and endorsing their joint and several guaranty on the Trust Certificates as an inducement to the purchase of the Trust Certificates by the Purchaser; and

WHEREAS, the text of the Trust Certificates and the guaranties endorsed thereon are to be substantially in the following forms:

[FORM OF TRUST CERTIFICATE]

\$.....

No.....

UNITED STATES RAILWAY LEASING COMPANY

10½% EQUIPMENT TRUST CERTIFICATE

Series 14

Total Authorized Issue \$7,500,000

GIRARD TRUST BANK, Trustee

GIRARD TRUST BANK, Trustee (hereinafter called the Trustee) under an Equipment Trust Agreement (hereinafter called the Agreement) dated as of March 1, 1977, by and among the Trustee and UNITED STATES RAILWAY LEASING COMPANY, an Illinois corporation (hereinafter called the Company), EVANS TRANSPORTATION COMPANY, an Illinois corporation (hereinafter called Manufacturing) and UNITED STATES RAILWAY EQUIPMENT Co., an Illinois corporation (hereinafter called Railway), hereby certifies that

, or registered assigns, is entitled to an interest of \$ in United States Railway Leasing Company Equipment Trust, Series 14, payable on or before December 1, 1989, in installments as hereinafter provided, upon surrender of this Trust Certificate to the Trustee at its principal corporate office in the State of Pennsylvania, and to interest on the amount of unpaid principal hereof, payable on the first day of the months of March, June, September and December in each year, at the rate of 10½% per annum from the date hereof until the principal amount represented by this Trust Certificate shall have become due, with interest on any overdue principal and interest, to the extent legally enforceable, at the rate of 11½% per annum. The principal amount of this Trust Certificate is due and payable in 25 equal consecutive semi-annual installments on June 1 and December 1 of each year commencing December 1, 1977 through and including December 1, 1989. The Trust Certificates are subject to prepayment in part or in full, under certain circumstances set forth in the Agreement. Subject to Section 2.02 of the Agreement, payment of the principal of and interest on the Trust Certificates will be made at said office of the Trustee in such coin or currency of the United States of America as, at the time of payment, shall be legal tender for the pay-

ment of public and private debts, but only from and out of rentals or other moneys received by the Trustee and applicable to such payment under the provisions of the Agreement. Interest shall be computed hereunder on the basis of a 360-day year, 30-day month.

This Trust Certificate is one of an authorized issue of Trust Certificates in an aggregate amount not exceeding \$7,500,000, all maturing on December 1, 1989, and issued or to be issued under the Agreement pursuant to which certain railroad equipment leased to the Company (or cash or obligations defined in the Agreement as "Investment Securities" in lieu thereof, as provided in the Agreement) is held by the Trustee in trust for the equal and ratable benefit of the registered holders of the Trust Certificates issued thereunder. Reference is made to the Agreement (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 Trust Certificate, assents.

The Trust Certificates are initially issuable as fully registered Trust Certificates in denominations of \$25,000 or greater. The several denominations of Trust Certificates are interchangeable upon presentation thereof for such purpose at said office of the Trustee, but only in the manner, subject to the limitations, and upon payment of the charges as provided in the Agreement.

This Trust Certificate is only transferable 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 Trust Certificate accompanied by a written instrument of transfer duly executed by the registered holder in person or by such attorney, in form satisfactory to the Trustee, and thereupon a new Trust Certificate or Certificates in authorized denominations for the same aggregate principal amount will be issued to the transferee in exchange herefor and, if less than the then entire unpaid principal amount hereof is transferred, a Trust Certificate for the remainder will be issued the transferor. Prior to due presentment of this Trust Certificate for registration of transfer, the Trustee, the Company, Manufacturing and Railway may deem and treat the person in whose name this Trust Certificate 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 knowledge or notice to the contrary.

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

This Trust Certificate shall not be valid or become obligatory for any purpose until it has been signed by an authorized officer of the Trustee.

IN WITNESS WHEREOF, the Trustee has caused this Trust Certificate to be signed by one of its authorized officers, by his signature, and its corporate seal to be hereto affixed or hereon imprinted and to be attested by one of its authorized officers by his signature.

Dated as of _____, 19 .

GIRARD TRUST BANK, Trustee

Attest:

By
Authorized Officer

.....

GUARANTY

United States Railway Leasing Company, Evans Transportation Company and United States Railway Equipment Co., each for a valuable consideration, hereby jointly and severally unconditionally guarantee to the registered holder of the within Trust Certificate the prompt payment when due of the principal of said Trust Certificate, and of the interest thereon specified in said Trust Certificate, with interest on any overdue principal and interest, to the extent legally enforceable, at the rate of 11½% per annum, all in accordance with the terms of said Trust Certificate and the Equipment Trust Agreement referred to therein.

UNITED STATES RAILWAY LEASING
COMPANY

By
Vice President

EVANS TRANSPORTATION COMPANY

By
Vice President

UNITED STATES RAILWAY EQUIPMENT
Co.

By
Vice President

NOTATION OF PREPAYMENTS*

By reason of amounts having been applied in accordance with Article Three of the Agreement to prepay installments in the inverse order of their due date, the within Trust Certificate in the principal amount of \$ _____ was, as of _____, 19 _____, payable in _____ equal consecutive annual installments of \$ _____ in each of the years 19 _____ through 19 _____, and payable by a final installment of \$ _____ in the year 19 _____.

GIRARD TRUST BANK, *Trustee*

.....
Authorized Officer

* To be included only on Trust Certificates issued upon exchange or transfer.

and the first day of December in each year beginning December 1, 1977 and continuing to and including December 1, 1989, with interest thereon, as hereinafter provided, payable quarterly on the first day of March, June, September and December in each year, and to evidence the rights of the holders of the Trust Certificates in substantially the form hereinbefore set forth.

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

ARTICLE ONE

DEFINITIONS

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

Agreement shall mean this Agreement as the same may be amended or supplemented as permitted herein.

Assignment shall mean and include each assignment by the Company to the Trustee of an Existing Lease and each assignment by the Company to the Trustee of any other lease made pursuant to Section 5.10, in each case substantially in the form annexed hereto as Exhibit C, and in each case as the same may be amended or supplemented as permitted herein.

Company shall mean United States Railway Leasing Company and any successor or successors to it complying with the provisions of Section 7.04.

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 Agreement, located at Four Girard Plaza, Philadelphia, Pennsylvania 19101.

Cost, when used with respect to Equipment not built by the Company, shall mean the actual cost thereof to the Company, and, in respect of Equipment built by the Company, shall mean the so-called "car-builders cost" including direct cost of labor and material, but excluding any manufacturing profit, and shall be determined at the time the Equipment is purchased, or the building thereof is completed, as the case may be, by the Company.

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, 5.04 or 5.09 and, when required or indicated by the context, any Investment Securities purchased by the use of such cash pursuant to the provisions of Section 9.05, and (b) any sums restored to Deposited Cash from rentals pursuant to Section 5.05(a)(2) and on deposit with or to the credit of the Trustee.

Equipment shall mean general purpose insulated box cars of the type referred to in Exhibit A and other types of railroad cars from time to time substituted therefor pursuant to Section 5.04, 5.07 or 5.09, which shall be Equipment first put into service on or after January 1, 1973.

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

Existing Leases shall mean the leases referred to in Exhibit B hereto, in each case as the same may be amended or supplemented as permitted by the Assignment thereof.

Fair Value shall mean and shall be determined as follows (and the manner of such determination shall be set forth in each Officer's Certificate furnished in respect thereof) :

- (1) in the case of any substitution for or replacement of units of Trust Equipment pursuant to Section 5.04, 5.07 or 5.09 where all of the units of Trust Equipment being replaced and the units of Equipment being conveyed to the Trustee are general purpose insulated box cars of the type referred to in Exhibit A, the Fair Value of each unit of Trust Equipment being replaced and each unit of Equipment being conveyed shall be the depreciated cost

thereof at the time as carried on the books of the Company in accordance with generally accepted accounting principles;

(2) in the case of any other substitution for or replacement of units of Trust Equipment pursuant to Section 5.04, 5.07 or 5.09, the Fair Value of each unit of Trust Equipment being replaced and each unit of Equipment being conveyed shall be the actual fair value thereof; and

(3) the Fair Value of any unit of the Trust Equipment worn out, unsuitable for use, lost, destroyed or taken or requisitioned by condemnation or otherwise as set forth in Section 5.09 and for which replacement is not being made pursuant to said Section, shall be deemed to be the greater of (a) the actual fair value thereof or (b) the depreciated cost thereof at the time as carried on the books of the Company in accordance with generally accepted accounting principles.

The actual fair value of any unit of Trust Equipment shall be the value which would obtain in an arm's-length transaction between an informed and willing buyer-user (other than a lessee currently in possession or a used equipment dealer) and an informed and willing seller under no compulsion to sell (and in such determination, costs of removal from the location of current use shall not be a deduction from such value). In the case of Trust Equipment worn out, unsuitable for use, lost, destroyed or taken or requisitioned by condemnation or otherwise, the actual fair value thereof shall be valued as of the date immediately prior to the occurrence of such event.

Guarantors shall mean Manufacturing and Railway and, solely for purposes of Section 7.06, and only to the extent specified in the third paragraph of said Section, the Company.

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

Interest Payment Dates shall mean the first day of March, June, September and December in each year.

Investment Securities shall mean bonds, notes or other debt securities, in each case maturing within one year from the date of purchase, which are issued by the United States Government or any Agency

thereof or which are guaranteed as to principal and interest by the United States Government.

Manufacturing shall mean Evans Transportation Company and any successor or successors to it complying with the provisions of Section 7.04.

Officer's Certificate shall mean a certificate signed by 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 10.03 if and to the extent required by the provisions thereof.

Opinion of Counsel shall mean an opinion in writing signed by legal counsel (who may be an employee of or counsel to the Company), provided that any such legal counsel shall be satisfactory to the Trustee. Each such opinion shall include the statements provided for in Section 10.03 if and to the extent required by the provisions thereof. The acceptance by the Trustee of, and its action on, an Opinion of Counsel shall be sufficient evidence that such counsel is satisfactory to the Trustee.

Principal Payment Dates shall mean the first day of June and December in each year, commencing with December 1, 1977 and continuing to and including December 1, 1989.

Purchase Agreement shall mean the Purchase Agreement, dated as of March 1, 1977, among the Company, the Purchaser and the Guarantors, as the same may be amended or supplemented as permitted therein.

Purchaser shall mean The Prudential Insurance Company of America, a New Jersey corporation.

Railway shall mean United States Railway Equipment Co. and any successor or successors to it complying with the provisions of Section 7.04.

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 President or a Vice President of the Company.

Responsible Officer shall mean the chairman of the board of directors, the president, every vice president, the cashier and every other

officer or assistant officer of the Trustee other than those specifically mentioned above, to whom any corporate trust matter is referred because of his knowledge of, or familiarity with, the particular subject.

Trust Certificates shall mean United States Railway Leasing Company 10½% Equipment Trust Certificates due December 1, 1989 Series 14, issued hereunder.

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

Trustee shall mean Girard Trust Bank and, subject to the provisions of Article Nine, any successor as trustee hereunder.

The words *herein*, *hereof*, *hereby*, *hereto*, *hereunder* and words of similar import refer to this Agreement as a whole and not to any particular Article, Section, paragraph or subdivision hereof.

ARTICLE TWO

TRUST CERTIFICATES AND ISSUANCE THEREOF

SECTION 2.01. *Issuance of Trust Certificates.* The aggregate proceeds from the sale of any of the Trust Certificates shall, forthwith upon the issuance thereof, be deposited in cash with the Trustee and thereupon the Trustee shall issue and deliver, as the Company shall direct by Request, Trust Certificates in the aggregate principal amount so sold. The aggregate principal amount of Trust Certificates which shall be executed and delivered by the Trustee hereunder shall not exceed \$7,500,000, except as provided in Sections 2.05 and 2.06. The sale of the Trust Certificate to the Purchaser shall occur on the Closing Date under, and as defined in, the Purchase Agreement.

SECTION 2.02. *Interests Represented by Trust Certificates; Maturity; Interest; Denominations.* Each of the Trust Certificates shall represent an interest in the amount therein specified in the trust created hereunder. The aggregate principal amount of the Trust Certificates will be payable in 25 consecutive equal semi-annual installments on each June 1 and December 1 in each of the years 1977 through 1989, commencing December 1, 1977 and continuing to and including December 1, 1989. The Trust Certificates will bear interest on the unpaid principal amounts thereof, payable on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 1977, at the rate of 10½% per

annum, with interest payable in each case on any overdue principal and interest, to the extent legally enforceable, at the rate of 11½% per annum. The Trust Certificates are issuable in any denomination equal to or greater than \$25,000 or, with the consent of the Company, in any denomination less than \$25,000.

The principal and interest on the Trust Certificates shall be payable at the Corporate Trust Office in such coin or currency of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts, against presentment of such Trust Certificates for notation of payment, or in the case of a payment in full of any such Trust Certificate, against surrender thereof. Notwithstanding the provisions of the preceding sentence of this paragraph, in the case of payments of principal and interest to be made on a Trust Certificate not then to be paid in full, upon Request and deposit with the Trustee of an agreement of the holder of such Trust Certificate (the responsibility of such holder to be satisfactory to the Company) obligating such holder (a) prior to any transfer or other disposition thereof, to surrender the same to the Trustee for notation thereon of the installments of principal represented thereby theretofore paid in whole or in part, and (b) in the case of a payment in full thereof, to surrender the same to the Trustee for cancellation, the Trustee will mail its check on the date each such payment is due to such registered holder at his address shown on the registry books maintained by the Trustee, without presentment and without notations being made thereon; *provided, however*, that with respect to the Purchaser, and any other holder of Trust Certificates which is an institutional investor of recognized standing, and notwithstanding the foregoing provisions of this paragraph, the Trustee shall make payments of principal and interest to such Purchaser or such other purchaser by check payable in, or by wire of, immediately available funds (and the Company shall make such funds available to the Trustee) at their respective principal or "home office" addresses, which addresses shall be supplied to the Trustee by the Company, in each case, without presentment and without notations being made thereon, except that any such Trust Certificate paid in full shall be surrendered to the Trustee for cancellation; and *provided, further*, that the Company, if it so elects, upon notice to the Trustee and each such other holder of Trust Certificates, may itself make such payments of principal and interest directly to such Purchaser or such other holders in the manner and to the places set forth in the

next preceding proviso, and to the extent of each such payment the Company shall be entitled to a credit against the corresponding obligation to pay rent under Section 5.05(c), (d) and/or (e) below.

SECTION 2.03. *Form of Trust Certificates.* The Trust Certificates shall be in substantially the form hereinbefore set forth.

SECTION 2.04. *Execution by Trustee.* The Trust Certificates shall be signed in the name and on behalf of the Trustee by the manual signature of one of its authorized officers and its corporate seal or a facsimile thereof shall be affixed or imprinted thereon and attested by the manual signature of one of its authorized officers. In case any officer of the Trustee whose signature shall appear on any of the Trust Certificates, shall cease to be such officer of the Trustee before the Trust Certificates shall have been issued and delivered by the Trustee or shall not have been acting in such capacity on the date of the Trust Certificates, such Trust Certificates may be adopted by the Trustee and be issued and delivered as though such person had not ceased to be or had been such officer of the Trustee.

SECTION 2.05. *Characteristics of Trust Certificates.*

(a) The Trust Certificates shall be registered, as to both principal and interest, in the name of the holder and 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 Trust Certificate or Certificates or by a duly authorized attorney, in form satisfactory to the Trustee; shall, in connection with the initial issuance of Trust Certificates, be dated as of the date of issue and shall, in connection with Trust Certificates issued in exchange for or upon registration of transfer of another Trust Certificate or Certificates, be dated as of the date to which interest has been paid or shall, if no interest has been paid thereon, be dated as of the date of initial issuance; and shall entitle the registered holder to interest from the date thereof. The Trustee shall, if any prepayment shall theretofore have been made pursuant to Section 3.01, endorse on each Trust Certificate issued upon registration of transfer or exchange a notation thereon as to the fact that the installments of principal thereon

will be payable in equal annual installments except for specified installments which will not be in equal amounts.

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

(c) Anything contained herein to the contrary notwithstanding, prior to due presentment for registration of transfer thereof, the parties may deem and treat the registered holder of any Trust Certificate as the absolute owner of such Trust Certificate for all purposes and shall not be affected by any knowledge or 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 Trust Certificates.

(e) No service charge shall be made for any registration of transfer or exchange of Trust Certificates, but for any transfer or exchange the Trustee shall require the payment of a sum sufficient to reimburse it for any governmental charge connected therewith.

(f) Each Trust Certificate delivered pursuant to any provision of this Agreement in exchange for or substitution for, or upon the registration of transfer of, the whole or any part, as the case may be, of one or more Trust Certificates 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 Trust Certificates, and, notwithstanding anything contained in this Agreement, such Trust Certificates 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 to issue, register a transfer of or exchange any Trust Certificate during the period of fifteen business days next preceding any Interest or Principal Payment Date.

SECTION 2.06. *Replacement of Mutilated or Lost Trust Certificates.* In case any Trust Certificate shall become mutilated or defaced or be lost, destroyed or stolen, then on the terms herein set forth and not otherwise, the Trustee shall execute and deliver a new Trust Cer-

tificate of like tenor and date, and bearing such identifying number or designation as the Trustee may determine, in exchange and substitution for, and upon cancellation of, the mutilated or defaced Trust Certificate, or in lieu of or in substitution for the same if lost, destroyed or stolen. The applicant for a new Trust Certificate shall furnish to the Trustee and the Company evidence to their satisfaction of the loss, destruction or theft of such Trust Certificate alleged to have been lost, destroyed or stolen and of the ownership and authenticity of such mutilated, defaced, lost, destroyed or stolen Trust Certificate, and also shall furnish such security or indemnity as may be required by the Trustee in its discretion (provided that in the case of the Purchaser, the Purchaser's written agreement of indemnity shall be satisfactory security and indemnity for purposes of this sentence), and shall pay all expenses and charges of such substitution or exchange. All Trust Certificates 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 Trust Certificates and shall preclude any and all other rights and remedies, any law or statute now existing or hereafter enacted to the contrary notwithstanding.

ARTICLE THREE

PREPAYMENT OF TRUST CERTIFICATES

SECTION 3.01. *Prepayment of Trust Certificates.* The Trust Certificates shall not be prepayable except as set forth in this Section 3.01. The Trust Certificates shall be subject to prepayment in full or in part pursuant to Section 5.04 upon the deposit of amounts with the Trustee pursuant to clause (i) or (iii) of the first paragraph of said Section. In addition the Trust Certificates shall be subject to prepayment in full or in part pursuant to Section 5.09 upon the deposit of amounts with the Trustee pursuant to clause (a) or (c) of the second paragraph of said Section. Any prepayment of Trust Certificates in part pursuant to Section 5.04 or 5.09 shall be applied to the semi-annual installments of principal in the inverse order of their due dates.

SECTION 3.02. *Manner of Prepayment.* Any prepayment pursuant to Section 5.04 or 5.09 shall be made on the next succeeding Interest Payment Date occurring at least 20 days after the date of deposit with the Trustee pursuant to said clause (i) or (iii) of Section 5.04 or said clause (a) or (c) of Section 5.09, as the case may be. The

principal amount of Trust Certificates to be prepaid pursuant to Section 5.04 shall be an amount equal to the amount deposited with the Trustee pursuant to clause (i) (A) or (iii) (A), as the case may be, of the first paragraph of Section 5.04 and the principal amount of Trust Certificates to be prepaid pursuant to Section 5.09 shall be an amount equal to the amount deposited with the Trustee pursuant to clause (a) (i) or (c) (i), as the case may be, of the second paragraph of Section 5.09. In the case of a prepayment in part of Trust Certificates pursuant to Section 5.04 or 5.09, if there shall be more than one Trust Certificate, the amount to be paid on such prepayment of such Trust Certificates shall be applied to all outstanding Trust Certificates in proportion as nearly as practicable to the respective unpaid principal amounts of the outstanding Trust Certificates.

Upon receipt by the Trustee of any of the aforesaid deposits pursuant to Section 5.04 or 5.09, the Trustee shall forthwith mail a notice of prepayment to the holders of the Trust Certificates, at their last addresses as they shall appear upon the registry books; but failure to give or to receive such notice, or any defect therein, shall not affect the validity of any proceedings for the prepayment of Trust Certificates.

The notice of prepayment shall specify the date for prepayment and shall state that, subject to Section 2.02, payment of the principal amount of Trust Certificates or portions thereof to be prepaid (together with all accrued and unpaid interest thereon) will be made at the Corporate Trust Office upon presentment of such Trust Certificates for notation thereon of such payment, that accrued interest to the date fixed for prepayment 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. The notice of prepayment shall also state the aggregate principal amount of Trust Certificates to be prepaid; and in case less than the entire principal amount of the Trust Certificates is to be prepaid, the notice shall specify the principal amount to be prepaid with respect to each Trust Certificate.

ARTICLE FOUR

ACQUISITION OF TRUST EQUIPMENT BY TRUSTEE

SECTION 4.01. *Acquisition of Equipment by Trustee.* Contemporaneously with the sale of Trust Certificates to the Purchaser, in the

aggregate principal amount of \$7,500,000, on the Closing Date under, and as defined in, the Purchase Agreement, the Company shall sell, assign and transfer to the Trustee, as the Trustee for the holders of the Trust Certificates, the Equipment described in Exhibit A hereto. It is understood that the Company has purchased all of such Equipment from Manufacturing.

SECTION 4.02. *Payment of Deposited Cash.* When all of the Equipment described in Exhibit A hereto shall have been delivered to the Trustee or its agent or agents pursuant to Sections 4.01 and 4.03, the Trustee shall pay the Deposited Cash to the Company.

SECTION 4.03. *Supporting Papers.* The Trustee shall not pay out any Deposited Cash against the delivery of the Trust Equipment unless and until all of the conditions set forth in the Purchase Agreement to the purchase by the Purchaser of Trust Certificates on the Closing Date under, and as defined in, the Purchase Agreement shall have been satisfied.

ARTICLE FIVE

LEASE OF TRUST EQUIPMENT TO THE COMPANY; PROVISIONS RESPECTING THE EQUIPMENT, THE LEASES AND PAYMENTS BY THE COMPANY

SECTION 5.01. *Lease of Trust Equipment.* The Trustee does hereby let and lease to the Company all of the Trust Equipment for a term commencing on the date or dates of delivery of the Trust Equipment to the Trustee pursuant to Section 4.01 and ending on December 1, 1989.

SECTION 5.02. *Equipment Automatically Subjected.* As and when any Equipment shall by the terms of this Agreement from time to time be made subject hereto, the same shall, *ipso facto*, and without further instrument of lease or transfer, pass under and become subject to all the terms and provisions hereof.

SECTION 5.03. *Substituted Equipment Subject Hereto.* In the event that the Company shall, as provided in Section 5.07, cause to be transferred to 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 by supplement hereto to be executed by the Trustee, the Company and the Guarantors and to be recorded with (a) the Interstate Commerce Commission pursuant to the requirements of Section 20c of the Interstate Commerce Act and (b), if such lessee is a railroad or shipper having its principal place of business in Canada or if such lessee intends to base such Equipment in Canada, either the office of the Registrar General of Canada or in the appropriate office for filing in every Province and Territory of Canada (except Quebec) other than Provinces and Territories in which by the terms of the lease thereof the lessee is not permitted to use (other than occasional and intermittent use caused by unintentional errors in routing) such 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 5.04. *Termination of Leases of the Equipment or Events of Default Thereunder.* In the event that either of the following shall occur with respect to any Existing Lease, or any lease of Equipment theretofore substituted therefor pursuant to this Article Five:

(a) the occurrence of any event of default under such Existing Lease or lease, or

(b) the termination of any such Existing Lease or lease, whether by the terms thereof, by the failure of the lessee thereof to exercise any option to extend the term or terms thereof, by the exercise by the lessee thereunder of any purchase option thereunder, by action of law, as a consequence of any default or event of default thereunder, or for any other reason,

prior to the payment in full of the Trust Certificates, the Company shall within 10 days after the occurrence of such event of default or such termination deliver to the Trustee and to all of the holders of the Trust Certificates an Officer's Certificate giving notice thereof and stating, with respect to the Equipment subject to such Existing Lease or lease, the information set forth in Section 5.07(1)(i) and (ii). Within 180 days after the occurrence of such event of default or such termination, the Company will either (i) deposit with the Trustee as an additional rental payment hereunder an amount equal

to (A) the principal amount of the Trust Certificates which will be outstanding on the date fixed for prepayment under Section 3.02 (after giving effect to the payment of any installment of principal payable on such date), plus (B) the interest accrued on such unpaid principal amount of Trust Certificates to such date, or (ii) substitute for such Existing Lease or leases other leases, meeting the requirements of this Section, of Equipment having an aggregate Fair Value of not less than the aggregate Fair Value of the Trust Equipment which was subject to such defaulted or terminated Existing Lease or leases, or (iii) substitute for such Existing Lease or leases other leases, meeting requirements of this Section, of Equipment having an aggregate Fair Value of less than the aggregate Fair Value of the Trust Equipment which was subject to such defaulted or terminated Existing Lease or leases and pay to the Trustee, as an additional rental payment hereunder, an amount equal to (A) the difference between the aggregate Fair Value of the Trust Equipment which had been subject to such defaulted or terminated Existing Lease or leases and the aggregate Fair Value of the Equipment to be leased pursuant to such substituted leases, plus (B) interest accrued on the unpaid principal amount of the Trust Certificates to be prepaid to the date fixed for such prepayment under Section 3.02. The Trustee shall apply amounts deposited pursuant to clause (i) or (iii) of the next preceding sentence to the prepayment in whole or in part of the Trust Certificates in accordance with Sections 3.01 and 3.02. Until applied to prepay the Trust Certificates as provided herein, amounts deposited pursuant to clause (i) or (iii) of this paragraph shall be invested by Trustee, on Request, in Investment Securities in accordance with Section 9.05.

Any such lease of Equipment being so substituted for a defaulted or terminated Existing Lease or leases shall be satisfactory to and approved by the Purchaser or (if the Purchaser shall no longer be the holder of all the Trust Certificates) the holders of 66 $\frac{2}{3}$ % in outstanding principal amount of Trust Certificates, as the case may be (it being understood that such new lease shall be deemed satisfactory to, and will not be disapproved by, the Purchaser or such holders if (w) the lessee under such new lease shall have a credit standing as of the date of such substitution equal to or better than the credit standing of British Columbia Railway Co. as of the date hereof, (x) such new lease shall provide a rent for such Equipment which during any six-month period, when added to the rent payable during the same six-month period

under each other lease of Equipment which has been assigned by the Company to the Trustee pursuant to an Assignment (other than any defaulted or terminated Existing Lease or leases), is at least equal to the sum of the semi-annual installment of principal of and the quarterly payments of interest on the Trust Certificates due and payable during the same six-month period, (y) such new lease shall otherwise have terms which are in all material respects not less favorable to the lessor thereunder than the terms of such defaulted or terminated Existing Lease or leases and (z) if the lessee under such new lease is a railroad or shipper having its principal place of business in Canada or if such lessee intends to base the Equipment to be leased thereunder in Canada, such new lease will not permit the use of such Equipment (other than occasional and intermittent use caused by unintentional errors in routing) in any Province of Canada where the Purchaser or such holders are unable to perfect through filing, recordation, registration or other means satisfactory to the Purchaser or such holders adequate protection of the Trustee's title to such Equipment and the Trustee's first lien and security interest in such new lease pursuant to the Assignment thereof), and shall comply with the following further conditions: (1) such new leases shall satisfy all of the requirements set forth in the second and third paragraphs of Section 5.10, (2) to the extent that such new leases involve a substitution of Equipment, all of the requirements of Sections 5.07 and 7.02 shall be satisfied with respect to such substitution, and (3) to the extent that such new leases do not involve a substitution of Equipment, the requirements of Section 5.07(3) and 7.02 shall be satisfied and an opinion, but only with respect to such new leases and the Assignments thereof, in the form set forth in Section 5.07(5) (except for clause (i) thereof) shall have been delivered to the Purchaser or such holders, as the case may be.

SECTION 5.05. *Rental Payments.* The Company hereby accepts the lease of all the Trust Equipment and covenants and agrees to accept delivery and possession hereunder of the Trust Equipment; and 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, as rental payments hereunder for the Trust Equipment, amounts which shall be sufficient to pay and discharge the following items, when

and as the same shall become due and payable (whether or not any of such items shall become due and payable prior to the delivery of any of the Trust Equipment and notwithstanding that any of the Trust Certificates shall have been acquired by the Company or shall not have been presented for payment):

(a) from time to time upon demand of the Trustee (1) the necessary and reasonable expenses of the trust created hereby, including compensation and expenses provided for herein, and (2) an amount equal to any expenses incurred or loss of principal (including interest accrued thereupon at the time of purchase) in connection with any purchase, sale, redemption or payment at maturity 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 Agreement, which the Trustee as such may be required to pay;

(c) (1) the amounts of the interest payable on the Trust Certificates when and as the same shall become payable, and (2) interest at the rate of $11\frac{1}{2}\%$ per annum from the due date, upon any amounts payable under this subparagraph (c) and the following subparagraphs (d) and (e) which shall not be paid when due, to the extent legally enforceable;

(d) \$300,000 on or before the first day of each June and December of each year, commencing December 1, 1977, and continuing to and including December 1, 1989 or such earlier date on which the entire amount of the principal of, and interest on, all of the Trust Certificates shall have been paid in full; and

(e) the principal of the Trust Certificates (other than principal paid pursuant to Section 5.05(d))(1) to be prepaid pursuant to Sections 3.01 and 3.02 (such rental payments to be made as required by the applicable provisions of Section 5.04 or 5.09) or (2) upon the maturity thereof, whether by declaration or otherwise.

Nothing herein or in the Trust Certificates contained shall be deemed to impose on the Trustee or on the Company (except as provided in Section 5.05(b)) any obligation to pay to the holder of any Trust Certificate the amount of 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 authorities thereof, or of Canada, or any Province or other taxing authority thereof, to be paid in behalf of, or withheld from the amount payable to, the holder of any Trust Certificate.

The Company shall not be required to pay any tax, assessment or governmental charge 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 the holders of the Trust Certificates 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. *Termination of Trust and Lease.* After the entire amount of the principal of, and interest on, all of the Trust Certificates shall have been paid in full and all payments due or to become due from the Company hereunder shall have been completed and fully made to the Trustee (1) such payments shall be deemed to represent payment of the full purchase price for the Company's purchase at such time of the Trust Equipment from the Trustee; (2) any monies remaining in the hands of the Trustee after providing for payment in full of all the outstanding Trust Certificates and after paying the expenses of the Trustee, including its reasonable compensation, shall be paid back to the Company; (3) title to all the Trust Equipment shall vest in the Company; and (4) the Trustee shall execute for recordation in public offices, at the expense of the Company, such instrument or instruments in writing as reasonably shall be requested by the Company in order to make clear upon public records the Company's title to all the Trust Equipment under the laws of any jurisdiction; *provided, however,* that until that time title to the Trust Equipment shall not pass to or vest in the Company, but title to and ownership of all the Trust Equipment shall be and remain in the Trustee, notwithstanding any delivery of the Trust Equipment to or possession or use thereof by the Company.

SECTION 5.07. *Substitution and Replacement of Equipment.* If the Company elects to substitute Equipment in connection with a substitution of leases pursuant to Section 5.04, or if the Company elects to substitute Equipment pursuant to Section 5.09, the Company shall within 180 days after the occurrence of the event of default or termination referred to in Section 5.04, in the case of a substitution pursuant

to Section 5.04, or within 30 days after the occurrence of the Casualty Event referred to in the second paragraph of Section 5.09, in the case of a substitution pursuant to said Section 5.09, convey to the Trustee other Equipment having (except as set forth in clause (iii) of the first paragraph of Section 5.04 and clause (c) of the second paragraph of Section 5.09) an aggregate Fair Value of not less than the aggregate Fair Value of the Trust Equipment being so replaced, and on or prior to the date of such conveyance, the Company shall deliver to the Trustee and to each holder of Trust Certificates (and the effectiveness of such substitution shall be conditioned upon such delivery of) the following papers:

(1) An Officer's Certificate stating (i) the Cost and the Fair Value, as of such date, of the units of Equipment being so replaced, (ii) the date each unit of Trust Equipment being so replaced was first put into use (or that such unit was first put into use not later than a specified date), (iii) the Cost and the Fair Value of each unit of the Equipment so to be conveyed to the Trustee and the day it was first put into use (or that such unit was first put into use not earlier than a specified date), (iv) that such unit so to be substituted is then subject to a lease and setting forth the name of the lessee and such other information as the Trustee may request to verify the compliance of such lease with Section 5.10, (v) that each unit so to be substituted is Equipment as herein defined and has been marked in accordance with Section 5.08, (vi) that no Event of Default has occurred and is continuing, and (vii) that in the opinion of the signers, all conditions precedent provided for in this Agreement relating to such substitution have been complied with;

(2) A bill or bills of sale in respect of such substituted Equipment from the Company as owner thereof to the Trustee, which bill or bills of sale shall contain a warranty or guaranty to the Trustee that the title to the Trust Equipment described therein is in the Company and is free and clear of all claims, liens and encumbrances (including any leasehold interest therein) other than the lease thereof being assigned to the Trustee, the Assignment covering such lease and the rights of the Company hereunder;

(3) Copies of the leases of such substituted Trust Equipment, and the Assignments thereof;

(4) A supplement or supplements to this Agreement, executed by the Trustee, the Company and the Guarantors, describing such substituted Trust Equipment and subjecting it to this Agreement, pursuant to Section 5.03; and

(5) An Opinion of Counsel to the effect that (i) such bill or bills of sale are valid and effective, either alone or together with any other instruments referred to in and accompanying such opinion, to vest in the Trustee good and valid title to such substituted Equipment free from all claims, liens and encumbrances (including any leasehold interest therein) other than leases (which shall be specified) permitted by Section 5.10 hereof, Assignments of such leases and the rights and interests of the Company hereunder, (ii) all such Assignments and any amendments or supplements thereto and hereto have been duly authorized, executed and delivered by the Company and constitute, insofar as the Company is concerned, legal, valid and binding obligations, (iii) the Trustee is vested with all the right, title and interest of the Company in and to such leases, as amended or supplemented, purported to be assigned to the Trustee by such Assignments, and there being no other existing assignment of or encumbrance on such right, title and interest, (iv) such leases, such Assignments and all amendments or supplements hereto and to any thereof have been (A) duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and (B) if the lessees under such leases are railroads or shippers having their principal places of business in Canada or if such lessees intend to base such Equipment in Canada, duly filed, recorded or deposited in either the Office of the Registrar General of Canada or in the appropriate office for filing in every Province and Territory of Canada (except Quebec) other than Provinces and Territories in which by the terms of the lease thereof the lessee is not permitted to use (other than occasional and intermittent use caused by unintentional errors in routing) such Trust Equipment, and any required notice of such filing, recording or deposit has been published, (v) no other filing or recordation or deposit or publication is necessary (or will be necessary in the future, except as stated in such opinion) for the protection of the rights of the Trustee in and to such substituted Trust Equipment or such leases or under this Agreement or such Assignments in any State of the United

States of America or the District of Columbia, or in Canada or in any Province or Territory thereof (it being understood that such counsel may rely upon an opinion of Canadian counsel with respect to matters of Canadian law) and (vi) all conditions precedent provided for in this Agreement with respect to such substitution, have been complied with.

Upon satisfaction by the Company of the requirements set forth in this Section 5.07 and, in the case of a substitution pursuant to clause (iii) of the first paragraph of Section 5.04 or clause (c) of the second paragraph of Section 5.09, receipt by the Trustee of the additional rental payment referred to in said clause (iii) or said clause (c), as the case may be, title to the Trust Equipment being so replaced shall vest in the Company, and at the request of the Company, the Trustee shall execute and deliver a bill of sale transferring (without warranties of any kind) to the Company the Trustee's right, title and interest in and to such replaced Equipment.

SECTION 5.08. *Marking of Trust Equipment.* The Company agrees that there shall be plainly, distinctly, permanently and conspicuously stenciled upon each side of each unit of the Trust Equipment prior to the assignment and transfer of the same to the Trustee the following words, in letters not less than three-quarters of an inch in height:

TITLE TO THIS CAR IS SUBJECT TO DOCUMENTS
RECORDED UNDER SECTION 20C OF THE INTERSTATE
COMMERCE ACT.

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

In case, prior to the termination of the lease provided for herein, 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 Agreement.

Any unit of Trust Equipment required to be marked pursuant to this Section 5.08 may be lettered, in the case of a lease of any Trust Equipment made pursuant to Section 5.10 hereof, in such manner as may be appropriate for convenience of identification of the leased interest therein; but, except as provided in the preceding paragraph, the Company, from and after the date hereof and during the continuance provided for herein, will not allow the name of any person, firm, association or corporation to be placed on or to remain on any unit of Trust Equipment as a designation which might be interpreted as a claim of ownership thereof by the Company or any person, firm, association, or corporation other than the Trustee.

SECTION 5.09. *Maintenance of Trust Equipment.* The Company agrees that it will maintain and keep or cause others to maintain and keep the Trust Equipment in good order and proper repair without cost or expense to the Trustee, unless and until it becomes worn out, unsuitable for use, lost, destroyed or taken or requisitioned by condemnation or otherwise (herein called "Casualty Events"). Whenever any of the Trust Equipment shall have suffered a Casualty Event, the Company shall forthwith deliver to the Trustee an Officer's Certificate describing such Trust Equipment and stating the Fair Value thereof. For purposes of this paragraph, the term "unsuitable for use" shall mean and include any condition in which the Trust Equipment is no longer usable for the purpose or purposes for which the same was designed (or an alternate purpose or alternate purposes provided that no material impairment in value shall arise therefrom) whether by virtue of its physical condition or of the effect of any applicable law, rule, regulation or order.

If the Fair Value of any Trust Equipment suffering a Casualty Event, together with the Fair Value of all Trust Equipment which shall have previously suffered a Casualty Event (other than Trust Equipment with respect to which prepayment has been made or for which other Equipment has been substituted, in each case pursuant to this paragraph) (all of such Trust Equipment being herein called the "Unreleased Casualty Equipment"), exceeds \$50,000, then the Company shall forthwith deliver to the Trustee an Officer's Certificate setting

forth the Fair Value of all such Trust Equipment and shall, within 30 days after the occurrence of such Casualty Event, either (a) deposit with the Trustee, as an additional rental payment hereunder, an amount equal to (i) the lesser of (A) the Fair Value of all such Unreleased Casualty Equipment or (B) the aggregate principal amount of Trust Certificates which shall be outstanding on the date fixed for prepayment pursuant to this paragraph as set forth in Section 3.02; together with (ii) interest accrued on the unpaid principal amount of Trust Certificates to be prepaid to the date fixed for such prepayment in accordance with Section 3.02, for application by the Trustee of such amounts to the prepayment in full or in part of the Trust Certificates in accordance with Sections 3.01 and 3.02, or (b) substitute Equipment for such Unreleased Casualty Equipment in accordance with Section 5.07, or (c) substitute new Equipment for such Unreleased Casualty Equipment having an aggregate Fair Value of less than the aggregate Fair Value of such Unreleased Casualty Equipment in accordance with Section 5.07 and deposit with the Trustee, as an additional rental payment hereunder, an amount equal to (i) the difference between the aggregate Fair Value of the Unreleased Casualty Equipment and the aggregate Fair Value of the Equipment to be Substituted therefor, together with (ii) interest accrued on the unpaid principal amount of Trust Certificates to be prepaid to the date fixed for prepayment in accordance with Section 3.02, for application by the Trustee of such amounts to the prepayment in part of the Trust Certificates in accordance with Sections 3.01 and 3.02 hereof. Until applied to prepay a portion of the Trust Certificates as provided herein, amounts deposited pursuant to this paragraph shall be invested by the Trustee, on Request, in Investment Securities in accordance with Section 9.05. The rights and remedies of the Trustee to enforce or to recover any of the rental payments shall not be affected by reason of any such occurrence as described above in this Section 5.09. Any Equipment substituted for unreleased Casualty Equipment pursuant to this paragraph shall either (x) be added to the Trust Equipment leased under an Existing Lease or other lease previously assigned to the Trustee pursuant to an Assignment, or (y) be leased to a user under a new lease satisfying the same requirements as those set forth in the last paragraph of Section 5.04 for a lease being substituted for a defaulted or terminated Existing Lease or lease.

The Company covenants and agrees to furnish to the Trustee or its agent or agents hereunder (with a copy to the Purchaser) whenever

required by the Trustee but at least once on or before April 1 in every calendar year commencing with 1978, an Officer's Certificate dated as of the preceding December 31, (1) stating the amount, description and numbers of all Trust Equipment that may have suffered a Casualty Event since the date of the last preceding statement (or the date of this Agreement in the case of the first statement), (2) identifying the units of Trust Equipment then being leased by the Company as permitted by Section 5.10 (including the name of the lessee, the term of the lease and the date of the agreement pursuant to which such Trust Equipment is leased) and specifying which units of Equipment are not then being leased by the Company and (3) certifying that the Company is not in default under any provision of this Agreement and that no default has occurred and is continuing under the Existing Leases or any other lease assigned to the Trustee pursuant to Section 5.10, or specifying all such defaults and the action being taken by the Company to remedy the same.

SECTION 5.10. *Possession of Trust Equipment.* Except as provided in this Section 5.10, the Company will not assign or transfer its obligations or rights hereunder, or transfer, assign, pledge, mortgage or otherwise dispose of any rights under any lease of any of the Trust Equipment, without the written consent of the Trustee and the holders of 66 $\frac{2}{3}$ % in aggregate principal amount of Trust Certificates first had and obtained. An assignment or a transfer to a solvent corporation which shall acquire all or substantially all of the property of the Company and which, by execution of an appropriate instrument satisfactory to the Trustee and the holders of a majority in aggregate principal amount of Trust Certificates, shall assume and agree to perform each and all of the obligations and covenants of the Company hereunder shall not be deemed to be a breach of this covenant, *provided*, that any such assumption shall not (unless such release shall have been consented to by the holders of 66 $\frac{2}{3}$ % in outstanding principal amount of Trust Certificates) release the Company or the Guarantors from any of their obligations hereunder or under their guaranty endorsed on the Trust Certificates.

The Existing Leases and any lease assigned by the Company to the Trustee pursuant to this Article V shall be to a lessee or user for use of the Equipment in the United States of America (or any state thereof or the District of Columbia) or Canada or any Province or Territory thereof; *provided, however*, that any such Existing Lease or other

lease shall forthwith be assigned to the Trustee pursuant to an Assignment in the form of Exhibit C hereto and notice thereof forthwith given to such lessee. Any such lease shall comply with all of the applicable provisions of Section 5.04 or 5.09, as the case may be.

Any such lease may provide that the lessee, so long as it shall not be in default under such lease, shall be entitled to the possession and use of the Trust Equipment covered thereby, and, subject to the provisions of Section 5.08, may provide for lettering and marking upon such Equipment for convenience of identification of the leasehold interest of such lessee therein; *provided, however*, that anything in the foregoing provisions of this sentence to the contrary notwithstanding, no such lease shall negate all or any part of the rights of the Company thereunder to assign, pledge, mortgage, transfer or otherwise dispose of any Trust Equipment or to assign the rights of the Company as lessor under such leases, any such assignment, pledge, mortgage, transfer or other disposition to be subject, however, to any such non-defaulted lease.

Any such lease shall provide that the lessee thereunder shall not assign said lease without the written consent of the Company and, unless such lessee remains liable for the performance of all of the obligations of the lessee under such lease, the Trustee, except that said lessee may assign all of its rights under said lease to another railroad corporation which succeeds to all or substantially all of the assets and business of said lessee provided that such successor shall assume all of the obligations of the lessee thereunder.

The Trustee shall have the right to declare the lease to the Company provided for herein terminated in case of any unauthorized assignment or transfer of the Company's rights under the Existing Leases or any other leases assigned to the Trustee, any unauthorized transfer or lease of any of the Trust Equipment or unauthorized replacement of any Existing Lease or other lease assigned to the Trustee, or any modification of any such Existing Lease or any such lease which might adversely affect the rights or remedies of the Trustee and the holders of the Trust Certificates under this Agreement or under the Assignments, without in each case the prior written consent of the Purchaser or the then holders of all of the Trust Certificates. The election of the Trustee to terminate the lease provided for herein

shall have the same effect as the retaking of the Trust Equipment by the Trustee as hereinafter provided.

Unless and until an Event of Default, or an event which with notice or lapse of time, or both, would constitute an Event of Default, has occurred and is continuing, all rentals and other sums from time to time payable on account of the Existing Leases and such other leases shall be payable to the Company. If an Event of Default, or an event which with notice or lapse of time, or both, would constitute an Event of Default, has occurred and is continuing, all rentals and other sums from time to time payable on the Existing Leases and such other leases shall be payable to the Trustee pursuant to the Assignments and shall be applied in the manner set forth in Section 6.03 hereof.

SECTION 5.11. *Indemnity.* The Company covenants and agrees to indemnify the Trustee and the holders of the Trust Certificates against any and all claims, suits, losses, penalties, demands, causes of action and judgments of any nature whatsoever, including all costs and expenses (including attorneys' fees and expenses) (herein collectively called "Liabilities") which may be imposed on, incurred by or asserted against any of them and which arise out of or are connected with the ownership or use of any of the Trust Equipment, and particularly, but not by way of limitation, against any and all Liabilities arising out of the use of any patented invention in and about the Trust Equipment or arising out of the death of or injury to the person or damage to the property of others, and to comply and to cause the lessees and users under all leases to comply in all respects with the laws of the United States of America and Canada and of all the state 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 or 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 the holders

of the Trust Certificates or subject the Trustee or the holders of the Trust Certificates to any risk of criminal liability or other liability not indemnified against by the Company. 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.

The Company covenants and agrees with the Trustee that (i) the Company will defend and pay all costs, expenses and judgments incurred by it or the Trustee in any action brought against the Company under the Existing Leases or any other leases of Trust Equipment or in any actions brought by the Trustee pursuant to any Assignment thereof, and (ii) in any suit proceeding or action brought by the Trustee pursuant to the provisions of any Assignment for any rentals or per diem mileage or other payments in respect of the Trust Equipment, whether under or pursuant to the provision of any Existing Lease or other lease of Trust Equipment or otherwise, or to enforce any provisions of any Existing Lease or other lease of Trust Equipment, the Company will save, indemnify and keep the Trustee harmless from and against all expenses, loss or damage suffered by reason of any defense, set-off, counterclaim or recoupment whatsoever.

ARTICLE SIX

REMEDIES IN EVENT OF DEFAULT

SECTION 6.01. *Events of Default.* The Company and each Guarantor jointly and severally covenants and agrees that in case:

(a) The Company shall default in the payment of any rental payable hereunder when the same shall become due and payable, or

(b) The Company or either Guarantor shall default in its guaranty, endorsed on any Trust Certificate and contained in the first paragraph of Section 7.06, of the prompt and punctual payment of the principal of such Trust Certificate and of the interest thereon, when and as the same shall become due and payable, or

(c) The Company or either Guarantor shall default in the payment of any other amount due hereunder for more than ten (10) days after the same shall have become due and payable, or

(d) The Company shall (or shall purport to) make or suffer any unauthorized assignment or transfer of its rights under any

Existing Lease or any other lease assigned or required hereunder to be assigned to the Trustee, or shall amend, modify or terminate any thereof in violation of the provisions of this Agreement or the Assignment thereof or shall make or suffer any unauthorized assignment, transfer or lease (including contracts to make any such assignment, transfer or lease) of the Trust Equipment, or, except as herein authorized, part with the possession of any of the Trust Equipment, or

(e) The Company or either Guarantor 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 or of the Purchase Agreement or the Assignments on its part to be kept and performed, or to make provision satisfactory to the Trustee for such compliance, or

(f) Any representation or warranty made by the Company or either Guarantor in this Agreement, the Purchase Agreement, any Assignment or in any certificate or other instrument furnished by the Company or either Guarantor to the Trustee or any holder of Trust Certificates shall be false in any material respect on the date as of which made, or

(g) a default or event of default shall exist under any lease, equipment trust agreement, indenture or other security agreement or any other secured obligation for borrowed money or instrument relating thereto (each being hereinafter called a "Security Agreement") under which the Company or either Guarantor is an obligor or guarantor (other than an Excepted Security Agreement as hereinafter defined) by virtue of the operation of any provision (herein called a "Cross-Default Provision") contained in such Security Agreement making it a default or event of default thereunder for there to have occurred and/or be continuing any default or event of default under any other Security Agreement or under any instrument evidencing any unsecured obligation for borrowed money under which the Company or such Guarantor is an obligor or guarantor; as used herein the term "Excepted Security Agreement" means (i) any unsecured revolving bank loan or credit agreement having a term of not more than two years and (ii) any two or more Security Agreements between the same borrower or obligor, on the one hand, and the same lender or lessor or affiliated lender or lessor, on the other hand, wherein a default or event of default under one

such Security Agreement constitutes a default or event of default only thereunder and under such other Security Agreement or Security Agreements with the same lender or lessor or affiliated lender or lessor (for purposes of this clause (ii), a lender or lessor shall be deemed "affiliated" with any other lender or lessor if (x) such lender or lessor owns, directly or indirectly, 100% of the capital stock, other than directors' qualifying shares, of such other lender or lessor, (y) 100% of the capital stock, other than directors' qualifying shares, of such lender or lessor is owned, directly or indirectly, by such other lender or lessor, or (z) 100% of the capital stock, other than the directors' qualifying shares, of such lender or lessor and of such other lender or lessor is owned, directly or indirectly, by the same person), or

(h) The lease from the Trustee to the Company provided for herein shall be terminated by operation of law, or

(i) The Company or either Guarantor shall make an assignment for the benefit of creditors or admit in writing its inability to pay its debts generally as they become due, or any order, judgment or decree shall be entered adjudicating the Company or either Guarantor bankrupt or insolvent, or the Company or either Guarantor shall petition or apply to any tribunal for the appointment of a trustee, receiver or liquidator of the Company or either Guarantor, or of any substantial part of the assets of the Company or either Guarantor, or commence any proceeding relating to the Company or either Guarantor under any bankruptcy, reorganization, compromise, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or any such petition or application shall be filed, or any such proceedings shall be commenced, against the Company or either Guarantor and the Company or such Guarantor by any act shall indicate its approval thereof, consent thereto or acquiescence therein, or an order, judgment or decree shall be entered appointing any such trustee, receiver or liquidator, or approving the petition in any such proceedings, and such order, judgment or decree shall remain unstayed and in effect for more than 60 days, or

(j) Any order, judgment or decree shall be entered in any proceedings against the Company or either Guarantor decreeing the dissolution of the Company or such Guarantor and such order,

judgment or decree shall remain unstayed and in effect for more than 60 days, or any order, judgment or decree shall be entered in any proceedings against the Company or either Guarantor decreeing a split-up of the Company or such Guarantor which requires the divestiture of a substantial part, or the divestiture of the stock of a Subsidiary whose assets constitute a substantial part, of the consolidated assets of the Company or such Guarantor or which requires the divestiture of assets, or stock of a Subsidiary, which shall have contributed a substantial part of the consolidated net earnings of the Company or either Guarantor during the three-year period through and including the fiscal year most recently ended, and such order, judgment or decree shall remain unstayed and in effect for more than 60 days,

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 Trust Certificates, by notice in writing to the Company and to the Trustee, may declare to be due and payable forthwith the entire amount of the rentals (not including payments required for the payment of interest accruing after the date of such declaration) payable by the Company as set forth in Section 5.05 and not theretofore paid. Thereupon the entire amount of such rentals and all amounts payable to the Trustee under Section 9.06 shall forthwith become and shall be due and payable immediately without further demand, together with interest at the rate of 11½% per annum, to the extent legally enforceable, on any portion thereof overdue; and the Trustee shall be entitled to judgment for the total amount so becoming payable by the Company, together with interest thereon, at the rate of 11½% per annum, to the extent legally enforceable, and to collect such judgment out of any property of the Company wherever situated.

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

In case the Company shall fail to pay any installment of rental 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, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the rentals so due and unpaid, together with all amounts payable to the Trustee under Section 9.06, 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 Trust Certificates and collect in the manner provided by law out of the property of the Company or other obligor upon the Trust Certificates wherever situated the monies adjudged or decreed to be payable.

In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or either Guarantor under the Bankruptcy Act or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of the Company or any Guarantor, or in case of any other judicial proceedings relative to the Company or either such Guarantor, or to the creditors or property of the Company or either such Guarantor, the Trustee, irrespective of whether the rental payments hereunder or the principal of the Trust Certificates shall then be due and payable as herein or therein expressed whether by declaration or otherwise and irrespective of whether the Trustee shall have made any demand or declaration pursuant to the provisions of this Section 6.01, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the entire amount of the rentals (including any unpaid rental then due but not including rentals required for the payment of interest accruing after the date of such declaration) and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee, its agents, attorneys and counsel, and for reimbursement of all expenses and liabilities incurred; and all advances made, by the Trustee except as a result of its gross negligence or willful misconduct) and of the holders of the Trust Certificates allowed in such proceedings and to collect and receive any monies or other property payable or deliverable on any such claims, and to distribute all amounts

received with respect to the claims of the holders of the Trust Certificates and of the Trustee on their behalf; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized by each of the holders of the Trust Certificates to make payment to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to the holders of the Trust Certificates, to pay to the Trustee such amounts as shall be sufficient to cover reasonable compensation to the Trustee, its agents, attorneys and counsel, and all other expenses and liabilities incurred, and all advances made, by the Trustee except as a result of its gross negligence or willful misconduct.

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

SECTION 6.02. Remedies. Subject to the rights of lessees under leases permitted by Section 5.10 hereof, in case of the happening of any Event of Default and, with respect to the matters set forth in the following clause (b), also in the case of the happening of any event which with notice or lapse of time, or both, would constitute an Event of Default, the Trustee by its agents (a) may enter upon the premises of the Company and of any Affiliate of the Company or of any lessee or any other premises where any of the Trust Equipment may be and take possession of all or any part of the Trust Equipment and withdraw the same from said premises, retaining all payment which up to that time may have been made on account of rental for the Trust Equipment and otherwise, (b) shall be entitled to collect, receive and retain all per diem, mileage, lease rentals or other charges of any kind then due on account of or thereafter earned by the Trust Equipment or any part thereof, including all amounts payable to the Trustee pursu-

ant to any Assignment, and (c) may lease the Trust Equipment or any part thereof, or with or without retaking possession thereof (but only after declaring due and payable the entire amount of rentals payable by the Company 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 interests hereunder 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 for the rent or use of the Trust Equipment or any of it shall, in case of the happening of any Event of Default and such taking possession, withdrawal, lease or sale by the Trustee, give to the Company any legal or equitable interest or title in or to the Trust Equipment or any of it or any cause or right of action at law or in equity in respect of the Trust Equipment against the Trustee or the holders of interests hereunder. 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 rentals 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 the items mentioned in Section 5.05 (other than interest not then accrued), whether or not they shall have then matured.

It is expressly agreed that the rights of the Trustee under this Section 6.02 are subject to the rights of lessees under valid and subsisting leases described in and permitted by Section 5.10 hereof, and

that the Trustee, so long as such lessees are not in default under said leases, shall not interfere with the rights of peaceful and undisturbed possession of such lessees in and to any of the Trust Equipment in accordance with the terms of such leases.

SECTION 6.03. *Application of Proceeds.* If, in case of the happening of any Event of Default or any event which with notice or lapse of time, or both, would constitute an 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 or any lessee of Trust Equipment to the Trustee hereunder after such Event of Default or such event, 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 and Investment Securities which may then be held by the Trustee under any of the provisions hereof (other than sums held in trust for the payment of specific Trust Certificates), shall be applied by the Trustee to the payment, in the following order of priority: (a) of all proper charges, expenses or advances made or incurred by the Trustee in accordance with the provisions of this Agreement and (b) of the interest then due, with interest on overdue interest at the rate of 11½% per annum to the extent legally enforceable, and of the principal of all the outstanding Trust Certificates, with interest thereon at the rate of 11½% per annum, to the extent legally enforceable, from the last preceding Interest Payment Date, whether such Trust Certificates shall have then matured by their terms or not, all such payments to be in full if such proceeds shall be sufficient, and if not sufficient, then pro rata without preference between principal and interest, provided that each holder of Trust Certificates shall be entitled to allocate such proceeds between principal and interest as such holder may elect.

After all such payments shall have been made in full, the title to any of the Trust Equipment remaining unsold shall be conveyed by the Trustee (without warranties of any kind) 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 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 all such 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 the rentals and of the maturity of all the Trust Certificates as provided in Section 6.01, the holders of 66 $\frac{2}{3}$ % in aggregate principal amount of the Trust Certificates at the time outstanding may on behalf of the holders of all the Trust Certificates waive any past or existing Event of Default and its consequences, except an Event of Default in the payment of any installment of rental 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 Trust Certificates shall have been declared and become due and payable or if at any time after the entire amount of rentals shall have been declared and become due and payable, all as provided in Section 6.01, but before June 1, 1989, all arrears of rent (with interest at the rate of 11 $\frac{1}{2}$ % per annum upon any overdue installments, to the extent legally enforceable), the expenses and reasonable compensation of the Trustee, together with all expenses of the Trustee occasioned by the Company's default, and all other sums which shall have become due and payable by the Company hereunder (other than the principal of Trust Certificates, and any other rental installments, the maturity of which shall at the time have been accelerated) 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 66 $\frac{2}{3}$ % in principal amount of the Trust Certificates then outstanding, shall by written notice to the Company waive the default by reason of which there shall have been such declaration or declarations and the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

SECTION 6.05. *Obligations of Company Not Affected by Remedies.* No retaking of possession of the Trust Equipment by the Trustee, or any withdrawal, lease or sale thereof, nor any action or failure or omission to act against the Company or in respect of the Trust Equipment, on the part of the Trustee or on the part of the holder of any

Trust Certificate, nor any delay or indulgence granted to the Company by the Trustee or by any such holder, shall affect the obligations of the Company or either Guarantor hereunder or the obligations of the Company or either Guarantor under the guaranty endorsed on the Trust Certificates. The Company and the Guarantors each hereby waives presentation and demand in respect of any of the Trust Certificates and waives notice of presentation, of demand and of any default in the payment of the principal of and interest on the Trust Certificates.

SECTION 6.06. *Company to Deliver Trust Equipment to Trustee.* In case the Trustee shall rightfully demand possession of any of the Trust Equipment other than Trust Equipment under valid leases permitted by Section 5.10 in pursuance of this Agreement, the Company will, at its own expense, forthwith promptly 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, *provided, however,* that such Trust Equipment shall be stored at the plants, facilities and car shops of the Company or either Guarantor so long as, in the opinion of the Trustee, the storage at such places does not adversely affect the rights of the Trustee to such Trust Equipment. It is hereby expressly covenanted and agreed that the performance of the foregoing covenant is of the essence of this Agreement 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.* The Trustee shall give to the holders of the Trust Certificates notice of each default hereunder actually 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 a default or failure on the part of the Company referred to in such definition.

SECTION 6.08. *Unconditional Right of Holders of Trust Certificates to Sue for Principal and Interest.* Notwithstanding any other provisions in this Agreement, the right of any holder of any Trust Certificate to receive payment of the principal of and interest on such Trust Certificate, on or after the respective due dates expressed in such Trust Certificate, or to institute suit for the enforcement of any such payment on or after such respective dates (whether against the Trustee under such Trust Certificate, or against Company or either Guarantor under their respective guarantees endorsed thereon), 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 title reserved under this Agreement upon any property subject hereto.

SECTION 6.09. *Control by Holders of Trust Certificates.* The holders of a majority in aggregate principal amount of the Trust Certificates 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 such direction shall not be otherwise than in accordance with law and the provisions of this Agreement; and the Trustee, subject to the provisions of Section 9.02, shall have the right to decline to follow any such direction if the Trustee, being advised by counsel, shall determine that the proceeding so directed may not lawfully be taken, or if the Trustee in good faith shall, by a Responsible Officer or Officers of the Trustee, determine that the proceeding so directed would involve it in a personal liability, or if the Trustee in good faith should determine that the action so directed would be unjustly prejudicial to the holders of the Trust Certificates not taking part in such direction; and *provided further,* that nothing in this Agreement contained shall impair the right of the Trustee in its discretion to take any action deemed proper by the Trustee and which is not inconsistent with such direction by the holders of the Trust Certificates.

SECTION 6.10. *Remedies Cumulative.* The remedies in this Agreement provided in favor of the Trustee and the holders of the Trust Certificates, or any of them, shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity.

ARTICLE SEVEN

ADDITIONAL COVENANTS AND AGREEMENTS BY THE COMPANY AND THE GUARANTORS

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, assessment, obligation or claim which if unpaid might become a lien or charge upon or against any of the Trust Equipment or any interest therein; 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 Trust Certificates and the Company shall have furnished the Trustee with an Opinion of Counsel to such effect. If the Company does not forthwith pay and discharge, or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of, any such debt, tax, charge, assessment, obligation or claim as required by this Section 7.01, the Trustee may, but shall not be obligated to, pay and discharge the same and any amounts so paid shall be due on demand and shall be secured by and under this Agreement until reimbursed by the Company.

SECTION 7.02. *Payment of Expenses; Recording.* The Company covenants and agrees to pay the expenses incident to the preparation and execution of the Trust Certificates to be issued hereunder, or connected with the preparation, execution, recording, filing and publication of notice 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 Agreement, of any Existing Lease or other lease of Trust Equipment, of each Assignment of Existing Leases and any other lease under Section 5.10 and of each

supplement or amendment hereto or thereto, respectively, cause the same to be duly filed, recorded or deposited with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and, with respect to any lease with British Columbia Railway Co., with all appropriate offices for filing in the Province of British Columbia, *provided*, that in the case of any amendment or supplement to this Agreement, any other leases of Trust Equipment and any Assignments thereof, or any amendment or supplement to the Existing Leases, any such leases or any Assignment, the Company covenants and agrees that, if the lessee under such lease is a railroad or shipper having its principal place of business in Canada or if such lessee intends to base the cars in Canada, it will cause each such amendment, supplement, lease and Assignment to be duly filed, recorded or deposited in the office of the Registrar General of Canada, if permitted, and otherwise in the appropriate office in every Province and Territory of Canada (other than Quebec) other than Provinces and Territories in which by the terms of the lease of the Trust Equipment to which such amendment, supplement, lease or Assignment relates the lessee is not permitted to use (other than occasional and intermittent use caused by unintentional errors in routing) such Trust Equipment. In all such cases, the Company will also cause to be duly published any required notice of such filing, recording or deposit. If in connection with any of the foregoing the Company is not then delivering the opinions set forth in paragraph 3 of the Purchase Agreement or an Opinion of Counsel pursuant to either Section 5.07 or 5.04(3), the Company shall deliver to the Trustee an Opinion of Counsel of the scope set forth in Section 5.07(5)(iv) and (v) with respect to any such filing, recording, deposit and publication. 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 required by law or reasonably requested by the Trustee for the purposes of proper protection of the title of the Trustee and the rights of the holders of the Trust Certificates and of fully carrying out and effectuating this Agreement and the intent hereof.

SECTION 7.03. *Further Assurances.* The Company covenants and agrees from time to time to execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to execute for the purpose of fully carrying out and effectuating this Agreement and the intent hereof and of fully protecting and perfecting the rights and interests of the Trustee created hereunder.

SECTION 7.04. *Merger or Consolidation.* The Company and each Guarantor jointly and severally covenants and agrees that if it should merge or consolidate with, or transfer all or substantially all its assets to, another corporation, the survivor of such merger or consolidation or such transferee shall be a solvent corporation organized under the laws of the United States of America or a state thereof or the District of Columbia and such survivor (if not the Company or such Guarantor, as the case may be) or transferee shall assume all the obligations and liabilities of the Company or such Guarantor, as the case may be, hereunder and as guarantor of the Trust Certificates *provided*, that in the case of any such transfer, such assumption shall not (unless such release shall have been consented to by the holders of 66 $\frac{2}{3}$ % in outstanding principal amount of Trust Certificates) release the Company or such Guarantor, as the case may be, from any of its obligations hereunder or under its guaranty endorsed on the Trust Certificates.

SECTION 7.05. *Insurance.* The Company covenants and agrees that, so long as any of the Trust Certificates are outstanding, it will, at its own expense, cause to be carried and maintained public liability insurance in amounts and against risks customarily insured against by the Company with respect to railroad equipment owned by it. The Company will forthwith give notice to the Trustee of the cancellation of any such insurance.

SECTION 7.06. *Guaranty by Company and Guarantors.* The Company, Manufacturing and Railway jointly and severally unconditionally covenant, agree and guarantee that the holder of each of the Trust Certificates shall receive the principal amount thereof, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, when and as the same shall become due and payable, in accordance with the provisions thereof or of this Agreement (and if not so paid, with interest thereon until paid at the rate of 11 $\frac{1}{2}$ % per annum to the extent legally enforceable), and shall receive interest thereon in like money at the rate specified therein, at the times and places and otherwise as expressed in the Trust Certificates and this Agreement (and if not so paid, with interest thereon until paid at the rate of 11 $\frac{1}{2}$ % per annum to the extent legally enforceable), and the Company, Manufacturing and Railway each agrees to endorse upon each of the Trust Certificates, at or before the issuance and delivery thereof by the Trustee, their joint and several

guaranty of the prompt payment of the principal thereof and the interest thereon, in substantially the form herein set forth. Said guaranty so endorsed shall be signed in the name and on behalf of the Company, Manufacturing and Railway, each by the manual signature of its president, one of its vice presidents, or its treasurer. In case any officer of the Company, Manufacturing or Railway whose signature shall appear on such guaranty endorsed on a Trust Certificate shall cease to be such officer before such Trust Certificate shall have been issued and delivered by the Trustee, or shall not have been acting in such capacity on the date of such Trust Certificate, such guaranty shall nevertheless be as effective and binding upon the Company, Manufacturing or Railway, as the case may be, as though the person who signed such guaranty had not ceased to be or had then been such officer.

Manufacturing and Railway further jointly and severally unconditionally guarantee to the Trustee and the holders of the Trust Certificates the due and punctual performance of all undertakings and obligations of the Company under this Agreement, the Purchase Agreement and the Assignments (whether or not specifically named as obligors therein) and unconditionally guarantee to the Trustee and the holders of the Trust Certificates that all sums payable by the Company under this Agreement, the Purchase Agreement and the Assignments will be promptly paid when due in accordance with the provisions of this Agreement, the Purchase Agreement and the Assignments, and, in case of default by the Company in any such obligations or payment, Manufacturing and Railway jointly and severally agree punctually to perform or pay the same, irrespective of any enforcement against the Company of any of the rights of the Trustee and the holders of the Trust Certificates under this Agreement, the Purchase Agreement or the Assignments.

The joint and several guarantee of the Guarantors (which term, solely for purposes of this and the succeeding paragraphs of this Section 7.06, shall mean Manufacturing, Railway and, with respect to its guaranty set forth in the first paragraph of this Section 7.06 and endorsed upon each Trust Certificate, the Company) herein contained or endorsed upon the Trust Certificates shall be the unconditional and continuing guarantee of each Guarantor, binding upon each Guarantor, its successors and assigns, and shall remain in full force and effect irrespective of the existence or continuance or non-existence or non-continuance of any obligation on the part of the Trustee or the

Company on the Trust Certificates, or under this Agreement, the Purchase Agreement or the Assignments, or of the power or authority, or lack thereof, of the Company to arrange for the issue of, and guarantee, the Trust Certificates, or to execute, acknowledge and deliver this Agreement, the Purchase Agreement or the Assignments, or of the validity or invalidity of the Trust Certificates or this Agreement, the Purchase Agreement or the Assignments, or of any defense whatsoever that the Trustee or the Company may or might have to payment of the Trust Certificates (whether principal or interest) or the rentals hereunder, or to the performance or observance of any of the provisions or conditions of this Agreement, the Purchase Agreement or the Assignments, or of the demand for payment on this guarantee made on one Guarantor but not another, or of the existence or continuance or non-existence or non-continuance of the Trustee or the Company as a legal entity or of any other circumstances which might otherwise constitute a legal or equitable discharge of a Guarantor; nor shall said guarantees be affected by the consolidation or merger of the Company with or into any corporation or by the sale of its property as an entirety, or substantially so, to any person, corporation or other entity; nor shall said guarantee be discharged or impaired by any act, failure or omission whatsoever on the part of the Trustee, the Purchaser or the holder or holders of the Trust Certificates, if any, including among other said acts, failures and omissions, the following:

(a) any failure to present the Trust Certificates for payment or to demand thereof, or to give to any Guarantor notice of dishonor and non-payment of the Trust Certificates when and as the same may be due and payable, or notice of any failure on the part of the Company to make any payment under this Agreement, the Purchase Agreement or the Assignments or any failure on the part of the Trustee to pay any installment or make any redemption of principal or interest, or to do any act or things or to perform or keep any covenant or agreement by the Company to be done, kept or performed under the Trust Certificates or under this Agreement, the Purchase Agreement or the Assignments;

(b) any extension of the obligation of the Trust Certificates, either indefinitely or for any period of time, or any other modification in the obligations of the Trust Certificates or of the Company thereon or in connection therewith or any modification of this Agreement, the Purchase Agreement or the Assignments or in the

covenants, agreements or obligations of the Company thereon or in connection therewith (whether by the execution and delivery of any supplement to any thereof or otherwise);

(c) any act or failure to act with regard to the Trust Certificates or this Agreement, the Purchase Agreement or the Assignments, or anything which may vary the risk of the Guarantor;

(d) any action taken under this Agreement, the Purchase Agreement or the Assignments in the exercise of any right or power thereby conferred upon the Trustee, the Purchaser or the holders of the Trust Certificates, or any failure or omission on the part of Trustee, the Purchaser or the holders of the Trust Certificates to enforce any rights or security given under this Agreement, the Purchase Agreement or the Assignments or any rights conferred thereby or relative thereto, or any waiver of any rights or any failure or omission on the part of the Trustee, the Purchaser or the holders of any of the Trust Certificates to enforce any of their rights against the Company or the Trustee; and

(e) any failure to join all or more than one of the Guarantors as parties to any proceedings for the enforcement of said guarantees;

provided that the specific enumeration of the above mentioned acts, failures, waivers or omissions shall not be deemed to exclude any other acts, failures, waivers or omissions though not specifically mentioned herein, it being the purport and intent of this Agreement that the joint and several guarantees of the Guarantors shall be absolute and unconditional and shall not be discharged, impaired or varied except by the payment of the principal of and interest on the Trust Certificates, and the due and punctual performance of any and all covenants, agreements and obligations of the Company under this Agreement, the Purchase Agreement and the Assignments, and then only to the extent of such payments and performance. Each Guarantor further agrees that, if at any time all or any part of any payment theretofore applied by the Trustee, the Purchaser or the holder of any Trust Certificates to any of the obligations guaranteed hereunder is or must be rescinded or returned for any reason whatsoever (including, without limitation, the insolvency, bankruptcy or reorganization of the Company), such obligations shall, for the purposes of the aforesaid guarantees, to the

extent that such payment must be rescinded or returned, be deemed to have continued in existence, notwithstanding such application by the Trustee, the Purchaser or the holder of any Trust Certificates, as the case may be, and said guarantee shall continue to be effective or to be reinstated, as the case may be, as to such obligations, all as though such application by the Trustee, the Purchasers or any such holder had not been made. Said guarantees may be invoked directly against any Guarantor without first pursuing or exhausting such holders' or the Trustee's remedies against any of the other Guarantors or (in the case of such holders' remedies) the Trustee.

By its execution hereof and of its guaranty endorsed upon the Trust Certificates, each Guarantor consents to all the terms and conditions of the Trust Certificates and this Agreement, the Purchase Agreement and the Assignments, and hereby waives any and all rights of notice of any fact or facts or circumstance or circumstances whatsoever and any and all rights which it might otherwise have by virtue of the matters referred to in the next preceding paragraph and consents to any extension or extensions of the time of any payment or payments, or of any other act or things which the Trustee, the Purchaser or any holder of the Trust Certificates, or the Company, may agree or consent to, either expressly, by acquiescence or otherwise or which arise on account of any payment made by such Guarantor or any act or thing done by it on account of or in accordance with the aforesaid guarantees, unless and until the Trust Certificates have been fully paid and discharged, or provision shall have been made insuring to the satisfaction of the Trustee, the Purchaser and any such holder that the Trust Certificates will be so paid and discharged, and all covenants, agreements and obligations of the Company under this Agreement, the Purchase Agreement and the Assignments have been duly and punctually performed.

The aforesaid guarantees may be transferred and assigned at any time or from time to time and shall be considered to be transferred and assigned upon the transfer of the Trust Certificates, whether with or without the consent of or notice to the Guarantors or to the Company. Each Guarantor hereby agrees to execute and deliver such instruments and to do such acts and things requested by the Trustee, the Purchaser or any holder of the Trust Certificates as shall be necessary or advisable to carry out and effectuate the purposes and intents of said guarantees.

Each Guarantor further covenants and agrees that the aforesaid guarantees may be enforced against it by the Trustee, the Purchaser or any holder or holders of the Trust Certificates, without the physical productions of the Trust Certificates or this Agreement, the Purchase Agreement or any of the Assignments, in any suit so instituted for enforcement.

SECTION 7.07. *Books and Records; Inspection of Property.* The Company and each Guarantor jointly and severally covenants that it will keep accurate corporate books and financial records, and that so long as any Trust Certificate shall be outstanding, it will permit any person designated by the Trustee in writing, at the Trustee's expense, to visit and inspect the Trust Equipment, all at such reasonable times and as often as the Trustee may reasonably request.

SECTION 7.08. *Notice of Cross-Default Provisions.* The Company and each Guarantor covenants and agrees that in the event that it shall execute any lease, equipment trust agreement, indenture or other security agreement or any other secured obligation for borrowed money or instrument relating thereto (other than an Excepted Security Agreement, as defined in paragraph (g) of Section 6.01) under which the Company or such Guarantor is an obligor or guarantor, or any amendment thereto, containing a Cross-Default Provision of the type referred to in paragraph (g) of Section 6.01, it will give prompt written notice thereof to the Trustee and each holder of Trust Certificates which notice shall include a copy of the instrument in which such provision is contained.

ARTICLE EIGHT

CONCERNING THE HOLDERS OF TRUST CERTIFICATES

SECTION 8.01. *Evidence of Action Taken by Holders of Trust Certificates.* Whenever in this Agreement it is provided that the holders of a specified percentage in aggregate principal amount of the Trust Certificates may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action the holders of such specified percentage have joined therein may be evidenced by any instrument or any number of instruments of similar tenor executed by holders of Trust Certificates in person or by agent or proxy appointed in writing.

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

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

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

The Trustee may require such additional proof of any matter referred to in this Section 8.02 as it shall deem necessary.

SECTION 8.03. *Trust Certificates Owned by Company or Guarantors Deemed Not Outstanding.* In determining whether the holders of the requisite principal amount of the Trust Certificates have concurred in any direction, request or consent under this Agreement, Trust Certificates which are owned by the Company or either Guarantor or by any other obligor on the Trust Certificates or by an Affiliate of the Company or either Guarantor or any 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 Trust Certificates which the Trustee knows are so owned shall be disregarded.

SECTION 8.04. *Right of Revocation of Action Taken.* At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 8.01, of the taking of any action by the holders of the percentage in aggregate principal amount of the Trust Certificates specified in this Agreement in connection with such action, any holder of a Trust Certifi-

cate the serial number of which is shown by the evidence to be included in the Trust Certificates the holders of which have consented to such action may, by filing written notice with the Trustees at its Corporate Trust Office and upon proof of holding as provided in Section 8.02, revoke such action so far as concerns such Trust Certificate. Except as aforesaid, any such action taken by the holder of any Trust Certificate shall be conclusive and binding upon such holder and upon all future holders and owners of such Trust Certificate and of any Trust Certificate issued in exchange or substitution therefor, irrespective of whether or not any notation in regard thereto is made upon such Trust Certificate. Any action taken by the holders of the percentage in aggregate outstanding principal amount of the Trust Certificates specified in this Agreement in connection with such action shall be conclusive and binding upon the Company, the Trustee and the holders of all the Trust Certificates.

ARTICLE NINE

THE TRUSTEE

SECTION 9.01. *Acceptance of Trusts.* The Trustee hereby accepts the Trust imposed upon it by this Agreement, and agrees to perform the same as herein expressed.

SECTION 9.02. *Duties and Responsibilities of the Trustee; During Default; Prior to Default.* In case an Event of Default has occurred (which has not been cured), the Trustee shall exercise such of the rights and powers vested in it by this Agreement, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

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

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

(1) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Agreement, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in

this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Trustee; and

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

(b) the Trustee shall not be liable for any error of judgment made in good faith 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 Trust Certificates 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 Agreement.

None of the provisions contained in this Agreement shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if there is reasonable ground for believing that the repayment of such funds or of adequate indemnity against such risk or liability is not reasonably assured to it.

SECTION 9.03. *Certain Rights of the Trustee.* Except as otherwise provided in Section 9.02:

(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, trust certificate, guaranty or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(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; and

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

SECTION 9.04. *Application of Rentals; Responsibility of Trustee to Insure or Record.* The Trustee covenants and agrees to apply the rentals received by it under Section 5.05 when and as the same shall be received, and to the extent that such rentals shall be sufficient therefor, for the purposes specified in said Section 5.05.

Except as otherwise provided in Section 9.02, 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 Agreement until fully indemnified by the Company or by one or more of the holders of the Trust Certificates against all liability and expense; and, except as aforesaid, the Trustee shall not be responsible for the filing or recording or refiling or re-recording of this Agreement or of any supplement hereto or statement of new numbers.

SECTION 9.05. *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 may allow interest upon any such monies held by it in trust at the rate generally prevailing among banks and trust companies in the locality of the Trustee's Corporate Trust Office 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 in Investment

Securities, 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 Trust Certificates.

The Trustee shall, on Request, or the Trustee may, in the event funds are required for payment against delivery of Trust Equipment, or for the prepayment in full or in part of Trust Certificates, sell such Investment Securities, or any portion thereof, and restore to Deposited Cash the proceeds of any such sale up to the amount paid for such Investment Securities, including premium and accrued interest.

The Trustee shall restore to Deposited Cash rent received by it for that purpose under the provisions of Section 5.05(a)(2).

The Company, if not in default under the terms hereof, shall be entitled to receive any interest allowed as provided in the first paragraph of this Section 9.05, or any interest paid by any bank or bankers on deposits to the credit of the Trustee with such bank or bankers pursuant to Section 2.01, and any interest (in excess of accrued interest 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 9.06. Trustee Not Liable for Delivery Delays or Defects in Equipment or Title; May Perform Duties by Agents; Reimbursement of Expenses; Holding of Trust Certificates; Monies Held in Trust. Except as otherwise provided in Section 9.02, the Trustee shall not be liable to anyone for any delay in the delivery of any of the Trust Equipment, or for any default on the part of the manufacturers or owners thereof or of the Company, or for any defect in any of the Trust Equipment or in the title thereto, nor shall anything herein be construed as a warranty on the part of the Trustee in respect thereof or as a representation on the part of the Trustee in respect of the value thereof or in respect of the title thereto.

Except as otherwise provided in Section 9.02, 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 willful defaults, and not for the default or misconduct of any attorney, agent or servant appointed by it with reasonable care. The Trustee shall not be responsible in any way for the recitals herein contained or for the execution or validity of this Agreement or of the Trust Certificates (except for its own execution thereof).

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 or fiduciary capacity may own, hold and dispose of Trust Certificates with the same rights which it would have if it were not Trustee.

Any monies 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 Trust Certificates.

SECTION 9.07. *Persons Eligible for Appointment as Trustee.* There shall at all times be a Trustee hereunder which shall be either Girard Trust Bank or a corporation organized and doing business under the laws of the United States of America or of the State of Illinois, the State of Pennsylvania or of the State of New York, having its principal office and place of business in the City of Chicago or Philadelphia or New York, and 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 9.07, 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 9.07, the Trustee shall resign immediately in the manner and with the effect specified in Section 9.08.

SECTION 9.08. *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 Trust Certificates 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 Trust Certificate may, 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 9.07 and shall fail to resign after written request therefor by the Company or by any such holder of a Trust Certificate, or

(2) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or be declared 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, any holder of a Trust Certificate 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 $66\frac{2}{3}\%$ in aggregate principal amount of the Trust Certificates 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 8.01 of the action taken by the holders of the Trust Certificates.

(d) Any resignation or removal of the Trustee and any appointment of a successor trustee pursuant to any of the provisions of this Section 9.08 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 9.09.

SECTION 9.09. *Acceptance of Appointment by Successor Trustee.* Any successor trustee appointed as provided in Section 9.08 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 9.06.

No successor trustee shall accept appointment as provided in this Section 9.09 unless at the time of such acceptance such successor trustee shall be eligible under the provisions of Section 9.07.

Upon acceptance of appointment by a successor trustee as provided in this Section 9.09, the Company shall mail notice of the succession of such trustee hereunder to the holders of Trust Certificates at their last addresses appearing upon 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 9.10. *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 9.07, without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

ARTICLE TEN

MISCELLANEOUS

SECTION 10.01. *Rights Confined to Parties and Holders.* Nothing expressed or implied herein is intended or shall be construed to confer upon or to give to any person, firm or corporation, other than the parties hereto and the holders of the Trust Certificates, any right, remedy or claim under or by reason of this Agreement or of any term, covenant or condition hereof, and all the terms, covenants, conditions, promises and agreements contained herein shall be for the sole and exclusive benefit of the parties hereto and their successors and of the holders of the Trust Certificates.

SECTION 10.02. *No Recourse.* No recourse under any obligation, covenant or agreement of this Agreement shall be had against any stockholder, officer or director of the Company or either Guarantor, 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 Agreement 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 or either Guarantor, as such, or any of them, under or by reason of the obligations, covenants or agreements contained in this Agreement, or implied therefrom, and that any and all personal liability, either at common law or in equity, or by statute or constitution, of every such stockholder, officer or director is hereby expressly waived as a condition of and consideration for the execution of this Agreement.

SECTION 10.03. *Officer's 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 Agreement (other than the issuance of Trust Certificates), the Company shall furnish to the Trustee an Officer's Certificate stating that all conditions precedent provided for in this Agreement 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 Agreement and delivered to the Trustee with respect to compliance with a condition or covenant provided for in this Agreement shall, to the extent required by the Trustee, 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 contained 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 in the opinion of such person, such condition or covenant has been complied with.

SECTION 10.04. *Binding Upon Assigns.* Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 10.05. *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 to (a) in the case of the Company or either Guarantor, 2200 East Devon Avenue, Des Plaines, Illinois 60018, Attention: Assistant Treasurer, or such other address as may hereafter be furnished to the Trustee in writing by the Company or such Guarantor, as the case may be, (b) in the case of the Trustee, Four Girard Trust Plaza, Philadelphia, Pennsylvania 19101, Attention: Corporate Trust Department, or such other address as may hereafter be furnished to the Company in writing by Trustee, and (c) in the case of the holders of Trust Certificates, to the respective addresses of such holders on the register books of 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 10.06. *Effect of Headings.* The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 10.07. *Counterparts.* This Agreement has been 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 10.08. *Date Executed.* This Agreement shall be deemed to have been executed on the date of the acknowledgment thereof by the officer of the Trustee who signed it on behalf of the Trustee.

SECTION 10.09. *Governing Law.* The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of Illinois.

SECTION 10.10. *No Changes Without Consent of Holders of Trust Certificates.* No change shall be made in this Agreement or the Assignments or in the Trust Certificates without the written consent of 66 $\frac{2}{3}$ % in aggregate principal amount of the Trust Certificates outstanding, except that without the written consent of the holder or holders of all Trust Certificates at the time outstanding, no amendment to or modification of this Agreement or the Assignments or the Trust Certificates shall (i) reduce the amount or extend the time for payment of any amount owing or payable under any Trust Certificate, whether as to principal or interest, (ii) reduce, modify or amend any indemnities in favor of the Trustee or any holder of Trust Certificates, (iii) modify or amend this Section 10.10 or Section 5.05 or 7.06 or Article VI, or (iv) permit the creation of any lien upon the Trust Equipment or, except as herein expressly permitted, deprive the holder of any Trust Certificate of the benefits of this Agreement. Amendments or modifications pursuant to this Section 10.10 may be made for any purpose, including, without limitation, the addition of provisions to this Agreement for the issuance of additional series of Trust Certificates hereunder.

SECTION 10.11. *Separability Clause.* Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

IN WITNESS WHEREOF, the Company, the Guarantors 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 above first written.

ATTEST:

GIRARD TRUST BANK


[Signature]
ASST. SECRETARY.
(CORPORATE SEAL)

By *[Signature]*
Corporate Trust Officer

ATTEST:

UNITED STATES RAILWAY
LEASING COMPANY


[Signature]
Assistant Secretary
(CORPORATE SEAL)

By *[Signature]*
Vice President

ATTEST:

EVANS TRANSPORTATION COMPANY


[Signature]
Assistant Secretary
(CORPORATE SEAL)

By *[Signature]*
Vice President

ATTEST:

UNITED STATES RAILWAY
EQUIPMENT Co.


[Signature]
Assistant Secretary
(CORPORATE SEAL)

By *[Signature]*
Vice President

STATE OF PENNSYLVANIA }
COUNTY OF PHILADELPHIA } ss.:

On this 25th day of April, 1977, before me personally appeared O. H. KELLER Jr. and C. N. ROMYEN to me personally known, who being by me duly sworn, say that they are, respectively, CORPORATE TRUST OFFICER and ASST. SECRETARY of GIRARD TRUST BANK, a Pennsylvania banking corporation, that the seal 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 they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(NOTARIAL SEAL)

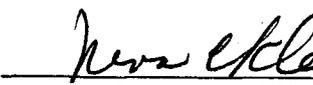

Notary Public
DONALD T. VEST, NOTARY-PUBLIC
PHILADELPHIA, PHILADELPHIA COUNTY
MY COMMISSION EXPIRES MAY 12 1979
Member, Pennsylvania Association of Notaries

My commission expires:

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this 3rd day of May, 1977, before me personally appeared C. N. Solomonsen and Laurence P. Prange to me personally known, who being by me duly sworn, say that they are, respectively, a Vice President and Asst. Secretary of UNITED STATES RAILWAY LEASING COMPANY, an Illinois corporation, that the seal 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 they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(NOTARIAL SEAL)


Notary Public

My commission expires:



STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this *3rd* day of *May*, 1977, before me personally appeared *L. L. Solomonson* and *Laurence P. Prange*, to me personally known, who being by me duly sworn, say that they are, respectively, a *Vice Pres.* and *Asst. Secretary* of EVANS TRANSPORTATION COMPANY, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that the said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(NOTARIAL SEAL)

Neva Klein

Notary Public

My commission expires: *9/22/78*

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this *3rd* day of *May*, 1977, before me personally appeared *L. L. Solomonson* and *Laurence P. Prange*, to me personally known, who being by me duly sworn, say that they are, respectively, a *Vice Pres.* and *Asst. Secretary* of UNITED STATES RAILWAY EQUIPMENT Co., that the seal affixed to the forgoing 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 they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(NOTARIAL SEAL)

Neva Klein

Notary Public

My commission expires: *9/22/78*



DESCRIPTION OF TRUST EQUIPMENT

<u>Quantity and Description of Cars</u>	<u>Initial and Car Nos.</u>	<u>Initial Lease Term</u>
Two Hundred Fifty (250) 52' 5", 70-ton Insulated Box Cars, equipped with 16' door opening (two 8' plug doors) and 20" cushion underframe	BCIT 800400-800649, both inclusive	Five years
One Hundred Forty-Eight (148) 52' 5", 70-ton Insulated Box Cars, equipped with 16' door opening (two 8' plug doors) and 20" cushion underframe	BCIT 800200-800349, both inclusive, except BCIT 800251 and BCIT 800325	Five years

EXHIBIT A

EXISTING LEASES

<u>No. of Cars</u>	<u>Name of Lessee</u>	<u>Date of Lease</u>	<u>Initial Lease Term</u>	<u>ICC Recordation No. and Date of Recordation</u>
250	British Columbia Railway Co.	July 16, 1973	Five years	7261 December 6, 1973
148	British Columbia Railway Co.	July 16, 1973	Five years	7262 December 7, 1973

EXHIBIT B

EXHIBIT C

ASSIGNMENT

ASSIGNMENT, dated as of _____, by and between GIRARD TRUST BANK, a Pennsylvania banking corporation, acting as Trustee (hereinafter called the "Trustee") under the Equipment Trust Agreement hereinafter referred to, and UNITED STATES RAILWAY LEASING COMPANY, an Illinois corporation (hereinafter called the "Company").

WHEREAS, the Company has agreed to cause to be sold, transferred and delivered to the Trustee the Cars hereinafter referred to pursuant to said Equipment Trust Agreement dated as of March 1, 1977 (hereinafter called the "Trust Agreement") among the Trustee, the Company, Evans Transportation Company (hereinafter called "Manufacturing") and U.S. Railway Equipment Co. (hereinafter called "Railway"); and

WHEREAS, the Company and _____ (hereinafter, together with its successors and assigns as lessee under the Lease referred to below, called the "Lessee") have entered into a lease, dated _____ (hereinafter called the "Lease"), providing for the leasing by the Company to the Lessee of, in the aggregate, the _____ units of railroad equipment (hereinafter called the "Cars") described in the Lease, which Lease has been filed and recorded with the Interstate Commerce Commission and bears Recordation Number _____, and executed counterparts of which Lease are being delivered to the Trustee concurrently herewith; and

WHEREAS, the Company has agreed to assign all of its right, title and interest in and to the Lease to the Trustee, as set forth in the Trust Agreement, to secure the payment and performance by the Company, Manufacturing and Railway of their respective obligations under the guaranties endorsed or to be endorsed on the Trust Certificates (which term is used herein as defined in the Trust Agreement) and their respective obligations under the Trust Agreement (all such obligations being hereinafter called the "Liabilities");

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

Subject to the rights of Lessee under the Lease, the Company hereby assigns, transfers and sets over unto the Trustee as security for the payment and performance of the Liabilities and all renewals,

extensions and replacements thereof (i) all of the Company's right, title and interest as lessor in, to and under the Lease together with all rights, powers, privileges, and other benefits of the Company as lessor under the Lease in respect of the Cars, including but not limited to the Company's right to receive and collect all rentals, liquidated damages, proceeds of sale (including, without limitation, the proceeds from any sale to the Lessee under the Lease upon the exercise of any purchase option by the Lessee) and other payments now or hereafter to become payable to or receivable by the Company under or pursuant to the provisions of the Lease and, in addition, (ii) all the Company's right to receive and collect all per diem mileage or other payments now or hereafter to become payable to the Company in respect of the Cars, whether under or pursuant to the provisions of the Lease or otherwise, including without limitation the proceeds of all insurance maintained with respect to the Cars; *provided, however*, that until an Event of Default under the Trust Agreement, or any event which with notice or lapse of time or both, could constitute such an Event of Default, shall occur, it is understood that the Company shall be entitled for the benefit of the Trustee to give all notices and to take all action upon the happening of an event of default specified in the Lease provided that the Trustee is first advised of such action proposed to be taken. In furtherance of the foregoing assignment, the Company hereby irrevocably authorizes and empowers the Trustee in its own name, or in the name of its nominee, or in the name of the Company or as its attorney, to ask, demand, sue for, collect and receive any and all sums to which the Company is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof.

Until such time as, to the actual knowledge of the Trustee, (obtained at its Corporate Trust Office as that term is defined in the Trust Agreement), there shall have happened an Event of Default (as defined in the Trust Agreement), or an event which with notice or lapse of time, or both, would constitute such an Event of Default, the Company shall be entitled to receive all rentals, profits and other sums payable to or receivable by the Company under or pursuant to the provisions of the Lease. The Company covenants and agrees that upon its obtaining knowledge of any such default, Event of Default or event, it will forthwith give written notice thereof to the Trustee.

The Company covenants, represents and warrants that (a) it has not heretofore made and agrees that it will not hereafter make in respect

of the Cars any other assignment of the Lease or the rentals or the payments payable to or receivable by the Company under the Lease and the Lease is and will continue to be free and clear of any and all claims, liens, agreements, security interests or other encumbrances (except this Assignment and except to the extent the Company is contesting the validity of the same by appropriate proceedings diligently prosecuted), (b) the execution and delivery by the Company of the Lease and this Assignment have been duly authorized, and the Lease and this Assignment are and will remain the valid and binding obligations of the Company in accordance with their terms, and (c) to the knowledge of the Company, it and the Lessee under the Lease have performed all obligations on their respective parts to be performed by them under the Lease on or prior to the date hereof. The Company will cause notice of this Assignment forthwith to be given to the Lessee under the Lease (together with a copy of this Assignment), and represents and warrants that it will, from time to time, at the request of the Trustee, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as the Trustee may reasonably request to give effect to the provisions hereof and to confirm the right, title and interest hereby assigned and transferred to the Trustee or intended so to be.

It is expressly agreed that the rights hereby assigned to the Trustee are subject to the rights of the Lessee under the Lease, and that the Trustee, so long as any such Lessee is not in default under the Lease, shall not interfere with the rights of peaceful and undisturbed possession of the Lessee in and to any of the Cars in accordance with the terms of the Lease.

The Company covenants and agrees (i) that without the prior written consent of the Trustee and the holders of all of the Trust Certificates, it will not terminate the Lease, or modify, amend, substitute or replace the Lease in any manner which would reduce the rentals payable thereunder or shorten the term thereof, or which would otherwise reduce or release the Lessee from any of the Lessee's obligations thereunder, or impose additional obligations upon the lessor thereunder, in any manner which might adversely affect the rights of the Trustee hereunder or under the Trust Agreement or adversely affect the rights of the holders of the Trust Certificates, (ii) that it will promptly furnish to the Trustee copies of all modifications or amendments of the Lease, (iii) that it will not settle or compromise or release any claim

against the Lessee under the Lease arising under such Lease or submit or consent to the submission of any dispute, difference or other matter arising under or in respect of the Lease or the foregoing assignment to arbitration thereunder, and (iv) that it will not take or omit to take any action, the taking or omission of which might result in an alteration or impairment of the Lease or the foregoing assignment by it made or of any of the rights created by the Lease or said assignment.

In addition to, and without in any way limiting, the powers conferred upon the Trustee by Sections 6.01 and 6.02 of the Trust Agreement, the Trustee may upon the happening of an Event of Default (as defined in the Trust Agreement), or, in the case of clause (i) below, an event which with notice or lapse of time, or both, would constitute such an Event of Default, and not otherwise, in the Trustee's own name or in the name of the Trustee's nominee, or in the name of the Company or as the Company's attorney, (i) ask, demand, sue for, collect and receive any and all rentals or per diem mileage or other payments to which the Company is or may become entitled in respect of the Cars and (ii) enforce compliance by the Lessee under the Lease with all the terms and provisions thereof and make all waivers and agreements, give all notices, consents and releases, take all action upon the happening of any default or event of default specified in the Lease, and do any and all other things whatsoever which the Company, as lessor, is or may become entitled to do under the Lease.

The assignment made by this instrument is made only as security and, therefore shall not subject the Trustee to, or transfer, or pass or in any way affect or modify, the liability of the Company under the Lease or otherwise, it being understood that, notwithstanding any assignment, any obligations of the Company under the Lease or otherwise shall be and remain enforceable against and only against the Company. The Company covenants and agrees that notwithstanding this Assignment, it will perform and comply with each and all of the covenants and conditions in the Lease set forth to be complied with by the Company.

Upon the full discharge and satisfaction of all Liabilities, the assignment made pursuant to this Assignment shall terminate and all right, title and interest of the Trustee as assignee hereunder in and to the Lease or any payments in respect of the Cars shall revert to the Company.

The Trustee may assign all or any of its rights under the Lease, including the right to receive any payments due or to become due to it from the Lessee. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Trustee hereunder.

Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

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 to (a) in the case of the Company,

2200 East Devon Avenue,
Des Plaines, Illinois 60018.

Attention: Assistant Treasurer,

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,

Four Girard Plaza
Philadelphia, Pennsylvania 19101

Attention: Corporate Trust Department,

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.

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

This Agreement shall be deemed to have been executed on the date of the acknowledgment by the officer of the Trustee who signed it on behalf of the Trustee.

The provisions of this Agreement and all rights and obligations of the parties hereunder shall be governed by the laws of the State of Illinois.

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.

GIRARD TRUST BANK

By _____
Corporate Trust Officer

ATTEST:

(CORPORATE SEAL)

UNITED STATES RAILWAY LEASING
COMPANY

By _____
Vice President

ATTEST:

Assistant Secretary

(CORPORATE SEAL)

