

RECORDATION NO. 11879-^F Filed 1425

JUN 9 1980

STEPTOE & JOHNSON

INTERSTATE COMMERCE COMMISSION 1250 CONNECTICUT AVENUE
WASHINGTON, D. C. 20036

CHERYL A. SKIGIN
(202) 862-2053

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INTERSTATE COMMERCE COMMISSION

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INTERSTATE COMMERCE COMMISSION

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RECEIVED

INTERSTATE COMMERCE COMMISSION

Ms. Agatha Mergenovich, Secretary
Interstate Commerce Commission
Room 2215 - Office of the Secretary
Washington, DC 20423

No. 0-161A104

Date JUN 9 1980

Fee \$ 270.00

ICC Washington, D. C.

Dear Ms. Mergenovich:

Enclosed for filing and recordation pursuant to the provisions of 49 U.S.C. § 11303 are several copies of the following documents:

1. Lease Agreement dated as of January 16, 1980, between Brae Corporation and The Iowa Terminal Railroad; ^A
2. Lease Agreement dated as of July 13, 1979 between Brae Corporation and Columbia & Cowlitz Railway Company; ^C
3. Lease Agreement dated as of March 8, 1978 between Brae Corporation and Port of Tillamook Bay Railroad; ^F
4. Amendment Agreement No. 1 (to the Lease Agreement dated as of March 8, 1978) between Brae Corporation and Port of Tillamook Bay Railroad dated March 31, 1980; ^H
5. Supplement No. 2 (to the Lease Agreement dated as of July 13, 1979) between Brae Corporation and Columbia & Cowlitz Railway Company dated as of June 2, 1980; ^E
6. Assignment of Lease and Agreement dated as of June 9, 1980 between Brae Corporation and The Connecticut Bank and Trust Company of the Lease Agreement dated as of March 8, 1978 between Brae Corporation and Port of Tillamook Bay Railroad; ^B
7. Assignment of Lease and Agreement dated as of June 9, 1980 between Brae Corporation and The Connecticut Bank and Trust Company of the Lease Agreement dated as of January 16, 1980, between Brae Corporation and The Iowa Terminal Railroad; ^R

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RECORDATION NO. 11879-^E Filed 1425
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RECORDATION NO. 11879-^B Filed 1425
JUN 9 1980 45 PM

RECORDATION NO. 11879-^R Filed 1425
1980 45 PM

Cheryl A. Skigin

June 9, 1980

8. Assignment of Lease and Agreement dated as of June 9, 1980 between Brae Corporation and The Connecticut Bank and Trust Company of the Lease Agreement dated as of July 13, 1979 between Brae Corporation and Columbia & Cowlitz Railway Company; and,
9. The Equipment Trust Agreement dated as of May 1, 1980 between Brae Corporation and The Connecticut Bank and Trust Company; and,

Please file and record the documents previously enumerated under the names of the parties set forth below.

The equipment which is subject to these agreements is described in Schedule A attached hereto.

The names and addresses of the parties to the transactions evidenced by the foregoing documents are as follows:

- ✓ 1. Lessor: Brae Corporation
Three Embarcadero Center
San Francisco, CA 94111
- Lessee: The Iowa Terminal Railroad
Post Office Box 450
Mason City, IA
- ✓ 2. Lessor: Brae Corporation
Three Embarcadero Center
San Francisco, CA 94111
- Lessee: Columbia & Cowlitz Railway
Company
Post Office Box 288
Longview, WA 98632
- ✓ 3. Lessor: Brae Corporation
Three Embarcadero Center
San Francisco, CA 94111
- Lessee: Port of Tillamook Bay Rail-
road
Tillamook, OR 97141
- ✓ 4. Lessor: Brae Corporation
Three Embarcadero Center
San Francisco, CA 94111
- Lessee: Port of Tillamook Bay Rail-
road
Tillamook, OR 97141
- ✓ 5. Lessor: Brae Corporation
Three Embarcadero Center
San Francisco, CA 94111
- Lessee: Columbia & Cowlitz Railway
Company
Post Office Box 188
Longview, WA 98632

- ✓6. Assignor/Lessor: Brae Corporation
Three Embarcadero Center
San Francisco, CA 94111
- Trustee: The Connecticut Bank and
Trust Company
One Constitution Plaza
Hartford, CT
- Assignee: Port of Tillamook Bay Rail-
road
Tillamook, OR 97141
- ✓7. Assignor/Lessor: Brae Corporation
Three Embarcadero Center
San Francisco, CA 94111
- Trustee: The Connecticut Bank and
Trust Company
One Constitution Plaza
Hartford, CT
- Assignee: The Iowa Terminal Railroad
Company
Post Office Box 450
Mason City, IA
- ✓8. Assignor/Lessor: Brae Corporation
Three Embarcadero Center
San Francisco, CA 94111
- Trustee: The Connecticut Bank and
Trust Company
One Constitution Plaza
Hartford, CT
- Assignee: Columbia & Cowlitz Railroad
Company
Post Office Box 450
Mason City, IA
9. Lessee/Guarantor: Brae Corporation
Three Embarcadero Center
San Francisco, CA 94111
- Trustee/Lessor: The Connecticut Bank and
Trust Company
One Constitution Plaza
Hartford, CT

Additionally, it is requested that documents numbered one through five be cross-indexed under the name of the Trustee, The Connecticut Bank and Trust Company. Check numbered 12384 from Heller, Ehrman, White & McAuliffe in the amount of \$120.00 and check numbered 44345 from Steptoe & Johnson in the amount of \$150.00 are enclosed to cover the filing fee (\$220.00) and cross-indexing fee (\$50.00).

[to ICC transmittal letter]

SCHEDULE A

SCHEDULE OF RAILCARS

<u>No. of Units</u>	<u>Description</u>	<u>AAR Designation</u>	<u>Identification Numbers (both inclusive)</u>	<u>Lessee</u>	<u>Date of Lease</u>	<u>Term of Lease</u>
75	50'6" 70-Ton Boxcars	XM	POTB 151 through POTB 225	Port of Tillamook Bay Railroad	March 8, 1978 Amend- ment Agree- ment No. 1 dated as of March 31, 1980	15 years
25	50'6" 70-Ton Boxcars	XM	IAT 1000 through IAT 1024	Iowa Terminal Railroad	January 16, 1980	15 years
50	100-Ton Wood- chip Cars	GTS	CLC 5001 through CLC 5050	Columbia & Cowlitz Railway Company	July 13, 1979	15 years

Interstate Commerce Commission
Washington, D.C. 20423

6/9/80

OFFICE OF THE SECRETARY

Cheryl A. Skigin
Steptoe & Johnson
1250 Conn. Ave.
Washington, D.C. 20036

Dear **Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **6/9/80** at **11:45am**, and assigned re-
recording number(s). **11879, 11879-A, 11879-B, 11879-C, 11879-D**

11879-E

11879-F

11879-G

11879-H

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

11879 ✓

RECORDATION NO. _____ Filed 1425

JUN 9 1980 - 11 45 AM

INTERSTATE COMMERCE COMMISSION

BRAE
CORPORATION

EQUIPMENT TRUST

- Second 1980 Series

EQUIPMENT TRUST AGREEMENT

between

THE CONNECTICUT BANK AND TRUST COMPANY,

Trustee,

and

BRAE CORPORATION

Dated as of May 1, 1980

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EQUIPMENT TRUST AGREEMENT dated as of May 1, 1980, between THE CONNECTICUT BANK AND TRUST COMPANY, a corporation organized under the laws of the State of Connecticut (the "Trustee"), and BRAE CORPORATION, a Delaware corporation (the "Company").

WHEREAS the Company has agreed to cause to be sold, transferred and delivered to the Trustee the railroad equipment described in Schedule A hereto;

WHEREAS title to such railroad equipment is to be vested in and is to be retained by the Trustee and such railroad equipment is to be leased to the Company hereunder;

WHEREAS BRAE Corporation 13% Equipment Trust Certificates, Second 1980 Series (hereinafter, together with the guarantee of the Company endorsed thereon, called the "Trust Certificates", such term to include the singular as well as the plural number), are to be issued and sold from time to time in an aggregate principal amount not exceeding \$16,500,000, and the proceeds of such sale are to be held in trust by the Trustee and are to constitute a fund to be known as BRAE Corporation Equipment Trust, Second 1980 Series, to be applied by the Trustee as provided herein;

WHEREAS the Company has agreed to give and assign to the Trustee, as security for the obligations of the Company hereunder, a security interest in all the Company's right, title and interest in and to the leases described in Schedule A hereto and any and all leases hereinafter entered into with respect to the Trust Equipment (as hereinafter defined), to the extent that such right, title and interest relate to Trust Equipment, including all rents, moneys and proceeds due or to become due with respect to the Trust Equipment under such leases;

WHEREAS the Company is entering into this Agreement and endorsing its guarantee on the Trust Certificates as an inducement to the purchase of the Trust Certificates by the purchasers thereof; and

WHEREAS the text of the Trust Certificates and the guarantee to be endorsed on the Trust Certificates by the Company, are to be substantially in the following forms, respectively:

[Form of Trust Certificate]

\$ _____

NO. _____

BRAE CORPORATION

13% Equipment Trust Certificate
Second 1980 SeriesTHE CONNECTICUT BANK AND TRUST COMPANY,
Trustee,

THE CONNECTICUT BANK AND TRUST COMPANY, as Trustee (the "Trustee"), under an Equipment Trust Agreement (the "Agreement") dated as of May 1, 1980, between the Trustee and BRAE Corporation, a Delaware corporation (the "Company"), certifies that

or registered assigns is entitled to an interest of
Dollars in BRAE Corporation
Equipment Trust, Second 1980 Series, payable on or before September 1, 1995, in installments as hereinafter provided, and to interest from the date hereof on the amount of unpaid principal from time to time due and owing pursuant to this Trust Certificate, payable as hereinafter provided, at the rate of 13% per annum from the date hereof until such principal amount becomes due and payable, with interest on any overdue principal and, to the extent legally enforceable, on any overdue interest, at the rate of 14% per annum. Interest shall be computed hereunder on the basis of a 360-day year of twelve 30-day months.

Payments of principal and interest shall be made by the Trustee to the registered holder hereof at the office of CBT Clearing Corporation designated in or pursuant to Section 2.02 of the Agreement 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. Subject to Section 6.01 of the Agreement, each of such payments shall be made 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 only shall be paid hereon on September 1, 1980. Subject to the next preceding sentence, the original principal amount of this Trust Certificate and interest thereon shall be due and payable in 60 consecutive quarterly combined level installments of principal and interest, each such installment in an amount equal to 3.808993%

(except to the extent prepayments are applied as provided in the Agreement to the prepayment of installments) of the original principal amount hereof, on March 1, June 1, September 1 and December 1 in each year, commencing December 1, 1980, and ending September 1, 1995, both inclusive (the final installment being in any event in an amount equal to the remaining principal amount owing on this Trust Certificate and all accrued and unpaid interest thereon). This Trust Certificate is subject to prepayment in whole or in part, in all cases without a premium, as specified in the Agreement.

This Trust Certificate is one of an authorized issue of Trust Certificates, in an aggregate principal amount not exceeding \$16,500,000 issued or to be issued under the Agreement, under which certain railroad equipment leased to the Company (or cash or obligations of the character referred to in clauses (ii)(a), (b), (c) and (d) of the definition of "Restricted Investments" contained in the Agreement in lieu thereof, as provided in the Agreement) is held by the Trustee in trust for the equal and ratable benefit of the holders of the outstanding Trust Certificates issued thereunder. Reference is made to the Agreement (a copy of which is on file with the Trustee at its office at One Constitution Plaza, Hartford, Connecticut 06115 (the "Corporate Trust 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 at least \$25,000 or any integral multiple of \$1,000 greater than \$25,000. The several denominations of Trust Certificates are interchangeable upon presentation thereof for such purpose at the Corporate Trust Office, but only in the manner, subject to the limitations, and upon payment of the charges as provided in the Agreement.

The transfer of this Trust Certificate is registrable in whole or in part by the registered holder hereof in person or by duly authorized attorney on the books of the Trustee upon surrender to the Trustee at the Corporate Trust 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 for the then unpaid aggregate principal amount hereof and carrying the same right to interest 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 balance thereof will be issued to the transferor. Prior to the due presentment for registration of transfer, the Trustee and the Company 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 notice to the contrary.

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

The provisions of this Trust Certificate, and all the rights and obligations of the Trustee, the Company, and the holder hereof, shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the Trustee has caused this Trust Certificate to be signed by one of its duly authorized officers, by his signature or a facsimile thereof, and its corporate seal or a facsimile thereof to be hereunto affixed or herein imprinted and to be attested by one of its duly authorized officers by his signature.

Dated:

THE CONNECTICUT BANK AND TRUST
COMPANY, as Trustee,

By _____
Title:

[Corporate Seal]

Attest:

Title:

GUARANTEE

BRAE Corporation, a Delaware corporation, for a valuable consideration, hereby unconditionally guarantees to the registered holder of the within Certificate the prompt payment when due of the principal of said Certificate, and

of the interest thereon specified in said Certificate, with interest on any overdue principal and, to the extent legally enforceable, on any overdue interest, at the rate of 14% per annum, all in accordance with the terms of said Certificate and the Equipment Trust Agreement referred to therein.

BRAE CORPORATION

By _____
Vice President

[Corporate Seal]

Attest:

Title:

NOTATION OF PREPAYMENTS*

By reason of payments having heretofore been applied to pay or prepay installments, the within Certificate in the principal amount of \$ _____ and interest thereon were, as of _____, 19____, payable in _____ consecutive quarterly combined level installments, each such installment in the amount of \$ _____, on March 1, June 1, September 1 and December 1, in each of the years 19____, through 1995, commencing _____, 19____, and payable by a final such installment of \$ _____ on September 1, 1995 (the final installment being in any event in an amount equal to the remaining principal amount owing on the within Certificate and all accrued and unpaid interest thereon).

THE CONNECTICUT BANK AND TRUST
COMPANY, as Trustee

By _____
Title:

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

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto [please insert Social Security or other identifying number of Assignee] _____

the within BRAE Corporation 13% Equipment Trust Certificate, Second 1980 Series, and does hereby irrevocably constitute and appoint _____ attorney to transfer said Certificate on the books of the within-named Trustee, with full power of substitution in the premises.

Dated _____

PAYMENTS ON ACCOUNT OF PRINCIPAL

<u>Amount of Principal Paid</u>	<u>Installment Maturity</u>	<u>Amount of Prepayment</u>	<u>Authorized Signature of Trustee</u>	<u>Date</u>
---	---------------------------------	---------------------------------	--	-------------

WHEREAS it is desired to secure to the holders of the Trust Certificates the payment of the principal thereof, as hereinafter more particularly provided, with interest thereon, as hereinafter provided, payable quarterly 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

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 designated Person means any Person which, directly or indirectly, controls or is controlled by or is under common control with such designated Person and, without limiting the generality of the foregoing, includes (i) any Person which beneficially owns or holds 5% or more of any class of voting securities of such designated Person or 5% or more of the equity interest in such designated Person and (ii) any Person of which such designated Person beneficially owns or holds 5% or more of any class of voting securities or in which such designated Person beneficially owns or holds 5% or more of the equity interest. For the purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

Capitalized Lease shall mean any lease of real or personal property under which the Company or any Restricted Subsidiary is the lessee which, in accordance with Generally Accepted Accounting Principles as in effect at May 1, 1980, should be capitalized on the lessee's balance sheet or for which the amount of the asset and liability thereunder as if so capitalized should be disclosed in a note to such a balance sheet (excluding leases between the Company and any

Restricted Subsidiary or between Restricted Subsidiaries, and leases of office space, automobiles or data processing and office equipment).

Capitalized Lease Rentals shall mean, with respect to all Capitalized Leases of any lessee, the aggregate amount of the obligations of such lessee thereunder which would, in accordance with Generally Accepted Accounting Principles as in effect at May 1, 1980, appear on a balance sheet of such lessee (or in a note to such a balance sheet) in respect of such Capitalized Leases.

Company shall mean BRAE Corporation, a Delaware corporation, or a successor to it permitted by Section 6.05(g)(iv) hereof.

Consolidated Borrowing Base shall mean the sum of (a) Consolidated Shareholders' Equity and (b) Subordinated Funded Debt.

Consolidated Current Debt shall mean the aggregate of Current Debt of the Company and its Restricted Subsidiaries, determined on a consolidated basis after eliminating all intercompany items and all other items which should be eliminated in accordance with Generally Accepted Accounting Principles.

Consolidated Earnings Available for Interest Coverage shall mean, as of the time of any determination thereof, the sum of (a) Consolidated Net Earnings, (b) all taxes based on income included as expenses in computing Consolidated Net Earnings, and (c) Consolidated Interest Expense, in each case for the 12 months' period next preceding the termination of the most recent fiscal quarter of the Company prior to the date of determination.

Consolidated Funded Debt shall mean the aggregate of Funded Debt of the Company and its Restricted Subsidiaries, determined on a consolidated basis after eliminating all intercompany items and all other items which should be eliminated in accordance with Generally Accepted Accounting Principles.

Consolidated Interest Expense shall mean, as of the time of any determination thereof, the sum of (a) the aggregate interest charges (including amortization of Debt discount) paid or accrued on all Consolidated Funded Debt and all secured Current Debt (except Capitalized Leases) and (b) one-third of the aggregate rentals paid or accrued by

the Company and its Restricted Subsidiaries with respect to all leases of real or personal property (including aggregate rentals paid or accrued with respect to Capitalized Leases), in each case for the 12 months' period next preceding the termination of the most recent fiscal quarter of the Company prior to the date of determination.

Consolidated Net Earnings shall have the meaning assigned to it in Section 6.05(b) hereof.

Consolidated Senior Debt shall mean the aggregate Debt of the Company and its Restricted Subsidiaries except Subordinated Funded Debt, determined on a consolidated basis after eliminating all intercompany items and all other items which should be eliminated in accordance with Generally Accepted Accounting Principles.

Consolidated Senior Funded Debt shall mean the aggregate of Senior Funded Debt of the Company and its Restricted Subsidiaries, determined on a consolidated basis after eliminating all intercompany items and all other items which should be eliminated in accordance with Generally Accepted Accounting Principles.

Consolidated Shareholders' Equity shall mean the sum of (i) the par value (or value stated on the books of the Company) of the issued capital stock of all classes of the Company, plus (or minus in the case of a surplus deficit) (ii) the amount of the consolidated surplus, whether capital or earned, of the Company and its Restricted Subsidiaries, less the aggregate amount of all Restricted Investments.

Consolidated Tangible Net Worth shall mean the gross book value of the assets of the Company and its Restricted Subsidiaries, including leased property to which Capitalized Lease Rentals are applicable, but excluding intangible assets, unamortized Debt discount and expense, goodwill, patents, trademarks, trade names, organization expense, treasury stock, any write-up of assets and other like intangibles minus (a) all reserves and deductions, including those for depreciation, depletion, amortization, bad debt losses, deferred taxes, and minority interests, (b) all liabilities, and (c) all Restricted Investments, all determined on a consolidated basis in accordance with Generally Accepted Accounting Principles.

Consolidated Working Capital shall mean the excess of consolidated current assets over consolidated current

liabilities of the Company and its Restricted Subsidiaries, both determined in accordance with Generally Accepted Accounting Principles, provided that there shall not be included in current assets any loans or advances made by the Company or any Restricted Subsidiary except travel and other like advances to officers and employees in the ordinary course of business and except Investments of the character referred to in clauses (ii)(a), (b), (c) and (d) of the definition of "Restricted Investments".

Corporate Trust Office shall mean the principal office of the Trustee in Hartford, Connecticut, at which the corporate trust business of the Trustee shall, at the time in question, be administered, which office is, on the date of execution of this Agreement, located at One Constitution Plaza, Hartford, Connecticut 06115.

Cost, when used with respect to Equipment not built by the Company or any Affiliate of the Company, shall mean the actual cost thereof to the Company or such Affiliate, and, when used with respect to Equipment built by the Company or any such Affiliate, shall mean so-called "car builder's cost" including direct cost of labor and material and overhead (including, without limitation, inspection and delivery charges and sales taxes), but excluding any manufacturing profit.

Current Debt--See Funded Debt.

Debt--See Funded Debt.

Default--See Event of Default.

Deposited Cash shall mean the aggregate of (a) the proceeds from the sale of the Trust Certificates paid to the Trustee pursuant to Section 2.01 hereof and, when required or indicated by the context, any Investments purchased by the use of such proceeds pursuant to the provisions of Section 8.04 hereof, and (b) any sums restored to Deposited Cash from rentals pursuant to Section 4.04(1) hereof and on deposit with the Trustee.

Equipment shall mean standard-gauge 70-ton or 100-ton railroad freight box cars (AAR Mechanical Designation XM, in the case of any such cars subject to any Lease or, only in the case of cars subject to a Lease to the Texas, Oklahoma and Eastern Railroad Company or a Lease to the Mississippi & Skuna Valley Railroad Company, AAR Mechanical Designation XP) or 6,740 cubic foot 100-ton wood chip cars

(AAR Mechanical Designation GTS), which were placed in service on or after April 15, 1980.

Event of Default shall mean any event specified in Section 5.01 hereof to be an event of default, provided that there has been satisfied any requirement in connection with such Event of Default for the giving of notice, or the lapse of time, or the happening of any further condition, event or act. Default shall mean any of such events, whether or not such requirement has been satisfied.

Funded Debt shall mean any obligation payable more than one year from the date of the creation thereof which under Generally Accepted Accounting Principles is shown on the balance sheet as a liability (excluding reserves for deferred income taxes and other reserves to the extent that such reserves do not constitute an obligation), and in any event shall include (without duplication) (a) all guarantees or endorsements, direct or indirect, of any Debt or obligations of others, including obligations described in Section 6.05(j) hereof (except endorsements of negotiable instruments for collection in the ordinary course of business and indemnities not substantially equivalent to a guarantee of borrowed money which are given in the ordinary course of business), (b) Capitalized Lease Rentals, and (c) the maximum amount of Current Debt outstanding during the 45-day period referred to in Section 6.05(d)(v) hereof, as of the date of any determination of Funded Debt. Current Debt shall mean any obligation for borrowed money (and any notes payable and drafts accepted representing extensions of credit whether or not representing obligations for borrowed money) payable on demand or within a period of one year from the date of any determination thereof and in any event excluding the current portion, if any, of Funded Debt; provided, however, that any obligation shall be treated as Funded Debt, regardless of its term, if such obligation is renewable pursuant to the terms thereof or of a revolving credit or similar agreement effective for more than one year after the date of the creation of such obligation, or may be payable out of the proceeds of a similar obligation pursuant to the terms of such original obligation or of any agreement related to such original obligation. Any obligation secured by a Lien on, or payable out of the proceeds of production from, property of the Company or any Restricted Subsidiary shall be deemed to be Funded or Current Debt, as the case may be, of the Company or such Restricted Subsidiary even though such obligation shall not be assumed by the Company or such Restricted Subsidiary, but in the event that such obligation of the Company or any Restricted Subsidiary is

incurred in connection with an equity investment made by the Company or any Restricted Subsidiary as an integral part of a leveraged lease financing of transportation equipment and such Lien shall not encumber any property of the Company or any Restricted Subsidiary other than such transportation equipment, then the amount of Debt attributable to the Company or such Restricted Subsidiary, as the case may be, by reason of such obligation shall be determined in accordance with Generally Accepted Accounting Principles. Debt shall mean Funded Debt or Current Debt, as the case may be.

Generally Accepted Accounting Principles shall mean generally accepted accounting principles in effect at the time of any computation hereunder where the character or amount of any asset or liability or item of income or expense is required to be determined or any consolidation or other accounting computation is required to be made.

Holder, when used with respect to any Trust Certificate, shall include the plural as well as the singular number and shall mean the Person in whose name such Trust Certificate is registered.

Investments shall mean (a) any investment by the Company and its Restricted Subsidiaries in any property of any other Person, (b) any purchase of any stock or other securities or evidences of indebtedness by the Company and its Restricted Subsidiaries of any other Person, and (c) any capital contributions, loans or advances (including the amount by which the fair market value exceeds the cost basis of any property sold or transferred) by the Company and its Restricted Subsidiaries to any other Person, provided, that in computing any such investment:

(i) undistributed earnings of, and interest accrued in respect of Debt owing by, the Person, accrued after the date of the investment, shall not be included;

(ii) there shall not be deducted from the amounts invested in the Person any amounts received as earnings (in the form of dividends or interest or otherwise) on the investment in, or as loans from, such Person;

(iii) increases or decreases in value, or write-ups, write-downs or write-offs, of investments in the Person shall be disregarded (except to the extent that any loss on an investment has been recognized in reducing the net income of the Company or a Restricted Subsidiary); and

(iv) there shall be included all bonds, debentures, notes and accounts receivable from such Person which are not current assets or did not arise from sales to the Person as a customer in the ordinary course of business.

Lease shall mean each of the five leases specifically identified in Schedule A to this Agreement, as in effect at the date of execution and delivery of this Agreement (or as supplemented to identify more particularly the Equipment subject to such leases), and each other lease covering Trust Equipment, provided that such lease, and the lessee thereunder, shall each have been approved in writing in advance by the holders of not less than 66-2/3% in aggregate principal amount of the outstanding Trust Certificates), which approval shall not be unreasonably withheld.

Lease Assignment shall mean an assignment of a Lease to the Trustee in substantially the form annexed hereto as Schedule B executed by the Company.

Lien shall mean any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, any lease in the nature thereof (including Capitalized Leases), and the filing of or agreement to give any financing statement under the Uniform Commercial Code of any jurisdiction).

Officer's Certificate shall mean a certificate signed by the President or a Vice President of the Company.

Opinion of Counsel shall mean an opinion in writing signed by legal counsel satisfactory to the Trustee and who may be counsel for the Company or an employee of the Company. The acceptance by the Trustee of, together with its action on, an Opinion of Counsel shall be sufficient evidence that such counsel is satisfactory to the Trustee.

Original Purchaser shall mean Teachers Insurance and Annuity Association of America and any Affiliate thereof.

Owner shall mean the manufacturer or the Company or other Person transferring title to any of the Equipment to the Trustee.

Permitted Investments shall mean the Investments of the Company and its Restricted Subsidiaries set forth in

Schedule C hereto so long as in compliance with the terms and conditions therein stated with respect to such Investments.

Person shall mean and include an individual, a partnership, a joint venture, a corporation, a trust, an estate, an unincorporated organization and a government or any department or agency thereof.

Preferred Stock shall mean the 1,000 shares of the Company's 9-1/4% Senior Cumulative Preferred Stock and the 500 shares of the Company's 9-1/4% Junior Cumulative Convertible Preferred Stock outstanding on the date of this Agreement.

Purchase Money Debt shall mean any Debt of any Restricted Subsidiary secured by any Lien permitted by clause (v), (vi) or (vii) of Section 6.05(c) hereof to be created, assumed or suffered to exist by such Restricted Subsidiary.

Replacement Funds shall have the meaning assigned to it in Section 8.04 hereof.

Request shall mean a written request for the action therein specified, delivered to the Trustee, dated not more than 10 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.

Restricted Investments shall mean all Investments other than (i) Permitted Investments and (ii) Investments consisting of (a) certificates of deposit of commercial banks or trust companies incorporated under the laws of the United States of America or any state thereof having capital and surplus aggregating not less than \$100,000,000, in each case maturing within one year after the date of investment therein, (b) open market commercial paper rated "Prime-1" or better by Moody's Investors Service, Inc., or rated "A-1" or better by Standard & Poor's Corporation (or a comparable rating by any successor to either of their businesses), in each case maturing within 270 days after the date of investment therein, (c) bonds, notes or other direct obligations of the United States of America or obligations for which the full faith and credit of the United States of America are pledged to provide for the payment of the interest and principal, in each case maturing within one year after the date of investment therein, and (d) purchases from any commercial bank or trust company referred to in clause (a)

above of direct obligations of the United States of America or obligations for which the full faith and credit of the United States of America are pledged to provide for the payment of the interest and principal of any maturity, pursuant to repurchase agreements obligating such bank or trust company to repurchase any such obligation not later than 90 days after the purchase of any such obligation.

Restricted Subsidiary shall mean any Subsidiary 80% or more of the stock of every class of which, except directors' qualifying shares, shall be owned by the Company either directly or through other Restricted Subsidiaries, and which has been designated by the Board of Directors or an Executive Committee of the Board of Directors as a Restricted Subsidiary; provided, however, that the Company shall not designate any Unrestricted Subsidiary as a Restricted Subsidiary within the three years immediately after such Unrestricted Subsidiary had been designated an Unrestricted Subsidiary; provided, further, that the Company shall not designate any Unrestricted Subsidiary as a Restricted Subsidiary unless after giving effect to such designation (i) the Company and its Restricted Subsidiaries shall be able to incur at least One Dollar of additional Senior Funded Debt (or secured Current Debt) in compliance with the provisions of Section 6.05(d) hereof and (ii) there shall exist no Default or Event of Default. The Company shall not designate any Restricted Subsidiary as an Unrestricted Subsidiary unless after giving effect to such designation (i) such Subsidiary shall not own any capital stock or Debt of any other Restricted Subsidiary or of the Company, (ii) there shall exist no Event of Default or Default, and (iii) the tangible net worth of such Subsidiary (computed in the same manner as Consolidated Tangible Net Worth) shall not constitute 10% or more of Consolidated Tangible Net Worth and such Subsidiary shall not have contributed 10% or more of an amount equal to the average of Consolidated Net Earnings for the last three fiscal years prior to such designation; provided, however, that the Company shall not designate any Restricted Subsidiary as an Unrestricted Subsidiary within the three years immediately after such Restricted Subsidiary had been designated a Restricted Subsidiary.

Senior Funded Debt shall mean all Funded Debt of the Company or any Restricted Subsidiary except Funded Debt of the Company which is Subordinated Funded Debt.

Subordinated Funded Debt shall mean Funded Debt of the Company which:

(1) is evidenced by promissory notes or is issued pursuant to an indenture or other agreement to which reference shall be made in the promissory notes issued pursuant thereto containing provisions with respect to subordination substantially as follows:

"The Company covenants and agrees, and the holder of this Note by his acceptance hereof likewise covenants and agrees as follows:

"(a) the principal of and interest on this Note are and shall be subordinated in right of payment in all respects to the Company's obligations in respect of (i) the 10 1/4% Notes due December 31, 1993 in the original principal amount of \$9,543,604.50 issued pursuant to the Loan and Security Agreement between Manufacturers Hanover Leasing Corporation and the Company dated as of September 12, 1978, as supplemented by Supplement No. 1 dated as of November 15, 1978, and as amended by an Amendment dated as of April 25, 1979, (ii) the 10 1/4% Notes due February 28, 1994 in the original principal amount of \$13,136,187.96 issued pursuant to the Loan and Security Agreement between Manufacturers Hanover Leasing Corporation and the Company dated as of September 12, 1978, as supplemented by Supplement No. 1 dated as of October 10, 1978 and as amended by Amendment dated as of April 25, 1979, (iii) the 10% Notes due December 31, 1993, in the original aggregate principal amount of \$3,280,289 issued pursuant to the Loan and Security Agreement among the Company, Union Mutual Life Insurance Company and Union Mutual Stock Life Insurance Co. of America dated as of September 12, 1978, as amended by an Amendment dated April 25, 1979, (iv) the 11% Equipment Trust Certificates due October 31, 1994, in the original aggregate principal amount of \$38,000,000 issued pursuant to the two separate Purchase Agreements dated as of November 1, 1978, between the Company and The Prudential Insurance Company of America and Aetna Life Insurance Company, respectively, each as amended by an Amendment Agreement dated as of March 1, 1979 and an Amendment Agreement dated as of August 2, 1979, and the

related Equipment Trust Agreements between Morgan Guaranty Trust Company of New York, as Trustee, and the Company dated as of November 1, 1978, each as amended by a First Amendment dated as of March 1, 1979, a Second Amendment dated as of August 1, 1979, a Third Amendment dated as of February 1, 1980 and a Fourth Amendment dated as of April 1, 1980 and as supplemented by Waivers dated as of January 7, 1980 and March 7, 1980, (v) the 11% Equipment Trust Certificates due December 1, 1994, in the original aggregate principal amount of \$20,000,000, issued pursuant to the Purchase Agreement dated as of June 1, 1979, between the Company and The Equitable Life Assurance Society of the United States, and the related Equipment Trust Agreement between Morgan Guaranty Trust Company of New York, as Trustee, and the Company, dated as of June 1, 1979, as amended by an Amendment dated as of December 7, 1979, an Amendment Agreement Number Two dated as of December 16, 1979 and a Third Amendment dated as of April 15, 1980, and as supplemented by Waivers dated as of January 10, 1980 and March 1, 1980, (vi) the 11.375% Notes due February 28, 1995, in the original aggregate principal amount of \$9,000,000 issued pursuant to the Security Agreement Chattel Mortgage and Lease Assignment between the Company and Citicorp Industrial Credit, Inc. dated as of September 20, 1979, as amended by an Amendment Agreement dated January 10, 1980, an Amendment Agreement Number Two dated as of February 13, 1980 and an Amendment Agreement dated as of April 30, 1980 (vii) the fluctuating rate Notes in an aggregate principal amount not in excess of \$6,000,000 issued pursuant to the Credit and Security Agreement among the Company, the Banks named therein and Manufacturers Hanover Trust Company, as agent, dated as of October 1, 1979, as amended by a First Amendment dated as of April 15, 1980, (viii) the 12.875% Equipment Trust Certificates due February 28, 1995, in the original aggregate principal amount of \$10,000,000 issued pursuant to the Purchase Agreement between the Company and Connecticut General Life Insurance Company dated January

31, 1980, and the related Equipment Trust Agreement between the Company and The Connecticut Bank and Trust Company, as Trustee, dated as of January 1, 1980, as amended by a First Amendment dated as of April 1, 1980, (ix) the 13% Equipment Trust Certificates, Second 1980 Series, due September 1, 1995, in the original aggregate principal amount of \$16,500,000 issued pursuant to the Purchase Agreement among the Company, Teachers Insurance and Annuity Association of America and The Connecticut Bank and Trust Company, as Trustee, dated as of May 1, 1980 and the related Equipment Trust Agreement between The Connecticut Bank and Trust Company, as Trustee, and the Company dated as of May 1, 1980, and as any of the Agreements in the foregoing clauses (i) through (ix) may from time to time be further amended or supplemented, or any provisions thereof waived, and (x) all other Senior Funded Debt (as defined in any of the foregoing agreements), such Notes, Equipment Trust Certificates and the Company's guarantee of any thereof and all such other Senior Funded Debt of the Company are herein collectively called 'Senior Debt';

"(b) without limiting the next preceding subparagraph, (i) no payment on account of principal of, or premium (if any) or interest on, this Note shall be made if at the time of such payment an Event of Default or Default (as defined in any Equipment Trust Agreement referred to in paragraph (a) above) exists, or if immediately after giving effect to such payment an event of default or default would exist, under the provisions of any Senior Debt or any agreement under which Senior Debt is then outstanding, and (ii) in the event of any insolvency or bankruptcy proceedings, and any receivership, liquidation, reorganization or other similar proceedings in connection therewith, relative to the Company or its property, and in the event of any proceedings for voluntary liquidation, dissolution or other winding up of the Company, whether or not involving insolvency or bankruptcy proceedings, then all principal of, and

premium, if any, and interest on, the Senior Debt (including interest thereon accruing after the commencement of any such proceedings) shall first be paid in full before any payment on account of principal, premium, or interest is made upon this Note, and in any such proceedings any payment or distribution of any kind or character, whether in cash, securities or other property, to which the holder of this Note would be entitled if this Note were not subordinated to the Senior Debt shall be paid by the liquidating trustee or agent or other person making such payment or distribution, or by the holder of this Note if received by such holder, directly to the holders of the Senior Debt to the extent necessary to make payment in full of the Senior Debt remaining unpaid, after giving effect to any concurrent payment or distribution to or for the holders of the Senior Debt; subject to the prior payment in full of the Senior Debt, the holder of this Note shall be subrogated to the rights of the holders of the Senior Debt to receive payments or distributions of cash, property or securities of the Company applicable to the Senior Debt until the principal of, and premium, if any, and interest on, this Note shall be paid in full, and no such payments or distributions to the holder of this Note of cash, property or securities otherwise distributable in respect of the Senior Debt shall, as between the Company, its creditors other than the holders of the Senior Debt, and the holder of this Note, be deemed to be a payment by the Company on account of this Note;

"(c) in the event that the holder of this Note shall receive any payment on this Note which such holder is not entitled to receive under the provisions of the foregoing subparagraph (b), it will hold any amount so received in trust for the holders of Senior Debt and will forthwith turn over such payment to the holders of Senior Debt in the form received to be applied to the Senior Debt;

"(d) the holders of Senior Debt may, at any time and from time to time, without the

consent of or notice to the holder of this Note, without incurring responsibility to the holder of this Note and without impairing or releasing the obligations of the holder of this Note hereunder to the holders of Senior Debt: (i) change the manner, place or terms of payment or change or extend the time of payment of, or renew or alter any of the Senior Debt (including any change in the rate of interest thereon), or amend in any manner any agreement under which Senior Debt is outstanding; (ii) sell, exchange, release or otherwise deal with any property by whomsoever at any time pledged or mortgaged to secure, or howsoever securing, any of the Senior Debt; (iii) release anyone liable in any manner for the collection of the Senior Debt; (iv) exercise or refrain from exercising any rights against the Company and others; and (v) apply any sums by whomsoever paid or howsoever realized to the Senior Debt; and

"(e) the foregoing provisions regarding subordination are and are intended solely for the purpose of defining the relative rights of the holders of the Senior Debt on the one hand and the holder of this Note on the other hand; nothing contained in this Note is intended to or shall impair, as between the Company and the holder of this Note, the obligation of the Company, which is unconditional and absolute, to pay to the holder of this Note the principal of, premium, if any, and interest on, this Note as and when the same shall become due in accordance with its terms, subject, however, to the rights under the foregoing subparagraphs of the holders of the Senior Debt"; and

(2) on the date on which the status of such Funded Debt is determined for any purpose hereof,

(a) has a stated final maturity not earlier than the then final maturity of the Trust Certificates, and

(b) is not subject to any mandatory prepayment, installment, sinking fund, serial maturity or other similar retirement requirement

which would result in such Funded Debt having a weighted average life shorter than the remaining weighted average life of the Trust Certificates.

Subsidiary shall mean any corporation organized under the laws of any state of the United States of America, the Dominion of Canada, or any Province of Canada, which conducts the major portion of its business in the United States of America or the Dominion of Canada, or both, and 80% or more of the stock of every class of which, except directors' qualifying shares, shall be owned by the Company either directly or through Subsidiaries.

This Agreement shall mean and refer to this Agreement as from time to time amended, modified or supplemented, including the supplements to Schedule A hereto contemplated by Section 3.03(g) hereof.

Trust Certificates shall mean BRAE Corporation 13% Equipment Trust Certificates, Second 1980 Series, together with the guarantee of the Company endorsed thereon, issued hereunder.

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

Trustee shall mean THE CONNECTICUT BANK AND TRUST COMPANY, and, subject to the provisions of Article Eight, any successor as trustee hereunder.

Trustee's Lien shall mean any Lien resulting from the acts of the Trustee unrelated to the transactions contemplated by this Agreement or resulting from the nonpayment of any taxes based on or measured by the income of the Trustee or the institution acting as Trustee except any Lien resulting from the nonpayment of any such tax which the Company has agreed in this Agreement to pay or reimburse.

Unrestricted Subsidiary shall mean any Subsidiary that is not a Restricted Subsidiary.

Written Direction shall mean a direction or statement in writing contained in one or more substantially concurrent identical written instruments executed by the Holders of not less than 66-2/3% in aggregate principal amount of the outstanding Trust Certificates.

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 Trustee shall from time to time issue and deliver Trust Certificates in accordance with the provisions of the Purchase Agreement dated as of May 1, 1980 among the Company, the Trustee and the Original Purchaser, and in accordance with the provisions of this Agreement.

The proceeds of the sale of the Trust Certificates shall in each instance be paid by the purchaser thereof, in the form specified in its agreement with the Company with respect thereto, to the Trustee for the account of the Company.

Subject to the provisions of Sections 2.06 and 2.07 of this Agreement, the aggregate principal amount of Trust Certificates which shall be executed and delivered by the Trustee under this Section shall not exceed the sum of \$16,500,000, and the aggregate principal amount represented by all the Trust Certificates shall be payable as hereinafter set forth.

SECTION 2.02. Interests Represented by Trust Certificates; Interest; Maturity. Each of the Trust Certificates shall represent an interest in the amount therein specified in the trust created hereunder. Interest only shall be paid on the Trust Certificates on September 1, 1980. Subject to the next preceding sentence, the principal amount of each Trust Certificate originally issued hereunder and interest thereon will be payable in 60 consecutive quarterly combined level installments of principal and interest, each such quarterly installment being in an amount equal to 3.808993% (except to the extent that prepayments are applied to the installments as provided in Section 2.03(c) hereof) of the original principal amount thereof, on March 1, June 1, September 1 and December 1 in each year, commencing December 1, 1980 and ending September 1, 1995 (the final installment being in any event in an amount equal to the remaining principal amount owing on such Trust Certificate and all accrued and unpaid interest thereon). In the event that any Trust Certificate originally issued hereunder is divided into more than one Trust Certificate pursuant to

Section 2.06 hereof, the original principal amount of such originally issued Trust Certificate shall be proportionately divided among such subsequently issued Trust Certificates and shall be deemed to be the original principal amount of such subsequently issued Trust Certificates. Similarly, upon the division of any such subsequently issued Trust Certificate, the proportion of the original principal amount of the Trust Certificate originally issued hereunder which was allotted to such subsequently issued Trust Certificate pursuant to the next preceding sentence shall likewise be proportionately divided among the Trust Certificates issued in exchange therefor and shall be deemed to be the original principal amount of such Trust Certificates. Each Trust Certificate will bear interest on the unpaid principal amount thereof from the date thereof, payable as aforesaid, at the rate of 13% per annum, with interest payable in each case on any overdue principal and, to the extent legally enforceable, on any overdue interest, at the rate of 14% per annum. Interest on Trust Certificates shall be calculated on the basis of a 360-day year of twelve 30-day months. The Trust Certificates are issuable in denominations of at least \$25,000 or any integral multiple of \$1,000 greater than \$25,000.

The principal of and interest on the Trust Certificates shall be payable at the office of CBT Clearing Corporation, for the time being located at 63 Wall Street, New York, New York or at such other address of said Corporation in the Borough of Manhattan, City and State of New York as the Trustee may designate by written notice to the Company and each Holder of an outstanding Trust Certificate, 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, but only (subject to Section 6.01 hereof) from and out of rentals or other moneys received by the Trustee and applicable to such payment under the provisions hereof. 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 of the Holder of such Trust Certificate and concurrence by the Company in such request and upon deposit of an agreement of the Holder of such Trust Certificate obligating such Holder, prior to any transfer or other disposition thereof, to surrender the same to the Trustee for notation thereon of the installments of principal amount represented thereby theretofore paid in whole or in part, 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; provided, however, that the Trustee shall make payments of principal and interest to the Original Purchaser and to any other institutional investor which is a Holder of 5% or more in principal amount of the then outstanding Trust Certificates which has entered into an agreement of the character specified in the last sentence of Paragraph 8 of the Purchase Agreement dated as of May 1, 1980 among the Company, the Trustee and the Original Purchaser relating to the issuance of the Trust Certificates by wire transfer on the date each such payment is due of immediately available funds (to the extent the Company makes such funds available to the Trustee in time to permit such transfer to be made on such date) to such Original Purchaser's or such Holder's bank account, the number of which shall be supplied to the Trustee by the Company and is for the time being designated in or pursuant to said Paragraph 8.

SECTION 2.03. Prepayments. (a) Optional Prepayments. The Trust Certificates are subject to prepayment, in each case without premium, as provided in Sections 3.04 and 4.07 hereof.

(b) Notice of Prepayment. In case the Company shall desire to cause the Trustee to prepay all or any part of the Trust Certificates, it shall give written notice of such prepayment to the Trustee and to the Holders of the Trust Certificates, not less than 30 days (5 days in the case of a prepayment pursuant to Section 3.04) nor more than 60 days prior to the prepayment date, specifying such prepayment date and the principal amount of the Trust Certificates to be prepaid on such date, whereupon the principal amount of the Trust Certificates specified in such notice, together with interest accrued thereon to the date of payment, shall become due and payable on the prepayment date.

(c) Application of Prepayments. Each prepayment under Section 2.03(a) hereof shall be applied to the prepayment of the installments of principal of the Trust Certificates so that each installment due and payable under each such Trust Certificate after such prepayment (and for this purpose the installment due and payable under such Trust Certificate on the date such prepayment is made shall be deemed to be payable prior to such prepayment being made) shall be reduced in the same proportion as the then outstanding principal amount of such Trust Certificate shall have been reduced by such prepayment. All prepayments hereunder are to be made pro rata among outstanding Trust

Certificates. In the event of any partial prepayment of the Trust Certificates, the Company concurrently with the notice of such prepayment shall prepare and deliver to the Trustee and each Holder of a Trust Certificate a recomputed schedule of the principal and interest payments to be made thereafter on the Trust Certificates.

(d) Purchase Prohibition. The Trustee will not, and the Company will not, and will not permit any Subsidiary to, acquire directly or indirectly, by purchase or prepayment or otherwise, any of the outstanding Trust Certificates or any part thereof except by way of payment or prepayment in accordance with the provisions of the Trust Certificates and of this Agreement.

SECTION 2.04. Forms of Trust Certificates and Guarantee. The Trust Certificates and the guarantee to be endorsed on the Trust Certificates by the Company as provided in Section 6.01 hereof shall be in substantially the forms hereinbefore set forth.

SECTION 2.05. Execution by Trustee. The Trust Certificates shall be signed in the name and on behalf of the Trustee by the manual or facsimile signature of one of its duly 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 duly authorized officers. In case any officer of the Trustee whose facsimile signature shall appear on any of the Trust Certificates shall cease to be such officer of the Trustee before such Trust Certificates shall have been issued and delivered by the Trustee or shall not have been acting in such capacity on the date of such 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 then been such officer of the Trustee.

SECTION 2.06. Characteristics of Trust Certificates. (a) The Trust Certificates shall be registered, as to both principal and interest, in the name of the Holder; shall be transferable in whole or in part and exchangeable for Trust Certificates of other authorized denominations of equal aggregate outstanding principal amount and of the same maturities, upon presentation and surrender thereof for registration of transfer or exchange at the Corporate Trust Office, accompanied, in the case of transfer, 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 issuance 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 payment or prepayment shall theretofore have been made, 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 installments as set forth in such notation. The several denominations of Trust Certificates shall be interchangeable in authorized denominations at the Corporate Trust Office.

(b) Anything contained herein to the contrary notwithstanding, prior to due presentment for registration of transfer, the parties hereto 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 notice to the contrary.

(c) The Trustee shall cause to be kept at the Corporate Trust Office books for the registration and registration of transfer of the Trust Certificates and, upon presentation of the Trust Certificates for such purpose, the Trustee shall register any transfer as hereinabove provided, and under such reasonable regulations as it may prescribe.

(d) For any registration, registration of transfer or exchange, the Trustee shall require payment by the Person requesting same of a sum sufficient to reimburse it for any governmental charge or other expense connected therewith.

(e) Each Trust Certificate delivered pursuant to any provision of this Agreement in exchange for, or upon the registration of transfer of the whole or any part, as the case may be, of one or more other Trust Certificates shall carry all the rights to principal and 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 Certificate shall be so dated that neither gain nor loss in interest or principal shall result from such exchange, substitution or registration of transfer.

(f) The Trustee shall not be required to issue, transfer or exchange Trust Certificates for a period of 10 days next preceding any interest payment date.

(g) So long as shall be necessary to insure compliance with the Securities Act of 1933, as amended, or any successor statute, each Trust Certificate issued or delivered in exchange pursuant to any provision hereof in an original principal amount of less than \$150,000 shall contain a legend in substantially the following form:

"THE SECURITIES REPRESENTED BY THIS TRUST CERTIFICATE HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933."

SECTION 2.07. Replacement of 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 Certificate 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 and in substitution for the same if lost, destroyed or stolen. The Company shall execute its guarantee on any Trust Certificate so delivered. The applicant for a new Trust Certificate pursuant to this Section shall furnish to the Trustee and to 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 and by the Company (provided that in the case of the Original Purchaser or any institutional investor which is a holder of 5% or more in aggregate principal amount of the then outstanding Trust Certificates, its unsecured agreement of indemnification shall be deemed sufficient security or indemnity), 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

AQUISITION OF TRUST EQUIPMENT BY
TRUSTEE; DEPOSITED CASHSECTION 3.01. Acquisition of Equipment by Trustee.

The Company shall sell or cause to be sold, assigned and transferred to the Trustee, as trustee for the Holders of the Trust Certificates, the Equipment described in Schedule A hereto, as supplemented, all of which the Company represents was new Equipment fit for its designated purpose when first put into service, was first put into service not earlier than April 15, 1980, and has an estimated useful life ten years beyond September 1, 1995. Such Equipment shall be delivered to the Person or Persons designated by the Trustee as its agent or agents to receive such delivery (and, in the case of such Equipment, the Trustee hereby designates the officers or agents of the Company) and the certificate of any such agent or agents as to such delivery shall be conclusive evidence of such delivery.

SECTION 3.02. Payment of Deposited Cash.

From time to time, when and as any Equipment shall have been accepted by the Trustee pursuant to Sections 3.01 and 3.03(a), the Trustee shall, on a date specified in, and at least four (4) business days after delivery of, a written notice from the Company to the Trustee and the several counsel referred to in Paragraph 6 of the Purchase Agreement dated as of May 1, 1980 among the Company, the Trustee and the Original Purchaser (each such date being herein called a "Delivery Date") pay, upon Request, to the Company against receipt therefor, or as it may direct only out of Deposited Cash then held by the Trustee an amount not exceeding 80% of the Cost of such Equipment, as such Cost is specified in the Officer's Certificate furnished to the Trustee pursuant to Section 3.03(b). No prior written notice shall be required pursuant to the foregoing sentence in the case of the first Delivery Date, which shall be the date of the first closing under the Purchase Agreement therein referred to.

SECTION 3.03. Supporting Papers.

The Trustee shall not pay out any Deposited Cash for the purchase of any unit of Equipment after November 26, 1980, and shall not do so prior thereto unless and until it shall have received the following documents and opinions, all in form and substance satisfactory to the Original Purchaser:

- (a) (i) a bill of sale covering such unit of Equipment from the manufacturer to the Trustee or (ii) a

bill of sale from the manufacturer to the Company and a bill of sale from the Company to the Trustee, each of which bills of sale shall specify such unit of Equipment described therein by a number or numbers and shall contain a warranty or guarantee to the purchaser of such unit of Equipment that the title of such unit of Equipment described therein is free from all Liens (except as permitted by clause (i) or (ii)(A) of Section 6.05(c), the rights of the Company under this Agreement and any Lease permitted by Section 4.08), and the receipt of such bill or bills of sale by the Trustee shall constitute acceptance by the Trustee hereunder of such unit of Equipment as Trust Equipment;

(b) an Officer's Certificate, dated such Delivery Date, which shall state (i) that such unit of Equipment is Equipment as herein defined, has been marked in accordance with Section 4.06 and was not put into service prior to the date specified therein and identifying the builder thereof, (ii) that the Cost of such unit of Equipment is an amount therein specified or is not less than an amount therein specified and (iii) that such unit is subject to one of the Leases described in Schedule A hereto, as such Schedule may have been supplemented by the Company pursuant to the following Section 3.03(g);

(c) an invoice from the Owner of such unit of Equipment which, if the Owner is not the Company, shall have endorsed thereon a certification by the Company as to the correctness of the price stated therein;

(d) an opinion of counsel for each party delivering a bill of sale with regard to each bill of sale furnished pursuant to clause (a) hereof, dated such Delivery Date or, in the case of the opinion of counsel regarding the bill of sale from the manufacturer to the Company, dated the date of such purchase by the Company, to the effect that such bill of sale is valid and effective, either alone or in connection with any other instrument referred to in and accompanying such opinion, to vest in the purchaser of such unit of Equipment title to such unit of Equipment free from all claims or Liens (except as permitted by clause (i) or (ii)(A) of Section 6.05(c), the rights of the Company under this Agreement and any Lease permitted by Section 4.08);

(e) favorable opinions, dated such Delivery Date, as follows:

(i) of Messrs. Milbank, Tweed, Hadley & McCloy, covering the matters set forth in clauses (iii), (v) and (vii) of Paragraph 6(a) of the Purchase Agreement referred to in Section 3.02 (as to Trust Equipment delivered on such Delivery Date, mutatis mutandis);

(ii) of Messrs. Heller, Ehrman, White & McAuliffe, (A) covering the matters set forth in clauses (iii), (v) and (vii) of Paragraph 6(a) of said Purchase Agreement (as to Trust Equipment delivered on such Delivery Date, mutatis mutandis) and (B) as to the Trustee being vested with all the right, title and interest of the Company in and to each of the Leases (except any rights retained by the Company pursuant to the terms of the Lease Assignments and the Equipment Trust Agreement), but only to the extent such right, title and interest relate to units of Trust Equipment delivered to the Trustee and paid for by the Trustee on or prior to such Delivery Date; and

(iii) of Messrs. Steptoe & Johnson, covering the matters set forth in Paragraph 6(c) of said Purchase Agreement (as to Trust Equipment delivered on such Delivery Date, mutatis mutandis);

(f) an acknowledgment from the lessee party to the Lease under which such unit of Trust Equipment is leased by the Company acknowledging that the Company has sold (or caused to be sold) such unit of Trust Equipment to the Trustee and consenting and acknowledging that the right, title and interest of the Company under such Lease relating to such unit of Trust Equipment have been assigned to the Trustee and confirming (if such Lease is one of those specifically referred to in the following subparagraph (h)) that any assignment of any of the right, title and interest of the Company under such Lease, to the extent that it relates to railroad equipment which is not Trust Equipment, shall not impair or offset the obligation to pay to the Trustee all rentals under such Lease in respect of such unit of Trust Equipment as provided in Section 4.08 hereof and a consent of such lessee to the effect that the right, title and interest of the Company under such Lease, to the extent it relates to railroad equipment which is not Trust Equipment, may either be retained by the Company or assigned to others;

(g) unless such unit of Equipment shall have been described by register number in Schedule A, as theretofore supplemented or amended, a supplement to Schedule A which describes such unit of Equipment by number (and effects no other change in said Schedule);

(h) the original of the Lease (except that a copy may be furnished in the case of the Leases with Columbia & Cowlitz Railway Company, Port of Tillamook Bay Railroad and Mississippi & Skuna Valley Railroad Company referred to on Schedule A hereto) under which such unit of Equipment has been or is to be leased by the Company and a Lease Assignment with respect to such Lease, together with a supplement or schedule thereto specifically describing such unit of Equipment by register number if such Lease does not so describe it, unless such Lease and such supplement or schedule, if any, shall previously have been delivered to the Trustee (in its capacity as Trustee hereunder);

(i) a certificate of acceptance for such unit of Equipment, as referred to in Section 3.01;

(j) an Officer's Certificate, and a certificate of an authorized officer of the Trustee, each dated such Delivery Date, as specified in subparagraph (e) of Paragraph 6 of the aforementioned Purchase Agreement, but on and as of such Delivery Date; and

(k) such certificates relating to the Company, the Trustee or any Owner, and covering incumbency and specimen signatures of officers or other representatives of such corporation, as any of the counsel referred to in the foregoing subparagraph (e) may reasonably request in connection with the opinions referred to therein.

The Trustee shall be entitled to assume that the documents and opinions have been delivered pursuant to this Section 3.03 on the Delivery Date for any Equipment and are satisfactory to the Original Purchaser if on such Delivery Date Messrs. Milbank, Tweed, Hadley & McCloy, special counsel for the Original Purchaser, shall have delivered their opinion as provided in the foregoing subparagraph (e) (or if such Delivery Date is a closing date under the Purchase Agreement hereinabove referred to, their opinion under Paragraph 6(a) of said Purchase Agreement) and the Trustee shall not have received notice to the contrary from the Original Purchaser. In the event that, on any such Delivery Date, Messrs. Milbank, Tweed, Hadley & McCloy shall not have

delivered such opinion or the Trustee shall have received any such notice, the Trustee shall take such action as may be specified in a Written Direction.

SECTION 3.04. Prepayments from Deposited Cash. In the event that all of the Equipment to be financed hereunder shall have been accepted by the Trustee pursuant to Sections 3.01 and 3.03(a), payment shall have been made therefor pursuant to Section 3.02 and there shall remain on deposit with the Trustee a portion of the proceeds of the sale of the Trust Certificates, the Trustee, upon Request, shall apply on December 1, 1980, all or any part of such remaining proceeds to the prepayment of the installments of principal of the Trust Certificates pursuant to Section 2.03(a) and as provided in Section 2.03(c).

ARTICLE FOUR

LEASE OF TRUST EQUIPMENT TO THE COMPANY

SECTION 4.01. Lease of Trust Equipment. Subject to Section 4.05, the Trustee does hereby let and lease to the Company all the Trust Equipment for a period ending September 1, 1995.

SECTION 4.02. Equipment Automatically Subjected. As and when any Equipment shall from time to time be accepted hereunder by the Trustee, the same shall, ipso facto and without further instrument of lease or transfer, be deemed accepted by the Company hereunder and become subject to all the terms and provisions hereof.

SECTION 4.03. Substituted Equipment Subjected Hereto. In the event that the Company shall, as provided in Section 4.07, sell or transfer to the Trustee other Equipment 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 and the Company and to be filed with the Interstate Commerce Commission in accordance with all applicable requirements. Such Equipment shall be subject to all the terms and conditions hereof in all respects as though it had originally been part of the Equipment herein specifically described.

SECTION 4.04. Rental Payments. The Company hereby accepts the lease of all the Trust Equipment; and the Company unconditionally covenants and agrees to pay to the

Trustee at the Corporate Trust Office not later than 12:30 P.M. local time on the day in question, in immediately available funds (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, rental hereunder 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 acceptance of and lease to the Company of any unit of the Trust Equipment):

(1) (a) the expenses of the trust hereby created, including compensation and reimbursement of expenses provided for herein, and (b) 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 or redemption by the Trustee of Investments;

(2) 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 (it being understood that taxes on fees earned by the Trustee under this Agreement and taxes based upon or measured by the income of any holder of the Trust Certificates are not upon or on account of this Agreement);

(3) (a) the amounts of interest payable on the Trust Certificates, when and as the same shall become payable, and (b) interest at the rate of 14% per annum from the due date upon the amount of any quarterly installments of rental payable under the following and (to the extent legally enforceable) this subparagraph which shall not be paid when due; and

(4) the quarterly installments of principal of the Trust Certificates each aggregating an amount obtained by subtracting the interest due thereon on such date from 3.808993% (except to the extent that prepayments are applied to the installments as provided in Section 2.03(c)) of the original principal amount thereof (the final installment being in any event in an amount equal to the remaining principal amount owing on the Trust Certificates), when and as the same shall become payable, whether upon the date of maturity thereof or by declaration or otherwise.

SECTION 4.05. Termination of Trust and Lease.

After all sums due or to become due from the Company hereunder, under the Purchase Agreement dated as of May 1, 1980 among the Company, the Trustee and the Original Purchaser and under the Company's guarantees endorsed on the Trust Certificates shall have been paid in full, (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 moneys remaining in the hands of the Trustee to which the Company shall then be entitled shall be paid to the Company, (3) the term of the lease hereunder shall terminate, and title to all the Trust Equipment shall vest in the Company and (4) the Trustee shall execute for recording 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 (subject to Section 4.07 hereof with respect to any Trust Equipment which has suffered a Casualty Occurrence) 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 the delivery of the Trust Equipment to and the possession and use thereof by the Company pursuant to the terms of this Agreement.

SECTION 4.06. Marking of Trust Equipment. The

Company agrees that it will cause each unit of Trust Equipment to be kept numbered with such identifying numbers as shall be set forth in Schedule A hereto or a supplement thereto and it will immediately at its own cost and expense prepare and deliver to its lessees the appropriate form of stencil for marking purposes and will forthwith exercise its rights and powers under any leases to direct such lessees thereunder to mark plainly, distinctly, permanently and conspicuously on each side of each unit of the Trust Equipment, in letters not less than one inch in height the following legend:

"OWNERSHIP SUBJECT TO A SECURITY
AGREEMENT FILED WITH THE INTERSTATE
COMMERCE COMMISSION."

Such marks shall be such as to be readily visible. The Company will itself maintain such markings on any unit of the Trust Equipment not at the time subject to a Lease.

In case, prior to the termination of the lease provided for in this Article Four, any such marks shall at any time be removed, defaced or destroyed, the Company shall 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 and which shall be filed by the Company with the Interstate Commerce Commission in like manner as this Agreement.

The Trust Equipment may be lettered in an appropriate manner for convenience of identification of the leasehold interest of the Company therein (i.e., the Trust Equipment may be lettered "Leased from BRAE"), and may also be lettered, in case of any Leases permitted by Section 4.08, in such manner as may be appropriate for convenience of identification of such leasehold interest therein; but the Company, during the continuance of the lease provided for herein, will not allow any lettering or designation to be placed on any of the Trust Equipment as a designation which might reasonably be interpreted as a claim of ownership thereof by the Company or by any Person other than the Trustee.

SECTION 4.07. Maintenance of Trust Equipment; Casualty Occurrences. The Company agrees that it will maintain or cause to be maintained and keep all the Trust Equipment in good order and proper repair (normal wear and tear excepted) at no cost or expense to the Trustee, unless and until it becomes worn out, unsuitable for use, lost beyond hope of recovery, destroyed or damaged beyond economical repair, taken or requisitioned (unless any such unit is requisitioned for use and such requisition does not exceed a period of 180 days) by condemnation or otherwise or it enters the territorial jurisdiction of the Republic of Mexico or the Province of Quebec at any time when (giving effect to such entry) Trust Equipment having an aggregate Cost equal to 10% of the aggregate Cost of all the then existing Trust Equipment is situated within said Republic and/or Province (any of the above such events hereinafter called a "Casualty Occurrence"). It is understood that if Trust Equipment having an aggregate Cost in excess of 10% of the aggregate Cost of all the then existing Trust Equipment is so situated, a Casualty Occurrence shall be deemed to have occurred in respect of only such units of Equipment as are sufficient to reduce the figure representing the ag-

aggregate Cost of the units of Trust Equipment remaining in such territorial jurisdiction(s) below said 10%.

Within 30 days after the Company shall have knowledge (i) that at least five (5) units (or, prior to November 27, 1980, one (1) unit) of the Trust Equipment shall have at any time or from time to time suffered a Casualty Occurrence other than solely as a result of entry into the Republic of Mexico or the Province of Quebec, as aforesaid (exclusive of units having suffered a Casualty Occurrence in respect of which a payment shall have been made to the Trustee pursuant to this Section), or (ii) that Trust Equipment having an aggregate Cost in excess of 10% of the aggregate Cost of all the then existing Trust Equipment is situated within said Republic and/or Province, as aforesaid, the Company shall (x) deliver to the Trustee, the Original Purchaser (so long as it is a Holder of Trust Certificates) and each institutional investor which is a Holder from time to time of at least 5% in aggregate principal amount of the outstanding Trust Certificates an Officer's Certificate describing the unit or units of Trust Equipment which have suffered such Casualty Occurrence and stating the date on which the Company will make the deposit referred to in subclause (y) of this sentence and the amount of cash to be so deposited, and (y) deposit with the Trustee an amount in cash equal to the value of such unit or units of Trust Equipment. For all purposes of this paragraph, value shall be determined in the manner provided in clause (i) of the last paragraph of this Section. The rights and remedies of the Trustee to enforce or to recover any of the rental payments shall not be affected by reason of such Casualty Occurrence, but such rights and remedies shall terminate upon the transfer by the Trustee contemplated by the antepenultimate paragraph of this Section. Cash deposited with the Trustee pursuant to this Section shall be held and applied at the election of the Company (as evidenced by a Request) either (i) as provided in the first sentence of the next succeeding paragraph of this Section, or (ii) to prepay, on the March 1, June 1, September 1 or December 1 next succeeding such Request by at least 30 days, installments of principal of the Trust Certificates as provided in Section 2.03(c), such prepayment to be made pro rata among the outstanding Trust Certificates.

Cash deposited pursuant to this Section may, from time to time, so long as no Event of Default shall have occurred and be continuing, be paid over by the Trustee to the Company upon Request, and subject to the receipt of a Written Direction approving the same, against conveyance to

the Trustee of units of Equipment (hereinafter in this Section called the "Replacing Equipment") described in such Request first put into service on or after April 15, 1980, having a value, as of the date of said Request, not less than 125% of the amount of cash so paid and having an estimated useful life at least ten years beyond September 1, 1995, and upon delivery to the Trustee of the papers specified in the next succeeding paragraph of this Section, with such appropriate modifications as may be approved by the Trustee; provided, however, that receipt of such a Written Direction shall not be required with respect to the payment over by the Trustee to the Company of cash deposited pursuant to this Section if (1) the Replacing Equipment is of the same type as the Equipment being replaced, and is in as good condition as such Equipment was immediately prior to such Casualty Occurrence (assuming that the same had been maintained as required by this Section), (2) the Replacing Equipment has been leased by the Company to the same lessee(s) under the same Lease(s) as the Equipment being replaced, and (3) the Company shall have furnished to the Trustee and each Holder of a Trust Certificate an Officer's Certificate to the foregoing effects. If a Written Direction is so required and is not received within 30 days after a written request therefor by the Company to each Holder of a Trust Certificate, the Company may, by Request, direct the Trustee to apply (and the Trustee shall so apply) such cash to the prepayment, on the March 1, June 1, September 1 or December 1 next succeeding such Request by at least 30 days, of the installments of principal of the Trust Certificates as provided in Section 2.03(c) hereof, such prepayment to be made pro rata among the outstanding Trust Certificates.

At the time of delivery of any Request pursuant to the second preceding paragraph of this Section, the Company shall, if Replacing Equipment is to be conveyed by the Trustee in substitution for the Trust Equipment which has suffered a Casualty Occurrence, deliver to the Trustee the following papers:

- (1) an Officer's Certificate certifying (i) the value, as of the date of such Request, of each unit of the Replacing Equipment so to be assigned or transferred to the Trustee and the date such unit of Replacing Equipment was first put into service (or that such unit of Replacing Equipment was first put into service not earlier than a specified date), (ii) the value, as of the date of the Casualty Occurrence with respect thereto, of each unit of such substituted Equipment and the date such unit of substituted Equipment was first put

into service (or that such unit of substituted Equipment was first put into service not earlier than a specified date), (iii) that each such unit of Replacing Equipment is Equipment as herein defined and is marked in accordance with the provisions of Section 4.06 hereof, (iv) that each unit of Replacing Equipment has an estimated useful life at least ten years beyond September 1, 1995, and (v) that no Event of Default or Default hereunder has occurred and is continuing;

(2) a bill or bills of sale and an invoice or invoices from the Owner in respect of such Replacing Equipment as provided for in Sections 3.03(a) and (c), respectively, (acceptance of such bill or bills of sale by the Trustee to constitute acceptance by the Trustee hereunder of such Equipment);

(3) an opinion of counsel for each party delivering a bill of sale 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 title to such Replacing Equipment free from all claims or Liens (except as permitted by clause (i) or (ii)(A) of Section 6.05(c), the rights of the Company hereunder and any Lease permitted by Section 4.08), (ii) a proper supplement hereto in respect of each unit of Replacing Equipment has been duly authorized, executed and delivered by the parties thereto and has been duly filed with the Interstate Commerce Commission in accordance with 49 U.S.C. §11303, (iii) the Lease (and any supplement thereto referred to in the following clause (6)) and the Lease Assignment relating to such unit of Equipment have been recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. §11303, and (iv) no further filing, recordation or deposit is necessary, or will be necessary in the future, except as stated in such opinion, for the establishment and preservation of the rights of the Trustee in and to such unit of Replacing Equipment or any such Lease (to the extent that such Lease refers to such unit of Replacing Equipment) in any state of the United States of America or the District of Columbia;

(4) an acknowledgment from the lessee party to the Lease under which such unit of Replacing Equipment is leased by the Company acknowledging that the Company has sold (or caused to be sold) such unit of Replacing Equipment to the Trustee and consenting and acknowledg-

ing that the right, title and interest of the Company under such Lease relating to such unit of Replacing Equipment have been assigned to the Trustee and confirming (if such Lease is one of the Leases specifically referred to in Section 3.03(h) hereof) that any assignment of any of the right, title and interest of the Company under such Lease, to the extent that it relates to railroad equipment which is not Trust Equipment, shall not impair or offset the obligation to pay to the Trustee all rentals under such Lease in respect of such unit of Replacing Equipment as provided in Section 4.08 hereof and a consent of such lessee to the effect that the right, title and interest of the Company under such Lease, to the extent it relates to railroad equipment which is not Trust Equipment, may either be retained by the Company or assigned to others;

(5) a supplement to Schedule A which describes such unit of Equipment by number;

(6) the original of the Lease under which such unit of Replacing Equipment has been or is to be leased by the Company and a Lease Assignment with respect to such Lease, together with a supplement or schedule thereto specifically describing such unit of Equipment by register number if such Lease does not so describe it, unless such Lease and such supplement or schedule, if any, shall previously have been delivered to the Trustee (in its capacity as Trustee hereunder); and

(7) a certificate of acceptance for such unit of Replacing Equipment.

Upon the Company either transferring Replacing Equipment to the Trustee, or prepaying Trust Certificates, as hereinabove provided, the Trustee shall transfer to the Company, without warranty or recourse (provided that all accrued and unpaid rent hereunder with respect thereto shall have been paid), all its right, title and interest in and to the units of Trust Equipment which suffered the Casualty Occurrence(s) giving rise to such transfer of Replacing Equipment or prepayment.

The Company agrees to furnish to the Trustee, on or before June 1 in each year commencing with 1981, an Officer's Certificate dated as of the preceding March 31, (1) stating the quantity, description and numbers of all units of Trust Equipment that have suffered a Casualty Occurrence 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 4.08 (including the name of the lessee, the term of the Lease and the date of the Lease pursuant to which such Trust Equipment is leased) and specifying which units of Trust Equipment are not then being leased by the Company and (3) certifying that there is not any Default or Event of Default under any provision of this Agreement or specifying all such Defaults and Events of Default and the action being taken by the Company to remedy the same.

For all purposes of this Section, (i) the value of any unit of Trust Equipment which has suffered a Casualty Occurrence shall be deemed to be the amount obtained by multiplying the aggregate unpaid principal amount of Trust Certificates on the date of the making of the cash deposit with the Trustee referred to in the second paragraph of this Section by a fraction the numerator of which is the Cost of such unit and the denominator of which is the Cost of all units of Trust Equipment and (ii) the value of any unit of Equipment conveyed to the Trustee as provided in this Section shall be the actual fair value thereof.

SECTION 4.08. Possession of Trust Equipment; Security Interest in Leases. The Company will not assign or transfer its rights hereunder, or (except as provided in this Section) transfer or lease the Trust Equipment or any part thereof or assign, pledge, transfer or otherwise dispose of any of its rights under any Leases permitted hereunder, without the prior written consent of the Trustee; and the Company shall not, without such written consent, except as herein provided, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment.

So long as an Event of Default shall not have occurred and be continuing under this Agreement, the Company shall be entitled to the possession of the Trust Equipment and, subject to the provisions of this Section 4.08 and the definition of the term "Lease" contained herein, to maintain, and enter into Leases of the Trust Equipment. Promptly after entering into any Lease (other than those listed on Schedule A hereto) of Trust Equipment or any amendment to a Lease of Trust Equipment which adds or substitutes units of Equipment or changes the term of the Lease, the Company will execute and deliver, and cause to be filed with the Interstate Commerce Commission pursuant to Section 6.03, a supplement or amendment hereto which effects

appropriate modifications to the information set forth in Schedule A hereto and will also deliver and cause to be filed with the Interstate Commerce Commission a copy of such Lease or amendment and will deliver the original counterpart thereof to the Trustee. Any Lease by the Company entered into pursuant to this Section 4.08 may provide, subject to the provisions of Section 4.06, for lettering or marking upon the Trust Equipment subject thereto for convenience of identification of the leasehold interest of such lessee therein.

As security for the payment and performance of the obligations of the Company hereunder, the Company hereby grants, pledges and assigns unto the Trustee all its right, title and interest in and to each Lease (including the Leases referred to in Schedule A hereto) of any unit of the Trust Equipment existing as of the date hereof or entered into in the future, (but only, in the case of the Leases to Columbia & Cowlitz Railway Company, Port of Tillamook Bay Railroad and Mississippi & Skuna Valley Railroad Company, to the extent such Leases relate to units of Trust Equipment), and all rentals, moneys and proceeds payable to or receivable by the Company under any such Lease, and the Company shall execute and deliver a Lease Assignment with respect to each such Lease; provided, however, that (a) so long as no Event of Default shall have occurred and be continuing the Company shall be entitled to collect and receive all such rentals, moneys and proceeds, and to exercise all other rights of lessor as to the use and operation of the Trust Equipment, and (b) during the continuance of any Event of Default, all such rentals, moneys and proceeds shall be paid to the Trustee and applied to the payment or prepayment of the principal of, and/or to the payment of interest due and owing on, the Trust Certificates, all as may be specified in a Written Direction or, in the absence thereof, as may be determined by the Trustee. It is hereby agreed that the Company will under no circumstance hereafter have the right to grant, pledge or assign, other than pursuant to this Section 4.08, any of its right, title and interest in and to any Lease (including the Leases referred to in Schedule A hereto) relating to any unit of Trust Equipment existing as of the date hereof or entered into in the future or permit any other railroad equipment to be delivered under any such Lease.

Notwithstanding anything to the contrary contained herein, the Company will not amend, terminate or replace any Lease covering any of the Trust Equipment without the prior written consent of the Holders of 66-2/3% in principal

amount of the outstanding Trust Certificates; provided, however, that the Company may without such consent terminate, in whole or in part, any such Lease with respect to any unit or units of Trust Equipment if and to the extent that the utilization thereof has fallen below the criteria established by such Lease with respect thereto and, subject to the provisions of the definition of the term "Lease" contained in Article One hereof, re-let such units pursuant to a Lease. The Company will deliver to the Trustee, the Original Purchaser (so long as it is a Holder of Trust Certificates) and each institutional investor which is a Holder from time to time of at least 5% in aggregate principal amount of the outstanding Trust Certificates copies of all Leases assigned hereunder and copies of all amendments thereof.

SECTION 4.09. Maintenance of Insurance. Upon the delivery of any unit of Trust Equipment the Company will promptly effect and maintain or cause to be effected and maintained with financially sound and reputable companies, insurance policies (i) insuring each such unit of Trust Equipment against loss by fire, explosion, theft and such other casualties as are usually insured against by companies engaged in the same or a similar business and with coverage in an amount at least equal to the replacement value of each such unit of Trust Equipment (but such coverage for all railroad rolling stock owned or leased by the Company may be limited to \$5,000,000 for each occurrence and the policies relating thereto may contain provisions relating to deductibles which are comparable to those contained in policies carried by other companies engaged in the same or a similar business) and (ii) insuring the Company and the Trustee against liability for personal injury and property damage caused by or relating to such railroad rolling stock or their use with coverage in the amount of at least \$10,000,000, all such insurance policies to be in such form and to have such coverage as shall be satisfactory to the Trustee, with losses payable to the Company and the Trustee as their respective interests may appear, and all such policies to provide that the same shall not be cancelled except on not less than 30 days' prior written notice to the Trustee and the Original Purchaser; and the Company will from time to time furnish to the Trustee such information concerning the insurance maintained pursuant to this Section (including, without limitation, copies of policies) as it may reasonably request, and (not less often than annually) an Officer's Certificate detailing such coverage and stating that the same complies with this Section 4.09. The Company further agrees that, immediately upon obtaining from any in-

surer providing coverage required by this Section 4.09 notice that any policy affording such coverage is to be, or has been, cancelled, the Company will furnish to the Trustee an Officer's Certificate annexing a copy of such notice and stating the action which the Company proposes to take with respect thereto.

SECTION 4.10. Indemnity. The Company covenants and agrees to indemnify the Trustee and each Holder from time to time of any Trust Certificates against any and all claims or loss arising out of or connected with the ownership, lease or use of any of the Trust Equipment and particularly (but not by way of limitation) against any and all claims or loss arising out of the use of any patented inventions in and about the Trust Equipment, and to comply in all respects with the laws of the United States of America, and of all the states and other jurisdictions in which the Trust Equipment, or any unit thereof, may be operated, and with all lawful acts, rules, regulations and orders of any commissions, boards and other legislative, executive, administrative or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including without limitation all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; provided, however, that the Company may in good faith contest the validity of any such law, act, rule, regulation or order, or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the Holders of the Trust Certificates. 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 obligations of the Company under this Section shall survive the termination of this Agreement and the payment in full of the Trust Certificates.

ARTICLE FIVE

EVENTS OF DEFAULT AND REMEDIES

Section 5.01. Events of Default. The Company covenants and agrees that in case:

(a) the Company shall default in the payment of any part of the rental payable pursuant to subparagraphs (1), (2), (3) or (4) of Section 4.04 for more than ten days after the same shall have become due and payable; or

(b) the Company shall enter into any lease or amendment of a Lease, or shall terminate or replace any Lease, in any such case in violation of Section 4.08, or make or suffer any unauthorized assignment or transfer of its rights hereunder or shall make any unauthorized transfer or lease (including, for the purpose of this clause, contracts for the use thereof) of any of the Trust Equipment, or, except as herein authorized, shall part with the possession of any of the Trust Equipment, and such lease, amendment, termination, replacement, assignment, transfer or lack of possession shall continue for 30 days; or

(c) the Company shall default in the performance or observance of any agreement contained in Section 6.02 or 6.05 hereof; or

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

(e) the lease provided for in Section 4.01 hereof shall be terminated by operation of law; or

(f) any proceedings shall be commenced by or against the Company or any Restricted Subsidiary under Title 11 of the United States Code, as now constituted or as may hereafter be amended, or any other Federal or state law relating to bankruptcy or insolvency, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions, or appointing a receiver or decreeing or ordering the winding up or liquidation of the affairs of the Company or any Restricted Subsidiary, or any similar proceedings (unless such proceedings shall have been discharged, dismissed, stayed or otherwise rendered ineffective within 60 days from the date of the filing thereof [but then only so long as such stay shall continue in force or such ineffectiveness shall continue]) and all the obligations of the Company

hereunder, under the guarantee endorsed on the Trust Certificates and under the Leases and Lease Assignments relating thereto, as the case may be, shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Company or for its property in connection with such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(g) the Company or any Restricted Subsidiary shall institute proceedings to be adjudicated a bankrupt or insolvent or shall consent to the institution of bankruptcy or insolvency proceedings against it or shall file a petition or answer or consent seeking reorganization or relief under Title 11 of the United States Code, as now constituted or as may hereafter be amended, or any other Federal or state law relating to bankruptcy or insolvency or shall consent to the filing of any such petition or shall consent to the appointment of a receiver or shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due, or action shall be taken by the Company or any Restricted Subsidiary in furtherance of any of the aforesaid purposes; or

(h) default shall be made by the Company in the performance or observance of any of the material covenants, agreements or conditions on its part in the Purchase Agreement dated as of May 1, 1980, between the Company, the Trustee and the Original Purchaser; or any representation or warranty heretofore or hereafter made by or on behalf of the Company herein or in said Purchase Agreement or in any other certificate or other writing delivered under or pursuant to this Agreement or said Purchase Agreement or in connection with any provision hereof or thereof or related to the transaction contemplated hereby or thereby shall prove to have been false or incorrect or breached in any material respect on the date as of which made, and such default or breach (if remediable) shall continue for a period of 30 days after written notice to the Company by the Trustee or to the Company and the Trustee by the Original Purchaser, if it is a Holder of Trust Certificates, or any institutional investor which is a

Holder of 5% or more in aggregate principal amount of the Trust Certificates then outstanding; or

(i) the Company or any Restricted Subsidiary defaults in any payment of principal of or interest on any other obligation for money borrowed or any other obligation constituting Debt of the Company or such Restricted Subsidiary (or any obligation under conditional sale or other title retention agreements or any obligation issued or assumed as full or partial payment for property whether or not secured by purchase money mortgage or any obligation under notes payable or drafts accepted representing extensions of credit) beyond any period of grace provided with respect thereto, or defaults in the performance of any other agreement, term or condition contained in any agreement under which any such obligation is created (or if any other default under any such agreement shall occur and be continuing) if the effect of such default is to cause, or to permit the holder or holders of such obligation (or a trustee on behalf of such holder or holders) to cause, such obligation to become due prior to its stated maturity or scheduled date for payment and the aggregate principal amount which could so become due exceeds \$100,000; or

(j) the Company or any Restricted Subsidiary is subject to any final judgment or judgments for the payment of money in the aggregate in excess of \$250,000 which is not discharged in full or stayed within 30 days of such judgment's entry;

then, in any such case (in this Agreement sometimes called an "Event of Default"), if such Event of Default shall be continuing, the Trustee upon the written request of the Holders of not less than 25% in unpaid principal amount of the then outstanding Trust Certificates shall, by notice in writing delivered to the Company, declare to be due and payable forthwith the entire amount of the rentals (but not including rentals required for the payment of interest accruing after the date of such declaration) payable by the Company as set forth in Section 4.04 and not theretofore paid. Thereupon the entire amount of such rentals shall forthwith become, and shall be, due and payable immediately without further demand, together with interest at the rate of 14% per annum, to the extent legally enforceable, on any portion thereof overdue.

In case one or more Events of Default shall happen and be continuing, the Holders of not less than 25% in un-

paid principal amount of the then outstanding Trust Certificates may, by notice in writing delivered to the Trustee and the Company, declare the unpaid 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; provided, however, that if a subsidiary (the "Weyerhaeuser subsidiary") of Weyerhaeuser Company, a Washington corporation ("Weyerhaeuser"), is a lessee of Trust Equipment and, within 30 days after written notice of an Event of Default is given to Weyerhaeuser, Weyerhaeuser (A) expressly assumes in writing the due and punctual payment of the Weyerhaeuser Proportion (as defined below) of the principal of and interest on each Trust Certificate and the due and punctual performance and observance of all the obligations, liabilities and covenants of the Company contained in this Agreement (other than in Sections 6.05(a) through (m) hereof and, in the case of Section 4.04 hereof, limited to the Weyerhaeuser Proportion of rental payments required under Section 4.04) and in the Weyerhaeuser Proportion of each Trust Certificate, in each case as it relates to the Trust Equipment leased to the Weyerhaeuser subsidiary, (B) pays to the Trustee a sum sufficient to pay all matured installments of interest upon the Weyerhaeuser Proportion of each Trust Certificate and the principal of the Weyerhaeuser Proportion of each Trust Certificate which shall have become due otherwise than by acceleration and any and all other amounts then due and payable under this Agreement (other than the principal of the Weyerhaeuser Proportion of each Trust Certificate which shall have become due by acceleration), (C) expressly acknowledges in writing that the Trust Equipment leased to the Weyerhaeuser subsidiary is subject to the lien and security interest created by this Agreement, (D) records and files, at its sole expense, with the Interstate Commerce Commission pursuant to 49 U.S.C. §11303, and in such other public offices as the Trustee may reasonably request, an assumption agreement and such other documents as the Holders shall request in order to maintain and preserve the lien and security interest created by this Agreement in the Trust Equipment, (E) agrees to maintain its corporate existence in a manner satisfactory to the Holders of Trust Certificates and (F) furnishes to the Holders documents and opinions of counsel corresponding to those referred to in Paragraphs 6(b), (c), (h) and (i) of the Purchase Agreement, modified to the extent necessary to be applicable to such assumption and satisfactory in form and substance to the Holders, then the Holders shall waive all Events of Default, and rescind and annul such declaration and its consequences, only to the extent such event or declaration relates to the Trust

Equipment being leased to the Weyerhaeuser subsidiary; but no such waiver or rescission and amendment shall extend to or shall affect any subsequent default by Weyerhaeuser or the Weyerhaeuser subsidiary or shall impair any right consequent thereon. For purposes of this paragraph, the "Weyerhaeuser Proportion" shall mean a fraction, the numerator of which is the value of the units of Trust Equipment leased by the Weyerhaeuser subsidiary (such value to be determined in accordance with clause (i) of the last paragraph of Section 4.07 hereof, but as of the date the notice of the Event of Default is given to Weyerhaeuser) and the denominator of which is the value of all units of Trust Equipment. If any Trust Equipment is leased to a Weyerhaeuser subsidiary, then the Trustee shall give written notice to Weyerhaeuser at the address supplied to the Trustee for that purpose of each Event of Default under this Agreement actually known to a responsible officer of the Corporate Trust Department of the Trustee immediately upon such officer so learning of the same.

In case the Company shall fail to pay any installment of rental payable pursuant to Section 4.04(3) or (4) when and as the same shall have become due and payable hereunder, and an Event of Default exists by reason of such failure, 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, 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 and collect in the manner provided by law out of the property of the Company wherever situated the moneys adjudged or decreed to be payable.

In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company under Title 11 of United States Code, as now constituted or as may hereafter be amended, or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of the Company or in case of any other judicial proceedings relative to the Company or to the creditors or property of the Company, the Trustee, irrespective of whether the rental payments hereunder or the unpaid principal amount 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, 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 (but not including rentals required for the payment of interest accruing after the date of payment of all amounts due), and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation to the Trustee, its agents, attorneys and counsel, and for reimbursement of all expenses and liabilities incurred, and all advances made, by the Trustee except as a result of its negligence or wilful misconduct) and of the Holders of the Trust Certificates allowed in such proceedings and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the Holders of the 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 payments 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 amount as shall be sufficient to cover reasonable compensation to the Trustee, its agents, attorneys and counsel, and all other expenses and liabilities incurred, and all advances made, by the Trustee except as a result of its negligence or wilful misconduct.

All rights of action and to assert claims under this Agreement, or under any of the Trust Certificates or the guarantees of the Company endorsed thereon, 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 provisions 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 5.02. Remedies. In case of the happening of any Event of Default, the Trustee may by its agents enter upon the premises of the Company and any Affiliate of the Company or of any lessee (or other person having acquired the use of the Trust Equipment) where any of the Trust

Equipment may be and take possession of all or any part of the Trust Equipment and withdraw the same from said premises, retaining all payments which up to that time may have been made on account of rental for the Trust Equipment and otherwise, and shall be entitled to collect, receive and retain all unpaid mileage or other charges of any kind earned by the Trust Equipment or any part thereof, and may lease or otherwise contract for the use of the Trust Equipment or any part thereof; or the Trustee may with or without retaking possession (but only after there shall have been declared due and payable the entire amount of rentals payable by the Company and the unpaid principal of all the then outstanding Trust Certificates, as provided in Section 5.01) sell the Trust Equipment 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, 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 then outstanding Trust Certificates, all subject to any mandatory requirements of law applicable thereto. 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. After the Trustee has fully exercised its remedies hereunder, 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 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 any Trust Certificates. No such taking of 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, or of principal and interest in respect of the Trust Certificates, and the Company shall be and remain liable for the same until such sums have been realized as, with the proceeds of the lease or sale of the Trust Equipment, shall be sufficient for the discharge and payment in full of all the obligations of the Company under this Agreement.

SECTION 5.03. Application of Proceeds. If the Trustee shall exercise any of the powers conferred upon it by Sections 5.01 and 5.02, all payments made by the Company to the Trustee, and the proceeds of any judgment collected from the Company by the Trustee, and the proceeds of every sale or lease by the Trustee of any of the Trust Equipment, together with any other sums which may then be held by the Trustee under any of the provisions hereof (other than sums held in trust for the payment of specific Trust Certificates or a part thereof, or interest thereon) shall be applied by the Trustee to the payment, in the following order of priority (a) of all proper fees, charges, expenses or advances made or incurred by the Trustee or any Holder of Trust Certificates in accordance with the provisions of this Agreement and (b) of the principal of all the outstanding Trust Certificates, and/or of interest then due on the Trust Certificates, in each case with interest on the Trust Certificates and, to the extent legally enforceable, on such overdue interest at the rate of 14% per annum, from the last preceding interest payment date, whether such Trust Certificates shall have then matured by their terms or not, all as may be specified in a Written Direction or, in the absence thereof, as may be determined by the Trustee.

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

SECTION 5.04. 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 5.01, the Holders of not less than 66-2/3% in aggregate unpaid principal amount of the Trust Certificates at the time outstanding may on behalf of the Holders of all the Trust Certificates waive by an instrument in writing delivered to the Trustee any past default and its consequences, except a default in the payment of any installment of rental payable pursuant to Section 4.04(3) or (4), 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 5.01, but before September 1, 1995, all arrears of rent (with interest at the rate of 14% 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 trust occasioned by the Company's default, and all other sums which shall have become due and payable by the Company hereunder (other than by reason of such declaration) shall be paid by the Company before any sale or lease by the Trustee of any of the Trust Equipment, and every other default shall be made good or cured 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 Holders of not less than 66-2/3% in unpaid principal amount of the Trust Certificates then outstanding, may by written notice to the Company and the Trustee rescind such declaration or declarations, but no such rescission shall extend to or affect any subsequent default or impair any right consequent thereon.

SECTION 5.05. Obligations of the Company Not Affected by Remedies. No retaking of possession of the Trust Equipment by the Trustee, nor 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 hereunder or the obligations of the Company under the guarantee endorsed on the Trust Certificates.

The Company 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 5.06. The Company To Deliver Trust Equipment to Trustee. In case the Trustee shall demand possession of any of the Equipment pursuant to Section 5.02 and shall designate a reasonable point or points for the delivery of the Trust Equipment to the Trustee, the Company shall, at its own expense and risk:

(a) forthwith and in the usual manner use its best efforts to cause the Trust Equipment to be placed upon such storage tracks of the Company or any of its Affiliates if the Company or any Affiliates shall then own any storage tracks, as the Trustee reasonably may designate; and

(b) permit the Trustee to store the Trust Equipment on such tracks at the risk of the Company without charge for insurance, rent or storage until the Trust Equipment has been sold, leased or otherwise disposed of by the Trustee.

During any storage period, the Company will, at its own cost and expense, maintain and keep each such unit of Trust Equipment in good order and repair and will permit the inspection of the Trust Equipment by the Trustee, the Trustee's representatives and prospective purchasers, lessees and users. This agreement to deliver the Trust Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction, the Trustee shall be entitled to a decree against the Company requiring specific performance of such agreement. The Company hereby expressly waives any and all claims against the Trustee and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Trust Equipment in any reasonable manner.

SECTION 5.07. Trustee To Give Notice of Default.

The Trustee shall give to the Holders of the Trust Certificates notice of each Event of Default hereunder actually known to a responsible officer of the Corporate Trust Department of the Trustee immediately upon such officer so learning of the same.

SECTION 5.08. Control by Holders of Trust Certificates. The Holders of not less than 66-2/3% in aggregate unpaid principal amount of the then outstanding Trust Certificates, by an instrument or instruments in writing executed and delivered to the Trustee, shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee or exercising or refraining from exercising any trust or power conferred on the Trustee; provided, however, that the Trustee shall have the right to decline to follow any such direction (i) if the Trustee shall be advised by counsel that the action so directed may not lawfully be taken or (ii) if the Trustee shall be advised by counsel that the action so

directed may involve it in personal liability unless it shall have received a satisfactory indemnity therefor. The Trustee may take any other action deemed proper by the Trustee which is not inconsistent with any such direction given hereunder.

SECTION 5.09. Unconditional Right of Holders of Trust Certificates To Sue for Principal and Interest. Notwithstanding any other provision in this Agreement, the right (which, it is understood, shall exist) 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 (and after any applicable period of grace provided herein), or to institute suit for the enforcement of any such payment or the guarantee thereof by the Company on or after such respective dates, shall not be impaired or affected without the consent of such Holder, except no such suit shall be instituted if and to the extent that the institution or prosecution thereof or the entry of judgment therein would, under applicable law, result in the surrender, impairment, waiver or loss of the title reserved under this Agreement upon any property subject hereto.

SECTION 5.10. Remedies Cumulative; Subject to Mandatory Requirements of Law. 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; and such remedies so provided in this Agreement shall be subject in all respects to any mandatory requirements of law at the time applicable thereto, to the extent such requirements may not be waived on the part of the Company.

SECTION 5.11. Books and Records; Inspection of Property. The Company 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 (subject to the rights of the lessees thereof but to the full extent to which the Company shall have, as between itself and each of such lessees, such rights of visitation and inspection), to examine the books of account and records of the Company and its Subsidiaries relating to the Trust Equipment, to make copies thereof and extracts therefrom, to discuss the affairs, finances and accounts of the Company

and its Subsidiaries with, and to be advised as to the same by, its and their officers and employees and its and their independent public accountants, all at such reasonable times and as often as the Trustee may reasonably request, it being understood that the Trustee will give reasonable prior notice to the Company of any such visit, inspection, examination, discussion or advice.

ARTICLE SIX

ADDITIONAL COVENANTS AND AGREEMENTS BY THE COMPANY

SECTION 6.01. Guarantee of the Company. The Company unconditionally covenants, agrees and guarantees 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 and of this Agreement (and, if not so paid, with interest thereon until paid at the rate of 14% per annum), and shall receive interest thereon in like money at the rate specified therein, at the times and place and otherwise as expressed in the Trust Certificates or this Agreement (and, if not so paid, with interest thereon until paid at the rate of 14% per annum, to the extent legally enforceable); and the Company agrees to endorse upon each of the Trust Certificates, at or before the issuance and delivery thereof by the Trustee, its guarantee of the prompt payment of the principal thereof and of the interest thereon, in substantially the form hereinbefore set forth. Said guarantee so endorsed shall be signed in the name and on behalf of the Company by the manual or facsimile signature of the President, a Vice President or Treasurer of the Company.

SECTION 6.02. 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 (other than a Trustee's Lien or a Lien of the character referred to in Section 6.05(c)(i) or (ii)) upon or against any of the Trust Equipment or Leases (to the extent that such Leases relate to Trust Equipment). The Company will promptly at its own expense take all action necessary to discharge any Lien arising by reason of its non-

compliance with the foregoing sentence. 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, or Lien, as required by this Section, the Trustee may, but shall not be obligated to, pay and discharge the same and any amount so paid shall be secured by and under this Agreement until reimbursed by the Company.

SECTION 6.03. Filing. The Company will, promptly after the execution and delivery of this Agreement, and each supplement or amendment hereto, cause the same to be duly filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303. The Company will, within 30 days after any Trust Equipment shall be acquired by the Trustee pursuant to this Agreement, at the sole cost and expense of the Company, (i) record, register or file this Agreement (or any financing statement or similar notice) in each Province of Canada in which the Company is permitted under applicable law to make such recording, registration or filing in order to perfect and protect the rights of the Trustee under this Agreement to such Trust Equipment and (ii) deliver to the Trustee an opinion of Canadian counsel to the Company to the effect that all such recordings, registrations and filings have been duly made and no other recording, registration or filing is necessary in order to protect in such Province the rights of the Trustee under this Agreement against any and all subsequent purchasers or mortgagees from or under the Company or from creditors of the Company, or to the effect that no such recording, registration or filing is required. The Company will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register and record and will refile, reregister and rerecord any and all further instruments required by law (including all applicable laws of the Dominion of Canada or any Province thereof and any other jurisdiction) or reasonably requested by the Trustee for the purpose of proper protection of the rights of the Trustee in and to the Trust Equipment and the assignment hereunder, as additional security, of the interests of the Company in and to the Leases of the Trust Equipment listed in Schedule A of proper protection of the rights of the Holders of the Trust Certificates or of fully carrying out and effectuating this Agreement and the intent thereof, and from time to time shall provide such Opinions of Counsel as reasonably requested by the Trustee with respect to such matters.

Promptly after the execution and delivery of this Agreement and of each supplement or amendment hereto (except

that an opinion of Canadian counsel shall only be required for material supplements or amendments), the Company will furnish to the Trustee an Opinion of Counsel stating that, in the opinion of such counsel, such document or a financing statement relating to such document has been properly deposited, filed, registered and recorded and redeposited, refiled, reregistered and rerecorded, if necessary, so as effectively to protect the rights of the Trustee in and to the Trust Equipment and the assignment hereunder, as additional security, of the interests of the Company in and to the Leases of the Trust Equipment listed in Schedule A hereto, as supplemented, and its right and the rights of the Holders of the Trust Certificates hereunder and reciting the details of such action.

SECTION 6.04. Further Assurances. The Company covenants and agrees from time to time to do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustees to do or execute for the purpose of fully carrying out and effectuating this Agreement and the intent hereof.

SECTION 6.05. Negative Covenants. The Company covenants that, without the written consent of the Holders of not less than 66-2/3% in aggregate principal amount of the Trust Certificates at the time outstanding, the Company will not, and will not permit any Restricted Subsidiary to:

(a) Consolidated Shareholders' Equity. Permit Consolidated Shareholders' Equity at any time after the date hereof to be less than \$35,000,000.

(b) Dividend and Restricted Payment Limitation. In the case of the Company, pay or declare any dividend or make or permit any other distribution on or in respect of any class of its stock, or redeem, purchase or otherwise acquire, directly or through any Restricted Subsidiary, any shares of its stock or make or permit any Restricted Subsidiary to make any optional prepayments of principal of, or optionally retire, redeem, purchase or otherwise acquire, directly or through any Restricted Subsidiary, any Subordinated Funded Debt or make or permit any Restricted Subsidiary to make any expenditures permitted by clause (iv) of Section 6.05(e) (all of the foregoing being herein called "Restricted Payments") except out of Consolidated Net Earnings Available for Restricted Payments, determined as of the date such Restricted Payment is proposed to be declared (in the case of a dividend or other

distribution) or made (in the case of any other Restricted Payment); provided, however, that notwithstanding the foregoing limitations, the Company may pay dividends on its Preferred Stock at the rates provided in the Certificate of Determination of Preferences in respect thereof as in effect on the date hereof, but provided that the amount of any such dividends paid or declared shall be included in any subsequent computation of Consolidated Net Earnings Available for Restricted Payments pursuant to this Section 6.05(b).

The Company will not declare any dividend (other than on its Preferred Stock) payable more than 90 days after the date of declaration thereof.

"Consolidated Net Earnings" for any period shall mean consolidated gross revenues of the Company and its Restricted Subsidiaries (including dividends received in cash from any Subsidiary) for such period, less all operating and nonoperating expenses of the Company and its Restricted Subsidiaries for such period, including all charges of a proper character (including current and deferred taxes on income, provision for taxes on unremitted foreign earnings which are included in gross revenues, and current additions to reserves), but not including in gross revenues any gains (net of expenses and taxes applicable thereto) in excess of losses resulting from the sale, conversion or other disposition of capital assets (i.e., assets other than current assets), any gains resulting from the write-up of assets, any equity of the Company or any Restricted Subsidiary in the unremitted earnings of any corporation which is not a Restricted Subsidiary, any earnings of any Person acquired by the Company or any Restricted Subsidiary through purchase, merger or consolidation or otherwise for any year prior to the year of acquisition, net earnings of any Restricted Subsidiary allocable to a minority interest in such Subsidiary, the proceeds of any life insurance policies, or any deferred credit representing the excess of equity in any Restricted Subsidiary at the date of acquisition over the cost of the investment in such Restricted Subsidiary, all determined in accordance with Generally Accepted Accounting Principles.

"Consolidated Net Earnings Available For Restricted Payments", as of any date of determination, shall mean an amount equal to

(A) the sum of

(1) \$6,000,000, plus

(2) 50% (or minus 100% in case of a deficit) of Consolidated Net Earnings for the period (taken as one accounting period) commencing April 1, 1980 and terminating on the date of determination, plus

(3) the aggregate amount received as the net cash proceeds of the sale of any shares of the Company's stock after March 31, 1980, and/or the net cash proceeds received after March 31, 1980, upon the sale of any Debt security which has been converted into shares of its stock,

less

(B) the sum of

(1) the aggregate amount of all dividends and other distributions paid or declared by the Company on any class of its stock after March 31, 1980, plus

(2) the aggregate amount of all expenditures made pursuant to clause (iv) of Section 6.05(e) after March 31, 1980, plus

(3) the aggregate amount expended, directly or indirectly, after March 31, 1980, for the redemption, purchase or other acquisition of any shares of the Company's stock and for the optional payment of principal of, and the optional retirement, redemption, purchase or other acquisition of, Subordinated Funded Debt.

There shall not be included in Restricted Payments or in any computation of Consolidated Net Earnings Available for Restricted Payments: (x) dividends paid, or distributions made, in stock of the Company; or (y) any exchange of stock of one or more classes of the Company, except to the extent that cash or other value (not represented by stock) is involved in such exchange. The term "stock", as used in this subsection (b), shall include warrants or options to purchase stock.

(c) Liens. Create, assume or suffer to exist any Lien upon any of its property or assets, whether now owned or hereafter acquired (whether or not provision is made for the equal and ratable securing of the Trust Certificates in accordance with the provisions of Section 6.06), except:

(i) the Lien of this Equipment Trust Agreement and the Lease Assignments;

(ii) Liens for taxes (A) not yet due or (B) which are being actively contested in good faith by appropriate proceedings and if appropriate reserves in accordance with Generally Accepted Accounting Principles have been established therefor, provided, if the properties or assets in question are Trust Equipment, 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;

(iii) other Liens incidental to the conduct of its business or the ownership of its property and assets which were not incurred in connection with the borrowing of money or the obtaining of advances or credit, and which do not in the aggregate materially detract from the value of its property or assets or materially impair the use thereof in the operation of its business;

(iv) Liens on property or assets of a Restricted Subsidiary to secure obligations of such Restricted Subsidiary to the Company or another Restricted Subsidiary;

(v) any Lien (including Capitalized Leases) existing on any property of any corporation at the time it becomes a Restricted Subsidiary, or existing prior to the time of acquisition upon any property acquired by the Company or any Restricted Subsidiary through purchase, merger or consolidation or otherwise, whether or not assumed by the Company or any Restricted Subsidiary or placed upon property at the time of acquisition by the Company or any Restricted Subsidiary or within 12 months thereafter to secure not more than 80% of (or to secure Debt incurred to pay not more than 80% of), or in the case of Capitalized Leases, 100%

of, the purchase price thereof, provided that (a) any such Lien shall not encumber any other property of the Company or such Restricted Subsidiary other than leases, maintenance contracts or other interests relating to such property which are customarily encumbered to secure the payment of Debt incurred to pay the purchase price of property, (b) the aggregate amount secured by all such Liens (excluding amounts secured by Liens on railroad rolling stock and other transportation equipment) and any Liens permitted by clause (vi) below shall not exceed 3% of Consolidated Tangible Net Worth, and (c) giving effect to the incurrence of the Debt secured by any such Lien, the Company or such Restricted Subsidiary shall be entitled to incur at least One Dollar of additional unsecured Senior Funded Debt or secured Current Debt under Section 6.05(d) hereof;

(vi) any Lien renewing, extending or refunding any Lien permitted by clause (v) above, provided that the principal amount secured is not increased, and the Lien is not extended to other property;

(vii) Liens represented by any equipment trust agreement or other financing agreement relating to the financing or refinancing of railroad rolling stock or other transportation equipment if the Debt secured thereby is permitted by Section 6.05(d); and

(viii) any Lien on the Permitted Investments referred to in clause (2) of Schedule C securing Funded Debt or Current Debt incurred in connection with the acquisition or carrying of such Permitted Investments, provided that (a) the Debt so secured is permitted by Section 6.05(d), and (b) the aggregate amount of such Debt at any one time outstanding shall not exceed 50% of the cost to the Company of such Permitted Investments.

(d) Debt. Create, incur, assume, guarantee or in any way become liable for any Senior Funded Debt or create, incur, assume or suffer to exist any Subordinated Funded Debt or Current Debt, except:

(i) Senior Funded Debt evidenced by the Company's guarantee of the Trust Certificates;

(ii) Funded or Current Debt of any Restricted Subsidiary to the Company or another Restricted Subsidiary;

(iii) Senior Funded Debt or secured Current Debt of the Company or any Restricted Subsidiary, if after giving effect thereto and to the concurrent repayment of any Funded Debt or secured Current Debt (a) the aggregate of Consolidated Senior Funded Debt and secured Current Debt shall not exceed an amount equal to 450% of Consolidated Borrowing Base, and (b) at the date of such incurrence Consolidated Earnings Available for Interest Coverage shall not be less than 125% of Consolidated Interest Expense, and (c) any such Senior Funded Debt or secured Current Debt of any Restricted Subsidiary shall also constitute Purchase Money Debt or be evidenced by a Capitalized Lease;

(iv) Subordinated Funded Debt of the Company if after giving effect thereto the aggregate Subordinated Funded Debt shall not exceed 50% of Consolidated Shareholders' Equity; and

(v) unsecured Current Debt of the Company or any Restricted Subsidiary, provided that during the twelve months' period immediately preceding any day on which any such Current Debt is outstanding there shall have been a period of at least 45 consecutive days during which there was either no such unsecured Current Debt then outstanding or the aggregate amount of Consolidated Current Debt (secured and unsecured) outstanding on each of such days could have been incurred as Senior Funded Debt and/or secured Current Debt pursuant to the foregoing Clause (iii) of this Section 6.05(d) (disregarding for this purpose clause (b) thereof).

(e) Restricted Investments. Make or permit to remain outstanding any Restricted Investment in or to any Person, except that the Company or any Restricted Subsidiary may:

(i) make or permit to remain outstanding loans or advances to any Restricted Subsidiary;

(ii) own, purchase or acquire stock, obligations or securities of a Restricted

Subsidiary or of a corporation which immediately after such purchase or acquisition will be a Restricted Subsidiary;

(iii) acquire and own stock, obligations or securities received in settlement of debts (created in the ordinary course of business) owing to the Company or any Restricted Subsidiary;

(iv) make or permit to remain outstanding loans or advances or capital contributions to, or own, purchase or acquire stock, obligations or securities of, or sell property at less than fair market value to, any other Person, provided that the aggregate amount expended (including as an expenditure the amount by which the fair market value exceeds the cost basis of any property sold) pursuant to any such investment, purchase, loan, advance, contribution or sale (other than those referred to in clauses (i) through (iii) of this Section 6.05(e)) would have been permitted to be paid as a Restricted Payment pursuant to Section 6.05(b);

and except that any Restricted Subsidiary may make loans or advances to, or acquire stock, obligations or securities of, the Company, provided that after giving effect thereto the aggregate amount of such loans and advances outstanding plus the aggregate cost of such securities so purchased shall not exceed \$500,000 in the aggregate for all Restricted Subsidiaries holding such Restricted Investments.

(f) Sale of Stock and Debt of Restricted Subsidiary. Sell or otherwise dispose of, or part with control of, any shares of stock or Funded Debt or Current Debt of any Restricted Subsidiary, except to the Company or another Restricted Subsidiary, and except that all shares of stock and Debt of any Restricted Subsidiary at the time owned by or owed to the Company and all Restricted Subsidiaries may be sold as an entirety for consideration which represents the fair value (as determined in good faith by the Board of Directors of the Company) at the time of sale of the shares of stock and Debt so sold, provided that the tangible net worth of such Restricted Subsidiary (computed in the same manner as Consolidated Tangible Net Worth) does not constitute in excess of 10% of Consolidated Tangible Net Worth and that such Restricted Subsidiary shall not have

contributed in excess of 10% of an amount equal to the average of Consolidated Net Earnings for the three fiscal years (or any fiscal year if there shall be less than three) then most recently ended; further provided that immediately after such sale the Company and its Restricted Subsidiaries shall be able to incur an additional One Dollar of Senior Funded Debt or secured Current Debt without violating the provisions of Section 6.05(d), and further provided that, at the time of such sale, such Restricted Subsidiary shall not own, directly or indirectly, any shares of stock or Debt of the Company or of any other Restricted Subsidiary (unless all of the shares of stock and Debt of such other Restricted Subsidiary owned, directly or indirectly, by the Company and all Restricted Subsidiaries are simultaneously being sold as permitted by this Section 6.05(f)).

(g) Merger and Sale of Assets. Merge or consolidate with any other corporation or sell, lease or transfer or otherwise dispose of all or substantially all of or a substantial part (i.e., assets which constitute more than 10% of the Consolidated Tangible Net Worth of the Company and all Restricted Subsidiaries or which have contributed more than 10% of an amount equal to the average of Consolidated Net Earnings for the three fiscal years (or any fiscal year if there shall be less than three) then most recently ended) of its assets, to any Person, except that:

(i) any Restricted Subsidiary may merge with the Company (provided that the Company shall be the continuing or surviving corporation) or with any one or more other Restricted Subsidiaries;

(ii) any Restricted Subsidiary may sell, lease, transfer or otherwise dispose of any of its assets to the Company or another Restricted Subsidiary;

(iii) any Restricted Subsidiary may sell or otherwise dispose of all or substantially all of its assets subject to the conditions specified in Section 6.05(f) with respect to a sale of the stock of such Restricted Subsidiary;

(iv) the Company may merge with any other corporation, provided that (a) the Company shall be the continuing or surviving corporation, or, if the

Company shall not be the continuing or surviving corporation, then such other continuing or surviving corporation (x) shall be a corporation duly organized, validly existing and in good standing under the laws of the United States of America or a state thereof, and (y) shall have expressly assumed all the liabilities, obligations, covenants and agreements under this Agreement and the Trust Certificates pursuant to a written instrument in form and substance satisfactory to the Trustee, (b) the continuing or surviving corporation shall, immediately after such merger be able to incur an additional One Dollar of Senior Funded Debt or secured Current Debt without violating the provisions of Section 6.05(d) and (c) no Default or Event of Default shall exist immediately after such merger;

(v) any Restricted Subsidiary may merge with any Unrestricted Subsidiary, provided that (a) the Restricted Subsidiary shall be the continuing or surviving corporation, (b) the Restricted Subsidiary shall have assumed all of the Debt of the Unrestricted Subsidiary, (c) the Restricted Subsidiary shall be entitled to incur at least One Dollar of additional Senior Funded Debt or secured Current Debt under Section 6.05(d) immediately after such merger (and after giving effect thereto), and (d) no Default or Event of Default shall exist immediately after such merger; and

(vi) the Company or any Restricted Subsidiary may sell all or any part of its assets (other than real property) in connection with an arrangement with a lender or investor or to which such lender or investor is a party if such arrangement provides for the leasing by the Company or such Restricted Subsidiary of such property and the Debt incurred in such an arrangement is permitted by Section 6.05(d).

(h) Sale and Lease-Back. Enter into any arrangement with any lender or investor or to which such lender or investor is a party providing for the leasing by the Company or any Restricted Subsidiary of real property which has been or is to be sold or transferred by the Company or any Restricted Subsidiary to such lender or investor on the security of such property or

rental obligations of the Company or any Restricted Subsidiary.

(i) Sale or Discount of Receivables. Sell with recourse, or discount or otherwise sell for less than the face value thereof, any of its notes or accounts receivable, except that the Company may sell with recourse lease accounts receivable in the ordinary course of business.

(j) Certain Contracts. Enter into or be a party to:

(i) any contract providing for the making of loans, advances or capital contributions to any Person other than a Restricted Subsidiary (except where the obligation is limited to a fixed maximum amount and the incurrence of the Senior Funded Debt represented thereby shall then be permitted by Section 6.05(d)) or for the purchase of any property from any Person, in each case in order to enable such Person to maintain working capital, net worth or any other balance sheet condition or to pay debts, dividends or expenses;

(ii) any contract for the purchase of materials, supplies or other property or services if such contract (or any related document) requires that payment for such materials, supplies or other property or services shall be made regardless of whether or not delivery of such materials, supplies or other property or services is ever made or tendered;

(iii) any contract to rent or lease (as lessee) any real or personal property if such contract (or any related document) provides that the obligation to make payments thereunder is absolute and unconditional under conditions not customarily found in commercial leases then in general use or requires that the lessee purchase or otherwise acquire securities or obligations of the lessor, except such agreements to rent or lease where the obligation is limited to a fixed maximum amount and the incurrence of the Senior Funded Debt represented thereby shall then be permitted by Section 6.05(d);

(iv) any contract for the sale or use of materials, supplies or other property, or the rendering of services if such contract (or any related document) requires that payment for such materials, supplies or other property, or the use thereof, or payment for such services, shall be subordinated to any indebtedness (of the purchaser or user of such materials, supplies or other property or the Person entitled to the benefit of such services) owed or to be owed to any Person; or

(v) any other contract which, in economic effect, is substantially equivalent to a guarantee, except: (A) for endorsements of negotiable instruments for collection in the ordinary course of business; (B) where the obligation is limited to a fixed maximum amount and the incurrence of the Senior Funded Debt represented thereby shall then be permitted by Section 6.05(d); (C) as provided herein and in the Purchase Agreement dated as of May 1, 1980 among the Company, the Trustee and the Original Purchaser, or otherwise by way of indemnities of trustees, lessors, lenders and third party security holders in connection with financings to which it is a party pursuant to indemnification provisions customary in such financings; (D) indemnities of its officers, directors and employees for acts undertaken in their corporate capacities; (E) indemnities of purchasers, sellers, underwriters, brokers, dealers and dealer-managers of securities of the Company (or of which the Company may be deemed to be an issuer) in connection with the offer, sale or purchase of such securities pursuant to indemnification provisions customary in such offers, sales or purchases; (F) indemnities of beneficial owners and lessors (including indemnities for the loss of certain tax benefits) in connection with lease financing transactions in which it is the lessee, and indemnities of lessees for the loss of investment tax credit in connection with leases in which it is the lessor and is passing through such investment tax credit to the lessee, all pursuant to customary indemnification provisions as found in equipment leases; (G) payment of expenses of trustees, lessors, lenders and third party security holders and their respective counsel in connection with financings to which it is a party; and (H) indemnities of lessees

for certain operational matters pursuant to the Company's standard lease or other customary terms.

(k) Line of Business. Enter into a line of business other than transportation or leasing or other similar services unless such business is closely related to the business then being carried on by the Company and its Restricted Subsidiaries.

(l) Limitation on Transactions with Affiliates. The Company will not engage in any transaction with any Affiliate (other than a Restricted Subsidiary), and will not permit any Restricted Subsidiary to engage in any transaction with any Affiliate (other than the Company or another Restricted Subsidiary), on terms less favorable to the Company or such Restricted Subsidiary than would be obtainable at the time in comparable transactions of the Company or such Restricted Subsidiary in arms' length dealings with persons other than such Affiliates.

(m) Commercial Paper. In the case of the Company, issue or sell any commercial paper or other similar short-term Debt owing to lenders other than banks unless, after giving effect thereto, the aggregate principal amount thereof then outstanding shall not exceed the aggregate amount of bank credit lines then unused and available to the Company under then outstanding credit or loan agreements.

(n) Leases of Other Equipment. Lease or enter into or suffer to exist any arrangement with any lessee of Trust Equipment to lease or provide to such lessee any Equipment (other than Trust Equipment), or any other rolling stock, which in any such case is reasonably substitutable (in terms of the use to which such Equipment or other rolling stock may be put) for Trust Equipment, if such Equipment or other rolling stock would have a usage priority, in the hands of such lessee, equal to or higher than that enjoyed by the Trust Equipment; provided, however, that the foregoing clause shall have no application to any such lease or other arrangement with any lessee referred to in Schedule A entered into prior to the Lease with such lessee referred to in said Schedule A, or any such Lease, to the extent to which the same pertains to Equipment (other than Trust Equipment) or other rolling stock of the character described above. The leases and other arrangements and

Leases referred to in the foregoing proviso are specified below:

<u>Name of Railroad</u>	<u>Equipment Leased to Lessee</u>	<u>Date of Lease</u>
Texas, Oklahoma & Eastern Railroad Company	200 XM/XP boxcars 100 bulkhead flatcars	June 1, 1980 June 3, 1980
Port of Tillamook Bay Railroad	50 XM boxcars 75 XM boxcars	March 8, 1978 Amendment Agreement #1 dated March 31, 1980
Mississippi & Skuna Valley Railroad Company	25 XM boxcars 30 XP boxcars 100 bulkhead flatcars 40 chip cars	July 12, 1979
Columbia & Cowlitz Railway Company	350 XM boxcars 200 XM/XP boxcars 100 XL boxcars 200 bulkhead flatcars 50 chip cars	March 27, 1978 July 13, 1979

SECTION 6.06. Covenant To Secure Trust Certificates. The Company covenants that, if it or any Restricted Subsidiary shall create or assume any Lien upon any of its property or assets, whether now owned or hereafter acquired, other than Liens excepted by the provisions of Section 6.05(c) (unless prior written consent to the creation or assumption thereof shall have been obtained pursuant to Section 9.03 and such consent shall also contain a waiver of the requirements of this Section 6.06) it will make or cause to be made effective provision whereby the Company's guarantee of the Trust Certificates will be secured by such Lien equally and ratably with any and all other Funded or Current Debt thereby secured as long as any such other Funded or Current Debt shall be so secured.

ARTICLE SEVEN
CONCERNING THE HOLDERS OF
TRUST CERTIFICATES

SECTION 7.01. 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 unpaid 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 7.02. Proof of Execution of Instruments and of Holding of Trust Certificates. 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, or by an affidavit of a witness to such execution sworn to before any such notary or other such officer. Where such execution is by or on behalf of any legal entity other than an individual, such certificate or affidavit shall also constitute proof of the authority of the Person executing the same.

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

SECTION 7.03. Right of Revocation of Action Taken. At any time prior to (but not later than) the evidencing to the Trustee, as provided in Section 7.01, of the taking of any action by the Holders of the percentage in aggregate unpaid principal amount of the Trust Certificates specified in this Agreement in connection with such action, any Holder of a Trust Certificate 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 Trustee at its Corporate Trust Office and upon proof of holding as provided in Section 7.02, revoke such action insofar 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 unpaid 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 EIGHT

THE TRUSTEE

SECTION 8.01. Acceptance of Trust. The Trustee hereby accepts the trust imposed upon it by this Agreement, and covenants and agrees to perform the same as herein expressed.

SECTION 8.02. Duties and Responsibilities of the Trustee. 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. The Trustee shall not be deemed to have knowledge of any Default or Event of Default under this Agreement prior to the time the same shall be actually known to a responsible officer of the Corporate Trust Department of the Trustee (other than a Default or Event of Default relating to nonpayment of any sum required to be paid to the Trustee hereunder).

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 wilful 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 bad faith on the part of the Trustee, the Trustee may conclusively rely as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this 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, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts; provided, however, that the foregoing provisions of this subparagraph (b) shall not excuse the Trustee from liability for its action or inaction which was contrary to the express provisions of this Agreement;

(c) the Trustee shall not be liable with respect to any action taken, suffered or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than 66-2/3% in aggregate unpaid principal amount of the then outstanding Trust Certificates relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising or refraining from exercising any trust or power conferred upon the Trustee, under this Agreement;

(d) subject to Section 7.02, 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, guarantee or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(e) 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, suffered or omitted by it hereunder in good faith and in accordance with such Opinion of Counsel;

(f) the Trustee shall be under no obligation to exercise any of its 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 therein or thereby;

(g) 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 exercise of any of its rights or powers, if there is reasonable ground for believing that the repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it; and

(h) 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 Holders of the Trust Certificates against all liability and expenses; and the Trustee shall not be responsible for the filing or recording or refiling or rerecording of this Agreement or of any supplement hereto or statement of new numbers or any other statement or document that may be permitted or required to be filed, recorded, refiled or rerecorded in any jurisdiction to protect or perfect any of the security interests contemplated hereby.

Whether or not therein expressly so provided, every provision of this Agreement relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 8.02.

SECTION 8.03. Application of Rentals. The Trustee covenants and agrees to apply the rentals received by it under Section 4.04 when and as the same shall be received, and to the extent that such rentals shall be sufficient therefor, for the purposes specified in Section 4.04.

SECTION 8.04. Funds Held by Trustee; Investments. 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 noninterest bearing deposit with itself.

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 (and as directed in such Request), shall invest and reinvest Deposited Cash held by it or cash deposited with it pursuant to Section 4.07 (hereinafter in this Section called "Replacement Funds") in Investments, of the character referred to in clauses (ii)(a), (b), (c) and (d) of the definition of "Restricted Investments", at such prices, including any premium and accrued interest, as are set forth in such Request, such Investments 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 acceptance of Trust Equipment or the payment or prepayment of Trust Certificates, sell such Investments, or any portion thereof, and restore to Deposited Cash or Replacement Funds, as the case may be, the proceeds of any such sale up to the amount paid for such Investments, including accrued interest.

The Trustee shall, to the extent received, restore to Deposited Cash or Replacement Funds, as the case may be, out of rent received by it for that purpose under the provisions of Section 4.04(1), an amount equal to any expenses incurred in connection with any purchase or sale of Investments and also an amount equal to any loss of principal incident to the sale or redemption of any Investments for a sum less than the amount paid therefor, including accrued interest at the time of purchase.

Until such time as, to the actual knowledge of a responsible officer of the Corporate Trust Department of the Trustee, there shall be an Event of Default (other than an Event of Default relating to nonpayment of any sum required to be paid to the Trustee hereunder), the Company shall be

entitled to receive any interest (in excess of accrued interest paid from Deposited Cash or Replacement Funds at the time of purchase) or other profit which may be realized from any sale or redemption of Investments.

SECTION 8.05. Trustee Not Liable for Delivery Delays or Defects in Equipment or Title; Compensation and Expenses. 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 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 or the security afforded thereby.

The Trustee may perform its powers and duties hereunder either directly or by or through such attorneys and agents as it shall appoint, and shall be answerable only for its own negligent acts, negligent failures to act and wilful misconduct and not for the default or misconduct of any attorney or agent appointed by it with reasonable care. The Trustee shall not be responsible in any way for, and makes no representation with respect to, the recitals herein contained or the execution or validity or enforceability of this Agreement or the Trust Certificates (except for its own execution thereof) or the guarantee by the Company.

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.

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

SECTION 8.06. Resignation and Removal; Appointment of Successor Trustee. (a) The Trustee may resign and be discharged of the trust created by this Agreement by giving 30 days' written notice to the Company and the Holders of Trust Certificates. Such resignation shall take effect upon receipt by the Trustee of an instrument of acceptance executed by a successor trustee as herein provided in this Section.

(b) The Trustee may be removed at any time by an instrument in writing signed by the Holders of not less than 66-2/3% in aggregate unpaid principal amount of the Trust Certificates then outstanding, delivered to the Trustee and to the Company.

(c) If at any time the Trustee shall resign or be removed or otherwise become incapable of acting or, if at any time a vacancy shall occur in the office of the Trustee for any other cause, a successor trustee may be appointed by the Holders of a majority in aggregate unpaid principal amount of the then outstanding Trust Certificates by an instrument in writing delivered to the Company and the Trustee. Until a successor trustee shall be appointed by the Holders of Trust Certificates as herein authorized, the Company by an instrument in writing executed by order of its Board of Directors or an executive committee thereof shall appoint a trustee to fill such vacancy. A successor trustee so appointed by the Company shall immediately and without further act be superseded by a successor trustee appointed by the Holders of Trust Certificates in the manner provided above if such appointment is made within one year after completion of the notice, in the manner provided in the next succeeding paragraph, of the appointment of a successor trustee by the Company. Every successor trustee appointed pursuant to this Section shall be a national bank or a bank or trust company incorporated under the laws of the State of Connecticut or the State of New York having its principal office in the City of Hartford or the City of New York and having a capital and surplus of not less than \$100,000,000, if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms.

(d) The Company shall give notice to the Holders of all outstanding Trust Certificates of each resignation or removal of the then Trustee and of each appointment by the Company of a successor trustee pursuant to this Section 8.06.

SECTION 8.07. Acceptance of Appointment by Successor Trustee. Any successor trustee appointed as provided in Section 8.06 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and, subject to the provisions of Section 8.06(a), 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, with like effect as if originally named as Trustee herein; but, nevertheless, on the Request of the Company or written request 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 written request of any such successor trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act, shall, nevertheless, retain a lien upon all property or funds held or collected by such trustee to secure any amounts then due it pursuant to the provisions of Section 8.05.

SECTION 8.08. 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, conversion or consolidation to which the Trustee shall be a party shall be the successor of the Trustee hereunder, provided such corporation shall be qualified under the provisions of Section 8.06, 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.

SECTION 8.09. Return of Certain Moneys to the Company. Notwithstanding any provision of this Agreement, any moneys paid to the Trustee which are applicable to the payment of the principal of, or interest on, any Trust Certificates and which remain unclaimed for five years after the day when such moneys were due and payable shall then be repaid to the Company upon Request, and the Holders of such Trust Certificates shall thereafter be entitled to look only to the Company for payment thereof and all liability of the Trustee with respect to such moneys shall thereupon cease; provided, however, that before the repayment of such moneys to the Company as aforesaid, the Trustee may first publish a notice, in such form as may be deemed appropriate by the Trustee, in respect of the Trust Certificates so payable and not presented and in respect of the provisions hereof relating to the repayment to the Company of the moneys held for the payment thereof.

SECTION 8.10. Trustee's Liens. The Trustee covenants and agrees, for the benefit of the Company and the Holders from time to time of the Trust Certificates, to keep the Trust Equipment free and clear at all times of any Trustee's Lien.

SECTION 8.11. Communications. The Trustee will promptly upon receipt thereof furnish to each Holder of outstanding Trust Certificates a copy of each Officer's Certificate, Written Direction, Request, Opinion of Counsel, notice or other material communication received by it hereunder, unless it shall have ascertained that a copy thereof shall already have been furnished to such Holder.

ARTICLE NINE

MISCELLANEOUS

SECTION 9.01. 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, 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 benefits of the parties hereto and their successors and of the Holders of the Trust Certificates.

SECTION 9.02. No Recourse. No recourse under any obligation, covenant, or agreement of this Agreement, or of the guarantee endorsed on any Trust Certificate, shall be had against any incorporator, stockholder, officer or director, past, present or future, of the Company, as such, solely by reason of the fact that such person is an incorporator, stockholder, officer or director, whether by virtue of any constitutional provision, statute or rule of law or by the enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of incorporators, stockholders, officers or directors being forever released as a condition of and as consideration for the execution of this Agreement.

SECTION 9.03. Amendment or Waiver. Any provision of this Agreement may be amended or waived as provided in a Written Direction; provided, however, that without the consent of each Holder of the Trust Certificates affected thereby, no such amendment or waiver shall (1) reduce the amount of principal, change the amount or dates of payment of installments of principal, or reduce the rate or extend the time of payment of interest with respect to the Trust Certificates, (2) reduce the amount of or extend the time of payment of any rentals payable under this Agreement or

SCHEDULE A

<u>Lessee</u>	<u>No. of Box- cars/ Wood Chip Cars</u>	<u>Date of Leases</u>	<u>Term</u>	<u>Equip- ment Identi- fication Numbers (Both Inclusive)</u>	<u>Descrip- tion</u>	<u>AAR Desig- nation</u>
1. Texas, Oklahoma and Eastern Railroad Company	200 Box- cars	6/2/80	15 years	TO&E 3200 through TO&E 3399	Special Purpose Boxcars	XP
2. Columbia & Cowlitz Railway Company	50 Wood Chip Cars	7/13/79	15 years	CLC 5001 through CLC 5050	Wood Chip Cars	GTS
3. Port of Tillamook Bay Railroad	75 Box- cars	3/8/78	15 years	POTB 151 through POTB 225	General Purpose Boxcars	XM
4. Iowa Terminal Railroad	25 Box- cars	1/16/80	15 years	IAT 1000 through IAT 1024	General Purpose Boxcars	XM
5. Missis- sippi & Skuna Valley Railroad Company	25 Box- cars 30 Box- cars	7/12/79	15 years	MSV 1530 through MSV 1554 MSV 1500 through MSV 1529	General Purpose Boxcars Special Purpose Boxcars	XM XP

ASSIGNMENT OF LEASE AND AGREEMENT dated as of _____, 19____ (this "Assignment"), by and between BRAE CORPORATION, a Delaware corporation (together with its successors and assigns, "BRAE"), and THE CONNECTICUT BANK AND TRUST COMPANY, as Trustee, a corporation organized under the laws of the State of Connecticut (the "Trustee").

WHEREAS BRAE has entered into an Equipment Trust Agreement dated as of May 1, 1980 (such Equipment Trust Agreement, together with any amendments or supplements thereto, hereinafter called the "Agreement");

WHEREAS BRAE and _____ (the "Lessee") have entered into a lease of Equipment (as defined in the Agreement) dated as of _____, 19____ (such lease, together with any amendments or supplements thereto, hereinafter called the "Lease"), providing for the leasing by BRAE to the Lessee of units of the Trust Equipment (as defined in the Agreement);

[WHEREAS the Lease may also cover the leasing to the Lessee of other equipment not included as part of the Trust Equipment; and]*

WHEREAS in order to provide security for the obligations of BRAE under the Agreement and as an inducement to the investor for which the Trustee is acting to purchase Trust Certificates (as defined in the Agreement), BRAE agrees to assign for security purposes its right in, to and under the Lease to the Trustee;

NOW, THEREFORE, in consideration of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. BRAE hereby assigns, transfers and sets over unto the Trustee, as collateral security for the payment and performance of BRAE's obligations under the Agreement, all of BRAE's right, title and interest, powers, privileges and other benefits under the Lease as and only to the extent that the Lease relates to the Trust Equipment set forth in Annex A hereto, including, without limitation, all rights to receive and collect all rentals, profits and other sums payable to or receivable by BRAE from the Lessee under or pursuant to

the provisions of the Lease, whether as rent, casualty payment, indemnity, liquidated damages or otherwise (such moneys hereinafter called the "Payments"); provided, however, that unless an Event of Default under the Agreement, or any event which, with notice or lapse of time or both, would constitute such an Event of Default, shall have occurred and be continuing, it is understood that BRAE shall be entitled to collect and receive all such Payments and to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an event of default specified in the Lease, and to apply all Payments to which BRAE is entitled to the payment of any and all of BRAE's obligations under the Agreement and to retain the balance, if any. In furtherance of the foregoing assignment, but subject to the foregoing provisions of this paragraph, BRAE hereby irrevocably authorizes and empowers the Trustee in its own name, or in the name of its nominee, or in the name of BRAE or as its attorney, to ask, demand, sue for, collect and receive any and all Payments to which BRAE is or may become entitled under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof. [To the extent that the Lease covers other equipment not included as part of the Trust Equipment and the amount of any payment due to BRAE under such Lease as car hire payments (including both straight and incentive per diem), mileage charges or other rental revenues is calculated on an aggregate basis for all equipment leased thereunder, for the purposes of this Assignment an amount equal to the Assigned Fraction (as hereinafter defined) of each such payment shall be deemed to be payable with respect to such Trust Equipment leased under such Lease. The term "Assigned Fraction" as used herein shall mean a fraction the numerator of which shall be the number of units of equipment comprising such Trust Equipment leased under such Lease and the denominator of which shall be the aggregate number of units of equipment (including such units of Trust Equipment) at the time leased under such Lease.]*

2. This Assignment is executed only as security for the obligations of BRAE under the Agreement and, therefore, the execution and delivery of this Assignment shall not subject the Trustee to, or transfer, or pass, or in any way affect or modify, the liability of BRAE under the Lease, it being understood and agreed that notwithstanding this Assignment or any subsequent assignment, all obligations of BRAE to the Lessee shall

be and remain enforceable by the Lessee, its successors and assigns, against, and only against BRAE or persons other than the Trustee.

3. To protect the security afforded by this Assignment, BRAE agrees as follows:

(a) BRAE will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides is to be performed by BRAE.

(b) At BRAE's sole cost and expense, BRAE will appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the obligations, duties or liabilities of BRAE under the Lease.

(c) Should BRAE fail to make any payment or to do any act which this Assignment requires BRAE to make or do, then the Trustee, but without obligation so to do, after first making written demand upon BRAE and affording BRAE a reasonable period of time within which to make such payment or do such act, but without releasing BRAE from any obligation hereunder, may make or do the same in such manner and to such extent as the Trustee may deem necessary to protect the security provided hereby, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Trustee, and also the right to perform and discharge each and every obligation, covenant and agreement of BRAE contained in the Lease; and, in exercising any such powers, the Trustee may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and BRAE will reimburse the Trustee for such costs, expenses and fees.

4. Upon the full discharge and satisfaction of all of BRAE's obligations under the Agreement and this Assignment, all rights herein assigned to the Trustee shall terminate, and all estate, right, title and interest of the Trustee in and to the Lease shall revert to BRAE, and the Trustee shall take such action as BRAE may reasonably request to confirm BRAE's estate, right, title and interest in and to the Lease.

5. BRAE will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file, register, deposit and record (and will refile, reregister, rerecord or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Trustee in order to confirm or further assure the interests of the Trustee hereunder.

6. If an Event of Default shall occur and be continuing under the Agreement, the Trustee may assign all or any of the rights assigned to it hereby or arising under the Lease, including, without limitation, the right to receive any Payments due or to become due. 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. The Trustee will give written notice to BRAE and the Lessee of any such assignment.

7. This Assignment shall be governed by the laws of the State of New York, but the parties shall be entitled to all rights conferred by the laws of the United States of America permitting filing with the Interstate Commerce Commission.

8. This Assignment shall not be deemed delivered by BRAE until accepted by the Trustee in New York, New York.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective names, by officers thereunto duly authorized, and their respective seals to be affixed and duly attested, all as of the date first above written.

BRAE CORPORATION

By _____
Vice President

[Corporate Seal]

Attest:

Assistant Secretary

THE CONNECTICUT BANK AND TRUST
COMPANY, as Trustee,

[Corporate Seal]

by _____
Title:

Attest:

Title:

*[NOTE: Bracketed material above to be included
in Assignments of Columbia & Cowlitz,
Port of Tillamook Bay and Mississippi
& Skuna Valley Leases, only]

STATE OF)
) ss.:
COUNTY OF)

On this _____ day of _____, 19____, before me personally came _____, to me known, who, being by me duly sworn, did depose and say that he resides at _____; that he is the _____ of BRAE CORPORATION, one of the corporations described in and which executed the above instrument; that he knows the corporate seal of said Corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed on this day by authority of the Board of Directors of said Corporation; and that he signed his name thereto on this day by like authority.

Notary Public

[Seal]

STATE OF ,)
) ss.:
COUNTY OF ,)

On this _____ day of _____, 19____, before me personally came _____, to me known, who, being by me duly sworn, did depose and say that he resides at _____; that he is the _____ of THE CONNECTICUT BANK AND TRUST COMPANY, one of the corporations described in and which executed the above instrument; that he knows the corporate seal of said Corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed on this day by authority of the Board of Directors of said Corporation; and that he signed his name thereto on this day by like authority.

Notary Public

[Seal]

<u>No. of Units</u>	<u>Road Numbers</u>	<u>Description</u>	AAR <u>Mechanical Designation</u>
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Permitted Investments of the Company
and
its Restricted Subsidiaries

- (1) Investments in any form (including, without limitation, purchases of voting stock, non-voting stock, shares of beneficial interest in a trust, loans, guarantees of Debt, capital contributions or contributions to a trust estate) whether made directly or through a Subsidiary

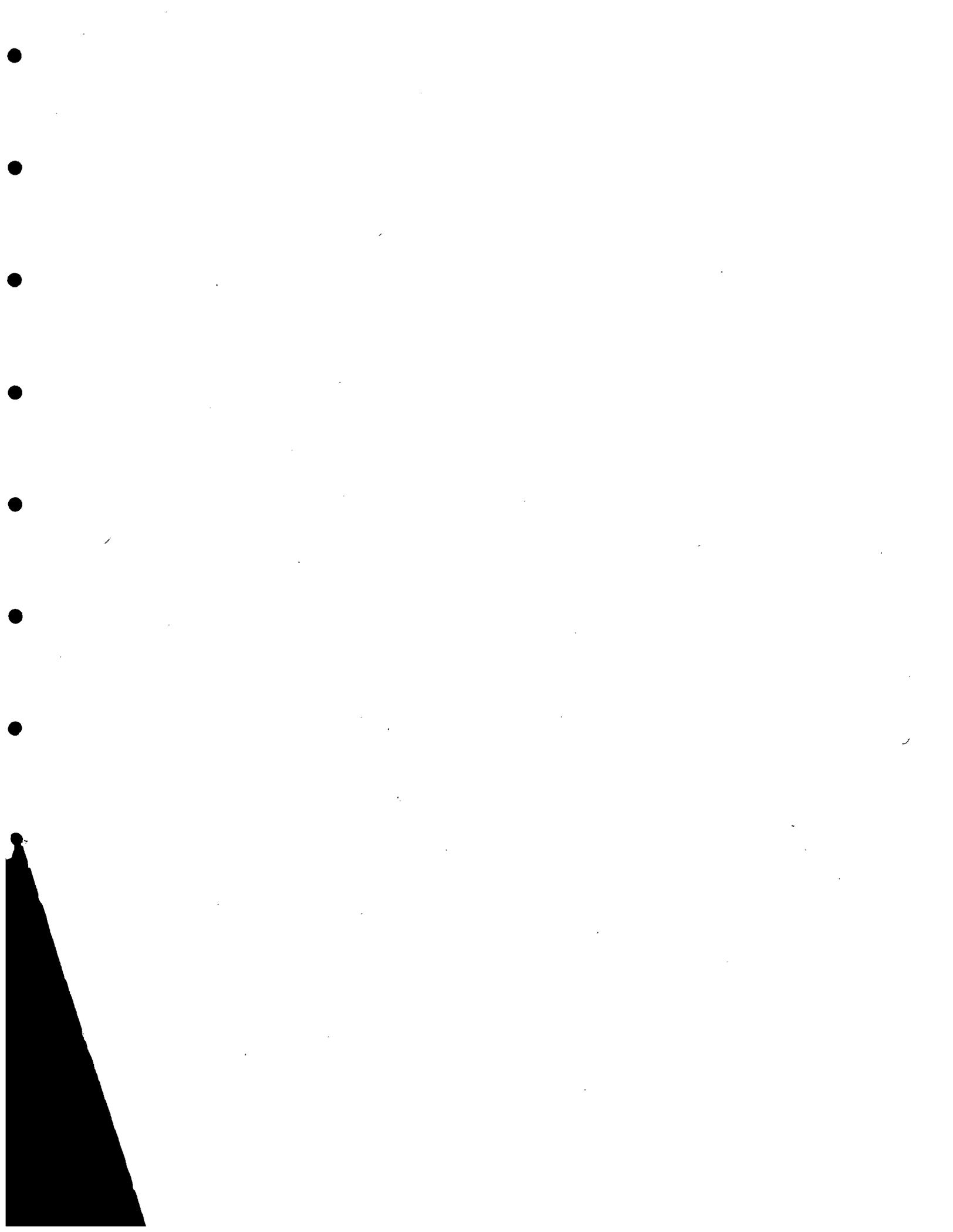
(a) in an aggregate amount not exceeding \$13,125,000 at any one time outstanding in the "Leasing Company" to be organized pursuant to the Project Agreement dated February 12, 1980 between PACCAR Inc., a Delaware corporation ("PACCAR"), and Brae Rail Venture Corporation, a California corporation, which is a wholly-owned Subsidiary of the Company, which Leasing Company will be owned 90% by PACCAR and 10% by the Company and will carry on no business other than owning and leasing up to 9,800 railcars and activities related thereto; and

(b) in an aggregate amount not exceeding \$2,820,000 at any time in a trust in which the Company or a Subsidiary is to have a 15% beneficial interest and Ford Motor Credit Company is to have an 85% beneficial interest and which trust will carry on no business other than owning and leasing approximately 1200 railcars with an aggregate original cost of approximately \$47,000,000 and activities related thereto;

provided, however, that in all cases the Company shall at the time such Investment is made, have undertaken the actual management of the railcars owned by the corporation or trust in which the Company has made such Investment, whether by management contract, informal arrangement or otherwise.

- (2) Investments of the Company in stock (or options or warrants to obtain stock, or evidenced by Debt convertible into stock) of any one or more of the six corporations identified to the Original Purchaser in a letter from the Company dated April 7, 1980; provided

that (i) the aggregate cost to the Company of all such Investments at any time outstanding shall not exceed \$40,000,000, and (ii) all such Investments at any one time outstanding (except any such Investments which the Company is diligently proceeding to liquidate) shall be in only one of such six corporations; and provided, further, that no such Investment shall continue to be a "Permitted Investment" unless within 18 months after the making of the first such Investment therein, the Company shall own not less than a 15% equity interest in any corporation so invested in.



release or provide for the release of any of the Trust Equipment or any other property or cash held by the Trustee in trust, otherwise than as expressly permitted by the present terms of this Agreement or (3) change the percent of the aggregate unpaid principal amount of Trust Certificates then outstanding, the Holders of which are required to approve any amendment or to effect any waiver; provided, further, that no supplement to Schedule A to this Agreement solely to describe more particularly Trust Equipment, as provided in Section 3.03(g) or Section 4.07(5), shall require any Written Direction of Holders of Trust Certificates.

SECTION 9.04. 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 9.05. 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 postage prepaid by registered mail to (a) in the case of the Company, Three Embarcadero Center, San Francisco, California 94111, Attention of Vice President--Finance, or such other address as may hereafter be furnished to the Trustee and each Holder of a Trust Certificate in writing by the Company, (b) in the case of the Trustee, One Constitution Plaza, Hartford, Connecticut 06115, Attention: Corporate Trust Department, or such other address as may hereafter be furnished to the Company and each Holder of a Trust Certificate in writing by the Trustee and (c) in the case of any Holder of Trust Certificates, at the address of such Holder appearing upon the books maintained by the Trustee pursuant to Section 2.06(c) hereof, or as otherwise furnished in writing to the Trustee. An affidavit by any person representing or acting on behalf of the Company, the Trustee or the Holders of the Trust Certificates as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 9.06. Effect of Headings. The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 9.07. 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. This Agreement shall not be deemed to be delivered by the Company until accepted by the Trustee in New York, New York.

SECTION 9.08. 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 New York.

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 above written in New York, New York.

THE CONNECTICUT BANK AND TRUST COMPANY, as Trustee,

[Corporate Seal]

Attest:

By [Signature]
Title: Asst. Vice President

[Signature]
Title: Asst. Treas.

BRAE CORPORATION

[Corporate Seal]

Attest:

By [Signature]
Vice President

[Signature]
Assistant Secretary

STATE OF NEW YORK,)
) ss.:
COUNTY OF NEW YORK,)

On this 5th day of June 1980, before me personally came Alfred C. Dana, to me known, who, being by me duly sworn, did depose and say that he resides at 103 Bella Vista Drive, Hillsborough, California; that he is the Vice President of BRAE CORPORATION, one of the corporations described in and which executed the above instrument; that he knows the corporate seal of said Corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed on this day by authority of the Board of Directors of said Corporation; and that he signed his name thereto on this day by like authority.

Holly B. Hanes
Notary Public

HOLLY B. HANES
NOTARY PUBLIC, State of New York
No. 31-4687697
Qualified in New York County
Commission Expires March 30, 1981

