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G. VAN VELSOR WOLF

* ADMITTED IN D. C. ONLY

October 31, 1980

RECORDATION NO. 10168-L Filed 12/2

NOV 4 1980 - 1 20 PM

0-309A063

INTERSTATE COMMERCE COMMISSION
No. _____ Date NOV 4 1980
12th and Constitution Avenues,
Washington, D. C. 20423.
Fee \$ 10.00
ICC Washington, D. C.

I.C.C. OPERATION BR.

NOV 18 AM '80

RECEIVED

Dear Sirs:

Pursuant to the provisions of Section 11303 of the Interstate Commerce Act, as revised and recodified by Public Law 95-473, and the regulations of the Interstate Commerce Commission promulgated thereunder, we are transmitting for filing and recording originals or executed counterparts of an Agreement dated as of October 27, 1980 (the "Agreement") by and among National Railway Utilization Corporation ("NRUC"), Pickens Railroad Company ("Pickens"), N. R. Financial Corporation ("NRFC"), N. R. Realty Corporation ("Realty"), Peninsula Terminal Company ("Peninsula"), Rail Fleet Corporation ("Rail Fleet"), and The First National Bank of Maryland ("FNB").

The above-referenced document has not previously been recorded with the Interstate Commerce Commission. However, the document amends and relates to two Conditional Sale Agreements dated as of February 16, 1979 executed by NRFC as vendee (the "Conditional Sale Agreements"), which were recorded with the Interstate Commerce Commission on March 2, 1979 and assigned Recordation No. 10168 and 10168-B. The Agreement should be filed as a subpart of the Conditional Sale Agreements and assigned Recordation No. 10168-L, the next available recordation subletter under Recordation No. 10168.

The Agreement should be filed indicating NRFC as vendee and cross-referenced to NRUC, Pickens, Realty, Peninsula and Rail Fleet as guarantors.

C. D. ...

C. D. ...

Interstate Commerce Commission,
October 31, 1980,
Page Two.

The equipment covered by the Agreement is the forty-one (41) 70-ton, 50-foot, 6-inch Class XM boxcars bearing road numbers NSL 151313 through 151353 (both inclusive) and the nine (9) 70-ton, 50-foot, 6-inch Class XM boxcars bearing road numbers NSL 156058 through 156066 (both inclusive).

The names and addresses of the parties to the transactions are listed below:

N. R. Financial Corporation (Vendee)
1100 Centre Square East
1500 Market Place
Philadelphia, Pennsylvania 19102

National Railway Utilization Corporation (Guarantor)
1100 Centre Square East
1500 Market Place
Philadelphia, Pennsylvania 19102

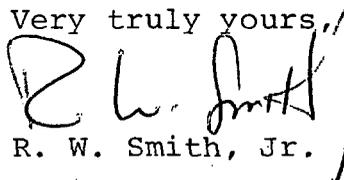
Pickens Railroad Company (Guarantor)
402 Cedar Rock Street
Pickens, South Carolina 29671

The First National Bank of Maryland (Assignee)
First Maryland Building
25 South Charles Street
Baltimore, Maryland 21201

Realty, Peninsula and Rail Fleet, which also are parties to the transaction, have the same addresses as set forth above for National Railway Utilization Corporation.

Please accept for recordation two counterparts of the Agreement, stamp the remaining counterparts with the appropriate Recordation Number, and return a copy of the document with your fee receipt and letter confirming receipt to my delivery messenger.

The necessary filing and recordation fees for these documents are submitted herewith.

Very truly yours,

R. W. Smith, Jr.

RWSJr:nk
Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

11/4/80

OFFICE OF THE SECRETARY

R.W. Smith, Jr.

Piper & Marbury
1100 Charles Center South
36 South Charles St.

Baltimore, Maryland 21201

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 11/4/80 at 1:25pm, and assigned re-
recording number(s).

10168-L, 9425-Z, 11087-E
Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

RECORDATION NO. *10/68-S* Filed 1428AGREEMENT
NOV-4 1980 -1 20 PM

INTERSTATE COMMERCE COMMISSION

RDF
10/27/80

AGREEMENT dated as of October 20, 1980 (this "Agreement") by and among National Railway Utilization Corporation, a South Carolina corporation ("NRUC"), Pickens Railroad Company, a South Carolina corporation ("Pickens"), N. R. Financial Corporation, a South Carolina corporation ("NRFC"), N. R. Realty Corporation, a South Carolina corporation ("Realty"), Peninsula Terminal Company, a South Carolina corporation ("Peninsula"), Railfleet Corporation, a South Carolina corporation ("Railfleet"), and the First National Bank of Maryland, a national banking association ("FNB").

WHEREAS, NRUC and NRFC, and NRUC, Railfleet and NRFC, entered into Conditional Sale Agreements dated as of February 16, 1979 covering the construction, sale and delivery by NRUC and Railfleet, as the case may be, on the conditions therein set forth, and the purchase by NRFC, of an aggregate of 50 Class XM boxcars described in the Exhibit A's thereto; and

WHEREAS, FNB, pursuant to two Agreement and Assignments dated as of February 16, 1980, provided financing to NRUC and NRFC through the assignment for value by NRUC and Railfleet, as the case may be, to FNB of all of their right, security title and interest in, to and under the Conditional Sale Agreements and

WHEREAS, pursuant to the Conditional Sale Agreements and the Assignments NRUC guaranteed the due and punctual performance by NRFC of all its obligations under the Conditional Sale Agreements; and

WHEREAS, as a result of a significant decrease in the utilization rate of the boxcars owned or leased by NRUC and its subsidiaries, NRFC, and NRUC as the guarantor of NRFC's obligations under the Conditional Sale Agreements, have failed to pay to FNB the principal and interest payments required pursuant to the terms of the Conditional Sale Agreements and additionally have failed to make required payments to other lenders and lessors of NRUC and its subsidiaries; and

WHEREAS, NRUC and its subsidiaries have completed negotiations with a steering committee of secured lenders and lessors (the "Steering Committee") and pursuant thereto have proposed a Plan whereby each secured lender and lessor of NRUC and its subsidiaries is provided an opportunity to elect between two alternatives, one of which provides to the secured lender or lessor a right to demand immediate delivery of the boxcars financed or owned by such lender or lessor, and the second of which provides to the secured lender or lessor the right to elect to suspend and conditionally modify certain terms and provisions of the documents evidencing its lease to or financing for NRUC and its subsidiaries; and

WHEREAS, FNB wishes, subject to certain conditions, to elect to operate under Alternative Two of the Plan and therefore wishes to set forth documentation evidencing its acceptance of Alternative Two of the Plan and the implementation thereof; and

WHEREAS, in light of the benefit to be derived by Pickens, Realty, Peninsula and Railfleet from FNB's agreement to the conditional modifications and suspension of rights set forth in this Agreement, Pickens, Realty, Peninsula and Railfleet are executing this Agreement and guaranteeing the performance by NRUC and NRFC of their obligations hereunder and under the Conditional Sale Agreements and the Assignments.

NOW, THEREFORE, in consideration of the premises, and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. Definitions. Unless the context otherwise requires, when used herein, the following terms shall have the following meanings.

1.01. "Aggregate Pass-Through Payments" shall mean the total of the pass-through payments paid pursuant to the Plan to all Alternative Two Electors.

1.02. "Aggregate Pass-Through Payments Per Car" shall mean the Aggregate Pass-Through Payments for any specified period divided by the Average Alternative Two Boxcars for such period.

1.03. "Alternative One Electors" shall mean all secured lenders and lessors of NRUC and its Subsidiaries electing Alternative One under the Plan.

1.04. "Alternative One Storage Revenues" shall mean all storage revenues paid or payable directly to NRUC and its Subsidiaries by Alternative One Electors after April 1, 1980 for boxcar storage on railroads owned, leased or operated by NRUC or its Subsidiaries.

1.05. "Alternative Two Agreement" shall mean any agreement between an Alternative Two Elector and NRUC and/or its Subsidiaries evidencing acceptance of Alternative Two of the Plan.

1.06. "Alternative Two Boxcars" shall mean the total number of boxcars subject to Alternative Two of the Plan pursuant to the election of Alternative Two Electors, less any boxcars removed from Alternative Two of the Plan pursuant to subsequent election of any Alternative Two Elector.

1.07. "Alternative Two Electors" shall mean all secured lenders and lessors of NRUC and its Subsidiaries electing Alternative Two under the Plan.

1.08. "Assignments" shall mean the Agreement and Assignment dated as of February 16, 1979 by and among NRUC and FNB and the Agreement and Assignment dated as of February 16, 1979 by and among Railfleet and FNB.

1.09. "Average Alternative Two Boxcars" or "Average Boxcars" or "Average Managed Car Fleet" or "Average NRUC Boxcar Fleet" or "Average Fleet" shall mean, as to any

Measurement Quarter or other period for which such a term is used, the sum of the number of Alternative Two Boxcars or Boxcars in existence on each day during the Management Quarter or such other period, or the sum of the number of boxcars in the Managed Car Fleet, the NRUC Boxcar Fleet or the NRUC Fleet, as the case may be, on each day during the Measurement Quarter or such other period, divided by the total number of days in such Measurement Quarter or other period.

1.10. "Bankruptcy Event" shall mean any filing of a petition for reorganization under the Bankruptcy Code of 1978 as now constituted or hereafter amended by or against NRUC or any of its Subsidiaries or the commencement of any other proceeding by or against NRUC or any of its Subsidiaries for any relief under any bankruptcy or insolvency law, or law relating to the release of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions of indebtedness.

1.11. "Boxcars" shall mean the forty-one (41) 70-ton 50-foot 6-inch class XM boxcars bearing road nos. NSL 151313 through 151353 (both inclusive) and the nine (9) 70-ton 50-foot 6-inch class XM boxcars bearing road nos. NSL 156058 through 156066 (both inclusive), less any such boxcars delivered to and accepted by FNB pursuant to Section 10 of this Agreement.

1.12. "Business Day" shall mean any day not a Saturday, Sunday or legal holiday in the State of Maryland.

1.13. "Capitalized Lease Obligation" shall mean the total firm term lease payments payable by NRUC and its

Subsidiaries to lessors under any lease agreement relating to boxcars, discounted to present value at the Discount Rate.

1.14. "Car-Hire Revenues" shall mean all daily time charges, incentive per diem charges, per line-haul mile charges and any other fees or charges received by NRUC, NRFC or any other NRUC Subsidiary as payment for the use of the Boxcars.

1.15. "Collateral" shall mean the Boxcars and other collateral and additional security granted under the Conditional Sale Agreements.

1.16. "Conditional Sale Agreements" shall mean (i) the Conditional Sale Agreement dated as of February 16, 1979 between NRUC and NRFC, as amended by the Amendment to Conditional Sale Agreement dated as of May 28, 1979, the Second Amendment to Conditional Sale Agreement dated as of August 31, 1979, the Third Amendment to Conditional Sale Agreement dated as of October 31, 1979 and the Fourth Amendment to Conditional Sale Agreement dated as of February 27, 1980, and (ii) the Conditional Sale Agreement dated as of February 16, 1979 among Railfleet, NRUC and NRFC, as amended by the Amendment to Conditional Sale Agreement dated as of May 28, 1979, the Second Amendment to Conditional Sale Agreement dated as of August 31, 1979, the Third Amendment to Conditional Sale Agreement dated as of October 31, 1979 and the Fourth Amendment to Conditional Sale Agreement dated as of February 27, 1980.

1.17. "Conditional Sale Indebtedness" shall have the meaning specified in Article 4 of the Conditional Sale Agreements.

1.18. "Consolidated Net Cash Flow" shall mean the consolidated net income of NRUC and its Subsidiaries determined in accordance with generally accepted accounting principles, as adjusted with the following additions and deductions:

(a) all depreciation expense, amortization expense relating to assets under capital leases and interest expense shall be added back to consolidated net income;

(b) all payments made to secured lenders and lessors pursuant to the terms of the Plan shall be deducted;

(c) the net cash proceeds arising from the sale of assets (after deduction of all principal and interest payments paid or payable in respect of indebtedness secured by such assets) shall be substituted for the gain or loss, as determined in accordance with generally accepted accounting principles, arising from such sale;

(d) all provisions for asset evaluation reserves or write-offs, other than collectability reserves or write-offs on accounts receivable, shall be added back to consolidated net income;

(e) all costs and expenses, the liability for which is not a current obligation under generally accepted accounting principles, shall be added back to consolidated net income;

(f) amounts previously added back pursuant to (e) above shall be deducted from consolidated net income in the period in which the liability becomes a current obligation under generally accepted accounting principles;

(g) realizations of deferred income which do not provide cash shall be deducted; and

(h) capital expenditures required to maintain minimum ICC standards of operations for railroads owned, leased or operated by NRUC or its Subsidiaries shall be deducted.

1.19. "CSA Event of Default" shall mean any event of default under Article 17 of the Conditional Sale Agreements.

1.20. "Discount Rate" shall mean, with respect to a particular lease agreement, the rate of interest payable on the loan used to finance the boxcars covered by such lease agreement, or, in the event there is no such loan, then 12% per annum.

1.21. "Event of Default" shall mean an event of default as specified in Section 3.05 of this Agreement.

1.22. "ICC" shall mean the Interstate Commerce Commission or any governmental authority succeeding to any or all of the functions of the ICC.

1.23. "Maintenance Fees" shall mean the fees, if any, payable to an escrow account upon election by FNB under Section 3.04 of this Agreement.

1.24. "Managed Car Fleet" shall mean all boxcars managed by NRUC and its Subsidiaries under management agreements.

1.25. "Management Fees" shall mean the fees payable to NRUC pursuant to Section 3.03 of this Agreement.

1.26. "Measurement Quarter" shall mean the three-month periods ending on March 31, June 30, September 30 and December 31 in each year, commencing with the three-month period ended June 30, 1980.

1.27. "Non-Electors" shall mean all secured lenders and lessors of NRUC and its Subsidiaries not making any election under the Plan.

1.28. "NRUC Boxcar Fleet" shall mean all boxcars owned or leased by NRUC and its Subsidiaries, including boxcars owned or financed by Alternative One Electors which have not been returned to such Alternative One Electors and boxcars owned or financed by Non-Electors, but excluding cars managed by NRUC or its Subsidiaries under management agreements.

1.29. "NRUC Fleet" shall mean the sum of the NRUC Boxcar Fleet plus the Managed Car Fleet.

1.30. "NRUC Companies" shall mean Pickens, Realty, Peninsula and Railfleet.

1.31. "Officer's Certificate" shall mean a certificate signed by the President or any Vice President of NRUC or one of its Subsidiaries, as the case may be.

1.32. "Outside Storage Costs" shall mean any storage costs paid by NRUC or any of its Subsidiaries to

unrelated third parties in respect of storage of the Boxcars after March 31, 1980.

1.33. "Overhead Costs" shall mean the total of all direct and indirect expenses incurred by NRUC and its Subsidiaries in the management of the NRUC Boxcar Fleet and the Managed Car Fleet. A general description of the categories of expenses included as part of the overhead costs is contained in Schedule 12A to the Plan.

1.34. "Pass-Through Payments" shall, for any Measurement Quarter, mean all Car-Hire Revenues plus FNB's Pro Rata Portion of Alternative One Storage Revenues, less Outside Storage Costs, Maintenance Fees (if any), Management Fees, and amounts paid to unrelated third parties for movement of the Boxcars after March 31, 1980. For purposes of the foregoing, Car-Hire Revenues and FNB's Pro Rata Portion of Alternative One Storage Revenues shall be applied first to accrued but unpaid Outside Storage Costs, second to Management Fees, third to unreimbursed Outside Storage Costs paid by NRUC, NRFC or NRUC's other Subsidiaries, fourth to Maintenance Fees and lastly to movement costs. In the event that the Car-Hire Revenues plus FNB's Pro-Rata Portion of Alternative One Storage Revenues for any Measurement Quarter are not sufficient to fully pay any of the foregoing, the unpaid portion shall be carried forward and added to the same category of costs and fees which are deductible from total revenues for any future Measurement Quarter.

1.35. "Payment Date" shall have the meaning specified in Section 3.01 of this Agreement.

1.36. "Plan" shall mean the National Railway Utilization Corporation Status Report and Proposed Plan dated March 31, 1980, as modified by the June 6, 1980 Modification.

1.37. "Principal Indebtedness" shall mean the unpaid principal amount payable by NRUC and its Subsidiaries to a lender under any conditional sale contract or other loan agreement.

1.38. "Pro-Rata Portion of Alternative One Storage Revenues" shall mean the Average Boxcars for any Measurement Quarter times a fraction, the numerator of which is the Alternative One Storage Revenues for such Measurement Quarter and the denominator of which is the Average Alternative Two Boxcars for such Measurement Quarter.

1.39. "Pro-Rata Portion of Consolidated Net Cash Flow" shall mean the Average Boxcars for any calendar year times a fraction, the numerator of which is 50% of the Consolidated Net Cash Flow for such calendar year and the denominator of which is the Average Alternative Two Boxcars for such calendar year.

1.40. "Standard Overhead Costs" shall, as of any date, mean \$3,842,723 (i) plus or minus, as the case may be, 66-2/3% of the increase or decrease in the Bureau of Labor Statistics' 1978 Revised Consumer Price Index for Urban Wage Earners and Clerical Workers, All Cities Index (1967 equals 100) from April 1, 1980 through the date of determination (ii) minus the lesser of \$500,000 or \$200 times the number of cars by which the NRUC Boxcar Fleet plus the Managed Car Fleet is reduced below 7,682 through the date of determination.

1.41. "Subsidiary" shall mean any corporation, association or other business entity, of which more than fifty percent (50%) of the issued and outstanding capital stock (or equivalent thereof) having ordinary voting power is owned or controlled by NRUC or by one or more Subsidiaries of NRUC or by NRUC and one or more of its Subsidiaries.

1.42. "Utilization Rate" shall mean, for any period of time and for any group of boxcars, the total of the daily time charges actually received by NRUC and its Subsidiaries during such period in respect of such group of boxcars, divided by the maximum amount of total daily time charges which could have been received by NRUC and its Subsidiaries during such period in respect of such group of boxcars if such boxcars had been utilized at all times.

2. Terms of Agreement by FNB. NRFC (and NRUC as the guarantor of NRFC's obligations under the Conditional Sale Agreements) have not made monthly interest payments required under the Conditional Sales Agreements and have failed to pay the unpaid Conditional Sale Indebtedness and accrued interest thereon as required on June 30, 1980. The foregoing constitute CSA Events of Default and FNB therefore currently is entitled to exercise all of its rights and remedies under the Conditional Sale Agreements and the Assignments. However, as a result of negotiations with NRUC and NRFC and in light of the current financial condition of NRUC and its Subsidiaries, FNB has agreed, for so long as this Agreement remains in effect, the terms and conditions of this Agreement

are satisfied and no event of default has occurred hereunder, to modify conditionally the repayment terms of the Conditional Sale Agreements and, except as otherwise expressly provided herein, suspend the right of FNB to exercise the rights and remedies available to it under the Conditional Sale Agreements and the Assignments as a result of the CSA Events of Default, all as further provided in this Agreement.

The conditional modification of the repayment terms and the suspension of FNB's right to exercise its rights and remedies under the Conditional Sale Agreements and the Assignments, shall be binding upon FNB until, and only until, (i) the failure of NRUC and/or its Subsidiaries to satisfy or continue the satisfaction of any of the terms and conditions of this Agreement, including the conditions set forth in Section 6 hereof, (ii) the occurrence of an Event of Default under Section 3.05 hereof, or (iii) the termination of this Agreement by FNB pursuant to Section 8 hereof. Upon the failure of NRUC or any of its Subsidiaries to satisfy or continue the satisfaction of such conditions, or upon the occurrence of any such Event of Default or election by FNB to terminate pursuant to Section 8, the provisions of Section 3 of this Agreement shall no longer be binding upon FNB and the conditional modifications and suspension of the right to exercise rights and remedies contained in Section 3 shall be rescinded and all terms of the Conditional Sale Agreements, including the obligation of NRFC (and NRUC as NRFC's guarantor) immediately to pay in full all unpaid Conditional Sale Indebtedness and interest thereon shall be reinstated and be binding upon NRFC and

NRUC to the same extent as if this Agreement had not been executed.

This Agreement is not intended to supersede or terminate the provisions of the Conditional Sale Agreements or the Assignments or cause a novation of the Conditional Sale Agreements or the Assignments or any of the rights granted thereunder and is only intended, during its term, to provide alternative procedures for dealing with the CSA Events of Default and to suspend the right of FNB to exercise certain rights and remedies provided by the Conditional Sale Agreements and the Assignments. Upon any termination of the conditional modifications and suspension of the right to exercise rights and remedies contained in Section 3 of this Agreement, such conditional modifications and suspension shall not prejudice, limit, cut off or terminate any rights or remedies of FNB under the Conditional Sale Agreements or the Assignments. In addition, the termination of the provisions of Section 3 shall not invalidate any other provisions of, or actions previously taken under or pursuant to, the terms of this Agreement, including, without limitation, the provisions of Sections 10 and 11 of this Agreement and any election by FNB to have part or all of the Boxcars returned pursuant to Section 10 hereof, and all such provisions and any such actions and elections shall in all events continue to be binding upon the parties hereto and shall be given full force and effect. Specifically, but not by way of limitation, if FNB has elected or elects to take possession of some or all of the Boxcars pursuant to Section 10, NRUC and

its Subsidiaries shall be bound to perform their obligations thereunder and such obligations shall be specifically enforceable by FNB.

3. Modification of Agreement. In accordance with and subject to the provisions of Section 2 of this Agreement, FNB hereby agrees that the terms and provisions of the Conditional Sale Agreements are suspended and conditionally modified in the following manner:

3.01. Repayment Terms. In lieu of the repayment terms set forth in Article 4 of the Conditional Sale Agreements, NRFC's and NRUC's sole obligation with respect to repayment of the unpaid Conditional Sale Indebtedness and interest thereon is to pay to FNB on July 15, 1980, and on the 15th day of each October, January, April and July thereafter (the "Payment Dates"), an amount equal to the Pass-Through Payments payable in respect of the Measurement Quarter ending on the last day of the month immediately preceding the Payment Date. The foregoing only represents a suspension and conditional modification of the terms of repayment of the unpaid Conditional Sale Indebtedness and interest due under the Conditional Sale Agreements and shall not be deemed to modify or alter in any way the total amount of principal and interest payable by NRFC and NRUC under the Conditional Sale Agreements. The unpaid Conditional Sale Indebtedness shall bear interest at the rate set forth in the Conditional Sale Agreements (including, upon the occurrence of any Event of Default hereunder, the penalty rate provided therein). All Pass-Through Payments shall be applied by FNB first to

current period interest charges, second to deferred interest and finally to the unpaid Conditional Sale Indebtedness. Any excess of interest accrued through the Payment Date over the total of the Pass-Through Payments shall be deferred and shall be payable in the future from subsequent Pass-Through Payments. No interest shall be accrued on or be payable in respect of deferred interest.

3.02. Cash Flow Payment. In addition to the Pass-Through Payments required pursuant to Section 3.01 hereof, on or before April 15 of each year, commencing with April 15, 1982, NRUC and NRFC shall pay to FNB its Pro Rata Portion of the Consolidated Net Cash Flow for the fiscal year ending on the December 31st immediately preceding such April 15. At least 15 days before the date of such payment, and together with the delivery of the audited financial statements required pursuant to Section 7.03 hereof, NRUC shall deliver to FNB a statement setting forth in such detail as FNB may require its calculation of FNB's Pro Rata Portion of the Consolidated Net Cash Flow. All payments received by FNB pursuant to this Section 3.02 shall be allocated first to deferred interest due and payable and secondly to the unpaid Conditional Sale Indebtedness.

3.03. Management Fees. As compensation for their management of the Boxcars, NRUC and NRFC shall be entitled to deduct from the Pass-Through Payments payable to FNB on each Payment Date a Management Fee of \$3.00 per Boxcar for each day during the Measurement Quarter. At the end of each Measurement Quarter, NRUC shall compute its Overhead

Costs applicable to the management of the NRUC Fleet, and divide such costs by the Average NRUC Boxcar Fleet and thereby determine its administrative cost per boxcar. To the extent that such cost per boxcar is less than \$3.00 per car per day, FNB shall be entitled to a reimbursement (or a credit against accrued Management Fees) in an amount equal to the difference between \$3.00 and the actual cost per boxcar times the Average Boxcars for such Measurement Quarter times the number of days in the Measurement Quarter. At the time of each delivery of its quarterly and annual statements pursuant to Section 7.03 of this Agreement NRUC shall deliver to FNB a statement setting forth in such detail as FNB may require its calculation of its total Overhead Costs and Overhead Costs per boxcar for the most recent Measurement Quarter and the amount of any reimbursement or credit to which FNB is entitled.

3.03.1. Adjustment To Management Fee.

On June 1, 1981, and on each June 1 thereafter, the \$3.00 per boxcar per day Management Fee will be adjusted upward by an amount equal to $66\frac{2}{3}\%$ times the increase in the Bureau of Labor Statistics' 1978 Revised Consumer Price Index for Urban Wage Earners and Clerical Workers, All Cities Index (1967 equals 100) from April 1 of the previous year through April 1 of the year in question. On or before May 15 in each year, NRUC shall deliver to FNB a statement setting forth in such detail as FNB may require, its calculation of the increase in the Management Fee.

3.04. Maintenance. Pursuant to the terms of the Plan, FNB hereby elects to "self-insure" the maintenance

costs with respect to the Boxcars. Therefore, the Pass-Through Payments will not be reduced by a standard quarterly maintenance fee, but will be reduced by the actual amount of any maintenance costs made with respect to the Boxcars. However, no such maintenance costs may be incurred or paid from the Pass-Through Payments, and no maintenance of the Boxcars may be performed by NRFC, NRUC or its Subsidiaries without the prior written consent of FNB; provided, however, that NRFC and NRUC may use the Pass-Through Payments to satisfy invoices for bona fide charges for running repairs performed by operating railroads pursuant to railroad interchange regulations which either require or permit such repairs to be made without the prior consent of NRUC, NRFC or NRUC's other Subsidiaries.

FNB may, by written notice to NRFC and NRUC, elect to establish a trust account for purposes of establishing a reserve to be used in connection with maintenance and repair of the Boxcars. In order to fund this reserve account, a Maintenance Fee of \$2.51 per Boxcar per day will be deducted from the Pass-Through Payments payable to FNB on each Payment Date. All such fees and any revenues earned thereon shall be deposited by NRUC and NRFC into a trust account to be established at a national banking association approved by FNB pursuant to the terms of a Trust Agreement in form acceptable to FNB. All fees deposited in the trust account and any revenues earned thereon shall be used only for the maintenance of the Boxcars and payment of trustee costs until such time as

all obligations of NRUC and NRFC to FNB hereunder are satisfied (at which point, all such fees shall be returned to FNB). Such fees and revenues also will be returned to FNB on a per-car basis in the event of any partial withdrawal of the Boxcars pursuant to Section 10 hereof. Any required maintenance costs in excess of the amount on deposit in the escrow account shall be paid by NRUC and its Subsidiaries and shall not be deducted from the Pass-Through Payments.

The Maintenance Fee set forth herein shall be adjusted upward by the same percentage as any increase after April 1, 1980 in the American Association of Railroads' Standard Labor Rates upon written notice by of such increase by NRUC to FNB, which notice shall include a calculation of the adjusted Maintenance Fee.

3.05. Events of Default. Except as otherwise expressly provided herein, and subject to the provisions of Section 2 of this Agreement, the right of FNB to exercise its rights and remedies with respect to any CSA Event of Default occurring, recurring and/or continuing prior to the date of this Agreement are suspended, and such suspension shall continue until the occurrence of the earlier of the following: (i) the failure of NRUC and/or its Subsidiaries to satisfy or continue the satisfaction of any of the terms and conditions of this Agreement, including the conditions set forth in Section 6 hereof, (ii) the occurrence of an Event of Default hereunder or (iii) the termination of this Agreement by FNB pursuant to Section 8 hereof. Under this Agreement, an Event

of Default shall be the occurrence of one or more of the following:

(a) NRFC and NRUC shall fail to make the payments required to be made to FNB under this Agreement or NRUC or any of its Subsidiaries shall fail to make any payments required to be made to any other Alternative Two Elector pursuant to the terms of the Plan or any Alternative Two Agreement.

(b) Any representation or warranty made by or on behalf of NRUC, NRFC or any other NRUC Subsidiary in this Agreement or in any instrument, certificate or statement furnished in connection herewith shall prove to be false or misleading in any material respect when made or given.

(c) NRUC, NRFC or any other NRUC Subsidiary shall fail to perform, comply with or observe any of the other terms, conditions, covenants and agreements contained in this Agreement.

(d) An event of default or default shall occur under any other Alternative Two Agreement.

(e) The Aggregate Pass-Through Payments (plus any supplemental payments made by NRUC and its Subsidiaries pursuant to Section 7.09 hereof) actually made to Alternative Two Electors for any calendar year ending on December 31, 1982 or thereafter are less than an amount equal to the Aggregate Pass-Through Payments which would have been made at Utilization Rates averaging (i) 50% for the calendar year 1982, (ii) 60% for the calendar year 1983 and (iii) 70% for the calendar year 1984 or thereafter.

(f) The Aggregate Pass-Through Payments Per Car payable at July 15, 1981 and October 15, 1981 in respect of the June 30, 1981 and September 30, 1981 Measurement Periods do not exceed the Aggregate Pass-Through Payments Per Car made on October 15, 1980 in respect of the September 30, 1980 Measurement Period by at least 5% and 7-1/2%, respectively. In making the computations required by this clause (e) and clause (d) above, the Aggregate Pass-Through Payments shall not include Alternative One Storage Revenues.

(g) NRUC or any of its Subsidiaries shall make any expenditures or incur any obligations or liabilities in connection with the production, assembly, purchase or acquisition of railcars, unless such production, assembly, purchase or acquisition is pursuant to a pre-existing sale, lease or other agreement calculated to yield cash-basis profits, or unless the proposed production, assembly, purchase or acquisition of railcars is approved in writing by 60% of the Alternative Two Electors in the manner provided in Section 12.04 hereof.

(h) NRUC's Overhead Costs, excluding costs related to its short line railroads, for any twelve (12) month period shall exceed the Standard Overhead Costs.

(i) NRUC or any of its Subsidiaries shall fail to furnish to FNB financial information required to be delivered pursuant to the Plan or this Agreement or shall not provide in a reasonable period of time any additional financial information requested by FNB.

(j) The occurrence of a Bankruptcy Event.

(k) NRUC or any of its Subsidiaries shall fail to make a good faith effort to (i) reduce to a minimum Outside Storage Costs on NRUC's Boxcar Fleet and (ii) achieve parity relating to Utilization Rates among the Alternative Two Electors.

(l) NRUC and NRFC shall fail to maintain insurance on the Boxcars in the manner required by Article 9 of the Conditional Sale Agreements.

(m) The increase in the per diem rate approved by the ICC effective July 1, 1979 shall be disallowed or rescinded and as a result thereof judgments in excess of \$3,000,000 in the aggregate shall be entered against NRUC and/or its Subsidiaries or any such judgment or judgments in excess of \$100,000 in the aggregate are sought to be enforced by execution proceedings.

(n) NRUC and/or its Subsidiaries shall during any calendar year, commencing with the calendar year ending December 31, 1980 (limited, in the case of 1980, to the nine-month period beginning April 1), encumber any asset existing at April 1, 1980 having a fair value in excess of \$250,000 without having first obtained the prior consent of not less than 51% of the Alternative Two Electors in the manner provided in Section 12.04 hereof.

(o) NRUC or NRFC shall fail to deliver the Boxcars in the manner required by Section 10 hereof upon

election by FNB to take possession of part or all of the Boxcars.

Upon the occurrence of any of the foregoing, the provisions of this Section 3 shall become void and FNB shall no longer be bound by the terms of this Section 3 or by the terms of the Plan, and as provided in Section 2, all amounts payable under the Conditional Sale Agreements shall be immediately due and payable and all rights and remedies available to FNB under the Conditional Sale Agreements and the Assignments, including, without limitation, the rights and remedies set forth in Article 20 of the Conditional Sale Agreements, may immediately be exercised by FNB, to the same extent as if this Agreement had not been executed and FNB's right to exercise such rights and remedies had not been suspended hereby. FNB may, in its sole discretion, waive any such Event of Default by written notice to NRUC and NRFC.

4. Representations and Warranties. NRUC and each of its Subsidiaries hereby represent and warrant to FNB that:

4.01. Organization, Corporate Powers, etc. NRUC and each of its Subsidiaries (i) are corporations duly organized, validly existing and in good standing under the laws of their respective jurisdictions of incorporation, without limitation on the duration of their existence, (ii) have the corporate power and authority to own their respective properties and to carry on their respective businesses as now being conducted and to undertake and perform their obligations

under this Agreement and (iii) are duly licensed or qualified to do business in, and are in good standing in, all jurisdictions wherein the character of their respective properties or the nature of their respective businesses makes licensing or qualification as a foreign corporation necessary.

4.02. Corporate Authorization. The execution, delivery and performance of this Agreement by NRUC and its Subsidiaries and the performance by NRUC and its Subsidiaries of all other actions contemplated by this Agreement, including (subject to requisite approval by the ICC) the issuance of common stock by NRUC pursuant to Section 9 hereof, (i) have been duly authorized by all requisite corporate action, (ii) will not violate (a) any provision of law, any order or judgment of any court or any decree, rule or regulation of any Federal, state, municipal or other governmental agency, department, commission, board, bureau or instrumentality, including, but not limited to, the ICC, (b) the Charters or Certificates of Incorporation, as amended, or By-Laws, as amended, of NRUC or its Subsidiaries or (c) any provision of any indenture, agreement or other instrument to which NRUC or any of its Subsidiaries is a party, or by which NRUC or any of its Subsidiaries or any of their respective properties are bound, and (iii) will not be in conflict with, result in a breach of or constitute (with due notice and/or lapse of time) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any

lien or encumbrance upon any of the property or assets of NRUC or any of its Subsidiaries.

4.03. Valid and Binding Obligations, etc. This Agreement represents a valid and binding obligation of NRUC and each of its Subsidiaries, enforceable in accordance with its terms.

4.04. Litigation. Schedule I attached hereto describes by name, type of litigation and dollar amount claimed all actions, suits or proceedings (whether or not purportedly on behalf of NRUC or any of its Subsidiaries) pending against or affecting NRUC or any of its Subsidiaries or any property or rights of NRUC or any of its Subsidiaries by or before any court or any Federal, state, municipal or other governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign. Except as previously disclosed in writing to FNB, there are no outstanding or pending judgments against NRUC or any of its Subsidiaries.

4.05. Taxes. NRUC and its Subsidiaries have filed all tax returns and reports required by law, and all taxes which are due and payable or which have been assessed have been paid. There are no outstanding, pending or threatened tax liens against NRUC or any of its Subsidiaries.

4.06. Subsidiaries. The schedule of Subsidiaries attached hereto as Schedule II lists as of the date hereof the name of each Subsidiary of NRUC. NRUC is the owner, beneficially and of record, of all of the issued and outstanding shares of capital stock of each Subsidiary listed on such schedule, free and clear of any liens, including,

without limitation, claims arising out of any preemptive rights granted in connection with the issuance of any such shares. All such shares are duly issued, fully paid and nonassessable, and there are no outstanding options, warrants or other rights entitling the holder thereof to purchase any shares of capital stock of any Subsidiary.

4.07. Government and Stockholder Approvals.

No consent, approval, authorization, permit or license from any Federal, state or local regulatory authority or commission, including, without limitation, the ICC, is required in connection with the making or performance of this Agreement and the transactions contemplated hereby (other than ICC approval for, and compliance with applicable Federal and state securities laws in connection with, the issue of the Common Stock as contemplated by Section 9 hereof), including, without limitation, the execution and performance of this Agreement by NRUC and each of its Subsidiaries, nor is any consent, approval or authorization of stockholders of NRUC or any of its Subsidiaries required in connection therewith. The terms of this Agreement conform in all respects with the applicable provisions of the Interstate Commerce Act and the rules and regulations of the ICC thereunder.

4.08. Corporate Authorization of Common Stock.

Valid and sufficient corporate action has been taken by the stockholders and the Board of Directors of NRUC to authorize and reserve for issue the Common Stock proposed to be issued pursuant to Section 9 hereof; the issuance of the Common Stock has been duly authorized and upon receipt of ICC approval

and election by FNB pursuant to Section 9 and Section 10, such stock may be validly issued and will be fully paid and nonassessable shares of the Common Stock of NRUC.

4.09. Compliance with Agreement; No Default.

NRUC, NRFC and the NRUC's Companies are in compliance with all the terms and provisions to be observed or performed by them pursuant to this Agreement and no Event of Default as specified in Section 3.05 hereof, nor any event which, upon notice or lapse of time or both, would constitute such an Event of Default, has occurred and is continuing.

4.10. Elections Under Plan. NRUC and its Subsidiaries promptly will provide to FNB such information as may be requested concerning the status of the elections made by secured lenders and lessors under the Plan.

4.11. Copies of Documents. NRUC has provided to FNB copies of all Alternative Two Agreements executed to date by NRUC and its Subsidiaries with other Alternative Two Electors having total Principal Indebtedness plus Capitalized Lease Obligations payable by NRUC and its Subsidiaries of \$1,000,000 or more. No documents executed by NRUC and its Subsidiaries for purposes of implementing the Plan provide to any Alternative Two Elector any rights or remedies which are greater or more favorable than those set forth in the Plan or provided to FNB hereunder.

5. Opinion of Counsel. At the time of the execution of this Agreement, NRUC and its Subsidiaries shall deliver to FNB a favorable written opinion, dated the date of delivery,

of Wyche, Burgess, Freeman & Parham, counsel for NRUC and its Subsidiaries, which opinion shall confirm the substance of the representations and warranties set forth in Sections 4.01, 4.02, 4.04, 4.07 and 4.08 of this Agreement (but which in the case of the matters dealt with in Section 4.07 and clause (ii)(a) of Section 4.02 shall be to the best knowledge of such counsel as to all matters other than matters governed by United States or South Carolina law, and in the case of the matters dealt with in clauses (ii)(c) and (iii) of Section 4.02 and in Section 4.04 shall be to the best knowledge of such counsel based upon due inquiry of proper officers of NRUC and its Subsidiaries) and shall also be to the effect that this Agreement has been duly and validly authorized, executed and delivered by NRUC, NRFC and the NRUC Companies and constitutes a legal, valid and binding obligation of NRUC, NRFC and the NRUC Companies, enforceable in accordance with its terms. In rendering their opinion, such counsel may qualify any opinion to the effect that this Agreement is a legal, valid and binding instrument enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting the enforcement of creditors' rights generally. In addition, such counsel may rely as to matters of law of jurisdictions other than the United States or South Carolina upon the opinions of local counsel acceptable to FNB and its counsel, provided that (a)

copies of such opinions shall be delivered to FNB and (b) Wyche, Burgess, Freeman & Parham shall state in their opinion that they and FNB are justified in relying on such opinions.

6. Conditions. The conditional modification of payment terms and suspension of rights and remedies set forth in Section 3 of this Agreement shall become ineffective and shall not be binding upon FNB in the event of the failure of NRUC and its Subsidiaries to satisfy the conditions set forth in this Section 6.

6.01. Substantial Acceptance of Plan. The Plan shall be accepted on or before December 31, 1980 by 80% of the number of secured lenders and lessors of NRUC and its Subsidiaries and by secured lenders and lessors of NRUC and its Subsidiaries holding 80% of the total Principal Indebtedness plus Capitalized Lease Obligations payable to all secured lenders and lessors by NRUC and its Subsidiaries and documentation between NRUC and its Subsidiaries and the applicable secured lenders and lessors evidencing this acceptance shall have been completed. NRUC and NRFC shall each deliver to FNB an Officer's Certificate, in form satisfactory to FNB, certifying substantial acceptance of the Plan in accordance with the foregoing.

6.02. Representations and Warranties; No Default. At the time of the delivery of the certificate required by Section 6.01, the representations and warranties set forth in Section 4 hereof shall be true and correct on and as of such date with the same effect as though such

representations and warranties had been made on and as of such date and NRUC and its Subsidiaries shall deliver to FNB an Officer's Certificate confirming the foregoing.

6.03. Waiver of Conditions. FNB may, in its sole discretion, by written notice to NRUC and NRFC, waive in part or all any of the conditions contained in this Agreement (including, without limitation, the conditions set forth in this Section 6), and FNB may extend the date on which substantial acceptance of the Plan is required pursuant to Section 6.01 hereof.

7. Affirmative Covenants. NRUC and each of its Subsidiaries covenant and agree as follows:

7.01. Notices. NRUC and its Subsidiaries shall give prompt written notice to FNB of the following:

(a) any Event of Default or any event which with notice or lapse of time or both would constitute an Event of Default;

(b) levy of an attachment, execution or other process against (i) any of the Boxcars or (ii) any of the other property or assets, real or personal, of NRUC or any of its Subsidiaries, the loss of which property or assets could result in a material adverse change in the business, operations, properties, assets or condition, financial or other, of NRUC or any of its Subsidiaries; and

(c) the filing or commencement of any action, suit or proceeding by or before any court or any Federal, state, municipal or other governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign, relating to the Boxcars or the ownership, use or operation thereof or, the filing of any other action, suit or proceeding by or before any such body which (i) if adversely determined, would impair the right or ability of NRUC or any of its Subsidiaries to carry on its business as now or then conducted and/or (ii) involves a claim of money damages against NRUC and/or any of its Subsidiaries in an amount greater than \$25,000.

7.02. Maintenance of Records. NRUC and its Subsidiaries shall keep and maintain at their respective places of business full and accurate accounts and records, including accounts and records relating to the storage, placement, utilization and usage of all boxcars owned, operated or managed by NRUC and/or its Subsidiaries; and shall permit access thereto and examination thereof by FNB at such times as may be requested by FNB.

7.03. Financial Reports, etc. In addition to any financial reports which may be required to be supplied by NRUC or NRFC to FNB pursuant to the Conditional Sale Agreements, NRUC and its Subsidiaries shall provide to FNB the following:

(a) As soon as available but in no event more than 90 days after the end of each fiscal year of NRUC, (i) a consolidated balance sheet and consolidating trial balances of NRUC and its Subsidiaries as of the close of such year, (ii) consolidated and consolidating (based upon the consolidating trial balance) statements of income and shareholders' equity of NRUC and its Subsidiaries for the year then ended, and (iii) consolidated statements of changes in the financial position of NRUC and its Subsidiaries for the year then ended, audited (as to the NRUC consolidated statements only) without exception as to scope and reported upon by independent public accountants of recognized national standing selected by NRUC and reasonably acceptable to FNB;

(b) As soon as available but in no event more than 45 days after the end of each of the first three fiscal quarters of NRUC, a consolidated balance sheet and consolidating trial balances of NRUC and its Subsidiaries and a consolidated and consolidating (based upon the consolidating trial balance) statement of income of NRUC and its Subsidiaries, in each case unaudited but certified by the principal financial officer of NRUC, such balance sheet and trial balances to be as of the end of such quarter and such statement to be for the period from the beginning of the then current fiscal year to the end of such quarter, in each case subject to audit and year-end adjustments;

(c) With the statements submitted under paragraphs (a) and (b) above, an Officer's Certificate

of NRUC (i) to the effect that to the best knowledge and belief based upon reasonable investigation of the officer signing such Certificate no Event of Default, nor any event which upon notice or lapse of time or both, would constitute an Event of Default, has occurred, or if any such Event of Default or event has occurred, specifying the nature and extent thereof and the nature of any corrective action taken or proposed to be taken to cure such Event of Default or event and (ii) to the effect that NRUC and each of its Subsidiaries have fulfilled all of their obligations under this Agreement;

(d) Promptly, copies of all financial statements, reports, notices and proxy statements sent by NRUC or by any of its Subsidiaries to stockholders, and of all reports filed by NRUC or any of its Subsidiaries with any securities exchange or the Securities and Exchange Commission (the "SEC") or any governmental authority succeeding to any or all of the functions of the SEC; and

(e) Promptly, from time to time such other information regarding the operations, business, affairs, litigation and financial condition of NRUC and its Subsidiaries as FNB may request.

7.04. Copies of Documents. NRUC and its Subsidiaries shall provide to FNB copies of all Alternative Two Agreements entered into with Alternative Two Electors having total Principal Indebtedness plus Capitalized Lease Obligations in excess of \$1,000,000 which have not previously

been provided to FNB, and upon request by FNB provide copies of any other Alternative Two Agreements and any documents evidencing existing loan transactions between NRUC and/or its Subsidiaries and any secured creditor or lessor or any rearrangement, modification or amendment of any such transaction.

7.05. Arrangements with other Lenders and Lessors. NRUC and its Subsidiaries, represent, warrant, covenant and agree that no Alternative Two Elector has been or will be provided with rights, agreements or concessions greater or more favorable than, or inconsistent with, the rights, agreements, or concessions provided under this Agreement or under Alternative Two of the Plan. In addition, NRUC and its Subsidiaries represent, warrant, covenant and agree that no payments or other agreements or concessions have been made or will be made, and no grant of rights has been or will be made, to any secured lender or lessor which is or would be inconsistent with the terms of this Agreement or Alternative One or Two of the Plan or otherwise is or would be prejudicial to the rights of FNB under this Agreement or the Plan or provides or would provide any special benefit or preference to any such secured lender or lessor. In the event of any breach of this Section 7.05, in addition to any other rights and remedies which may be available to FNB, FNB shall have the right to demand that any such rights, payments, agreements, concessions, special benefits and/or preferences be made available to FNB, and NRUC and its Subsidiaries hereby agree that, upon any such demand, such rights, payments, agreements etc. shall be, and

pursuant to this Agreement hereby are, made available to FNB.

7.06. Boxcar Selection. As provided in the Plan, it is essential that the methodology utilized in determining boxcars to be placed in service by NRUC and its Subsidiaries be one that deals fairly with all secured lenders, lessors and managed-car owners. In this regard, NRUC and its Subsidiaries agree to in good faith use their best efforts to provide a fair and equitable handling of all boxcars so that (i) utilization rates among lenders, lessors and managed-car owners are equalized to the extent practicable and (ii) Outside Storage Costs are minimized and, if possible, eliminated. In furtherance of the foregoing, the parties agree that the following principles should be followed by NRUC and its Subsidiaries in the assignment of boxcars for service:

(a) The storage site from which boxcars are to be selected shall be that site which results in the least movement cost to NRUC and its Subsidiaries.

(b) Boxcars shall be selected from a storage site based upon a first in, first out method of selection; provided, however, that when the number of boxcars at the site in question is so great as to render such method of selection unduly expensive, the last in, first out method of selection may be utilized.

(c) NRUC and its Subsidiaries shall deviate from the foregoing random selection methods (LIFO, FIFO) and shall to the extent practicable favor FNB or any other secured

lender, lessor or managed-car owner in the selection of boxcars for utilization in the event that, during any Measurement Quarter, (1) the percentage of the Boxcars in paid storage, or the percentage of boxcars of any other secured lender, lessor or managed-car owner in paid storage, is significantly higher than the percentage of NRUC's entire boxcar fleet (including managed cars) in paid storage or (2) the Utilization Rate of the Boxcars, or the Utilization Rate of the boxcars of any other secured lender, lessor or managed-car owner, is significantly lower than the Utilization Rate of NRUC's entire boxcar fleet (including managed cars). For purposes of the foregoing, significantly higher or lower shall mean a difference of five percentage points or more.

(d) Unless approved in writing by FNB, no Boxcars will be moved directly from storage with NRUC or its Subsidiaries to storage with a third party where Outside Storage Costs will be incurred.

Within 30 days after the end of each Measurement Quarter (other than the quarter ended December 31), and within 60 days after the end of each fiscal year, NRUC shall deliver to FNB a report setting forth in detail the boxcar selections made by NRUC and its Subsidiaries during the applicable fiscal quarter or year, including a detailed summary of the current location and status of all of the Boxcars and the Utilization Rate applicable to the Boxcars and the NRUC Fleet during the period. The annual reports shall be

audited and certified by NRUC's independent auditors and the quarterly reports shall be unaudited but shall be certified by NRUC's ^{President} ~~principal financial officer~~. NRUC and its Subsidiaries shall maintain detailed records of all boxcar selections and such records shall be made available for inspection by FNB at any time.

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7.07. Outside Storage Costs. NRUC and its Subsidiaries covenant and agree to pay promptly all charges for Outside Storage Costs on the Boxcars; provided however, that to the extent that NRUC and its Subsidiaries do not have sufficient cash on hand to pay such costs and provide written notice of such inability to pay to FNB, such costs may be accrued and remain unpaid up to a maximum amount of \$500 per Boxcar.

7.08. Car Placements. FNB may by written notice to NRUC and its Subsidiaries require that, unless otherwise agreed in writing by FNB, the Boxcars will not be placed in service under any lease, sublease, rental contract or other agreement or understanding which has a term of greater than three (3) months. In addition, upon election by FNB to have any Boxcars returned pursuant to Section 10, such Boxcars will not be placed in service by NRUC or its Subsidiaries under any lease, sublease, rental contract or other agreement and immediately will be returned to FNB in the manner set forth in Section 10.

7.09. Supplemental Payments. NRUC and its Subsidiaries may, at their election, make additional payments

to Alternative Two Electors and supplement the amounts being paid to Alternative Two Electors as pass-through payments and payment of their pro-rata portion of Consolidated Net Cash Flow. However, any such supplemental payments shall be made to all Alternative Two Electors on a pro-rata basis in accordance with the number of Alternative Two Boxcars owned or financed by each such Alternative Two Elector.

7.10. Continuation of Provisions. NRUC, NRFC and NRUC's other Subsidiaries hereby acknowledge and agree that, except as expressly set forth in Section 3 hereof (and subject to the terms, conditions and limitations contained therein and in Section 2 hereof), this Agreement is not intended to terminate, amend or alter the Conditional Sale Agreements, and, except as otherwise expressly provided herein, all provisions of the Conditional Sale Agreements, including, without limitation, Articles 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 thereof, continue to be in full force and effect and are binding upon NRUC and NRFC.

Included within the foregoing is the obligation of NRUC and NRFC under Article 9 of the Conditional Sale Agreements to maintain the Boxcars in good operating order and repair. The provisions of Section 3.04 of this Agreement and FNB's election to "self-insure" the maintenance costs with respect to the Boxcars do not alter or amend the obligation of NRUC and NRFC to maintain the Boxcars. Such provisions only are intended to provide a mechanism for review of maintenance by FNB and reimbursement of the maintenance costs

expended by NRUC and NRFC through a deduction against Pass-Through Payments as provided in Section 3.04, and NRUC and NRFC shall at all times during the term of this Agreement remain responsible for the performance of such maintenance.

8. Termination. Upon the occurrence of any Bankruptcy Event, or at December 31, 1984, FNB may, at its option, by written notice to NRUC and NRFC, terminate the conditional modification of payment terms and the suspension of rights and remedies contained in Section 3 of this Agreement, and upon such termination, such conditional modifications and suspension of rights and remedies shall be deemed to be null and void and FNB shall no longer be bound thereby. Notwithstanding the foregoing, FNB's option to terminate on December 31, 1984 shall be deferred and extended from year to year upon the approval of 60% of the Alternative Two Electors in the manner set forth in Section 12.04 hereof.

By entering into this Agreement, the parties agree that FNB shall not have accepted or be deemed to have accepted any plan of reorganization or arrangement which incorporates or is based upon this Agreement or the Plan in any proceeding for NRUC or any of its Subsidiaries under the bankruptcy laws of the United States or any state insolvency or receivership proceeding. FNB shall at all times have an independent right to accept or reject any such plan of reorganization or arrangement, including any plan or arrangement which is identical to or similar to the Plan, and the entering into this Agreement

and election to accept Alternative Two of the Plan shall not be used as evidence of FNB's acceptance of any proposed plan or arrangement.

9. Issuance of Common Stock. As of March 31, 1980, accrued but unpaid interest due and payable under the Conditional Sale Agreements in respect of the Conditional Sale Indebtedness was \$24,967.19 (the "Unpaid Interest"). FNB hereby acknowledges that the Unpaid Interest was not included in the interest payable through application of the July 15, 1980 Pass-Through Payment and agrees that the obligation of NRFC and NRUC to pay such interest shall be deferred until the termination of the provisions of Section 3 of this Agreement, or election by FNB by written notice to NRFC and NRUC to receive payment pursuant to either of the following:

(a) FNB may elect to add part or all of the Unpaid Interest to the deferred interest at any time payable pursuant to the terms of this Agreement, in which event, the Unpaid Interest shall be payable in the normal course pursuant to Section 3.01 hereof from quarterly Pass-Through Payments made by NRUC and NRFC to FNB.

(b) FNB may elect to receive payment of part or all of the Unpaid Interest through the delivery of up to 2,081 shares of Common Stock of NRUC, which represents the number of shares of Common Stock issuable in payment of such interest pursuant to the provisions of the Plan. Any partial payment of interest through the delivery of Common Stock will be done on

a basis proportionate to the total number of shares payable in respect of all Unpaid Interest.

In addition to the foregoing, NRUC shall deliver to FNB 150 shares of its Common Stock for each Boxcar returned to FNB pursuant to the provisions of Section 10 of this Agreement. In addition, upon delivery of any Boxcar pursuant to Section 10, FNB automatically and without election shall receive Common Stock for the pro rata portion of the Unpaid Interest relating to the Boxcars so delivered and shall no longer be entitled to any other form of payment of that portion of the Unpaid Interest.

The number of shares of Common Stock to be delivered pursuant to this Section 9 appropriately shall be adjusted for any stock dividends, stock splits or other recapitalization or reorganization of NRUC after the date hereof. NRUC shall use its best efforts to secure as soon as practicable and at its own cost and expense the necessary regulatory approvals, licenses, consents and exemptions required for the issuance of the Common Stock in the manner provided above and shall provide to FNB written notice once such approvals, licenses, consents and exemptions have been obtained.

10. Election to Withdraw Boxcars. FNB may, at any time after the execution of this Agreement, elect to take possession of any or all of the Boxcars in satisfaction of the obligation of NRFC and NRUC to FNB under Section 3.01 of this Agreement and the Conditional Sale Agreements, as such

obligations relate to the Boxcars returned. Such election and return of the Boxcars will be in accordance with the following:

10.01. Notice of Election. FNB shall by written notice to NRUC and NRFC designate the Boxcars as to which it is electing to take possession and specify the location for return of such Boxcars by NRUC and NRFC to FNB. NRUC, NRFC and NRUC's other Subsidiaries immediately shall advise FNB of the location of each of the Boxcars designated by FNB for return to FNB and shall take such steps as may be necessary to determine the location of any Boxcars designated for return which is not immediately known. Thereafter, NRUC, NRFC and NRUC's other Subsidiaries will waybill, for the account of FNB, the Boxcars designated for return in the manner, at the time, to the location and by routes specified or approved by FNB. NRUC, NRFC and NRUC's other Subsidiaries will at all times cooperate with FNB in developing the most efficient and least expensive route for transportation of the Boxcars to the location specified by FNB for return, and will assist FNB in determining points of interception for such Boxcars which are convenient to the location specified for return and otherwise will attempt to prevent any unnecessary routing of the Boxcars or any unnecessary return of the Boxcars to to the home railroad. In connection with the foregoing, NRUC, NRFC and NRUC's other Subsidiaries shall keep FNB fully apprised of the locations of the Boxcars designated for return and the actions taken by NRUC, NRFC and NRUC's

other Subsidiaries to deliver such Boxcars to FNB and shall at all times act in accordance with FNB's instructions and take such additional actions as may be requested by FNB to facilitate the return of such Boxcars.

10.02. Documents to be Delivered. Upon the election of FNB to take possession of any or all of the Boxcars, NRFC shall deliver to FNB the following:

(a) Bill(s) of Sale executed by NRFC and guaranteed by NRUC and its other Subsidiaries (i) transferring at the time specified in Section 10.03 title to the Boxcars to FNB, (ii) warranting that NRFC has at the time of transfer legal title thereto and good and lawful right to sell the Boxcars and that title to the Boxcars is at the time of transfer free and clear of all claims, liens and encumbrances of any kind whatsoever (other than the lien of FNB) and (iii) covenanting to indemnify and hold FNB harmless from any liability, loss, cost or expense (including attorney's fees) arising from any breach of the warranties set forth therein; and

(b) written opinion of counsel for NRFC to the effect that the Bill of Sale has been duly authorized, executed and delivered and constitutes a valid, legal and binding agreement, enforceable in

accordance with its terms, and that the Bill of Sale is valid and effective to transfer title to the Boxcars to FNB free and clear of all claims, liens and encumbrances of any kind whatsoever (other than the lien of FNB).

10.03. Effectiveness of Transfer; Risk of Loss.

Subject to the provisions of Section 10.04 hereof, transfer of title to FNB to any Boxcar covered by a Bill of Sale delivered pursuant to Section 10.02 will become valid and effective upon the waybilling of such Boxcar from the point of interception or from the home railroad, as the case may be, as specified or approved by FNB pursuant to Section 10.01. However, all risk of loss with respect to any such Boxcars, and all responsibility for managing, tracking and accounting for any such Boxcars in the interchange system, shall remain with NRFC and NRUC until actual delivery of such Boxcars to the point of destination designated in the applicable waybill. Until delivery at such destination, NRFC and NRUC shall, at their expense and for the benefit of FNB, continue to insure such Boxcars in the manner required by Article 9 of the Conditional Sale Agreements.

10.04. Conditions to Effectiveness of Transfer.

Each transfer of title to a Boxcar to FNB pursuant to the provisions of Section 10.03 is expressly conditional upon (i) the truth and accuracy at the time of transfer of the representations and warranties contained in the Bill of Sale and (ii) the transferred Boxcar being in good operating order and

repair at the time of transfer. In the event of any failure to satisfy either of the foregoing conditions in respect of any Boxcar (if FNB does not in its sole discretion waive such condition), and notwithstanding the return of any such Boxcar to FNB as provided in this Section 10, FNB may, without limiting any other remedies which may be available to it, return (at FNB's expense, in the manner and subject to the limitations set forth in Section 10.05) any such Boxcar to NRUC and its Subsidiaries and invalidate and declare null and void any purported transfer of title pursuant to Section 10.03.

10.05. Rescission of Election; Failure to Satisfy Conditions. FNB may by written notice to NRFC and NRUC at any time prior to transfer of title to the Boxcars pursuant to Section 10.03 hereof, rescind in part or in whole its election to take possession of the Boxcars pursuant to this Section 10. Upon any such rescission, or upon any invalidation or voiding of the transfer of title to any Boxcars by FNB due to the failure of NRFC or NRUC to satisfy the conditions set forth in Section 10.04 hereof, the affected Boxcars will be retained by NRUC and/or NRFC and not waybilled pursuant to Section 10.01, or, as to Boxcars which have already been waybilled, will be returned to NRUC and NRFC to the location from which each originally was waybilled as directed by FNB or to such other location as reasonably may be specified by NRUC and NRFC. The return of such Boxcars shall be at FNB's expense, provided that FNB's expense with respect to any Boxcar shall not exceed the cost of return of such Boxcar to the location.

from which it originally was waybilled. Upon such rescission, invalidation or voiding of transfer, the affected Boxcars and the underlying debt as to each will continue to be governed by the terms of this Agreement and the Conditional Sale Agreements. FNB may at any time and in its sole discretion by written notice to NRFC and NRUC waive or terminate as to any or all of the Boxcars the right of recission and return contained in this Section 10.05.

10.06. Election Under Conditional Sale Agreements. Each return of Boxcars pursuant to the provisions of this Section 10 shall, in addition to representing an election by FNB to accept return of such Boxcars under the terms of this Agreement and the Plan, represent an election by FNB to retain the Boxcars in satisfaction of the entire indebtedness with respect to the Purchase Price (as defined in the applicable Conditional Sale Agreement) of the affected Boxcars in the manner permitted by the third paragraph of Article 20 of the applicable Conditional Sale Agreement (such paragraph and the terms thereof being hereinafter referred to as the "CSA Return Paragraph"), and to the extent of the foregoing, the CSA Return Paragraph remains immediately operative and binding upon the parties hereto and FNB's rights and remedies thereunder are not suspended by the provisions of this Agreement. The written notice by FNB pursuant to Section 10.01 hereof additionally shall constitute written notice pursuant to the CSA Return Paragraph, and NRUC, NRFC and NRUC's other Subsidiaries hereby expressly consent to such election by FNB under the CSA Return Paragraph and agree that they have no objection to

any election by FNB to retain part or all Boxcars in the manner contemplated by the CSA Return Paragraph.

10.07. Release of Liability. Upon delivery of and transfer of title to any Boxcars pursuant to this Section 10, satisfaction of the conditions set forth in Section 10.04 and delivery of the documents required by Section 10.02, NRUC's, NRFC's and NRUC's other Subsidiaries' obligation in respect of such Boxcars shall be to (i) make the Pass-Through Payments required pursuant to the provisions of Section 3.01 hereof accrued and payable through the date of delivery of the Boxcars, (ii) pay any accrued but unpaid cash flow payments required by Section 3.02 hereof and (iii) deliver the shares of stock required pursuant to Section 9 hereof, and upon payment of such amounts and delivery of such stock, NRUC, NRFC and NRUC's other Subsidiaries shall have no further obligation or liability for any Conditional Sale Indebtedness or interest thereon payable in respect of such Boxcars. For purposes of the foregoing, the Conditional Sale Indebtedness and interest payable in respect of each Boxcar shall be determined on a pro rata basis based upon the unpaid Conditional Sale Indebtedness and interest outstanding immediately prior to the acceptance of such Boxcar by FNB under the Conditional Sale Agreement to which such Boxcar relates divided by the total number of Boxcars covered by such Conditional Sale Agreement immediately prior to such acceptance. *Insert. See Schedule III part 10/2/80* ~~The foregoing shall not, however, limit or restrict any other liability of NRUC or its Subsidiaries to FNB, including any liability for any breach of any of the other representations, warranties or agreements~~

~~contained in this Agreement.~~ The value of the Boxcars received by FNB in satisfaction of indebtedness shall be applied first to the Conditional Sale Indebtedness and thereafter to related interest.

10.08. Expenses. All waybill expenses relating to the return of the Boxcars to the location specified by FNB shall be for the account of FNB and may, at NRUC's option, be billed to FNB or deducted by NRUC, NRFC and NRUC's other Subsidiaries from the final Pass-Through Payment payable to FNB in respect of such Boxcars. All storage and other costs accrued and payable prior to the date of delivery in respect of the Boxcars shall be for the account of NRUC, NRFC and NRUC's other Subsidiaries (however, the foregoing shall not limit or negate the right of NRUC, NRFC and NRUC's other Subsidiaries to deduct any such items from Car-Hire Revenues to the extent permitted by Section 1.34 hereof for purposes of computing Pass-Through Payments).

10.09. Tax Credit. NRUC shall advise FNB in writing of any Boxcars which have not previously been placed in service and will qualify in FNB's hands as "new Section 38 property" as defined in Section 48 of the Internal Revenue Code of 1954, as amended, for purposes of determining FNB's right to claim an investment tax credit in the amount of 10% of its cost therefor. NRUC and its Subsidiaries covenant and agree not to claim any investment tax credit with respect to any Boxcars so identified.

11. Guarantee by Subsidiaries. In consideration of FNB's agreement to the modification of payment terms, conditional waivers and suspension of remedies contained in Section 3 hereof, and the benefits to be derived by each of the NRUC Companies therefrom, the NRUC Companies hereby jointly and severally guarantee the due and punctual performance of all obligations of NRFC and NRUC under this Agreement and the Conditional Sale Agreements and unconditionally guarantee to FNB that all sums payable by NRFC and NRUC under this Agreement and the Conditional Sale Agreements will be promptly paid when due, together with interest thereon as provided in the Conditional Sale Agreements, whether at stated maturity or by declaration or otherwise, and in case of default by NRFC and NRUC in any such obligations or payments each of the NRUC Companies agrees punctually to perform or pay the same, irrespective of any enforcement against NRFC or NRUC of any of the rights of FNB hereunder or under the Conditional Sale Agreements.

The NRUC Companies hereby agree that their obligations hereunder shall be unconditional (and shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever) irrespective of the genuineness, validity, regularity or enforceability of this Agreement or the Conditional Sale Agreements or any other circumstances which might otherwise constitute a legal or equitable discharge of a surety or guarantor or any other circumstances which might

otherwise limit the recourse of FNB against NRFC or NRUC. The NRUC Companies hereby waive diligence, presentment, demand for payment, protest, any notice of any default hereunder or under the Conditional Sale Agreements and all notices with respect to this Agreement or the Conditional Sale Agreements and all demands whatsoever hereunder or thereunder. No waiver by FNB of any of its rights hereunder or under the Conditional Sale Agreements and no action by FNB to enforce any of its rights hereunder or thereunder or failure to take, or delay in taking, any such action shall affect the obligations of the NRUC Companies hereunder. In the event that the NRUC Companies shall make any payments to FNB on account of their guaranty hereunder, the NRUC Companies hereby covenant and agree that they shall not acquire any rights, by subrogation or otherwise, against NRFC or NRUC or with respect to any of the Collateral by reason of such payments, all such rights being hereby irrevocably released, discharged and waived by the NRUC Companies. The obligations and guarantees of the NRUC Companies hereunder shall survive any termination of this Agreement and any termination of the provisions of Section 3 hereof and shall be binding upon the NRUC Companies until complete satisfaction of all obligations to FNB under this Agreement and the Conditional Sale Agreements.

12. Miscellaneous

12.01. Notices. All notices, demands, requests, consents, or approvals required under this Agreement to be in writing, shall be deemed effective when mailed by first class registered mail, return receipt requested, postage prepaid (or, in the case of telex, telegraphic or personally delivered notices, when received at the appropriate address hereinafter specified), if to The First National Bank, at P.O. Box 1596, Baltimore, Maryland 21203, Attention: Bruce McCall, Vice President and if to NRUC, NRFC or any of the NRUC Companies through a single written notice to NRUC, at 1100 Centre Square East, 1500 Market Street, Philadelphia, Pennsylvania 19102, Attention: President, with a copy to NRFC at 402 Cedar Rock Street, Pickens, South Carolina, 29671, Attention: Vice President - Finance, or at such other addresses or to the attention of such other officers as FNB, NRUC, NRFC or any of the NRUC Companies shall have furnished in writing to the party giving notice.

12.02. Scope and Survival of Agreement. This Agreement, together with the related instruments and transactions expressly referred to herein, constitutes the entire agreement of the parties with respect to the matters covered herein and supersedes all prior written and oral agreements and understandings with respect hereto. Whenever in this Agreement any of the parties hereto are referred to, such reference shall be deemed to include the successors and

assigns of such party and all covenants, promises and agreements by or on behalf of NRUC, NRFC and the NRUC Companies which are contained in this Agreement shall be binding upon any successors and assigns of NRUC, NRFC and the NRUC Companies and shall inure to the benefit of the successors and assigns of FNB, provided, however that NRUC, NRFC and the NRUC Companies may not assign or transfer any of their rights, benefits or obligations hereunder save with the prior written consent of FNB.

12.03. Modification of Agreement. No modification, amendment or waiver of any provision of, or any consent required by, this Agreement, nor any consent to any departure by any of the parties herefrom, shall in any event be effective unless the same shall be in writing and signed by the party or parties to be bound thereby, and then such modification, amendment, waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on NRUC, NRFC or the NRUC Companies in any case shall entitle NRUC, NRFC or the NRUC Companies to any other or further notice or demand in the same, similar or other circumstances.

12.04. Approval by Alternative Two Electors. In the event any provision of this Agreement requires approval by a specified percentage (i.e. 51% or 60%) of the Alternative Two Electors in order for certain actions to be taken or consents to be granted, such approval or consent will not be

valid unless granted by the requisite percentage of Alternative Two Electors in both number and dollar amount. For purposes of the foregoing, approval in both number and dollar amount means approval by (i) the specified percentage (i.e. 51% or 60%) of the total number of Alternative Two Electors and (ii) the Alternative Two Electors holding total Principal Indebtedness plus Capitalized Lease Obligations equal to or greater than the specified percentage (i.e. 51% or 60%) of the total Principal Indebtedness plus Capitalized Lease Obligations of all Alternative Two Electors.

12.05. No Waiver, etc. No failure or delay by FNB to insist upon the strict performance of any term, condition, covenant or agreement of this Agreement, or to exercise any right, power or remedy hereunder, or consequent upon a breach hereof, shall constitute a waiver of any such or any other term, condition, covenant, agreement, right, power or remedy or of any such or any other breach, or preclude FNB from exercising any such or any other right, power or remedy at any later time or times.

12.06. Severability. In case any one or more of the provisions contained in this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby.

12.07. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute but one instrument.

12.08. Applicable Law. This Agreement shall be governed and construed in accordance with the laws of the State of Maryland.

12.09. Headings. Section and other headings have been inserted in this Agreement as a matter of convenience for reference only and it is agreed that such headings are not a part of this Agreement and shall not be used in the interpretation of any provision of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

NATIONAL RAILWAY UTILIZATION CORPORATION

[Corporate Seal]

By *Richard J. Kelly*
Vice President

ATTEST:

E. W. Stroup
Asst. Secretary

PICKENS RAILROAD COMPANY

[Corporate Seal]

By *Richard J. Kelly*
Vice President

ATTEST:

E. W. Stroup
Asst. Secretary

N.R. FINANCIAL CORPORATION

[Corporate Seal]

By *Richard J. Kelly*
Vice President

ATTEST:

E. W. Stroup
Asst. Secretary

N.R. REALTY CORPORATION

[Corporate Seal]

By *Richard J. Kelly*
Vice President

ATTEST:

G. W. Strickland
Asst. Secretary

PENINSULA TERMINAL COMPANY

[Corporate Seal]

By *Richard J. Kelly*
Vice President

ATTEST:

G. W. Strickland
Asst. Secretary

RAIL FLEET CORPORATION

[Corporate Seal]

By *Richard J. Kelly*
Vice President

ATTEST:

G. W. Strickland
Asst. Secretary

THE FIRST NATIONAL BANK OF
MARYLAND

[Corporate Seal]

By *Bernard M. Miller*

ATTEST:

W. J. Gaudin
V.P.

State of Pennsylvania
County of Philadelphia) SS:

I HEREBY CERTIFY, that on this 27th day of October, 1980, before the subscriber, a Notary Public in and for said City and State, personally appeared Richard J. Kelly, who, being by me duly sworn, says that he is a Vice President of National Railway Utilization Corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 27th day of October, 1980.

Martha T. Mills
Notary Public

[Notarial Seal]

My Commission Expires:

MARTHA T. MILLS
Notary Public, Phila., Phila. Co.
My Commission Expires March 5, 1984

State of Pennsylvania
County of Philadelphia) SS:

I HEREBY CERTIFY, that on this 27th day of October, 1980, before the subscriber, a Notary Public in and for said City and State, personally appeared *Richard J. Kelly*, who, being by me duly sworn, says that he is a Vice President of Pickens Railroad Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 27th day of October, 1980.

Martha T. Mills

Notary Public

[Notarial Seal]

My Commission Expires:

MARTHA T. MILLS
Notary Public, Phila., Phila. Co.
My Commission Expires March 5, 1984

State of Penna
County of Phila)

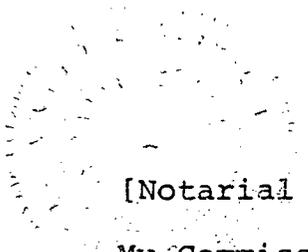
SS:

I HEREBY CERTIFY, that on this 27th day of October, 1980, before the subscriber, a Notary Public in and for said City and State, personally appeared *Richard Q. Kelley*, who, being by me duly sworn, says that he is a Vice President of N. R. Financial Corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 27th day of October, 1980.

Martha T. Mills

Notary Public



[Notarial Seal]

My Commission Expires:

MARTHA T. MILLS
Notary Public, Phila., Phila. Co.
My Commission Expires March 5, 1984

State of Pennsylvania)
County of Philadelphia) SS:

I HEREBY CERTIFY, that on this *27th* day of October, 1980, before the subscriber, a Notary Public in and for said City and State, personally appeared *Richard J. Kelly*, who, being by me duly sworn, says that he is a Vice President of N. R. Realty Corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this *27th* day of October, 1980.



Notary Public

[Notarial Seal]

My Commission Expires:

MARTHA T. MILLS
Notary Public, Phila., Phila. Co.
My Commission Expires March 5, 1984

State of Penna
County of Phila) SS:

I HEREBY CERTIFY, that on this *27th* day of October, 1980, before the subscriber, a Notary Public in and for said City and State, personally appeared *Richard J. Kelly*, who, being by me duly sworn, says that he is a Vice President of Peninsula Terminal Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this *27th* day of October, 1980.

Martha T. Mills
Notary Public

[Notarial Seal]

My Commission Expires:

MARTHA T. MILLS
Notary Public, Phila., Phila. Co.
My Commission Expires March 8, 1984

State of Penna
County of Phila) SS:

I HEREBY CERTIFY, that on this *27th* day of October, 1980, before the subscriber, a Notary Public in and for said City and State, personally appeared *Richard J. Kelly*, who, being by me duly sworn, says that he is a Vice President of Rail Fleet Corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this *27th* day of October, 1980.

Martha T. Mills
Notary Public

[Notarial Seal]

My Commission Expires:

MARTHA T. MILLS
Notary Public, Phila., Phila. Co.
My Commission Expires March 5, 1981

SCHEDULE I

§4.04 LITIGATION

1. Ronald K. Gooding, a stockholder and former Vice-President of NRUC, filed a suit in the Court of Common Pleas of Greenville County, South Carolina, alleging that the company failed to timely grant stock options, refused to allow him to exercise such stock options and failed to timely issue bonus stock to Gooding. The suit seeks to collect \$175,000 in damages.
2. South Carolina National Bank. On April 10, 1980, SCNB filed a suit in the Court of Common Pleas of Greenville County, South Carolina against Rail Fleet Corporation, a subsidiary of the company, seeking to collect approximately \$577,000 together with interest and attorneys fees alleged to be due by reason of an unsecured note from Rail Fleet Corporation to SCNB.
3. Scullin Steel. On June 30, 1980, Scullin Steel, a division of Diversified Industries, Inc., filed suit with the Clerk of the United States District Court for the Eastern District of Missouri for compensatory and punitive damages because NRUC allegedly cancelled a non-cancellable contract. The amount of the suit is for \$17,500,000.
4. Linville Cochran. On September 2, 1980, Linville Cochran filed a suit in Edmonton, Kentucky for truck rental and damages. The amount of the Complaint is \$17,200.

SCHEDULE II

§4.06 SUBSIDIARIES

1. Pickens Railroad Company - Wholly Owned Subsidiary
2. Rail Fleet Corporation - Wholly Owned Subsidiary
3. Peninsula Terminal Company - Wholly Owned Subsidiary
4. N. R. Financial Corporation - Wholly Owned Subsidiary
5. N. R. Realty Corporation - Wholly Owned Subsidiary (Inactive)
6. Mississippian Railway, Inc. - Wholly Owned Subsidiary

SCHEDULE III

Section 10.07 Release of Liability

Insert - NRFC Agreement - page 47, fourth line from bottom, immediately after the words "to such acceptance."

Upon such delivery, transfer of title, satisfaction of conditions and delivery of documents, the applicable Conditional Sale Agreement shall terminate as to the Boxcars so delivered and, except as otherwise expressly provided therein, NRFC and NRUC shall have no further ongoing obligations thereunder. However, the termination of the applicable Conditional Sale Agreement as to such delivered Boxcars and the release of Conditional Sale Indebtedness and interest related thereto shall not cause the release of, or limit, terminate, negate or restrict in any manner, any other liability of NRUC or its Subsidiaries to FNB, including, without limitation, any liability for damages or other relief due to any breach of the representations, warranties or agreements contained in this Agreement.