The Atchison, Topeka and Santa Fe Railway Company

A Santa Fe Industries Company

80 East Jackson Boulevard, Chicago, Illinois 60604, Telephone 312/427-4900

April 16, 1981

RECORDATION NO. 13067 Filed 1425

APR 23 1981 -3 05 PM

INTERSTATE COMMERCE COMMISSION

RECEIVED APR 23 2 57 PM '81 I.C.C. FEE OPERATION BR.

Ms. Agatha L. Mergenovich
Secretary
Interstate Commerce Commission
12th & Constitution Avenue, N.W.
Washington, D.C. 20423

Re: The Atchison, Topeka and Santa Fe Railway Company
Equipment Trust, Series R

Dear Ms. Mergenovich:

Enclosed herewith for filing and recording with the Commission, pursuant to §11303 of Title 49 of the United States Code, are two executed counterparts of an Equipment Trust Agreement, dated as of February 1, 1981, together with the amendment thereto between The Atchison, Topeka and Santa Fe Railway Company (the "Company") and Harris Trust and Savings Bank, as Trustee (the "Trustee"), whereby The Atchison, Topeka and Santa Fe Railway Company Equipment Trust, Series R, is created.

As provided in the Trust Agreement, the Trustee will acquire certain railroad equipment which will thereafter be leased to the Company for a term of approximately 15 years. A list of the equipment to be so acquired and leased is set forth on Schedule A attached hereto.

For the convenience of the parties, I have also enclosed six additional counterparts of the Agreement, which I should like to have returned to me bearing the recordation information.

For the Commission's records, the names and addresses of the parties to the Agreement are as follows:

The Company, as Lessee:

The Atchison, Topeka and Santa Fe Railway Company
80 East Jackson Boulevard
Chicago, Illinois 60604

The Trustee:

Harris Trust and Savings Bank
111 West Monroe Street
Chicago, Illinois 60690

No. 1-113A120
Date APR 23 1981
Fee $ 50.00 TM
ICC Washington, D. C.

Counterpart Diane Harley

The names and addresses of the Vendors from whom the equipment will be acquired are as set forth in Schedule B.

A check in the amount of $50.00 is also enclosed in payment of the Commission's prescribed recordation fee.

Very truly yours,

R K Knowlton

R. K. Knowlton
Vice President-Law

JQG/LBM:dmw

Enclosures

[Equipment Trust, Series R]

SCHEDULE A

Quantity	Type	Estimated Cost Per Unit	Estimated Cost Total
7	3500 HP Diesel Electric Locomotives, Model GP-50; General Motors Corporation (Electro-Motive Division), Builder; Nos. 3833 to 3839, both inclusive ...	$ 755,000	$ 5,285,000
30	3000 HP Diesel Electric Locomotives, Model C30-7; General Electric Company, Builder; Nos. 8123 to 8152, both inclusive	1,034,700	31,041,000
100	60′ Plain Box Cars, 100-ton capacity, with roller bearing trucks; Santa Fe Rail Equipment Company, Builder; Nos. 612100 to 612199, both inclusive	62,500	6,250,000
75	Caboose Cars with wide cupola; International Car Company, Builder; Nos. 999750 to 999824, both inclusive	82,500	6,187,500
25	26,000-gallon Tank Cars, with roller bearing trucks; Trinity Industries, Inc., Builder; Nos. 98725 to 98749, both inclusive	54,400	1,360,000
30	50 Cubic Yard, Air-dump Gondola Cars, 77-ton capacity; DIFCO, Inc., Builder; Nos. 186230 to 186259, both inclusive	67,700	2,031,000
	Total		$52,154,500

[EQUIPMENT TRUST, SERIES R]

SCHEDULE B

Vendors of Equipment:

General Motors Corporation
(Electro-Motive Division)
9590 West 55th Street
LaGrange, Illinois 60525
((7) 3,500 H.P. Diesel Locomotives (Model GP-50))

General Electric Company
2901 East Lake Road
Erie, Pennsylvania 16501
((30) 3,000 H.P. Diesel Electric Locomotives)

Santa Fe Rail Equipment Company
9th and Jackson Streets
Topeka, Kansas 66628
((100) 60' Plain Box Cars)

International Car Co.,
a Division of PACCAR
P.O. Box 222
Kenton, Ohio 43326
((75) Caboose Cars with Wide Cupola)

Trinity Industries, Inc.
4001 Irving Boulevard
Dallas, Texas 75207
((25) 26,000-gallon Tank Cars)

DIFCO, Inc.
Diffential Avenue
Finlay, Ohio 45840
((30) 50 Cubic Yard, Air Dump Gondola Cars)

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

R. K. Knowlton
The Atchison, Topeka & Sante
Fe Railway Company
80 East Jackson Boulevard
Chicago, Illinois 60604

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 4/23/81 at 3:05PM, and assigned re-recordation number(s). 13067

Sincerely yours,

Agatha L. Mergenovich

Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

RECORDATION NO. 13067 Filed 1425

APR 23 1981 -3 05 PM

INTERSTATE COMMERCE COMMISSION

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY

EQUIPMENT TRUST

Series R

Equipment Trust Agreement

DATED AS OF FEBRUARY 1, 1981

By and Between

HARRIS TRUST AND SAVINGS BANK,
as Trustee

and

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY

La Salle Street Press — Chicago

Printed in U S A

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This Equipment Trust Agreement, dated as of February 1, 1981 by and between HARRIS TRUST AND SAVINGS BANK, an Illinois corporation, as Trustee, (hereinafter called the Trustee) and THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a Delaware corporation, (hereinafter called the Company),

WITNESSETH:

WHEREAS, the Company has contracted or will contract for the construction and transfer to the Trustee of the railroad equipment described herein; and

WHEREAS, title to such railroad equipment is to be vested in and is to be retained by the Trustee, and such railroad equipment is to be leased to the Company hereunder until title is transferred under the provisions hereof; and

WHEREAS, The Atchison, Topeka and Santa Fe Railway Company Equipment Trust Certificates, Series R (hereinafter called Trust Certificates), are to be issued and sold in an aggregate principal amount of not less than $26,250,000, and not more than $75,000,000, and the net proceeds (as hereinafter defined) of such sale together with such other cash, if any, as may be required to be deposited by the Company as hereinafter provided is to constitute a fund equal to the aggregate principal amount of Trust Certificates so issued and sold to be known as The Atchison, Topeka and Santa Fe Railway Company Equipment Trust, Series R, to be applied by the Trustee from time to time in part payment of the cost of the Trust Equipment, the remainder of the net cost thereof to be paid out of advance rentals to be paid by the Company as provided herein; and

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

[Form of Trust Certificate]

No. RR..... $.....

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

EQUIPMENT TRUST CERTIFICATES, SERIES R

First Installment: $26,250,000

..% Certificate, due May 15, 19..

HARRIS TRUST AND SAVINGS BANK, *Trustee*

Dividends Payable May 15 and November 15

THE HARRIS TRUST AND SAVINGS BANK, as Trustee (hereinafter called the Trustee) under an Equipment Trust Agreement dated as of February 1, 1981, by and between the Trustee of THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY (hereinafter called the **Company), hereby certifies that** .... **or registered assigns, is entitled to an interest in the principal amount of** ..... Dollars in THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY EQUIPMENT TRUST, SERIES R, payable on the due date stated above, upon presentation and surrender of this Certificate to the undersigned at its principal office in the City of Chicago, State of Illinois, and to payment of dividends on said principal amount, semiannually on May 15 and November 15 in each year, at the rate per annum specified in the heading hereof from the date hereof, until said due date, at said office of the undersigned, with interest at said dividend rate on any unpaid principal and on any unpaid dividends to the extent that it shall be legally enforceable, all in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, but payable only out of rentals or other monies received by the undersigned and applicable to such payment under the provisions of said Agreement.

This Certificate is one of an authorized issue of Certificates having an aggregate principal amount of not less than $26,250,000, and not more than $75,000,000, issuable in one or more installments, all of which are substantially similar except as to serial number, dividend rate and date of maturity, all issued or to be issued under the Agreement.

The Agreement provides that certain railroad equipment leased to the Company (or, in lieu thereof, as provided in the Agreement, cash or certain obligations defined in said Agreement as "Government Securities") is to be held by the Trustee in trust for the benefit of the holders of the interests represented by the Certificates issued thereunder. The total principal amount of Certificates issued under the terms of the Agreement will not be more than 80% of the cost of the railroad equipment held in trust by the undersigned and leased to the Company as provided by the Agreement. Reference is made to the Agreement (a copy of which is on file with the undersigned at its principal office in the City of Chicago, State of Illinois) for a full statement of the rights and obligations of the Company, the duties and immunities of the undersigned and the rights of the registered holder hereof thereunder.

The Certificates are only issuable as fully registered Certificates in denominations of $1,000 and any integral multiple of $1,000. The several denominations of fully registered Certificates bearing the same due date are interchangeable for a like aggregate principal amount upon presentation thereof at said office of the undersigned, but only in the manner, subject to the limitations and upon payment of the charges provided in the Agreement.

This Certificate is transferable by the registered holder hereof, in person or by duly authorized attorney, on the books of the undersigned upon surrender hereof to the undersigned at its said office accompanied by appropriate instruments of assignment and transfer, duly executed by the registered holder hereof in person or by such attorney, in form satisfactory to the undersigned, and thereupon a

new fully registered Certificate or Certificates in authorized denominations for the same aggregate principal amount and having the same rate of dividend and due date as this Certificate will be issued to the transferee in exchange herefor. The undersigned and the Company shall be entitled to treat the registered holder hereof as the absolute owner hereof for all purposes and shall not be affected by any notice to the contrary.

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

This Certificate shall not be deemed a promise to pay of the Trustee and shall not be valid unless manually signed by an Assistant Secretary of the Trustee.

IN WITNESS WHEREOF, the Trustee has caused this Certificate to be signed by the facsimile signature of one of its Vice Presidents and its corporate seal, in facsimile, to be hereunto affixed and to be attested by an Assistant Secretary.

Dated as of

HARRIS TRUST AND SAVINGS BANK,
as Trustee,

By .....
Vice President.

Attest:

.....
Assistant Secretary.

[Form of Guaranty for Trust Certificates]

GUARANTY

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, for a valuable consideration, hereby unconditionally guarantees to the registered holder of the within Certificate the prompt payment of the principal of said Certificate, and of dividends thereon at the dividend rate specified therein on the semiannual dates specified in said Certificate, with interest at the dividend rate on any unpaid principal and on any unpaid dividends to the extent that it shall be legally enforceable, in accordance with the terms of said Certificate and the Equipment Trust Agreement referred to therein.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY,

By .....
Chairman of the Board
and Chief Executive Officer.

WHEREAS, it is desired to secure to the holders of the Trust Certificates the payment of the principal thereof at maturity, as hereinafter more particularly provided, with dividends to said dates of maturity, respectively, as hereinafter provided, payable semiannually on May 15 and November 15 in each year, and to evidence the rights of the holders of the Trust Certificates in substantially the forms hereinbefore set forth;

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

ARTICLE I

DEFINITIONS

For all purposes of this Agreement, unless the context otherwise requires:

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

Casualty Occurrence shall have the meaning specified in Section 4.7.

Company shall mean The Atchison, Topeka and Santa Fe Railway Company or any successor thereof.

Cost, when used with respect to Equipment, shall mean the actual cost thereof, and shall include only such items as may properly be included in such cost under the Interstate Commerce Commission's Uniform System of Accounts for Railroad Companies, as in effect at the time in question, or the accounting rules of such other Federal governmental authority having jurisdiction over the accounts of the Company, or to the extent not determined thereby or in case there be no such accounting rules of the Interstate Commerce Commission or other Federal authority in effect at such time, sound accounting practice.

The *Date of Original Issue* with respect to each installment of the Trust Certificates shall mean the date such installment is issued and delivered to the initial purchasers thereof pursuant to Section 2.1 of this Agreement.

Deposited Cash shall mean the aggregate of (a) cash and any advance rentals on deposit with the Trustee as provided in the first paragraph of Section 2.1 hereof and, when required or indicated by the context, any Government Securities purchased by the use of such cash or rentals pursuant to the provisions of Section 7.8 hereof, and (b) any sums restored to Deposited Cash from rentals pursuant to Section 4.4(B)(1) hereof and on deposit with the Trustee.

Equipment shall mean new standard-gauge railroad equipment (other than passenger equipment or work equipment), as described

in Schedule A hereto, or as substituted therefore as provided herein, which shall have been first put into operation no earlier than February 1, 1981, but shall not include radio control or other special devices at any time attached to any such equipment, the cost or purchase price of which is not included in the Cost of the Equipment as evidenced by the manufacturer's invoice.

The *estimated cost* of any Trust Equipment shall mean the estimated cost thereof specifically set forth herein or in any supplement hereto.

Event of Default shall mean any event specified in Section 5.1 to be an Event of Default.

The *Fair Value* of any unit of Equipment shall be considered to be the Cost thereof less depreciation accrued on such Equipment to be determined by the method in use at the time in standard railroad practice for determining such depreciation (but in no event exceeding 1/15th of the Cost thereof per annum).

Government Securities shall mean bonds, notes or other direct obligations of the United States of America or obligations for which the faith of the United States is pledged to provide for the payment of the interest and principal.

The word *holder*, when used with respect to Trust Certificates, shall include the plural as well as the singular number and, unless otherwise indicated by the context, shall mean the registered owner of a Trust Certificate.

Officer's Certificate shall mean a certificate signed by the Chairman of the Board and Chief Executive Officer, the President, Senior Vice President—Executive Department, the Executive Vice President, the Vice President—Law, the Vice President—Accounting or the Vice President—Finance of the Company.

Opinion of Counsel shall mean an opinion of counsel (who may be of counsel to the Company) satisfactory to the Trustee.

Principal Office shall mean the office of the Trustee in the City of Chicago, State of Illinois at which its corporate trust business shall from time to time be conducted.

Replacement Funds shall have the meaning specified in Section 4.9.

Request shall mean a written request for the action therein specified signed on behalf of the Company by the Chairman of the Board and Chief Executive Officer, the President, Senior Vice President—Executive Department, the Executive Vice President, the Vice President—Law, the Vice President—Accounting or the Vice President—Finance of the Company and delivered to the Trustee.

Trust Certificates shall mean The Atchison, Topeka and Santa Fe Railway Company Equipment Trust Certificates, Series R, issued hereunder.

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

Trustee shall mean HARRIS TRUST AND SAVINGS BANK, an Illinois corporation, and any successor as trustee hereunder.

All references herein to *Articles, Sections* and other subdivisions refer to the corresponding Articles, Sections and other subdivisions of this Agreement; and the words *herein, hereof, hereby, hereto, hereunder* and words of similar import as used in this Agreement refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

TRUST CERTIFICATES AND ISSUANCE THEREOF

SECTION 2.1. *Issuance of Trust Certificates.* The net proceeds (excluding any premium and accrued dividends, if any, which shall be paid to the Company) of the sale of the Trust Certificates shall forthwith, upon issuance thereof, be deposited in cash with the Trustee. At the same time the Company shall, if necessary, deposit with the Trustee any advance rental payable by the Company to the Trustee under Section 4.4(A)(1) hereof. Thereupon, without waiting for the recording or filing of this Agreement or of any other instrument respecting the Trust Equipment, the Trustee shall issue and

deliver, as the Company shall direct by Request, Trust Certificates substantially in the forms set forth herein with the guaranty thereon executed by the Company and in the aggregate principal amount equal to the total of the sums then on deposit, having maturities and bearing dividends at the rate specified in such Request.

Except as otherwise herein provided, the aggregate principal amount of Trust Certificates which shall be executed and delivered by the Trustee hereunder shall not exceed the sum of $75,000,000.

SECTION 2.2. *Interests Represented by Trust Certificates; Dividends; Denominations; Dating; Maturities.* Each of the Trust Certificates shall represent an interest in the principal amount therein specified in the trust created hereunder and shall bear dividends on said principal amount at the rate to be specified by the Company at the time of delivery thereof by the Trustee, payable semi-annually on May 15 and November 15 in each year, commencing May 15, 1981.

The Trust Certificates shall be in the denomination of $1,000 each or any integral multiple of $1,000.

The Trust Certificates shall be dated as of the Date of Original Issue and shall entitle the registered holder to dividends from the date thereof. Trust Certificates which shall be executed and delivered by the Trustee in accordance with the provisions of Section 2.5 and 2.6 hereof shall be dated, and bear dividends from, the Date of Original Issue or the dividend payment date to which dividends shall have been paid next preceding or coinciding with the date of such execution and delivery, whichever is later to occur.

The principal amount of the Trust Certificates shall become due in 15 equal annual installments payable on May 15 in each year beginning May 15, 1982 and ending May 15, 1996.

Principal, dividends and interest will be payable at the Principal Office or agency of the Trustee, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, but payable only from and out of rentals or other monies received by the Trustee and applicable to such payment under the provisions of the Agreement; provided,

however, that payment of dividends may be made at the option of the Trustee by check mailed to the address of the person so entitled thereto as such address shall appear on the records of the Trustee.

SECTION 2.3. *Forms of Trust Certificates and Guaranty.* The Trust Certificates and the guaranty to be endorsed on the Trust Certificates by the Company, as provided in Section 6.2 hereof, shall be in substantially the forms hereinbefore set forth.

SECTION 2.4. *Execution by Trustee.* The Trust Certificates shall be signed in the name and on behalf of the Trustee by the facsimile signature of one of its Vice-Presidents, and its corporate seal or a facsimile thereof shall be attested by the manual signature of one of its Assistant Secretaries. In case any officer of the Trustee whose signature, whether facsimile or not, shall appear on any of the Trust Certificates shall cease to be such officer of the Trustee before the Trust Certificates shall have been issued and delivered by the Trustee, or shall not have been acting in such capacity on the date of the Trust Certificates, such Trust Certificates shall be adopted by the Trustee and be issued and delivered, and shall be as effective and binding, as though such persons had not ceased to be or had then been acting as, such officer of the Trustee.

SECTION 2.5. *Registration of Trust Certificates; Owners Thereof; Transfer or Exchange of Trust Certificates.* The Trust Certificates shall be registered, as to both principal and dividends, in the name of the holder and shall be transferable upon presentation and surrender thereof for registration of transfer at the Principal Office of the Trustee in the City of Chicago, State of Illinois, accompanied by an appropriate instrument of assignment and transfer, duly executed by the registered holder of the surrendered Trust Certificate or Certificates or by his duly authorized attorney, in form satisfactory to the Trustee. The parties hereto may deem and treat the registered holder of any Trust Certificate as the absolute owner of such Trust Certificate for all purposes and shall not be affected by any notice to the contrary.

The several denominations of Trust Certificates may be exchanged for a like aggregate principal amount of Trust Certificates of authorized denominations bearing the same maturity. The Trust Certificate to be exchanged shall be surrendered at said Principal Office of the Trustee in the City of Chicago, State of Illinois.

For any registration of transfer, exchange or discharge from registration the Trustee may, and at the Request of the Company shall, require the payment of a sum sufficient to cover reimbursement for any stamp tax or other governmental charge connected therewith.

Each Trust Certificate delivered, pursuant to any provision of this Agreement, in exchange or substitution for, or upon the transfer of, the whole or any part of one or more other Trust Certificates shall carry all the rights to dividends accrued and unpaid, and to accrue, which were carried by the whole or such part of such one or more other Trust Certificates, and, notwithstanding anything contained in this Agreement, neither gain nor loss in dividends shall result from such exchange, substitution or transfer.

The Trustee shall not be required to transfer or exchange any Trust Certificate for a period of fifteen days next preceding any dividend payment date.

SECTION 2.6. *Replacement of Mutilated or Lost Trust Certificates.* In case any Trust Certificate shall become mutilated or defaced or be lost, stolen or destroyed, then on the terms herein set forth, and not otherwise, the Trustee, upon Request, shall execute and deliver a new fully registered Trust Certificate of like dividend rate, tenor, maturity and date, and bearing the same or a different serial number as the one mutilated, defaced, lost, stolen or destroyed, in exchange and substitution for, and upon cancellation of, the mutilated or defaced Trust Certificate, or in lieu of and in substitution for the same if lost, stolen or destroyed. The Company shall execute its guaranty on any Trust Certificate so delivered. The applicant for a new Trust Certificate shall furnish to the Trustee and to the Company evidence to their satisfaction of the loss, theft or

destruction of such Trust Certificate alleged to have been lost, stolen or destroyed, and of the ownership and authenticity of such mutilated, defaced, lost, stolen or destroyed Trust Certificate, and also such security and indemnity as may be required by the Trustee and by the Company in their discretion; and shall pay all expenses and charges of such substitution or exchange. All Trust Certificates shall be issued, held and owned upon the express condition that the foregoing provisions are exclusive in respect of the replacement of mutilated, defaced, lost, stolen or destroyed Trust Certificates and shall preclude (to the extent lawful) any and all other rights and remedies, any law or statute now existing or hereafter enacted to the contrary notwithstanding.

ARTICLE III

ACQUISITION OF TRUST EQUIPMENT BY TRUSTEE; DEPOSITED CASH

SECTION 3.1. *Acquisition of Trust Equipment by Trustee.* The Company, as speedily as may be, shall cause to be constructed and shall cause to be sold, assigned, transferred and set over unto the Trustee, as trustee for the holders of the Trust Certificates pertaining thereto, the Equipment described in Schedule A hereto.

To that end the Company hereby assigns, or as speedily as may be after entering into the contract or contracts for the construction of such Equipment agrees to assign, to the Trustee all its rights, title and interest under said contract or contracts. Such equipment shall be delivered to the Company, which is hereby designated by the Trustee as its agent to receive such delivery, and an Officer's Certificate as to such delivery shall be conclusive evidence of such delivery.

In the event that it may be deemed necessary or desirable to procure for the transportation services of the Company, and to include in the trust hereby created, other Equipment in addition to or in lieu of any of the Equipment specifically described in Schedule A hereto, the Company may cause such other Equipment to be transferred to the Trustee, to be substituted under the trust, and to that

end the Company, upon entering into a contract or contracts for the construction of such other Equipment, shall assign to the Trustee all its rights, title and interest under the said contract or contracts.

SECTION 3.2. *Payments Out of Deposited Cash.* From time to time, when and as any of the Trust Equipment shall have been delivered to the Trustee or its agent pursuant to this Article III, the Trustee shall (subject to the provisions of Section 3.3 hereof) pay, upon Request, to the manufacturer or manufacturers or owner or owners of the delivered Trust Equipment out of Deposited Cash an amount which, together with all payments previously made out of Deposited Cash upon deliveries of Trust Equipment, will equal 80% of the aggregate Cost of the Trust Equipment then and theretofore delivered to the Trustee.

SECTION 3.3. *Payments of and from Advance Rental.* The Company covenants that, contemporaneously with any payment by the Trustee pursuant to Section 3.2 hereof, it will pay to the Trustee the advance rental provided in Section 4.4(A)(2) hereof, and thereupon the Trustee shall, upon Request, pay to the manufacturer or manufacturers or owner or owners of the delivered Trust Equipment, by the use of such advance rental, the portion of the Cost of the delivered Trust Equipment not paid out of Deposited Cash as provided for in Section 3.2 hereof; the intention being that the Company shall ultimately pay not less than 20% of the final Cost of all of the Trust Equipment, and the Trustee and the Company shall at any time if occasion arises adjust their accounts and payments to the end that the Trustee shall pay with Deposited Cash not more than 80% of such final Cost and the Company shall pay as advance rental the remainder, to be not less than 20% of such final Cost.

SECTION 3.4. *Closing Documents.* The Trustee shall not pay out any Deposited Cash against the delivery of any of the Trust Equipment unless and until it shall have received:

(a) An invoice or invoices from the manufacturer or manufacturers or owner or owners and an Officer's Certificate which

shall state (i) that such Trust Equipment is Equipment as herein defined, (ii) that the Cost of such Trust Equipment is an amount therein specified or is not less than an amount therein specified, and (iii) that such Trust Equipment was delivered to the Company, as agent for the Trustee, and has been plated or marked in accordance with the provisions of Section 4.6 hereof;

(b) A bill or bills of sale of such Trust Equipment from the manufacturer or manufacturers or owner or owners thereof to the Trustee, which bill or bills of sale shall contain a warranty or guaranty to the Trustee that the title to the Trust Equipment described therein is free from all liens and encumbrances (including any leasehold interest therein);

(c) An Opinion of Counsel, satisfactory to the Trustee, that such bill or bills of sale are valid and effective, either alone or in connection with any other instrument referred to in such opinion, to vest in the Trustee title to such Trust Equipment free from all liens and encumbrances; and

(d) In case of any Trust Equipment not specifically described herein, an Opinion of Counsel that a proper supplement hereto in respect of such Trust Equipment has been duly executed by the Trustee and the Company, and duly filed and recorded in accordance with Section 6.4 hereof.

Any Officer's Certificate pursuant to this Section 3.4 may state that the Cost of the Trust Equipment therein referred to is tentatively determined, subject to final adjustment to be evidenced in a final Officer's Certificate to be delivered to the Trustee.

SECTION 3.5. *Ratio of Cost of Trust Equipment to Trust Certificates.* If the aggregate final Cost of the Trust Equipment shall be less than 125% of the aggregate principal amount of Trust Certificates issued hereunder, the Company will at its option either (i) cause to be purchased or constructed and transferred to the Trustee by supplement hereto, subject to all the terms of this Agreement, additional Equipment in such amount and of such Cost that the aggre-

gate final Cost of the Trust Equipment will be at least 125% of the aggregate principal amount of Trust Certificates issued hereunder or (ii) pay to the Trustee (in addition to all other amounts to be paid by it under the provisions of this Agreement) as additional rental such amount, if any, as shall, when added to:

(a) the aggregate final Cost of such of the Trust Equipment as shall have been transferred to the Trustee under this Agreement; and

(b) any net proceeds from the sale of Trust Certificates, together with any advance rent paid to the Trustee, held by the Trustee after payment of the aggregate final Cost of such Trust Equipment so transferred and delivered;

equal 125% of the aggregate principal amount of Trust Certificates issued hereunder.

SECTION 3.6. *Interest on Monies Received by Trustee.* Interest, if any, allowed by the Trustee upon any monies received by it under the provisions hereof and any interest (in excess of accrued interest paid from Deposited Cash at the time of purchase) or other profit accruing upon any investment of Deposited Cash as permitted by Section 7.8 hereof shall belong to the Company and be paid to it by the Trustee, as long as the Company shall not be known to the Trustee to be in default hereunder.

SECTION 3.7. *Application of Surplus Deposited Cash.* Any Deposited Cash remaining in the hands of the Trustee after the delivery of all the Trust Equipment to be delivered pursuant to Section 3.1 and Section 3.4 hereof and payment therefor in the manner provided herein shall be applied by the Trustee toward payment of the principal amount of the next maturing Trust Certificates then outstanding, when and as the same shall become payable, and to the extent that such payments are so made by the Trustee out of such Deposited Cash, the next succeeding installments of rental payable by the Company to the Trustee under Section 4.4(B)(4) hereof shall be correspondingly reduced.

ARTICLE IV

LEASE OF TRUST EQUIPMENT TO THE COMPANY

SECTION 4.1. *Lease of Trust Equipment.* The Trustee does hereby let and lease all the Trust Equipment to the Company, for a term of approximately 15 years ending May 15, 1996.

SECTION 4.2. *Inclusion of Additional or Substituted Equipment.* In the event that the Company shall, as provided in Sections 3.1 and 3.5 hereof or in Sections 4.7 and 4.9 hereof, cause to be purchased or constructed and transferred to the Trustee other Equipment in addition to or in substitution for any of the Equipment herein specifically described, such other Equipment shall be included as part of the Trust Equipment by supplement hereto and shall be subject to all the terms and conditions hereof in all respects as though it had been part of the Trust Equipment herein specifically described.

SECTION 4.3. *Equipment Subjected Hereto by Delivery.* As and when any Equipment shall from time to time be transferred and delivered to the Company as agent for the Trustee, the same shall, *ipso facto* and without further instrument of lease or transfer, pass under and become subject to all the terms and provisions hereof.

SECTION 4.4. *Rental Payments; Limitation on Tax Liability.* The Company hereby accepts the lease of all the Trust Equipment, and covenants and agrees to accept delivery and possession hereunder of the Trust Equipment as hereinbefore provided; and the Company covenants and agrees to pay to the Trustee (or, in the case of taxes, to the proper taxing authority), in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, rent hereunder which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable (whether or not any of such items shall become due and payable prior to the delivery and lease to the Company of any of the Trust Equipment):

(A) The Company shall pay to the Trustee, as hereinafter provided, as advance rental hereunder, sums which shall be equal

to the difference between the Cost of the Trust Equipment (other than Trust Equipment subjected hereto pursuant to Sections 4.7 and 4.9 hereof) and the portion of such Cost to be provided out of the net proceeds of the sale of the Trust Certificates, the intention being that, when all such Trust Equipment shall have been delivered to the Company as agent for the Trustee, the Company shall have paid or shall pay to the Trustee, as advance rental hereunder, a sum equal to the amount by which the aggregate Cost of such Trust Equipment exceeds such net proceeds of the sale of the Trust Certificates. The Company agrees to pay such advance rental as follows:

(1) At the time of issue of the Trust Certificates a sum which, when added to such net proceeds of the sale of the Trust Certificates deposited with the Trustee, will make the total sum deposited equal to the principal amount of the Trust Certificates issued;

(2) Upon delivery of any of such Trust Equipment a sum equal to the portion of the Cost of such delivered Trust Equipment not paid out of Deposited Cash as provided for in Section 3.2 hereof, but not less than 20% of such Cost.

(B) In addition to such advance rental the Company shall pay to the Trustee, as hereinafter provided, as rental for the Trust Equipment and whether or not at the time any thereof shall have been delivered to the Company, the following:

(1) (a) The necessary and reasonable expenses of the trust hereby created, including compensation and expenses provided for herein, and (b) an amount equal to any expenses incurred or loss of principal (including interest accrued thereupon at time of purchase) in connection with any purchase, sale or redemption by the Trustee of Government Securities;

(2) Any and all taxes, assessments and governmental charges upon or on account of the income or property of the trust, or of this Agreement, which the Trustee as such may be required to pay;

(3) (a) The amounts of the dividends payable on the Trust Certificates, when and as the same shall become payable, and (b) interest at the applicable dividend rate from the due date, upon the amount of any installments of rentals payable under this subparagraph (3) and the following subparagraph (4) which shall not be paid when due, to the extent legally enforceable; and

(4) The principal of the Trust Certificates, when and as the same shall become payable, whether upon the respective stated dates of maturity thereof or otherwise under the provisions thereof or of this Agreement.

Nothing herein or in the Trust Certificates contained shall be deemed to impose on the Trustee or on the Company any obligation to pay to the holder of any Trust Certificate any tax, assessment or governmental charge required by any present or future law of the United States of America or of any state, county, municipality or other taxing authority thereof to be paid in behalf of, or withheld from the amount payable to, the holder of any Trust Certificate. The Company shall not be required to pay any tax, assessment or governmental charge so long as it shall in good faith and by appropriate legal proceedings contest the validity thereof, unless in the judgment of the Trustee the rights or interests of the Trustee or of the holders of the Trust Certificates may be materially endangered thereby.

SECTION 4.5. *Termination of Lease; Unclaimed Monies.* At the termination of the lease provided herein and after all payments due or to become due from the Company hereunder shall have been completed and fully made to the Trustee, (1) such payments shall be applied and treated as purchase money and as the full purchase price of the Trust Equipment, (2) any monies remaining in the hands of the Trustee after providing for all outstanding Trust Certificates and after paying the expenses of the Trustee, including its reasonable compensation, shall be paid to the Company, (3) title to all the Trust Equipment shall vest in the Company, and (4) the

Trustee shall execute for record in public offices, at the expense of the Company, such instrument or instruments in writing as reasonably shall be requested by the Company in order to make clear upon public records the Company's title to all the Trust Equipment under the laws of any jurisdiction; *provided, however,* that until that time title to the Trust Equipment shall not pass to or vest in the Company, but title to and ownership of all the Trust Equipment shall be and remain in the Trustee, notwithstanding the delivery of the Trust Equipment to and the possession and use thereof by the Company.

Upon Request, any monies held by the Trustee which shall have been deposited or are held for the payment of the principal amount of or dividends on any Trust Certificates remaining unclaimed for six years after the date of maturity of such Trust Certificates or the date such dividends were due and payable, as the case may be, shall be repaid by the Trustee to the Company, and all liability of the Trustee with respect to such money shall thereupon cease and the holders of such Trust Certificates shall thereafter be entitled to look only to the Company for payment thereof; *provided, however,* that the Trustee, before being required to make any such repayment may, at the expense of the Company, cause notice that said monies have not been claimed and that after a date specified therein, which shall be not less than thirty days after the date of publication, any unclaimed balance of such monies then remaining upon deposit with the Trustee will be repaid to the Company, to be published once in a daily newspaper printed in the English language and published in the City of Chicago, Illinois. In no event shall the holders of such Trust Certificates be entitled to interest upon such money whether held by the Trustee or so repaid to the Company.

SECTION 4.6. *Marking of Trust Equipment; Permissible Markings.* The Company agrees that, at or before the delivery to the Company of each unit of the Trust Equipment, there shall be plainly, distinctly, permanently and conspicuously marked upon each side of such unit, by a metal plate or otherwise, the following words, in letters not less than one inch high:

Such marking shall be readily visible and shall indicate plainly the Trustee's ownership of each unit of the Trust Equipment. In case, prior to the termination of the lease provided for herein, any such marking shall at any time be removed, defaced or destroyed, the Company shall promptly cause the same to be restored or replaced. The Company shall not change or permit to be changed, the numbers of any of the Trust Equipment at any time covered hereby (or any numbers which may have been substituted as herein provided) except in accordance with a statement of new numbers to be substituted therefor which previously shall have been filed with the Trustee by the Company and which shall be filed and recorded as provided in Section 6.4 hereof.

The Trust Equipment may be lettered "ATSF" or "SANTA FE", and may bear the circle and cross emblem of the Company in any of its forms, and may be lettered with the name or initials of any railroad company which is permitted to use such equipment as hereinafter provided, or may be lettered in some other appropriate manner for convenience or identification of the leasehold interest of the Company therein. The Trust Equipment may also be numbered for convenience of identification and bear identifying symbols and lettering of the Company. During the continuance of the lease provided for herein, the Company shall not allow the name of any person, association or corporation to be placed on any of the Trust Equipment as a designation which might be interpreted as a claim of ownership thereof by the Company or by any person, association or corporation other than the Trustee.

SECTION 4.7. *Maintenance of Trust Equipment; Casualty Occurrences.* The Company agrees that it will maintain and keep all the Trust Equipment in good order and proper repair at its own cost and expense. Whenever any of the Trust Equipment shall be worn out, lost, stolen, destroyed or become unfit for use from any cause whatsoever (such occurrences being herein called "Casualty Occurrences"), the Company shall deliver to the Trustee an Officer's

Certificate describing such Trust Equipment and stating the then Fair Value thereof and shall either (a) deposit with the Trustee an amount in cash equal to such Fair Value or (b) cause to be transferred to the Trustee additional Equipment, free from all liens and encumbrances, of a Fair Value at least equal to the then Fair Value of such Trust Equipment having suffered Casualty Occurrences, and deliver to the Trustee, in respect of such additional Equipment, certificates, bills of sale and Opinions of Counsel, all in like manner as provided in Section 3.4 hereof, and, in addition, an Officer's Certificate describing such additional Equipment and stating the Cost and the then Fair Value thereof. The rights and remedies of the Trustee to enforce or to recover any of the rental payments shall not be affected by reason of such Casualty Occurrences. Cash deposited with the Trustee pursuant to this Section 4.7 shall be held and applied as provided in Section 4.9 hereof.

The Company covenants and agrees to furnish to the Trustee, whenever required by the Trustee, and at least once in every calendar year, if so required, following the calendar year in which occurs the first delivery of any of the Trust Equipment and during the continuance of the lease provided for herein, an Officer's Certificate stating (1) the amount, description and numbers of all the Trust Equipment that may have become worn out, or that may have suffered a Casualty Occurrence since the date of the last preceding statement, (2) the amount, description and numbers of all the Trust Equipment then undergoing repairs, other than running repairs, or then withdrawn from use for such repairs, and stating that in the case of all the Trust Equipment repainted or repaired since the date of the last preceding statement the plates or marks required by Section 4.6 hereof have been preserved, or that the same when repainted or repaired have been again plated or marked as required thereby, and (3) such other information as to the condition and state of repair of the Trust Equipment as the Trustee may reasonably request. The Trustee, by its agents, shall have the right once in each calendar year, but shall be under no duty, to inspect the Trust Equipment, at the then existing locations thereof.

SECTION 4.8. *Possession of Trust Equipment; Assignments.* The Company, so long as it is not in default hereunder, shall be entitled to the possession of the Trust Equipment from and after delivery thereof to the Company, and the use thereof upon the lines of railroad owned or operated by the Company (either alone or jointly with another) or by any Affiliate, or upon lines over which the Company or any Affiliate shall have trackage or other operating rights, and the Company shall also be entitled to permit the use of the Trust Equipment upon connecting and other carriers in the usual interchange of traffic and upon connecting and other carriers over which through service may from time to time be afforded, but only upon and subject to all the terms and conditions of this Agreement.

The Company shall not, without first obtaining the written consent of the Trustee, assign or transfer its rights hereunder, or transfer or sublet the Trust Equipment or any part thereof except to an Affiliate, in which case such assignment, transfer or sublease shall be expressly made subject and subordinate to all the provisions of this Agreement and the rights and remedies of the Trustee hereunder; and the Company shall not, without such written consent, except as provided in this Section 4.8, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment; *provided, however,* that the Company, so long as it shall not be in default under the terms of this Agreement, shall be entitled to sublet the Trust Equipment or any part thereof to another Class I railroad company under a sublease which expressly provides (i) that the rights of the sublessee in and to such Trust Equipment shall be subject to the rights of the Trustee in and to such Trust Equipment, including the rights of the Trustee upon the happening of an Event of Default hereunder and (ii) that such Trust Equipment may be lettered or marked for the convenience of identification of the leasehold interest of the sublessee therein only in accordance with the provisions of Section 4.6 hereof. The Company shall deliver to the Trustee a copy of any such sublease promptly after its execution.

An assignment or transfer to a railroad company or other purchaser which shall acquire all or substantially all the lines of

railroad of the Company, and which, by execution of an appropriate instrument satisfactory to the Trustee, shall assume and agree to perform each and all of the obligations and covenants of the Company hereunder and under the guaranty endorsed on the Trust Certificates, shall not be deemed a breach of this covenant.

The Trustee shall have the right to declare the lease provided for herein terminated in case of any unauthorized assignment or transfer of its rights hereunder or in case of any unauthorized transfer or sublease of any of the Trust Equipment. The election of the Trustee to terminate the lease provided for herein shall have the same effect as the retaking of the Trust Equipment by the Trustee as hereinafter provided.

SECTION 4.9. *Release and Replacement of Trust Equipment.* Any units of the Trust Equipment which shall have become unsuitable in any respect for the use of the Company may be released, and it is hereby mutually agreed that at any time hereafter until title thereto shall become vested in the Company the Trustee will release any such units of the Trust Equipment upon the filing with it of a Request and an Officer's Certificate which shall describe such units, shall state that they have become unsuitable for the use of the Company, shall state the selling price thereof, and shall specify the Cost and the then Fair Value thereof. No such release shall be made unless and until the Company shall have paid to the Trustee an amount equal to such selling price or Fair Value, whichever shall be greater.

Any monies paid to the Trustee pursuant to this Section 4.9 or Section 4.7 hereof, hereinafter called "Replacement Funds", shall be received and held by the Trustee in trust hereunder pending delivery of additional Equipment and may be invested and reinvested as provided in Section 7.8 hereof. Upon the filing with it of a Request and an Officer's Certificate which shall specify the kind and number of units of Equipment to be purchased and the then Fair Value thereof, such monies, in an amount not exceeding such Fair Value, shall, upon receipt by the Trustee of certificates, bills of sale and Opinions of

Counsel, all in like manner as is provided in Section 3.4 hereof, be applied to the purchase of such Equipment.

SECTION 4.10. *Indemnification by the Company.* The Company covenants and agrees to indemnify the Trustee against any and all claims arising out of or connected with the ownership or use of any of the Trust Equipment, and particularly against any and all claims arising out of the use of any patented inventions in and about the Trust Equipment, and to comply in all respects with the laws of the United States of America and of all the states in which the Trust Equipment, or any thereof, may be operated, and with all lawful acts, rules, regulations and orders of the Interstate Commerce Commission and of all other commissions, boards and other legislative, executive, administrative or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including without limitation all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; *provided, however,* that the Company may in good faith contest the validity of any such law, act, rule, regulation or order, or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates. The Company shall not be relieved from any of its obligations hereunder by reason of the assertion or enforcement of any such claims or the commencement or prosecution of any litigation in respect thereof.

ARTICLE V

REMEDIES IN EVENT OF DEFAULT

SECTION 5.1. *Events of Default.* The Company covenants and agrees that in case

(a) the Company shall default in the payment of any part of the rental payable hereunder (including advance rental) for more than 30 days after the same shall have become due and payable, or

(b) the Company shall make or suffer any unauthorized assignment or transfer of its rights hereunder or shall make any unauthorized transfer or sublease of any of the Trust Equipment, or, except as herein authorized, shall part with the possession of any of the Trust Equipment, and shall fail or refuse either to cause such assignment or transfer or sublease to be cancelled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within 30 days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said 30 days to deposit with the Trustee a sum in cash equal to the Fair Value of the Trust Equipment so assigned or transferred or subleased or the possession of which shall have been parted with otherwise than as herein authorized (any sum so deposited to be returned to the Company upon the cancellation of such assignment, transfer or sublease and the recovery of possession by the Company of such Trust Equipment), or

(c) the Company shall, for more than 90 days after the Trustee shall have demanded in writing performance thereof, fail or refuse to comply with any other of the terms and covenants hereof on its part to be kept and performed, or to make provision satisfactory to the Trustee for such compliance, or

(d) the lease provided for herein shall be terminated by operation of law, or

(e) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as hereafter amended, or under Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Company and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective within 30 days from the filing of such petition (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all of the obligations of the Company under this Agreement and under its guaranty endorsed on the Trust Certificates shall not have been duly assumed in writing pursuant to a court order or decree, by a trustee or trustees appointed

(whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier, or by the trustee in such proceedings in accordance with the provisions of 11 U.S.C. § 1168, or any successor provision, as the same may hereafter be amended, or

(f) any other proceedings shall be commenced by or against the Company for any relief under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder) and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective within 30 days from the commencement of such proceedings (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all of the obligations of the Company under this Agreement and under its guaranty endorsed on the Trust Certificates shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Company or for the property of the Company in connection with any such proceedings (whether or not such appointment is subject to ratification) or otherwise, in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier,

then, in any such case (herein sometimes called an Event of Default), the Trustee in its discretion may, and upon the written request of the holders of not less than 25% in principal amount of the then outstanding Trust Certificates shall, by notice in writing delivered to the Company, declare to be due and payable forthwith the entire

amount of the rentals (including any unpaid advance rental, but not including rentals required for the payment of dividends accruing after the date of such declaration) payable by the Company as set forth in Section 4.4 hereof and not theretofore paid. Thereupon the entire amount of such rentals shall forthwith become and shall be due and payable immediately without further demand, together with interest at the applicable dividend rates on the respective portions thereof allocable to the outstanding Trust Certificates of each maturity, to the extent legally enforceable, on any portion thereof overdue; and the Trustee shall be entitled to recover judgment for the total amount so becoming payable by the Company, together with interest thereon at the dividend rate to the extent legally enforceable, and to collect such judgment out of any property of the Company wherever situated.

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

In case the Company shall fail to pay any installment of rental payable pursuant to Section 4.4(B)(3) or (B)(4) hereof when and as the same shall have become due and payable hereunder and such default shall have continued for a period of 30 days, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the rentals so due and unpaid and the recovery of reasonable costs of collection, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Company or other obligor upon the Trust Certificates and collect in the manner provided by law out of the property of the Company or other obligor upon the Trust Certificates wherever situated the monies adjudged or decreed to be payable.

In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or other obligor upon the Trust Certificates under Title 11 of the United States Code or any other federal or state law relating to bankruptcy or insolvency, or in case a receiver or receivers in equity or reorganization or a trustee or trustees in bankruptcy or reorganization shall have been appointed for the Company or for such other obligor or for its property, or in the case of any other judicial proceedings relative to the winding up or liquidation of the affairs of the Company or for such other obligor, the Trustee, irrespective of whether the rental payments hereunder or the principal of the Trust Certificates shall then be due and payable as herein or therein expressed whether by declaration or otherwise and irrespective of whether the Trustee shall have made any demand or declaration pursuant to the provisions of this Section 5.1, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the entire amount of the rentals (including any unpaid advance rental, but not including rentals required for the payment of dividends accruing after the date of such declaration, if any), and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for all proper charges, expenses or advances made or incurred by the Trustee in accordance with the provisions of this Agreement) and of the holders of the Trust Certificates allowed in such proceedings and to collect and receive any monies or other property payable or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the holders of the Trust Certificates and of the Trustee on their behalf; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized by each of the holders of the Trust Certificates to make payments to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to the holders of the Trust Certificates, to pay to the Trustee such amount as shall be sufficient to cover all proper charges, expenses or advances made or incurred by the Trustee in accordance with the provisions of this Agreement.

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

SECTION 5.2. *Remedies.* In case of the happening of any Event of Default, the Trustee may by its agents enter upon the railroads and premises of the Company and of any sublessee or user of the Trust Equipment and take possession of all or any part of the Trust Equipment and withdraw the same from said railroads and premises, retaining all payments which up to that time may have been made on account of rental for the Trust Equipment and otherwise, and shall be entitled to collect, receive and retain all unpaid *per diem,* mileage or other charges of any kind earned by the Trust Equipment or any part thereof, and may lease the Trust Equipment or any part thereof, or with or without retaking possession thereof (but only after declaring due and payable the entire amount of rentals payable by the Company as provided in Section 5.1 hereof) may sell the same or any part thereof, free from any and all claims of the Company at law or in equity, in one lot and as an entirety or in separate lots, in so far as may be necessary to perform and fulfill the trust hereunder, at public or private sale for cash or upon credit, in its discretion, and may proceed otherwise to enforce its rights and the rights of the holders of interests hereunder in the manner herein provided. Upon any such sale, the Trustee itself may bid for the property offered for sale or any part thereof.

Any such sale may be held or conducted at such place and at such time as the Trustee may specify, or as may be required by law, and without gathering at the place of sale the Trust Equipment to be sold, and in general in such manner as the Trustee may determine, but so that the Company may and shall have a reasonable opportunity to bid at any such sale. Upon such taking possession or withdrawal or lease or sale of the Trust Equipment, the Company shall cease to have any rights or remedies in respect of the Trust Equipment hereunder, but all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Company, and no payments theretofore made by the Company for the rent or use of the Trust Equipment or any of it shall, in case of the happening of any Event of Default and such taking possession, withdrawal, lease or sale by the Trustee, give to the Company any legal or equitable interest or title in or to the Trust Equipment or any of it or any cause or right of action at law or in equity in respect of the Trust Equipment against the Trustee or the holders of interests hereunder. No such taking possession, withdrawal, lease or sale of the Trust Equipment by the Trustee shall be a bar to the recovery by the Trustee from the Company of rentals then or thereafter due and payable, and the Company shall be and remain liable for the same until such sums shall have been realized as, with the proceeds of the lease or sale of the Trust Equipment, shall be sufficient for the discharge and payment in full of all the items mentioned in Section 4.4 hereof (other than dividends or interest not then accrued), whether or not they shall have then matured. The holders of a majority in principal amount of the then outstanding Trust Certificates shall have the right from time to time to direct which of the proceedings above provided for shall be taken for the enforcement of the remedies contained herein.

SECTION 5.3. *Application of Proceeds.* If, in case of the happening of any Event of Default, the Trustee shall exercise any of the powers conferred upon it by Sections 5.1 and 5.2 hereof, all payments made by the Company to the Trustee hereunder after such Event of Default, and the proceeds of any judgment collected from the Com-

pany by the Trustee hereunder, and the proceeds of every sale or lease by the Trustee hereunder of any of the Trust Equipment, together with any other sums which may then be held by the Trustee under any of the provisions hereof (other than sums held in trust for the payment of specific Trust Certificates), shall be applied by the Trustee to the payment in the following order of priority: (a) of all proper charges, expenses or advances made or incurred by the Trustee in accordance with the provisions of this Agreement, and (b) of the dividends then due, with interest on overdue dividends at the applicable dividend rate to the extent legally enforceable, and of the principal of all the outstanding Trust Certificates, with interest thereon at the applicable dividend rate to the extent legally enforceable from the last preceding dividend date, whether such Trust Certificates shall have then matured by their terms or not, all such payments to be in full if such proceeds shall be sufficient, and, if not sufficient, then *pro rata* without preference between principal and dividends.

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

SECTION 5.4. *Waiver of Default.* If at any time after the principal of all the Trust Certificates shall have been declared and become due and payable or if at any time after the entire amount of rentals shall have been declared and become due and payable, all as in Section 5.1 hereof provided, but before May 15, 1996, all arrears of rent (with interest upon any overdue installments at the applicable dividend rate on the respective portions of such installments allocable to the outstanding Trust Certificates of each matu-

rity to the extent legally enforceable), the expenses and reasonable compensation of the Trustee, together with all expenses of the trust occasioned by the Company's default, and all other sums which shall have become due and payable by the Company hereunder (other than the principal of Trust Certificates and any other rental installments which shall not at the time have matured according to their terms) shall be paid by the Company before any sale or lease by the Trustee or any of the Trust Equipment, and every other default in the observance or performance of any covenant or condition hereof shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then, and in every such case, the Trustee, if so requested by the holders of a majority in principal amount of the Trust Certificates then outstanding and which shall not have matured (other than by declaration) according to their terms, shall by written notice to the Company waive the default by reason of which there shall have been such declaration or declarations and the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

SECTION 5.5. *Obligations of Company Not Affected By Remedies.* No retaking of possession of the Trust Equipment by the Trustee, or any withdrawal, lease or sale thereof, nor any action or failure or omission to act against the Company or in respect of the Trust Equipment, on the part of the Trustee or on the part of the holder of any Trust Certificate, nor any delay or indulgence granted to the Company by the Trustee or by any such holder, shall affect the obligations of the Company hereunder or the obligations of the Company under the guaranty endorsed on the Trust Certificates. The Company hereby waives presentation and demand in respect of any of the Trust Certificates and waives notice of presentation, of demand and of any default in the payment of the principal of and dividends on the Trust Certificates.

SECTION 5.6. *Delivery of Trust Equipment to Trustee.* In case the Trustee shall demand possession of the Trust Equipment pur-

suant to the provisions hereof and shall reasonably designate a point or points upon the railroad of the Company or of any Affiliate for the delivery of the Trust Equipment to it, the Company shall at its own expense forthwith and in the usual manner cause the Trust Equipment to be moved to such point or points on such railroad as shall be designated by the Trustee and shall there deliver or cause to be delivered the same to the Trustee, or the Trustee may at its option keep the Trust Equipment on any of the lines of railroad or premises of the Company or of any Affiliate until the Trustee shall have leased, sold or otherwise disposed of the same, and for such purpose the Company agrees to furnish without charge for rent or storage the necessary facilities at any convenient point or points selected by the Trustee. It is hereby expressly covenanted and agreed that the performance of this covenant is of the essence of this Agreement and that, upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company requiring the specific performance thereof.

SECTION 5.7. *Remedies to be Cumulative.* The remedies in this Agreement provided in favor of the Trustee and the holders of the Trust Certificates shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity.

ARTICLE VI

ADDITIONAL COVENANTS AND AGREEMENTS BY THE COMPANY

SECTION 6.1. *Company to Make Payments Provided For.* The Company hereby covenants and agrees to make payment of the reasonable expenses and compensation of the Trustee, and of all taxes, assessments and governmental charges herein mentioned for which the Trustee, as such, may be liable and of the rentals and of the other amounts provided for herein.

SECTION 6.2. *Guaranty to Holders of Trust Certificates.* The Company covenants, agrees and guarantees that the holder of each of the Trust Certificates shall receive the principal amount thereof

in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, when and as the same shall become due and payable, in accordance with the provisions thereof or of this Agreement (and, if not so paid, with interest thereon at the applicable dividend rate to the extent legally enforceable), and shall receive dividends thereon in like money at the rate specified therein from the date specified therein to the date of maturity of such Trust Certificate, at the times and place and otherwise as expressed in the Trust Certificates (and, if not so paid, with interest thereon at the applicable dividend rate to the extent legally enforceable); and the Company further covenants and agrees to endorse upon each of the Trust Certificates, at or before the issuance and delivery thereof by the Trustee, its guaranty of the prompt payment of the principal thereof and of the dividends thereon, in substantially the form hereinbefore set forth. Said guaranty so endorsed shall be signed in the name and on behalf of the Company by the manual or facsimile signature of one of its authorized officers. In case any officer of the Company whose signature shall appear on said guaranty shall cease to be such officer before the Trust Certificates shall have been issued and delivered by the Trustee, or shall not have been acting in such capacity on the date of the Trust Certificates, such guaranty shall nevertheless be as effective and binding upon the Company as though the person who signed said guaranty had not ceased to be, or had then been acting as, such officer.

SECTION 6.3. *Discharge of Liens.* The Company covenants and agrees that it will pay and discharge, or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of, any debt, tax, charge, assessment, obligation or claim which if unpaid might become a lien or charge upon or against any of the Trust Equipment, except upon the leasehold interest of the Company therein; but this provision shall not require the payment of any such debt, tax, charge, assessment, obligation or claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings, unless such contest will in the judgment of the

Trustee materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and not delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

SECTION 6.4. *Payment of Expenses; Filing and Recording.* The Company covenants and agrees to pay the expenses incident to the preparation and execution of the Trust Certificates to be issued hereunder, or connected with the preparation, execution, recording and filing hereof and of any instruments executed under the provisions hereof with respect to the Trust Equipment. The Company with all convenient speed will cause this Agreement and all supplements hereto to be duly filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. 11303. The Company will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register and record any and all further instruments required by law or reasonably requested by the Trustee for the purposes of proper protection of the title of the Trustee and the rights of the holders of the Trust Certificates and of fully carrying out and effectuating this Agreement and the intent hereof; and the Company will promptly furnish to the Trustee certificates or other evidences of filing and recording pursuant to the last preceding sentence, and of any other such filing, registration and recording, and an Opinion or Opinions of Counsel with respect thereto.

SECTION 6.5. *Further Assurances.* The Company covenants and agrees from time to time to do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Agreement and the intent hereof.

SECTION 6.6. *Payment Notwithstanding Acquisition of Trust Certificates by Company.* The Company covenants that it will make payment of the rentals on account of the Trust Equipment as provided in this Agreement notwithstanding that any of the Trust Certificates shall have been acquired by the Company or shall not have been presented for payment.

ARTICLE VII

THE TRUSTEE

SECTION 7.1. *Acceptance of Trusts.* The Trustee hereby accepts the trusts imposed upon it by this Agreement, and covenants and agrees to perform the same as herein expressed.

SECTION 7.2. *Application of Rentals.* The Trustee covenants and agrees to apply and distribute the rentals received by it under Section 4.4(B) hereof (other than sums restored to Deposited Cash from rentals pursuant to Section 4.4(B)(1) hereof) when and as the same shall be received, and to the extent that such rentals shall be sufficient therefor, for the purposes specified in said Section 4.4(B).

SECTION 7.3. *Duties in Respect of the Trust Certificates.* The Trustee shall cause to be kept at its Principal Office, books for the registration, exchange and transfer of the Trust Certificates; and upon presentation for any such purpose the Trustee will register or cause to be registered, exchange or cause to be exchanged, or transfer or cause to be transferred, as the case may be, as hereinbefore provided, under such reasonable regulations as it may prescribe, any of the Trust Certificates.

SECTION 7.4. *Insuring or Taking Possession of Trust Equipment Upon Indemnification; Recording; Reliance on Documents.* The Trustee shall not be required to undertake any act or duty in the way of insuring, taking care of or taking possession of the Trust Equipment or to undertake any other act or duty under this Agreement until fully indemnified by the Company or by one or more of the holders of the Trust Certificates against all liability and expenses.

The Trustee shall not be responsible for the filing or recording or refiling or re-recording of this Agreement or of any supplement hereto. The Trustee may issue and deliver Trust Certificates in advance of such filing or recording. In accepting delivery of and making payment for the Trust Equipment hereunder, or in accepting any cash payable hereunder in respect of the Trust Equipment, the Trustee may rely upon and shall be fully protected by the certificates, bills of sale and Opinions of Counsel to be furnished to it under Section 3.4 hereof, as the case may be, and shall not be required to make any further investigation of or inquiry concerning the matters covered thereby.

SECTION 7.5. *No Obligation to Enforce Trust Unless Requested and Indemnified.* The Trustee shall be under no obligation to take any action for the execution or enforcement of the trust hereby created unless requested in writing by the holders of not less than 25% in principal amount of the then outstanding Trust Certificates and unless indemnified to its satisfaction against expense and liability with respect thereto, and unless also furnished with proof satisfactory to it as to the ownership of the Trust Certificates in respect of which any such request may be made; but this provision, in the absence of such request, shall not affect any discretion herein given to the Trustee to determine whether it shall take action in respect of any default hereunder or what action it shall take.

SECTION 7.6. *Limitations on Actions by Holders of Trust Certificates.* No holder of any Trust Certificate shall have any right to institute any suit, action or proceeding for the execution and enforcement of the trust hereby created unless, after the aforesaid request in writing by the holders of not less than 25% in principal amount of the then outstanding Trust Certificates shall have been made to the Trustee, and after indemnity satisfactory to it shall have been provided, and after 90 days shall have elapsed after receipt by the Trustee of such request, it shall decline, fail or neglect to institute any proceedings pursuant thereto. Neither the provisions of this Section 7.6 nor the provisions of Section 7.5 hereof shall affect or limit in any way the obligations of the Company under its guaranty

hereinabove provided or the rights of the holders of Trust Certificates to institute suit for the enforcement of payments due under said guaranty in respect of the Trust Certificates.

SECTION 7.7. *Assumption of No Default; Reliance on Notices and Other Documents.* The Trustee may for all purposes conclusively assume that the Company is not in default under the terms hereof until notified in writing to the contrary by the holders of at least 10% in principal amount of the then outstanding Trust Certificates, which notice shall distinctly specify the event of default or Event of Default desired to be brought to the attention of the Trustee. As to any fact or matter the manner of determining which is not specifically prescribed herein, the Trustee may for all purposes rely upon an Officer's Certificate as to such fact or matter. The Trustee shall not incur any liability to anyone in relying conclusively on, and in acting upon, any notice, consent, order, certificate, warrant or other paper or instrument believed by it to be genuine or authentic and to be signed by the proper party or parties.

SECTION 7.8. *Money Held by Trustees; Authorized Investments.* Any money at any time paid to or held by the Trustee hereunder until paid out by the Trustee as herein provided may be carried by the Trustee on deposit with itself, and the Trustee will allow interest upon any such monies held by it in trust at the rate generally prevailing among Chicago banks and trust companies or allowed by it upon deposits of a similar character.

At any time, and from time to time, if at the time there shall be no default under the terms of this Agreement, the Trustee, on Request, shall invest and reinvest Deposited Cash and Replacement Funds held by it in Government Securities, at such prices, including any premium and accrued interest, as are set forth in such Request, such Government Securities to be held by the Trustee in trust for the benefit of the holders of the Trust Certificates.

The Trustee shall, on Request, or the Trustee may, in the event funds are required for payment against delivery of Equipment, sell such Government Securities, or any portion thereof, and restore

to Deposited Cash or Replacement Funds, as the case may be, the proceeds of any such sale up to the amount paid for such Government Securities, including accrued interest.

The Trustee shall restore to Deposited Cash or Replacement Funds, as the case may be, out of rent received by it for that purpose under the provisions of Section 4.4(B)(1)(b) hereof, an amount equal to any expenses incurred in connection with any purchase or sale of Government Securities and also an amount equal to any loss of principal incident to the sale or redemption of any Government Securities for a sum less than the amount paid therefor, including accrued interest. The Company, if not in default under the terms hereof, shall be entitled to receive any profit which may be realized from any sale or redemption of Government Securities.

SECTION 7.9. *No Liability for Trust Equipment; Miscellaneous Matters.* The Trustee shall not be liable to anyone for any delay in the delivery of any of the Trust Equipment, or for any default on the part of the manufacturers thereof or of the Company, or for any defect in any of the Trust Equipment or in the title thereto, nor shall anything herein be construed as a warranty on the part of the Trustee in respect thereof or as a representation in respect of the value thereof or in respect of the title thereto.

The Trustee may perform its powers and duties hereunder by or through such attorneys, agents and servants as it shall appoint, and shall be entitled to rely upon the advice of counsel (who may be counsel to the Company), and shall be answerable for only its own acts, negligence and willful defaults and not for the default or misconduct of any attorney, agent or servant appointed by it with reasonable care. The Trustee shall not be responsible in any way for the recitals herein contained or for the execution or validity of this Agreement or of the Trust Certificates (except for its own execution thereof), or for the guaranty by the Company, or for any mistake of fact or law.

The Trustee shall be entitled to receive payment of all of its expenses and disbursements hereunder, including reasonable counsel

fees, and to receive reasonable compensation for all services rendered by it in the execution of the trust hereby created, all of which shall be paid by the Company.

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

SECTION 7.10. *Reports.* The Trustee shall, at least once in each year, render to the Company a statement of its said trust and of the accounts relating thereto, and covering such matters as the Company may reasonably require, and the Company may from time to time examine the books and accounts of the Trustee relating to the Trust Certificates, to this Agreement and to the acts of the Trustee hereunder.

SECTION 7.11. *Resignation by Trustee; Appointment of Successor Trustee.* If at any time the Trustee or any successor to it in the trust hereby created shall desire to divest itself of title to the Trust Equipment, and to terminate its duties and obligations and rights hereunder and under the Trust Certificates, it shall so notify the Company in writing, and the Company shall thereupon designate in writing to the Trustee a bank or a trust company, qualified as below specified, to serve until a successor is appointed by the holders of Trust Certificates as hereinafter provided, to which may be assigned the entire right, title and interest of the Trustee or such successor in the Trust Equipment, and in which may be vested the rights, powers, duties and obligations of the Trustee hereunder and under the Trust Certificates. Upon the transfer and delivery of all monies, any Government Securities held by the Trustee hereunder in which any of said monies may then be invested and Trust Equipment held by the retiring trustee, and the execution by the retiring trustee of such instruments of transfer as may be reasonably requested by the successor trustee, and upon acceptance by the successor trustee of the assignment and of the trust, the retiring trustee shall be relieved and discharged of all the title, rights,

powers, duties and obligations of the trust hereunder and under the Trust Certificates, and the same shall become vested in such successor trustee, and every provision hereof applicable to the retiring trustee shall apply to such successor trustee with like effect as if such successor trustee had been originally named herein in the place and stead of the party of the first part. In the event that the Company shall fail to designate such a successor trustee by instrument in writing delivered to the retiring trustee within two weeks from the time of receiving such notice in writing from the retiring trustee, the retiring trustee may thereupon designate such successor trustee. The foregoing provisions are, however, subject to the right of the holders of the majority in principal amount of the then outstanding Trust Certificates by an instrument in writing to appoint any successor trustee, if such appointment is made within one year from the date of the giving of such notice to the Company. The Company shall execute all writings recognizing the transfer of title as aforesaid and all instruments of further assurance or otherwise as reasonably may be requested by the successor trustee in the premises, and will do and perform any and all acts necessary to establish and maintain the title and rights of the successor trustee in and to the Trust Equipment. Every successor trustee shall be a bank or a trust company having a capital and surplus aggregating at least $50,000,000, if there be such bank or trust company willing and able to accept the trust upon reasonable and customary terms and duly qualified to act as such trustee.

SECTION 7.12. *Merger, Conversion or Consolidation of Trustee.* Any corporation resulting from any merger or consolidation to which the Trustee or any successor to it shall be a party, or any corporation in any manner succeeding to all or substantially all of the business of the Trustee or any successor trustee, provided such corporation shall be a bank or a trust company organized under the laws of the United States of America or of the States of Illinois or New York, and shall have a capital and surplus aggregating at least $50,000,000, shall be the successor trustee hereunder without the execution or filing of any paper or any further

act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

SECTION 7.13. *Trust Certificates Owned by Company Deemed Not Outstanding.* In determining whether the holders of the requisite principal amount of the Trust Certificates have concurred in any direction, request or consent under this Agreement, Trust Certificates which are owned by the Company or by any other obligor on the Trust Certificates or by any Affiliate of the Company or any such other obligor shall be disregarded, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, request or consent, only Trust Certificates which the Trustee knows are so owned shall be disregarded.

ARTICLE VIII

MISCELLANEOUS

SECTION 8.1. *Execution of Instruments by Holders of Trust Certificates; Proof thereof and of Holding Trust Certificates.* Any request or other instrument provided by this Agreement to be signed or executed by holders of Trust Certificates may be in any number of concurrent instruments of similar tenor, and may be executed by such holders in person or by an agent or attorney appointed by an instrument in writing. Proof of the execution of any such request or other instrument, or of a writing appointing any such agent or attorney, or of the holding by any person of Trust Certificates, shall be sufficient for any purpose hereof and shall be conclusive in favor of the Trustee with regard to any action taken by the Trustee under such request or other instrument if made in the following manner, viz.:

(a) The fact and date of the execution by any person of any such request or of any other instrument in writing may be proved by the affidavit of a witness to such execution, or by the certificate of any notary public or of any other officer authorized to take acknowledgments of deeds to be recorded in the state where the acknowledgment may be taken, certifying that the

person signing such request or other instrument acknowledged to him the execution thereof. Where such execution is by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership. such certificate or affidavit shall also constitute sufficient proof of his authority.

(b) The ownership of Trust Certificates shall be determined by the registry books to be kept as provided in Section 8.3 hereof.

SECTION 8.2. *Limitation of Rights.* Nothing expressed or implied herein is intended or shall be construed to confer upon or to give to any person, firm or corporation, other than the parties hereto and the holders of the Trust Certificates, any right, remedy or claim under or by reason of this Agreement or of any term, covenant or condition hereof, and all the terms, covenants, conditions, promises and agreements contained herein shall be for the sole and exclusive benefit of the parties hereto and their successors and of the holders of the Trust Certificates.

SECTION 8.3. *Binding Upon Successors and Assigns.* Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 8.4. *Supplemental Agreements; Termination.* The Company and the Trustee without the consent of the holders of Trust Certificates may from time to time and at any time enter into an agreement or agreements supplemental hereto for the purpose of making any provisions in regard to matters or questions arising under this Agreement as shall not adversely affect the interests of the holders of the Trust Certificates then outstanding or the rights, duties or immunities of the Trustee and may, in the event no Trust Certificates have been issued and are outstanding under this Agreement, amend, supplement or delete any of the provisions of this Agreement or terminate it in whole or in part. Except as the context otherwise requires, the term "Agreement" means this Agreement as supplemented pursuant to this Section 8.4.

SECTION 8.5. *Notices.* All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered at or mailed by registered mail to (a) in the case of the Company, at its office in the City of Chicago, Illinois, or such other address as may hereafter be furnished to the Trustee in writing by the Company, and (b) in the case of the Trustee, at its office in the City of Chicago, Illinois, or such other address as may hereafter be furnished to the Company in writing by the Trustee. An affidavit by any person representing or acting on behalf of the Company or the Trustee, as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 8.6. *Counterparts.* This Agreement has been simultaneously executed in several counterparts each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

SECTION 8.7. *Date of Execution.* This Agreement shall be deemed to have been executed on the date of the acknowledgment thereof by the officer of the Trustee who signed it on behalf of the Trustee.

SECTION 8.8. *Effect of Headings.* The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 8.9. *Illinois Law to Govern.* The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of Illinois; *provided, however,* that the parties shall be entitled to all rights conferred by 49 U.S.C. 11303.

SECTION 8.10. *Legal Holidays.* In any case where the date of any dividend payment on or the maturity of any Trust Certificates or the date of any notice required by the Agreement is, at the place where payment is to be made or notice is to be given, a legal holiday

or a day on which banking institutions are authorized by law to close, then payment of the dividends or principal amount may be made on the next succeeding day which is not a legal holiday or a day on which banking institutions are authorized by law to close, and no dividends or interest shall accrue for the period after such nominal date.

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

HARRIS TRUST AND SAVINGS BANK,
Trustee,

By

Vice President.

ATTEST:

Assistant Secretary.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY,

By

Executive Vice President.

ATTEST:

Assistant Secretary.

STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

On this 4th day of MARCH, 1981, before me personally appeared R. G. MASON, to me personally known, who, being by me duly sworn, says that he is Vice President of Harris Trust and Savings Bank, 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.

Lavette C. Seay
Notary Public, State of Illinois.

My Commission expires on November 29, 1984.

[NOTARIAL SEAL]

STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

On this 5th day of March, 1981, before me personally appeared W. J. SWARTZ, to me personally known, who, being by me duly sworn, says that he is Executive Vice President of The Atchison, Topeka and Santa Fe Railway 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.

T. H. Reimers
Notary Public, State of Illinois.

My Commission expires on AUGUST 24, 1983

[NOTARIAL SEAL]

[Equipment Trust, Series ~~S~~ R]

SCHEDULE A

Quantity	Type	Estimated Cost Per Unit	Estimated Cost Total
7	3500 HP Diesel Electric Locomotives, Model GP-50, General Motors Corporation (Electro-Motive Division), Builder; Nos. 3833 to 3839, both inclusive ...	$ 755,000	$ 5,285,000
30	3000 HP Diesel Electric Locomotives, Model C30-7, General Electric Company, Builder; Nos. 8123 to 8152, both inclusive	1,034,700	31,041,000
100	60′ Plain Box Cars, 100-ton capacity, with roller bearing trucks; (Class BX-211), Santa Fe Rail Equipment Company, Builder; Nos. 612100 to 612199, both inclusive	62,500	6,250,000
75	Caboose Cars (Class CE-11) with wide cupola; International Car Company, Builder; Nos. 999750 to 999824, both inclusive	82,500	6,187,500
25	26,000-gallon Tank Cars, with roller bearing trucks (Class TK-S), Trinity Industries, Inc., Builder; Nos. 98725 to 98749, both inclusive	54,400	1,360,000
30	50 Cubic Yard, Air-dump Gondola Cars, 77-ton capacity (Class GA-209); DIFCO, Inc., Builder; Nos. 186230 to 186259, both inclusive	67,700	2,031,000
	Total		$52,154,500