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RECORDATION NO. 13615 Filed 1425

**BURLINGTON NORTHERN**

No. APR 2 1982  
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LAW DEPARTMENT

13615  
RECORDATION NO. Filed 1425

INTERSTATE COMMERCE COMMISSION  
176 East Fifth Street  
St. Paul, Minnesota 55101  
Telephone (612) 298-2121

April 1, 1982  
APR 2 1982-12 00 PM  
RECORDATION NO. 13615 Filed 1425

APR 2 1982-12 00 PM  
INTERSTATE COMMERCE COMMISSION

Office of Secretary INTERSTATE COMMERCE COMMISSION  
Interstate Commerce Commission  
Washington, D. C. 20423

RECORDATION NO. 13615 Filed 1425

APR 2 1982-12 00 PM

Re: General Mortgage dated May 1, 1930, The Colorado And Southern Railway Company, The First National Bank of the City of New York, Trustee.

Supplemental Indenture dated May 1, 1943 to General Mortgage dated May 1, 1930, The Colorado And Southern Railway Company, The First National Bank of The City of New York, Trustee.

Supplemental Indenture dated April 1, 1952 to General Mortgage dated May 1, 1930, The Colorado And Southern Railway Company, The First National Bank of The City of New York, Trustee.

Supplemental Indenture dated May 1, 1952 to General Mortgage dated May 1, 1930, The Colorado And Southern Railway Company, The First National Bank of The City of New York, Trustee.

Supplemental Indenture dated May 1, 1980 to General Mortgage dated May 1, 1930, The Colorado And Southern Railway Company, Citibank, N.A., Trustee.

Supplemental Indenture dated December 31, 1981 to General Mortgage dated May 1, 1930, Burlington Northern Railroad Company (successor in interest and title to by merger to The Colorado And Southern Railway Company), Citibank, N.A., Trustee.

Gentlemen:

There is submitted herewith for filing with the Commission pursuant to 49 USC 11303 and 49 CFR 1116, Ex Parte 382 (Sub-No.1). Revision of Rules for the Recordation of Documents\*\*\*(49 CFR 1116), decided October 23, 1981, served November 6, 1981 365 ICC 353, three (3) conformed copies of the General Mortgage dated May 1, 1930, of The Colorado And Southern Railway Company together with

*Counterpart of original  
S. P. Rusk  
Original for [unclear]*

612 298-2876  
206-625-6569  
Barber

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Office of the Secretary  
Interstate Commerce Commission  
Washington D.C. 20423  
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three (3) conformed copies of the Supplemental Indentures to said Mortgage dated May 1, 1943, April 1, 1952, May 1, 1952, May 1, 1980 and December 31, 1981 respectively.

The Supplemental Indentures are being submitted for recording with the Primary Mortgage document, accordingly, enclosed is a check made payable to the order of the Commission for \$50.00 in payment of the entire recordation fee.

Names and addresses of the parties to said Mortgage as supplemented are as follows:

Original Trustee: The First National Bank of the City of New York, New York, New York.

Successor Trustee: Citibank, N.A., Attention Corporate Trust Office, 5 Hanover Square, New York, New York 10043.

Original Mortgagor: The Colorado And Southern Railway Company, Colorado.

Successor Mortgagor: Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, Minnesota 55101.

General Description of the General Mortgage of The Colorado And Southern Railway Company dated May 1, 1930, as supplemented:

The General Mortgage, is a general lien on the railway system of The Colorado and Southern Railway Company, secured by General Mortgage 4-1/2% Gold Bonds, Series A.

The Supplemental Indenture dated May 1, 1943, modified, amends and adjusts the interest rates and maturities of the General Mortgage 4-1/2% Gold Bonds, Series A.

The Supplemental Indenture dated April 1, 1952 modifies and amends the redemption provisions relating to the General Mortgage 4-1/2% Gold Bonds, Series A.

The Supplemental Indenture dated May 1, 1952 sustitutes certain collateral being held as security for the General Mortgage 4-1/2% Gold Bonds, Series A.

The Supplemental Indenture dated May 1, 1980 extends the maturity of the General Mortgage 4-1/2% Gold Bonds, Series A.

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The Supplemental Indenture dated as of December 31, 1981 provides for the Assumption of Obligations by Reason of the Merger of The Colorado And Southern Railway Company with Burlington Northern Railroad Company.

Please return to the individual presenting these documents for recordation, Mrs. Carolyn H. Kunkel, the duplicate counterpart originals of same, stamped and bearing the recording notation and number of the Commission.

Very truly yours,

ROBERT L. BARTHOLIC  
Vice President - Law  
Glacier Park Company - Seattle

Acting Assistant General Counsel  
Burlington Northern Railroad Company - St. Paul

By: *Lucille M. Cairl*  
Lucille M. Cairl, Administrative assistant  
and Secretary to Mr. Bartholic - St. Paul

Enclosures

13615

REGISTRATION NO. ....

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INTERSTATE COMMERCE COMMISSION

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STATE COMMERCE COMMISSION

**THE COLORADO AND SOUTHERN RAILWAY COMPANY**

and

**THE FIRST NATIONAL BANK OF THE CITY OF  
NEW YORK  
As Trustee**

# Supplemental Indenture

Dated May 1, 1943.

Supplemental to General Mortgage Dated May 1, 1930.

Relating to The Colorado and Southern Railway Company  
General Mortgage 4½% Gold Bonds, Series A,  
Due May 1, 1930.

State Law Printing Company, 173 W. Madison St., Chicago—FRANKlin 5561

**Supplemental Indenture**, dated the first day of May, 1943, between **THE COLORADO AND SOUTHERN RAILWAY COMPANY** (hereinafter called the "Railway Company"), a corporation created and existing under the laws of the State of Colorado, party of the first part, and **THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK** (hereinafter called the "Trustee"), a corporation created and existing under the laws of the United States of America, party of the second part.

WHEREAS, the Railway Company heretofore executed and delivered to the party of the second part, as Trustee, its General Mortgage, dated May 1, 1930, to secure the payment of the principal of, and interest on, an issue of bonds of the Railway Company known as its General Mortgage Bonds; and

WHEREAS, there have been authenticated, delivered and issued under the General Mortgage \$24,918,000 principal amount of said General Mortgage Bonds, all of which are designated as "General Mortgage 4½% Gold Bonds, Series A" (hereinafter referred to as General Mortgage Bonds, Series A), none of which has been retired, and all of which mature on May 1, 1980, originally bore fixed interest at the rate of 4½% per annum, payable semi-annually on May 1 and November 1 of each year, and were by their terms redeemable at varying redemption prices; and

WHEREAS, the Railway Company has proposed a Plan of Adjustment for Extension of Maturities and Modification of Interest Charges, dated June 30, 1942 (herein referred to as the Plan) providing, among

other things for certain modifications as herein set forth in the terms and provisions of said General Mortgage Bonds, Series A, and in the terms and provisions of the General Mortgage in respect thereof; and

WHEREAS, on August 31, 1942, the Interstate Commerce Commission made and entered a report and order under Section 20a of the Interstate Commerce Act, in its Finance Docket No. 8350, authorizing said modifications of said General Mortgage Bonds, Series A, and of said General Mortgage, by the execution of an indenture supplemental to said Mortgage, containing the provisions herein set forth; and

WHEREAS, a special court of three judges (hereinafter referred to as the Court), convened in the manner provided by Section 266, as amended, of the Judicial Code, and sitting in the District Court of the United States for the District of Colorado on March 8, 1943, made and entered its findings of fact, conclusions of law, and decree, approving and confirming the Plan, pursuant to Chapter XV of the Act of Congress of July 1, 1898, entitled "An Act to establish a uniform system of bankruptcy throughout the United States," as amended by the Act of October 16, 1942; a copy of which findings, conclusions, and decree is attached hereto as Appendix A and incorporated herein by reference and hereinafter referred to as the Decree; and

WHEREAS, the Decree has become and is final and binding upon the Railway Company and upon all of its creditors and security holders, including the holders of the General Mortgage Bonds, Series A, and upon the Trustee; and

WHEREAS, from and after the entry of the Decree the Railway Company has full power and authority, and is thereby directed, to put into effect and carry out

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the Plan and all orders of the Court relative thereto, and to modify the General Mortgage Bonds, Series A, and the terms and conditions of the General Mortgage in respect thereof, as provided by the Plan; and

WHEREAS, the Plan became effective as of November 1, 1941, and the Railway Company has tendered (and paid to all holders of the General Mortgage Bonds, Series A, who accepted the same), all interest currently payable thereon pursuant to the Plan, as follows: On November 1, 1942, Contingent Interest at the rate of  $2\frac{1}{2}\%$  per annum from November 1, 1941, to December 31, 1941, and Fixed Interest at the rate of  $1\frac{1}{2}\%$  per annum from November 1, 1941, to November 1, 1942, said payments on coupon bonds being evidenced by stamping a notation thereof on the coupons maturing May 1, 1942; and on May 1, 1943, Contingent Interest at the rate of  $2\frac{1}{2}\%$  per annum for the calendar year 1942, and Fixed Interest at the rate of  $1\frac{1}{2}\%$  per annum for the period from November 1, 1942, to May 1, 1943, which payments on coupon bonds were made against delivery of the coupons dated May 1, 1942, November 1, 1942, and May 1, 1943; and

WHEREAS, for the purpose of duly evidencing said modifications in the terms and provisions of the General Mortgage Bonds, Series A, and any coupons appurtenant thereto affected by the Plan, the Railway Company, by corporate action duly taken, has approved and authorized the stamping as herein set forth, of the General Mortgage Bonds, Series A, and any such coupons appurtenant thereto, with appropriate legends, and has by similar action approved and authorized the issuance of new coupons for Contingent Interest, (hereinafter referred to as Contingent Interest Coupons), and their annexation to any such Bonds in coupon form, and, in order to make appropriate provision in connection therewith, has by simi-

lar action approved and authorized the execution and delivery to the Trustee of this Supplemental Indenture; and

WHEREAS, pursuant to the Decree, and in accordance with the provisions of Chapter XV of the Bankruptcy Act, all holders from time to time of General Mortgage Bonds, Series A, and of the coupons appurtenant thereto affected by the Plan, are subject to, and bound by, the provisions of the Decree and of this Supplemental Indenture, whether or not they shall have assented thereto, and whether or not the legends provided herein shall have been stamped on said Bonds and on any such coupons appurtenant thereto; and

WHEREAS, the Court has approved the form and terms of this Supplemental Indenture and the respective forms and terms of the legends to be stamped on the General Mortgage Bonds, Series A, and on any coupons appurtenant thereto affected by the Plan, and of the Contingent Interest Coupons, which legends and Contingent Interest Coupons are to be substantially in the following forms, respectively:

[FORM OF LEGEND TO BE STAMPED ON BONDS.]

The rights of the holder or registered owner of this Bond have been modified as set forth in a Supplemental Indenture dated May 1, 1943, executed pursuant to a decree entered in the United States District Court for the District of Colorado, dated March 8, 1943, in Cause No. 11842, approving and confirming a Plan of Adjustment under Chapter XV of the Bankruptcy Act, copies of which Supplemental Indenture and decree are on file at the office of the Trustee named herein. Said Supplemental Indenture provides, among other things, (a) that during the Interest Modification Period therein provided for, extending from November

1, 1941, to a date not later than November 1, 1954, interest hereon shall accrue as a fixed obligation at the rate of only 1½% per annum, and as a contingent non-cumulative obligation at a rate of not exceeding 2½% per annum, (b) that the price at which the within Bond shall be redeemable prior to November 1, 1974, shall be reduced to the principal amount thereof plus certain interest thereon, and (c) that if said Interest Modification Period shall terminate prior to November 1, 1954, the Railway Company will, if this be a coupon bond, provide for the detachment of certain coupons and the issuance of new coupons appurtenant hereto in such manner as may be appropriate to evidence the rights of the holder hereof affected by such termination.

[Form of Legend To Be Stamped Upon Coupons  
Affected by the Plan]

Amount payable hereon reduced to \$7.50

[Form of Contingent Interest Coupon]

Contingent Interest Coupon.

No. ....

On the first day of May, 19....., unless the Bond hereinafter mentioned shall have been called for previous redemption and payment thereof duly provided for, The Colorado and Southern Railway Company will pay to bearer, at its office or agency in the Borough of Manhattan, The City of New York, on surrender of this coupon, 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, the amount, if any, which shall

then be payable in accordance with the terms of a Supplemental Indenture executed by said Railway Company to The First National Bank of the City of New York, as Trustee, dated May 1, 1943, as contingent interest on its General Mortgage 4½% Gold Bond, Series A, due May 1, 1980, No. ....

Treasurer

and;

WHEREAS, all acts and things prescribed by the Decree to be done and performed prior to the date hereof have been duly done and performed, and the Railway Company has duly executed and delivered this Supplemental Indenture in the exercise of the legal right and power vested in it, and all things necessary to make this Supplemental Indenture a valid and binding agreement, supplementing and modifying the General Mortgage to the extent herein provided, have been duly done and performed;

NOW, THEREFORE, THIS SUPPLEMENTAL INDENTURE WITNESSETH:

That in accordance with the Decree and in consideration of the premises and of the sum of Ten Dollars (\$10.00) lawful money of the United States of America to the Railway Company duly paid by the Trustee at or before the execution and delivery of this Supplemental Indenture, the receipt whereof is hereby acknowledged, the Railway Company, in order to declare the terms and conditions upon which the provisions of the General Mortgage Bonds, Series A, of the coupons appurtenant thereto affected by the Plan, and of the General Mortgage, are modified by the Plan, and such Bonds and coupons are to be held, has executed this Supplemental Indenture and delivered the same to the Trustee and hereby covenants and agrees with the

Trustee, for the benefit of the respective bearers and registered owners from time to time of General Mortgage Bonds, Series A, and the respective bearers from time to time of the appurtenant coupons thereto affected by the Plan, as follows:

## ARTICLE ONE

### MODIFICATION OF INTEREST OBLIGATIONS IN RESPECT OF GENERAL MORTGAGE BONDS, SERIES A.

Section 1. Anything contained in the General Mortgage or in the General Mortgage Bonds, Series A, or the coupons appurtenant thereto, to the contrary notwithstanding, the obligation of the Railway Company in respect of interest on the General Mortgage Bonds, Series A, from and after November 1, 1941, and during the Interest Modification Period hereinafter described in ARTICLE TWO hereof, has been, and hereby is, modified so as to reduce the rate of such interest from  $4\frac{1}{2}\%$  to a maximum of  $4\%$  per annum, and so that such interest at the rate of  $1\frac{1}{2}\%$  per annum on each such Bond (herein called Fixed Interest) will continue as a fixed charge obligation payable at the times hereinafter provided and such interest at the rate of up to  $2\frac{1}{2}\%$  per annum on each such Bond (herein called Contingent Interest) will be contingently payable, and non-cumulative as hereinafter provided. From and after the termination of the Interest Modification Period, interest on the General Mortgage Bonds, Series A, will again accrue as a fixed charge obligation of the Railway Company at the rate of  $4\frac{1}{2}\%$  per annum and will be payable semi-annually on May 1 and November 1 of each year.

Section 2. The Railway Company will, as herein-

after in ARTICLE THREE provided, and to the extent that it has not already done so, pay all Fixed and Contingent Interest on its outstanding Bonds which has heretofore become due and payable, and will also, on the first day of May and on the first day of November in each year (beginning with the first day of November, 1943, and including the first day of November, 1954) during the continuance of the Interest Modification Period, pay Fixed Interest on its then outstanding General Mortgage Bonds, Series A, for the preceding six months in an amount equal to three-quarters of one per cent of the principal amount thereof, and will also, on the first day of May in each year following any year which includes any part of the Interest Modification Period, pay such Contingent Interest thereon, if any, as shall then be payable out of Available Net Income of the Railway Company (hereinafter referred to as Available Net Income) for the preceding calendar year in accordance with the further provisions of this Supplemental Indenture; and if the Interest Modification Period shall for any reason terminate prior to November 1, 1954, then, and in lieu of any other interest thereon, the Railway Company will (a) on each succeeding interest payment date pay Fixed Interest for the preceding six months on all such Bonds then outstanding, at the rate of  $4\frac{1}{2}\%$  per annum, and (b) on the May 1 next following the end of the calendar year in which the Interest Modification Period shall have terminated, pay any Contingent Interest on such Bonds payable out of the Available Net Income for such year.

All such Fixed Interest so payable on any such date upon any General Mortgage Bond, Series A, in coupon form, shall be payable upon surrender of the coupon appurtenant thereto maturing on such date and stamped as in subdivision (b) of Section 1 of ARTICLE

**THREE** hereof provided, and all such Contingent Interest payable on any such Bond, in coupon form, out of the Available Net Income for any calendar year, shall (except as hereinafter provided in this Section 2) be payable upon surrender of the Contingent Interest Coupon maturing upon the first day of May in the following year.

Such Contingent Interest will be non-cumulative, that is to say, if the Available Net Income determined as hereinafter provided in ARTICLE FOUR hereof, for any calendar year in respect of which, or any part of which, Contingent Interest is contingently payable on the General Mortgage Bonds, Series A, and applicable to the payment of Contingent Interest thereon, shall not be sufficient to pay such Contingent Interest at the rate of  $2\frac{1}{2}\%$  per annum in respect of such calendar year, or part thereof, then the Railway Company shall not be under any liability with respect to such deficiency whether total or partial.

Anything herein to the contrary notwithstanding, no payment of Contingent Interest on the General Mortgage Bonds, Series A, need be made if the amount of Available Net Income applicable to the payment thereof is less than one-fourth of one per cent. of the principal amount of the General Mortgage Bonds, Series A, in respect of which such Contingent Interest is payable, and no payment of Contingent Interest need be made in multiples of less than one-eighth of one per cent. of said principal amount. Any amount applicable to the payment of Contingent Interest on the General Mortgage Bonds, Series A, but not paid on any Contingent Interest payment date by reason of the provisions of the next preceding sentence, shall be reserved and added to the amount otherwise applicable to the payment of the Contingent Interest on such Bonds next becoming payable; provided, that on

the first day of May in the year next following the year in which the Interest Modification Period shall have terminated, the Railway Company shall pay, as Contingent Interest on all Bonds then outstanding, a sum equal to (a) the full amount applicable to the payment of such Contingent Interest out of Available Net Income for the preceding calendar year (whether or not such amount shall equal one-quarter of one per cent, or be a multiple of one-eighth of one per cent, of the principal amount of Bonds then outstanding), plus (b) all funds otherwise applicable to the payment of Contingent Interest and which, because of the foregoing provisions of this Section 2, were not theretofore applied to such payment.

Section 3. Both the principal of the Bonds and the interest payable thereon shall be payable in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts.

## ARTICLE TWO

### INTEREST MODIFICATION PERIOD

Section 1. The Interest Modification Period will be the period commencing as of November 1, 1941 and terminating as of November 1, 1954, except that if any of the events described in Section 2 of this ARTICLE TWO shall occur at any time prior to November 1, 1954, the Interest Modification Period will terminate as of the May 1 or November 1 next preceding the happening of such event.

Section 2. If any of the following events occur at any time prior to November 1, 1954, that is to say:

(a) If the Railway Company shall file a peti-

tion under Section 77 of the Bankruptcy Act, or if in a proceeding thereunder instituted against the Railway Company a court of competent jurisdiction shall approve the petition therein, or if a permanent or confirmed appointment shall be made of a receiver of the Railway Company's property; or

(b) If (1) the Railway Company shall pay interest on any General Mortgage Bonds, Series A, at a rate in excess of that paid during the preceding twelve-months' period on the Refunding and Extension Mortgage Bonds of the Railway Company owned by Reconstruction Finance Corporation, unless during such period Reconstruction Finance Corporation shall have been paid interest on such Refunding and Extension Mortgage Bonds at the rate of 4% per annum; and (2) if Reconstruction Finance Corporation shall make written demand upon the Railway Company that the Interest Modification Period shall terminate, which demand Reconstruction Finance Corporation shall have the right to make so long as it owns a majority in principal amount of said Refunding and Extension Mortgage Bonds then outstanding, exclusive of any held in pledge by Reconstruction Finance Corporation; or

(c) If (1) there shall have been delivered to the Railway Company by or on behalf of the holders of a majority in principal amount of the then outstanding Refunding and Extension Mortgage Bonds of the Railway Company issued under an indenture dated as of May 1, 1905, between the Railway Company and Central Trust Company of New York, as Trustee (such Bonds being hereinafter referred to as the Refunding and Extension Mortgage Bonds), a written request that the per-

son or persons, not exceeding two in number, eligible to act as Directors if elected, named in such request be elected to the Board of Directors of the Railway Company at the annual meeting of the stockholders of the Railway Company next succeeding such delivery of such request, which request may be so delivered by such holders at any time prior to ninety days before the day upon which such annual meeting is to be held; and if (2) the person or persons so named in such request shall not be elected to the Board of Directors of the Railway Company at such annual meeting; and if (3) within six months after the date of such annual meeting there shall be delivered to the Railway Company, by or on behalf of the holders of a majority in principal amount of the Refunding and Extension Mortgage Bonds then outstanding, written demand that the Interest Modification Period shall terminate; or

(d) If (1) there shall have been delivered to the Railway Company by or on behalf of holders of a majority in principal amount of the General Mortgage Bonds, Series A, exclusive of any such Bonds held in pledge by Reconstruction Finance Corporation, then outstanding, a written request that the person or persons, not exceeding two in number, eligible to act as Directors if elected, named in such request be elected to the Board of Directors of the Railway Company at the annual meeting of the stockholders of the Railway Company next succeeding such delivery of such request, which request may be so delivered by such holders at any time prior to ninety days before the day upon which such annual meeting is to be held; and if (2) the person or persons so named in such request shall not be elected to the Board

of Directors of the Railway Company at such annual meeting; and if (3) within six months after the date of such annual meeting there shall be delivered to the Railway Company, by or on behalf of the holders of a majority in principal amount of General Mortgage Bonds, Series A, then outstanding, exclusive of any held in pledge by Reconstruction Finance Corporation, written demand that the Interest Modification Period shall terminate; or

(e) If (1) a majority of the Board of Directors of the Railway Company shall not, within six months after the receipt by the Railway Company of written request by Reconstruction Finance Corporation to that effect, be persons designated or approved by Reconstruction Finance Corporation, unless the persons so designated by Reconstruction Finance Corporation shall not be eligible to act as Directors if elected, which request Reconstruction Finance Corporation shall, so long as it owns a majority in principal amount of the Refunding and Extension Mortgage Bonds of the Railway Company then outstanding, have the right to make within thirty days after any May 1st in respect of which the Railway Company shall have failed to pay, whether or not there shall have been Available Net Income applicable to the payment thereof, as provided in ARTICLE FOUR hereof, Contingent Interest at the rate of  $1\frac{1}{2}\%$  on said Refunding and Extension Mortgage Bonds; and if (2) Reconstruction Finance Corporation, within ninety days after the expiration of such six months' period, shall make written demand upon the Railway Company that the Interest Modification Period shall terminate; or

(f) If the Railway Company shall issue and sell any additional General Mortgage Bonds without first having obtained the consent of the holders of a majority in principal amount of the General Mortgage Bonds, Series A, then outstanding, exclusive of any held in pledge by Reconstruction Finance Corporation;

then the Interest Modification Period shall be deemed to have terminated, as provided hereinabove in Section 1 of this ARTICLE TWO.

The Railway Company shall forthwith notify the Trustee in writing of the occurrence, prior to November 1, 1954, of any of the events described in this Section 2, and the Trustee, prior to said November 1, 1954, may assume that the Interest Modification Period has not terminated unless it has been notified by the Railway Company or by one or more of the holders of the General Mortgage Bonds, Series A, that one or more of such events has occurred.

### ARTICLE THREE.

#### STAMPING OF LEGENDS ON GENERAL MORTGAGE BONDS, SERIES A, AND ON COUPONS APPURTENANT THERETO AFFECTED BY THE PLAN, AND PROVISIONS FOR CONTINGENT INTEREST COUPONS.

Section 1. At any time and from time to time after the execution hereof, the Railway Company, at its own expense, will

(a) upon the surrender to it at its office or agency in the Borough of Manhattan, The City of New York, of the coupons maturing on May 1,

1942, November 1, 1942 and May 1, 1943, appurtenant to any General Mortgage Bond, Series A, pay to the person so surrendering such coupons a sum equal to (i) 5.167% of the principal amount of such Bond, representing Fixed Interest thereon at the rate of 1½% per annum from November 1, 1941 to May 1, 1943, and Contingent Interest thereon at the rate of 2½% per annum from November 1, 1941 through December 31, 1942, less (ii) all such Fixed Interest and all such Contingent Interest previously paid upon such Bond; and

(b) upon the presentation to it for that purpose at its office or agency of any General Mortgage Bond, Series A, together (if such Bond be in coupon form) with all coupons appurtenant thereto maturing on or after November 1, 1943, (i) cause such Bond to be stamped with a legend substantially in the form hereinbefore set forth, (ii) cause to be stamped on all coupons appurtenant thereto maturing on or after November 1, 1943 and prior to May 1, 1955 (or prior to the termination of the Interest Modification Period, if the same shall have terminated prior to the date of such stamping) a legend in substantially the form hereinbefore set forth, and (iii) cause to be attached to such Bond Contingent Interest Coupons substantially in the form hereinbefore set forth, bearing the same serial number as such Bond, and maturing on May 1, 1944 and on the first day of May in each year thereafter, to and including the first day of May, 1955 (or, if the Interest Modification Period shall have terminated prior to the date of such attachment, the first day of May in the year following the year in which the same shall have terminated).

Section 2. If any General Mortgage Bond, Series A, or any coupon appurtenant to any such Bond maturing on or after May 1, 1942, shall have been lost, stolen, mutilated, destroyed, or otherwise be beyond the possession or control of the owner thereof, so that it is physically impossible for such owner to present such Bond or coupon for stamping as provided in Section 1 of this ARTICLE THREE, such owner may either apply to the Court for an order authorizing the Railway Company to pay interest on such Bond as herein provided, on such terms and conditions with respect to security and otherwise as said Court may direct, or (if such Bond shall have been lost, stolen, mutilated or destroyed) apply to the Railway Company for the issuance of a new Bond pursuant to the provisions of Section 6 of ARTICLE TWO of said General Mortgage, and subject to the provisions of Section 5 of this ARTICLE THREE.

Section 3. The holder of any General Mortgage Bond, Series A, in coupon form, shall also have the right to present the same for stamping and for the attachment of Contingent Interest Coupons in accordance with the provisions of Section 1 of this ARTICLE THREE, even though some or all of the coupons appurtenant thereto and maturing on or after November 1, 1943, shall not be presented therewith; provided that, with respect to each such coupon not so presented, the person presenting such Bond shall furnish to the Railway Company and the Trustee evidence satisfactory to them of the loss, theft, or destruction of such coupon, together with indemnity satisfactory to the Railway Company and the Trustee in their discretion in respect thereof, and shall pay all reasonable expenses and charges of the Railway Company and the Trustee, including counsel fees, in connection therewith.

Section 4. The Railway Company shall not, except as hereinbefore provided, be under any obligation to pay any interest which by the terms of any General Mortgage Bond, Series A, in coupon form, or of any coupon appurtenant to any such Bond, shall have become due and payable on such Bond on or after November 1, 1941 and prior to November 1, 1943; nor shall it be under any obligation to pay any interest becoming due and payable on any General Mortgage Bond, Series A, on or after November 1, 1943, unless and until such Bond shall have been presented to the Railway Company for stamping and, if such Bond be in coupon form, for the stamping of coupons and the attachment of Contingent Interest Coupons pursuant to the provisions of subdivision (b) of Section 1 of this ARTICLE THREE.

Section 5. No General Mortgage Bond, Series A, shall hereafter be authenticated by the Trustee unless the Railway Company (a) shall have caused such Bond to be stamped as above provided, (b) shall, if the Interest Modification Period shall not have terminated prior to the date of such authentication, have caused all coupons appurtenant to such Bonds which by their terms mature on or before November 1, 1954, to be stamped as above provided, (c) shall, unless such Bond shall be so authenticated later than the first day of May next following the termination of the Interest Modification Period, and if such Bond be in coupon form, have caused to be attached thereto a Contingent Interest Coupon or Contingent Interest Coupons maturing on the first day of May next following the date of such authentication and (unless the Interest Modification Period shall have terminated prior to the date of such authentication) on the first day of May in each year thereafter to and including the first day of May, 1955, and (d) shall, if such Bond

shall be issued pursuant to the provisions of Section 3 or of Section 6 of ARTICLE TWO of the General Mortgage, or pursuant to Section 2 of this ARTICLE THREE, and if the expressed date of maturity of any coupon or coupons appurtenant thereto shall be the first day of May, 1944, or any other first day of May next following any year which shall have included any part of the Interest Modification Period (other than the first day of May next following the date of such authentication), attach thereto in addition to any Contingent Interest Coupons so attached pursuant to the provisions of subdivision (c) of this Section 5, a Contingent Interest Coupon expressed to be payable on each such first day of May. Except as provided in subdivision (d) of this Section 5, no General Mortgage Bond, Series A, shall hereafter be authenticated by the Trustee which shall have attached thereto any coupon which by its terms matures on a date prior to the date of such authentication.

Section 6. If for any reason the Interest Modification Period shall terminate prior to November 1, 1954, the Railway Company will, upon the presentation to it for that purpose, on the date of such termination or at any time thereafter, of any General Mortgage Bond, Series A, in coupon form, accompanied by all coupons appertaining thereto maturing after such date, detach and cancel all Contingent Interest Coupons appertaining thereto (other than the Contingent Interest Coupon maturing on the first day of May next following the date of such termination), and all Fixed Interest Coupons appertaining thereto maturing after such date and stamped as above provided, and attach thereto new unstamped Interest Coupons similar in all respects to the Interest Coupons so detached prior to the stamping thereof.

Section 7. Contingent Interest Coupons shall bear the facsimile signature of the present Treasurer or of any future Treasurer of the Railway Company, and the Railway Company hereby adopts such facsimile signature of such officer and adopts Contingent Interest Coupons so signed. The Railway Company may adopt and use on Contingent Interest Coupons the facsimile signature of any person who shall have been such Treasurer notwithstanding the fact that he may have ceased to be such Treasurer at the time when any such Contingent Interest Coupons shall actually be attached to any General Mortgage Bond, Series A.

#### ARTICLE FOUR

##### DETERMINATION AND APPLICATION OF AVAILABLE NET INCOME.

Section 1. Available Net Income for the calendar year 1942 shall be determined by the Railway Company within 30 days after the execution hereof, and Available Net Income for each year thereafter which includes any part of the Interest Modification Period shall be so determined on or before April 1 of the following year. Any such determination shall be sufficiently evidenced and proved by a copy of a resolution or resolutions of the Board of Directors of the Railway Company conforming with the requirements of Section 5 of this ARTICLE FOUR, and in adopting any such resolution the members of said Board may rely upon any statement signed by the Comptroller or other chief accounting officer of the Railway Company as to any facts set forth therein, and, if they desire some ruling as to the meaning and application of any of the provisions of this ARTICLE FOUR, said Board may rely upon

the advice of counsel, who may, but need not, be an officer or director of the Railway Company.

Section 2. Available Net Income for each such calendar year will be determined by deducting from the income of the Railway Company available for fixed charges for such calendar year (determined in accordance with the accounting rules and classifications of the Interstate Commerce Commission or other similar Federal authority having jurisdiction in the premises at the time in force, or, to the extent not so governed, in accordance with sound accounting practice) :

(a) All fixed charges of the Railway Company accrued during such calendar year; and

(b) All other charges properly deductible from such income in determining income after fixed charges under such accounting rules, classifications or practice.

Available Net Income for any part of any calendar year shall be that fraction of the total Available Net Income for such calendar year which such part of the calendar year is of the entire calendar year.

Available Net Income for each such calendar year shall be determined as the accounts shall be stated on the books of the Railway Company for such year, without adjustments, except that (1) if, in respect of any calendar year, the income of the Railway Company available for fixed charges shall be inadequate to meet the amounts hereinbefore specified in subparagraphs (a) and (b) of this Section 2, the amount of such deficit may, in the discretion of the Board of Directors of the Railway Company, be carried forward and be deducted in determining Available Net Income for the succeeding calendar year or calendar years until such deficit (or accumulated or remaining

deficits) has been made up by earnings which, in the absence of such deficit or deficits, would have been Available Net Income; and (2) any adjustment necessary to correct the Income Account of the Railway Company for any prior year shall be made by appropriate entries, and may either be made in the accounts of the current year, unless the making of such entries would be in violation of the applicable orders, rules, and regulations of the Interstate Commerce Commission or such other Federal authority, if any, as at the time may have jurisdiction over the accounting practices of the Railway Company, or in the discretion of the Board of Directors of the Railway Company and with the approval of the Interstate Commerce Commission or such other Federal authority, if any, may be made in whole or in part in the accounts of any subsequent year or years, and in computing the Available Net Income for any calendar year, any such debits or credits made in the accounts of that year to adjust entries in the income account of prior years shall, whether cleared through income or profit and loss accounts, be treated as income items for the year in which entered on the books, except that adjustments for any year or years prior to the year 1941 shall be treated as income items in any subsequent year insofar, but only insofar, as such debits and credits reflect cash receipts or disbursements in the year in which they are entered on the books.

Section 3. In the event that the properties of the Railway Company shall be unified with those of any other corporation or corporations, Available Net Income shall continue to be determined by deducting from the income available for fixed charges from the properties of the Railway Company all charges and other items in respect of the properties of the Railway

Company within the categories hereinbefore set forth in subparagraphs (a) and (b) of Section 2 of this ARTICLE FOUR, without inclusion of the income available for fixed charges from, or deduction of the charges and other items, within such categories, in respect of, the properties of such other corporation or corporations, or in the alternative, unless request to the contrary shall be made in writing by or on behalf of holders of a majority in principal amount of the Refunding and Extension Mortgage Bonds or of the General Mortgage Bonds, Series A, Available Net Income may be determined by deducting from the aggregate of the income, from the properties of the Railway Company and from the properties of such other corporation or corporations, available for fixed charges of the Railway Company and such other corporation or corporations, all charges of, and other items in respect of, the Railway Company and of such other corporation or corporations, within the categories set forth in said subparagraphs (a) and (b). If such income of the properties of such other corporation or corporations shall be excluded in whole or in part in determining Available Net Income, provision may be made with the written consent by or on behalf of holders of a majority in principal amount of said Refunding and Extension Mortgage Bonds and a majority in principal amount of the General Mortgage Bonds, Series A, respectively, for determining Available Net Income without the maintenance of separate accounts.

Section 4. Available Net Income of the Railway Company for each such calendar year, or part thereof, of the Interest Modification Period, determined as hereinabove provided, will be applied to the following purposes and in the following order:

FIRST: To the pro rata payment of the Contingent Interest payable in respect of such calen-

*Original First  
 Second  
 Third Section 4  
 of Article Four  
 dated 1947 Supplement  
 dated 1951  
 1952 Supplement*

dar year, or part thereof, on the Refunding and Extension Mortgage Bonds of the Railway Company in respect of which Contingent Interest is payable in accordance with the provisions of a certain Supplemental Indenture between the Railway Company and Central Hanover Bank & Trust Company, as Trustee, dated May 1, 1943, supplemental to the indenture dated May 1, 1905, between the Railway Company and Central Trust Company of New York, as Trustee;

**SECOND:** \$300,000 for each such calendar year, beginning with the calendar year 1942, (no part of the Available Net Income of the Railway Company for the calendar year 1941 is applicable to the Capital Fund) to a Capital Fund, unless in any such calendar year the Railway Company shall make charges against Income for depreciation of roadway and structures, in which event there shall be applied to the Capital Fund \$300,000 less the amount, if any, by which such depreciation charges against Income for such calendar year shall exceed the cost of retirements charged in such calendar year to surplus or accounts other than Income but which under the present accounting rules, classifications and regulations of the Interstate Commerce Commission would be chargeable to Income; provided that if the amount of Available Net Income of the Railway Company applicable to the Capital Fund for any calendar year shall be less than said \$300,000, or such lesser amount, such deficit amount shall be carried forward and the amount which may be applied to the Capital Fund in the succeeding calendar year will be increased by the amount of such deficit; but in no event shall the amount applied to the Capital Fund in any calen-

dar year be in excess of the amount necessary to increase the then unappropriated amount in the Capital Fund to \$600,000; provided, further, that if only a portion of the calendar year in respect of which any Available Net Income is computed shall constitute a part of the Interest Modification Period, the sum to be applied to the Capital Fund in respect of such year shall be reduced to the same proportion thereof as such portion of such year constitutes of the entire year. Regardless of the foregoing, with the consent by or on behalf of holders of 60% in principal amount of the General Mortgage Bonds, Series A, the amount hereinabove provided to be applied to the Capital Fund may be increased by the Railway Company at any time and from time to time to such larger amount as shall be so approved by such holders. Such Capital Fund shall be applied as shall be from time to time determined by the Board of Directors of the Railway Company either to provide for or to reimburse the treasury of the Railway Company for all or any part of the cost to the Railway Company of capital investments, as hereinafter defined, made after December 31, 1941, remaining after deducting from such cost all retirements of roadway and structures charged against Income in the calendar year in which such capital investments shall have been made, with proper adjustments for donations and other items not involving a cash outlay by the Railway Company, such capital investments to be as defined by the Interstate Commerce Commission's Classification of Income, Profit and Loss, and General Balance Sheet Accounts for Steam Roads, Accounts No. 701, Road and Equipment Property, 702, Improvements on

Leased Property, and 705, Miscellaneous Physical Property, or advances to subsidiaries for expenditures which if made directly by the Railway Company in respect of its owned and leased properties would be chargeable to said accounts, or such substituted accounts as may at the time be in effect, and to the extent not required for the foregoing to the payment of fixed charges for any period in respect of which such fixed charges are not earned, but only to the extent to which such fixed charges are not earned. To the extent that such Capital Fund is used for the payment of fixed charges, the Capital Fund shall be reimbursed before Available Net Income is applied as provided in the next succeeding paragraphs THIRD and FOURTH of this Section 4;

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*FIRST:*

THIRD: To the pro rata payment of the Contingent Interest payable in respect of such calendar year, or part thereof, on the General Mortgage Bonds, Series A, in respect of which Contingent Interest is payable; and

FOURTH: So long as the Railway Company is obligated to Reconstruction Finance Corporation, all remaining Available Net Income for such calendar year, or part thereof, will be applied, as shall from time to time be required or permitted by Reconstruction Finance Corporation (1) to the purchase of Refunding and Extension Mortgage Bonds of the Railway Company at not exceeding the then applicable redemption price; or (2) to the purchase of First Mortgage 5% Bonds of Galveston Terminal Railway Company at not exceeding their principal amount plus accrued interest; or (3) to the retirement of other debt of the Railway Company; or (4) to the replenishing

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or increasing of working capital of the Railway Company. After the Railway Company no longer is obligated to Reconstruction Finance Corporation and so long as any of the Refunding and Extension Mortgage Bonds of the Railway Company remain outstanding, all of such remaining Available Net Income will be applied to the purchase of said Refunding and Extension Mortgage Bonds at not exceeding the then applicable redemption price thereof, and to the extent not so applied (unless such amount shall be less than \$25,000) to the redemption of said Refunding and Extension Mortgage Bonds on the November 1 following the calendar year in which such Available Net Income was earned at the then applicable redemption price thereof. After all said Refunding and Extension Mortgage Bonds have been retired, all of such remaining Available Net Income will be applied to the purchase of General Mortgage Bonds, Series A, at not exceeding the then applicable redemption price thereof, as herein provided, and to the extent not so applied (unless such amount shall be less than \$25,000) to the redemption of General Mortgage Bonds, Series A, on the November 1 following the calendar year in which such Available Net Income was earned at the then applicable redemption price thereof and in the manner hereinafter provided in ARTICLE FIVE hereof.

All such Refunding and Extension Mortgage Bonds and such General Mortgage Bonds, Series A, so purchased or redeemed will be retired.

Section 5. Within thirty days after the execution hereof, the Railway Company will deliver to the Court a certificate signed by the Comptroller of the Railway Company, showing the total of the Available Net In-

*First of  
Third Receipt of  
Cash for  
1943 including  
R.R.D.*

come for the preceding calendar year, setting forth the portion of such sum which has been set aside for or applied to the payment of Contingent Interest on the Refunding and Extension Mortgage Bonds, the portion thereof which has been credited to said Capital Fund (setting forth in reasonable detail the facts with respect to any deductions made from the amount of such credit to the Capital Fund by reason of charges against income for depreciation of roadway and structures), and the portion thereof which has been set aside for or applied to the payment of Contingent Interest on the General Mortgage Bonds, Series A. The Railway Company will also deliver to the Court on or before the first day of May, 1944, and on or before the first day of May in each year thereafter next following any calendar year which shall include any part of the Interest Modification Period, a certificate relating to Available Net Income for the preceding calendar year complying with the foregoing requirements of this Section 5, and setting forth the manner in which any Available Net Income, the disposition of which shall not have been reported in any previous certificate, has been disposed of. The Railway Company will also deliver to the Trustee duplicate counterparts of each of the above certificates at the time when it is delivered to the Court as hereinabove provided. Each such certificate so delivered to the Court or the Trustee shall be accompanied by a copy of a resolution or resolutions of the Board of Directors of the Railway Company, certified under its corporate seal by its Secretary or one of its Assistant Secretaries, fixing the amount of the Available Net Income referred to in such certificate, and authorizing the application thereof, as in said certificate set forth.

At any time within one year after the delivery of any such certificate to the Trustee, the Trustee shall,

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if requested to do so by the holders of not less than 25% in principal amount of the General Mortgage Bonds, Series A, by notice in writing addressed to the Trustee and signed by such holders, request that the accounts of the Railway Company for the calendar year the Available Net Income for which is set forth in said certificate (and for prior or subsequent years, so far as necessary to check the correctness of such certificate), be audited so far as necessary to check the correctness of such certificate, at the expense of the Railway Company, by a firm of certified or public chartered accountants selected by the Board of Directors of the Railway Company and approved by the Trustee, unless an audit adequate, in the opinion of the Trustee, for such purpose shall have theretofore been made or is then being made pursuant to similar provisions in another Indenture securing obligations of the Railway Company, or pursuant to the voluntary action of the Railway Company. The Railway Company agrees that it will comply with any such request for an audit. The Railway Company shall file with the Trustee a copy of every such audit made pursuant to the provisions of this Section 5, or made pursuant to similar provisions in another such Indenture or pursuant to the voluntary action of the Railway Company. Every such certificate and each such audit so filed with the Trustee shall be open to inspection at all reasonable times by the holders of General Mortgage Bonds, Series A. Any audit made by a firm of certified or chartered public accountants selected by the Board of Directors of the Railway Company and approved by the Trustee shall be binding upon the Railway Company, the Trustee, and the holders of General Mortgage Bonds, Series A.

On or before the first day of May in the year 1944, and in each year thereafter following any calendar

year which shall have included any part of the Interest Modification Period, the Railway Company will, if any Contingent Interest on the General Mortgage Bonds, Series A, is payable as of such first day of May, publish notice to that effect stating the amount of such interest so payable, in a newspaper of general circulation in The City of New York once a week for three weeks, the first publication to be at least 21 days prior to the date such interest is payable, and will also mail a like notice to each registered holder of any General Mortgage Bond, Series A, at least 20 days prior to such date, addressed to such holder at his address as it appears on the registry books of the Railway Company, and to each holder of any General Mortgage Bond, Series A, payable to bearer, who shall have filed with the Railway Company a written request that every such notice be mailed to him at a specified address, at the address so specified.

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#### ARTICLE FIVE

##### REDEMPTION OF GENERAL MORTGAGE BONDS, SERIES A.

Section 1. Any other redemption price in such Bonds provided to the contrary notwithstanding, General Mortgage Bonds, Series A, will be redeemable in whole or in part on any May 1 or November 1 during any calendar year in which, or in any part of which, the Interest Modification Period is in effect, at their principal amount plus any unpaid Fixed Interest accrued to the redemption date, plus any unpaid Contingent Interest payable in respect of the preceding calendar year, or part thereof, and plus interest at the rate of  $2\frac{1}{2}\%$  per annum from the preceding January 1 to the redemption date, and thereafter, on any May 1 or November 1, at their principal amount, plus accrued

interest at the rate of 4½% per annum to the redemption date, and plus any unpaid Contingent Interest payable in respect of the preceding calendar year, or part thereof.

Section 2. Notice of redemption of General Mortgage Bonds, Series A, shall be given at the times and in the manner as provided in ARTICLE FIVE of the General Mortgage and all of the provisions contained in said ARTICLE FIVE, except in so far as the same may in any respect be modified by the provisions of this Supplemental Indenture, shall be applicable to such redemption.

## ARTICLE SIX

### EXTENSION OF PRIOR DEBT BONDS.

Pursuant to said Chapter XV of the Bankruptcy Act, the provisions of the Decree approving and confirming provisions of the Plan in respect of the extension of maturity of the Refunding and Extension Mortgage Bonds of the Railway Company and the First Mortgage Bonds of Galveston Terminal Railway Company, have, insofar as the same may be inconsistent therewith, rendered inapplicable the covenants of the Railway Company in Section 6 of ARTICLE SIX of the General Mortgage to pay interest on and principal of prior debt bonds and other obligations secured by liens prior to the General Mortgage not held by the Trustee thereunder, and not to extend or renew the same; and said Decree operates in respect of such extensions, to terminate each and every right and remedy of the holders of General Mortgage Bonds, Series A, and the Trustee under the General Mortgage, whether arising under the General Mortgage or by operation of law or otherwise, consequent upon the

making of such extensions or the resulting non-payment of the principal of, or failure to take up and pledge under the General Mortgage, any Refunding and Extension Mortgage Bonds of the Railway Company or any First Mortgage Bonds of Galveston Terminal Railway Company, at the present respective maturity dates thereof.

## ARTICLE SEVEN

### MEETINGS OF AND ACTION BY BONDHOLDERS.

Section 1. For the purposes of this ARTICLE SEVEN, the term General Mortgage Bonds, Series A, shall not include any General Mortgage Bonds held in pledge by Reconstruction Finance Corporation.

Section 2. The Trustee may at any time, and shall, upon the written request of the Railway Company or of the holders of 10% in principal amount of the General Mortgage Bonds, Series A, then outstanding, and entitled under the provisions of this Supplemental Indenture to act on any matters in respect of which such meeting is to be called, call a meeting of the holders of the General Mortgage Bonds, Series A, for the purpose of considering and taking such action as may be determined upon in respect of matters as to which action by holders of General Mortgage Bonds, Series A, is contemplated by any of the following provisions of this Supplemental Indenture, to-wit: ARTICLE TWO, Section 2, Subdivisions (d) and (f); ARTICLE FOUR, Section 3; or ARTICLE FOUR, Section 4, Subdivision Second. In the event that the Trustee shall fail for ten days to call such a meeting, after being thereunto requested by the bondholders or the Railway Company as above set forth, holders of General Mort-

gage Bonds, Series A, entitled to act on any matters in respect of which such meeting is to be called to the amount above specified in this Section, or the Railway Company pursuant to resolution of its Board of Directors, may call such meeting. Every such meeting shall be held at the principal office of the Trustee in The City of New York, or, with the written approval of the Trustee and the Railway Company, at any other place in the United States, and notice of such meeting stating the place and time thereof and the purpose of such meeting shall be published by the Railway Company at least once a week for three successive calendar weeks immediately preceding such meeting, in a daily newspaper of general circulation published in the Borough of Manhattan, The City of New York, N. Y., and shall be mailed by the Railway Company not less than twenty days before such meeting (a) to each registered holder of General Mortgage Bonds, Series A, entitled to act on any matters in respect of which such meeting is to be called, addressed to such holder at the address of such holder as it appears on the registry books, (b) to each such holder of any General Mortgage Bonds, Series A, payable to bearer, who shall have filed with the Railway Company a written request that all such notices be mailed to him at a specified address, at the address so specified; provided, however, that the mailing of any such notice shall in no case be a condition to the validity of any action taken at such meeting.

Section 3. Officers and nominees of the Railway Company may attend such meeting but shall not be entitled to vote thereat. Attendance by bondholders may be in person or by proxy. In order that the holders of Bonds payable to bearer and their proxies may attend and vote without producing their Bonds, the Trustee, with respect to any such meeting shall make,

and may from time to time vary, such regulations as it shall think fit for the deposit or exhibition of Bonds with or to any banks, bankers or trust companies acceptable to the Trustee and for the issue to the persons depositing or exhibiting the same of certificates by such depositaries evidencing that such persons are the holders of such Bonds, and any regulations so made shall be binding and effective. Each such certificate shall state the date on which the Bond or Bonds in respect of which the same was issued were deposited with, or exhibited to the bank, banker or trust company issuing the certificate, and the distinctive numbers and principal amounts of such Bonds. No such certificate shall entitle the holder thereof to vote at any meeting upon any Bond if such Bond is produced at the meeting by any other person, is at the time of the meeting registered in the name of any other person, or has been surrendered in exchange for another Bond or Bonds. In the event that two or more such certificates with respect to the same Bond shall be presented at any such meeting, the certificate bearing the latest date shall be recognized and be deemed to supersede any certificate or certificates previously issued with respect to such Bond. No modification of any such regulations shall be made during the period from the date of first publication of notice of any such meeting to the final adjournment.

Section 4. Subject to the restrictions specified in Section 3 of this ARTICLE SEVEN, any registered holder of a General Mortgage Bond, Series A, entitled to act, and any holder of a certificate issued as provided in said Section 3, upon presentation of such certificate, shall be entitled in person or by proxy to attend and vote at any such meeting as the holder of the Bonds registered or certified in the name of such holder, with-

out producing such Bonds. All others seeking to attend or vote at any such meeting in person or by proxy must, if required by any authorized representative of the Trustee or the Railway Company, or by any other bondholder present in person or by proxy at such meeting, produce the Bonds in respect of which he claims the right to attend or vote at such meeting. Furthermore, all persons seeking to attend or vote at any such meeting shall, if required by any such representative or by any such bondholder, produce such further proof of Bond ownership or personal identity as shall be satisfactory to the authorized representative of the Trustee, or if none be present, then to the Inspectors of Votes. Proxies shall be acknowledged before a Notary Public or be proved by having the signature of the person executing the proxy witnessed or guaranteed by any bank, banker or trust company acceptable to the Trustee, and all proxies and certificates presented at any meeting shall be delivered to the Inspectors of Votes and filed with the Trustee.

Section 5. Persons named by the Trustee, if it is represented at the meeting, shall act as temporary Chairman and Secretary, respectively, of the meeting, but if the Trustee shall not be represented or shall fail to nominate such persons, or if any such persons so nominated shall not be present or shall refuse to act, the bondholders and proxies present shall by a majority vote determined by the amount of their holdings elect other persons from those present to fill such office or offices. A permanent Chairman and a permanent Secretary of such meeting shall be elected from those present by the bondholders and proxies present by a majority vote determined by the amount of their holdings. The Trustee if represented at the meeting shall appoint two Inspectors of Votes who shall count all votes cast at such meeting, and who shall make

and file with the Secretary of the meeting their verified written report, in duplicate, of all such votes so cast at said meeting. If the Trustee shall not be represented at such meeting or shall fail to nominate such Inspectors of Votes, or if either Inspector of Votes fails to act as such, the vacancy shall be filled by appointment by the permanent Chairman of the meeting.

Section 6. Action on any matter presented to any such meeting shall be taken by the holders, present at such meeting in person or by proxy, of such percentage in principal amount of the General Mortgage Bonds, Series A, and entitled to act on such matter, as may be elsewhere herein provided with respect to such action.

Section 7. A record, in duplicate, of the proceedings of each meeting of Bondholders shall be prepared by the Secretary of the meeting and shall have attached thereto the original report of the Inspectors of Votes and affidavits by one or more persons having knowledge of the facts showing that notice of such meeting has been given as herein provided. Such record shall be signed and verified by the affidavits of the permanent Chairman and the permanent Secretary of the meeting, and one duplicate thereof shall be delivered to the Railway Company and the other to the Trustee for preservation by the Trustee. Any record so signed and verified shall be proof of the matters therein stated, until the contrary is proved, and if such record shall also be signed and verified by the affidavit of a duly authorized representative of the Trustee, such meeting shall be deemed conclusively to have been duly convened and held and any resolution or action stated in such record to have been adopted or taken shall be deemed conclusively

to have been duly adopted or taken as set forth in such report.

Section 8. Any action in respect of matters as to which action by holders of a stated percentage of principal amount of General Mortgage Bonds, Series A, is contemplated or provided for herein may be taken by such holders individually, and whether or not notice as to such action shall have been given by publication or otherwise, with the same force and effect as if taken at a meeting of such holders convened and held as provided in this ARTICLE SEVEN. Any such action by such holders individually shall be evidenced by the execution by or on behalf of such holders of a single instrument or of any number of original counterparts, all of which when taken together shall constitute but one instrument, and which shall set forth the action so taken. Such instrument when so executed shall be deposited with the Trustee which shall promptly mail a complete copy thereof, certified by it to be a true copy, to the Railway Company. No action set forth in any such instrument shall be deemed validly taken by holders of General Mortgage Bonds, Series A, unless such holders shall comply with all reasonable regulations made by the Trustee for the deposit or exhibition of Bonds with or to banks, bankers or trust companies, and for the issue of certificates by such depositaries identifying the signatures of the holders of such Bonds so deposited or exhibited, and certifying to the principal amount of Bonds held by such persons. Any and all such certificates so establishing the identity of General Mortgage bondholders and the principal amounts of General Mortgage Bonds, Series A, held by such holders shall be filed with and retained by the Trustee which shall, upon request, exhibit them to representatives of the Railway Company.

**ARTICLE EIGHT****REMEDIES OF TRUSTEE AND BONDHOLDERS.**

**Section 1.** If any of the events described in Section 2 of **ARTICLE TWO** hereof shall occur at any time prior to November 1, 1954, the occurrence of such event shall not constitute a default under paragraph (5) of Section 2 of **ARTICLE EIGHT** of the General Mortgage, but in such event the Railway Company will, in respect of coupon bonds, provide for the detachment of certain coupons and the issuance of new coupons appurtenant to such coupon bonds in the manner provided for in Section 6 of **ARTICLE THREE** hereof. In the event that the Railway Company shall fail so to provide for a period of six months after written notice thereof shall have been given to the Railway Company by the Trustee or by the holders of ten per cent. in principal amount of the General Mortgage Bonds then outstanding, then such failure shall constitute an event of default under paragraph (5) of Section 2 of **ARTICLE EIGHT** of the General Mortgage.

**Section 2.** Paragraph (2) of Section 2 of **ARTICLE EIGHT** of the General Mortgage is hereby amended by adding thereto the following: "or default in the payment of any instalment of interest on the Series A Bonds hereby secured during the Interest Modification Period provided for and in accordance with the requirements specified in Article One of the Supplemental Indenture of the Railway Company to the Trustee, dated May 1, 1943, and such default shall have continued for the period of six months."

**Section 3.** Paragraph (3) of Section 2 of **ARTICLE EIGHT** of the General Mortgage is hereby amended by adding thereto the following: "or default in respect of Series A Bonds in the application of any amount

required to be applied to the Capital Fund during the Interest Modification Period provided for and in accordance with the requirements of Section 4 of Article Four of the Supplemental Indenture of the Railway Company to the Trustee, dated May 1, 1943, and such default shall have continued for the period of six months."

Section 4. Default by the Railway Company in the due and punctual observance or performance of any of the other covenants, conditions or agreements on the part of the Railway Company in this Supplemental Indenture contained shall have the same effect for all purposes and shall give rise to the same rights and remedies as if such covenants, conditions and agreements were contained in the General Mortgage.

Section 5. No action or failure to act on the part of the Railway Company pursuant to the Plan, or which, if the same occurred prior to the confirmation of the Plan, would have been expressly required or permitted by the Plan if the same had then been in effect, shall constitute a default or an event of default under the General Mortgage or under this Supplemental Indenture.

## ARTICLE NINE

### CONCERNING THE TRUSTEE.

The Trustee accepts the trusts of this Supplemental Indenture and agrees to execute the same but only upon the following additional terms and conditions, to all of which the parties hereto and the present and future holders and registered owners of General Mortgage Bonds, Series A, and the present and future bearers of appurtenant coupons agree:

- (a) The Trustee shall not be responsible in any way whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture

or the due execution hereof by the Railway Company or for or in respect of the recitals contained herein or in any legend stamped on General Mortgage Bonds, Series A, or coupons appurtenant thereto as hereinbefore provided, or in the Contingent Interest Coupons, or in any of them;

(b) The Trustee shall not be answerable or accountable for anything whatsoever in connection with this Supplemental Indenture or the performance thereof, except for its own wilful misconduct or gross negligence;

(c) The Trustee shall not be responsible for the recording, registration or filing of this Supplemental Indenture; and

(d) All the terms and provisions of the General Mortgage defining and limiting the liability and responsibility of the Trustee in the discharge of the trusts thereof shall, in like manner, define and limit its liability and responsibility in the performance of the trusts under this Supplemental Indenture as if expressly stated in this instrument.

## ARTICLE TEN

### MISCELLANEOUS PROVISIONS.

Section 1. Any instrument which it is herein provided shall be delivered to the Trustee shall be deemed to have been sufficiently delivered for all purposes by being deposited, postage prepaid, in a Post Office letter box addressed to the Trustee at its principal office in the Borough of Manhattan, The City of New York. Any instrument which it is herein provided shall be delivered to the Railway Company shall be deemed to have been sufficiently delivered for all purposes by being deposited, postage prepaid, in a Post Office letter-box, addressed to the Railway Company at

Chicago, Illinois or at such other address as may be filed in writing by the Railway Company with the Trustee.

Section 2. The provisions of this Supplemental Indenture shall become effective immediately upon the execution and delivery hereof and the General Mortgage shall thereupon be deemed to be supplemented and modified, as hereinbefore set forth, as fully and with the same effect as if the provisions hereof had been set forth in the General Mortgage and all references to the General Mortgage in the General Mortgage or in this Supplemental Indenture shall be deemed to mean the General Mortgage as supplemented and modified by this Supplemental Indenture, provided, however, that the provisions hereof shall not so operate as to render invalid or improper any action heretofore taken under the General Mortgage.

Section 3. The Railway Company covenants and agrees to effect such recording, registry or filing of this Supplemental Indenture as may be or become necessary or desirable by reason of any provision of law or otherwise for the benefit of the holders and registered owners of General Mortgage Bonds, Series A, and to pay any recording tax or other taxes or fees legally due upon such recording, registry or filing hereof and to comply with the requirements of every law affecting the due recording, registry or filing of this Supplemental Indenture.

Section 4. Nothing in this Supplemental Indenture or in the Contingent Interest Coupons or in any legend stamped on any General Mortgage Bond, Series A, or any coupon, as herein provided, is intended or shall be construed to give to any person or corporation other than the parties hereto, their respective successors and assigns, and the holders and registered owners of General Mortgage Bonds, Series A, and

holders of the coupons appurtenant thereto, any legal or equitable right, remedy or claim under or in respect of this Supplemental Indenture or under any covenant, condition or provision contained herein or in such Contingent Interest Coupons, or in any such legend, all covenants, conditions and agreements herein or therein being intended to be and being for the sole and exclusive benefit of the parties hereto, their respective successors and assigns, and of the holders and registered owners of General Mortgage Bonds, Series A, and the bearers of the coupons appurtenant thereto.

Section 5. Except as in this Supplemental Indenture and the Decree otherwise expressly provided, the lien and all the rights and remedies of the Trustee and of the holders of General Mortgage Bonds, Series A, shall be as provided in the General Mortgage and in the General Mortgage Bonds. Nothing in said Bonds, or in the General Mortgage, or in this Supplemental Indenture, shall be construed as changing or modifying the Decree, or as creating or continuing any right or remedy in conflict or inconsistent therewith.

Section 6. This Supplemental Indenture may be executed in any number of counterparts, each of which shall be and shall be taken to be an original.

IN WITNESS WHEREOF, THE COLORADO AND SOUTHERN RAILWAY COMPANY, party hereto of the first part, has caused this Supplemental Indenture to be signed and acknowledged or proved by its President or one of its Vice-Presidents and its corporate seal hereunto to be affixed and to be attested by the signature of its Secretary or one of its Assistant Secretaries, and THE FIRST NATIONAL BANK OF THE CITY OF NEW YORK, party hereto of the second part, has caused this Supplemental Indenture to be signed and acknowledged or proved by its President or one of its Vice-Presidents

and its corporate seal to be hereunto affixed and to be attested by the signature of its Cashier or one of its Assistant Cashiers, all as of the day and year first hereinabove written.

THE COLORADO AND SOUTHERN RAILWAY  
COMPANY,

(SEAL)

By (Sgd.) RALPH BUDD,  
*President.*

ATTEST:

(Sgd.) EDITH J. ALDEN,  
*Assistant Secretary.*

Signed, sealed and delivered as to The Colorado  
and Southern Railway Company in the presence of:

(Sgd.) J. C. JAMES,  
(Sgd.) R. T. CUBBAGE,

*Witnesses:*

THE FIRST NATIONAL BANK OF THE CITY  
OF NEW YORK,

(SEAL)

By (Sgd.) HENRY S. STURGIS,  
*Vice President.*

ATTEST:

(Sgd.) C. R. BEATTIE,  
*Assistant Cashier.*

Signed, sealed and delivered as to The First National  
Bank of the City of New York in the presence of:

(Sgd.) T. A. DOOLING,  
(Sgd.) F. J. CRAWFORD,

*Witnesses:*

STATE OF ILLINOIS, }  
 COOK COUNTY. } ss.

I, A. D. MCLANE, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, DO HEREBY CERTIFY that on this 2nd day of October, A. D. 1943, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, Ralph Budd and Edith J. Alden, each to me personally known and known to me to be respectively the President and the Assistant Secretary of The Colorado and Southern Railway Company, one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such President and Assistant Secretary respectively in my presence and in the presence of the two witnesses whose names are thereunto subscribed as such, and the said Ralph Budd and Edith J. Alden, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said Ralph Budd resides in the City of Chicago, and the said Edith J. Alden resides in the Village of La Grange, both in the State of Illinois, that said Ralph Budd is the President and said Edith J. Alden is the Assistant Secretary of The Colorado and Southern Railway Company, one of the corporations described in and

which executed the within and foregoing instrument in writing; that they, the said Ralph Budd and Edith J. Alden, know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as President and Assistant Secretary in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such notary public, in the said County of Cook, State of Illinois, this the day and year in this my certificate first above written.

My commission as such Notary Public expires 3/20/47.

(Sgd.) A. D. McLANE,  
*Notary Public.*

(NOTARIAL SEAL)

STATE OF ILLINOIS }  
 COUNTY OF COOK } ss.

I, MICHAEL J. FLYNN, County Clerk of the County of Cook, Do HEREBY CERTIFY that I am the lawful custodian of the official records of Notaries Public of said County, and as such officer am duly authorized to issue certificates of magistracy, that A. D. MCLANE, whose name is subscribed to the proof of acknowledgment of the annexed instrument in writing, was, at the time of taking such proof of acknowledgment, a Notary Public in and for Cook County, duly commissioned, sworn and acting as such and authorized to take acknowledgments and proofs of deeds or conveyances of lands, tenements or hereditaments, in said State of Illinois, and to administer oaths; all of which appears from the records and files in my office; that I am well acquainted with the handwriting of said Notary and verily believe that the signature to the said proof of acknowledgment is genuine.

The law of Illinois does not require the impression of the Seal of a Notary Public to be filed in the County Clerk's Office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the County of Cook at my office in the City of Chicago, in the said County, this 2nd day of Oct., 1943.

(Sgd.) MICHAEL J. FLYNN,  
*County Clerk.*

(SEAL)

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

I, ROBERT S. JACKSON, a Notary Public in and for the State and County aforesaid, residing therein, duly commissioned, sworn and qualified as such, and duly authorized to take and certify acknowledgments and proofs of deeds and conveyances of lands, tenements and hereditaments in said County, Do HEREBY CERTIFY that on this 6th day of October, A. D. 1943, personally appeared before me within said County, and in the presence of the two witnesses whose names are subscribed as such to the within and foregoing instrument, HENRY S. STURGIS and C. R. BEATTIE, each to me personally known and known to me to be respectively Vice President and Asst. Cashier of The First National Bank of the City of New York, one of the corporations described in and which executed the within and foregoing instrument in writing, and known to me to be the identical persons who subscribed their names to and who executed said instrument as such Vice President and Asst. Cashier, respectively, in my presence and in the presence of the two witnesses whose names are hereunto subscribed as such, and the said HENRY S. STURGIS and C. R. BEATTIE, being by me severally duly sworn, did on oath, each for himself and not one for the other, severally depose and say and acknowledge in the presence of said witnesses that the said HENRY S. STURGIS resides in Cedarhurst in the State of New York, and that the said C. R. BEATTIE resides in Rumson in the State of New Jersey; that said HENRY S. STURGIS is Vice President and said C. R. BEATTIE is an Assistant Cashier of The First National Bank of the City of New York, one of the corporations de-

scribed in and which executed the within and foregoing instrument in writing; that they the said HENRY S. STURGIS and C. R. BEATTIE know the corporate seal of said corporation; that the seal affixed to said instrument as the seal of said corporation is such corporate seal; that it was so affixed thereto and that said instrument was signed and sealed and executed in behalf of said corporation by order and authority of the Board of Directors of said corporation, and that they and each of them signed their names to the foregoing instrument in their respective capacities as Vice President and Assistant Cashier in behalf of said corporation by like order and authority, and were authorized to execute said instrument; that they signed, sealed, executed and delivered the said instrument as their own free and voluntary act and deed and as the free and voluntary act and deed of said corporation for the consideration, objects, uses and purposes, therein stated and set forth; and they severally duly acknowledged to me said instrument to be the free act and deed of said corporation, and that such corporation executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, subscribed my name and affixed my official seal as such notary public, in the said County of New York, State of New York, this the day and year in this my certificate first above written.

My commission as such Notary Public expires 3/30/45.

(Sgd.) ROBERT S. JACKSON.

(NOTARIAL SEAL)

ROBERT S. JACKSON  
Notary Public, New York County  
N. Y. Co. Clk's No. 111 Reg. No. 148J5—  
Commission Expires March 30, 1945

Form 1  
No.

*State of New York,* }  
*County of New York,* } ss.:

I, ARCHIBALD R. WATSON, County Clerk and Clerk of the Supreme Court, New York County, the same being a Court of Record having by law a seal, DO HEREBY CERTIFY, That ROBERT S. JACKSON, whose name is subscribed to the annexed deposition, certificate of acknowledgment or proof, was at the time of taking the same a NOTARY PUBLIC in and for said County, duly commissioned and sworn and qualified to act as such and authorized by the laws of the State of New York to protest notes, to take and certify depositions, to administer oaths and affirmations and certify the acknowledgment or proof of deeds and other written instruments for lands, tenements and hereditaments, to be read in evidence or recorded in this State. And further that I am well acquainted with the handwriting of such Notary Public, or have compared the signature of such officer with his autograph signature filed in my office, and believe that the signature to the said annexed instrument is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court and County this 7 day of Oct., 1943.

(SEAL)

(Sgd.) ARCHIBALD R. WATSON,  
*County Clerk and Clerk of the  
Supreme Court, New York County.*

**APPENDIX A.**

**IN THE  
District Court of the United States  
FOR THE DISTRICT OF COLORADO.**

**In the Matter  
of  
THE COLORADO AND SOUTHERN  
RAILWAY COMPANY,  
Petitioner.** } **In Proceedings for a  
Railroad Adjustment  
No. 11842**

**FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND DECREE APPROVING AND CONFIRMING  
PLAN OF ADJUSTMENT.**

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This cause having come on for further hearing pursuant to Order No. 1 heretofore entered herein on December 15, 1942, and to due notice given as therein ordered, and to Order No. 2 in this cause entered January 25, 1943, continuing the hearing herein to March 3, 1943, before the Special Court of three Judges assembled pursuant to Section 266 of the Judicial Code, as amended, and Chapter XV of the Act of Congress entitled "An Act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, and the acts amendatory thereof and supplementary thereto, and particularly the amendatory Act of October 16, 1942, on the Petition of The Colorado and Southern Railway Company (hereinafter called Petitioner), verified November 7, 1942, and filed herein November 9, 1942, stating that the Petitioner is unable to meet its debts matured, or about to mature, and that it desires to carry out a Plan of Adjustment for Extension of Maturities and Modification of Interest Charges, dated June 30, 1942 (hereinafter called the Plan), pursuant to said Chapter XV

of said Act, and is submitted to said Special Court on said Petition, the answer of the intervenors, and all other pleadings and files herein, the evidence adduced, the oral proceedings had before said Court, the record in the cause, and the arguments of counsel, the Special Court, on consideration thereof, and being now fully advised, and having filed an opinion herein setting forth its conclusions and the reasons therefor, now on this day makes the following

**FINDINGS OF FACT:**

1. Petitioner is a railroad corporation duly organized and existing under the laws of the State of Colorado; is a citizen and resident of said State; and now has, and for many years prior to the filing of said Petition continuously has had, its principal operating office in the City and County of Denver and State of Colorado.

2. Petitioner is a common carrier by railroad engaged in the transportation of persons and property in interstate and intrastate commerce in the States of Colorado, Wyoming and New Mexico, and is a "carrier" as defined in Section 20a of the Interstate Commerce Act.

3. Petitioner is not now, and within ten years prior to the filing of said Petition has not been, in equity receivership or in process of reorganization under Section 77 of the Bankruptcy Act, or in proceedings for reorganization thereunder.

4. (a) Petitioner operates approximately 750 miles of line owned and leased by it in Wyoming, Colorado and New Mexico to the New Mexico-Texas state line. The lines thus operated are subject to two mortgages as follows:

(c) Petitioner owns more than 99 per cent of the outstanding capital stock of Fort Worth and Denver City Railway Company and owns all the capital stock of Fort Worth and Denver South Plains Railway Company, Fort Worth and Denver Northern Railway Company, and Fort Worth and Denver Terminal Railway Company. Fort Worth and Denver City Railway Company also operates (1) between Fort Worth and Dallas, Texas, under trackage contract with The Chicago, Rock Island and Gulf Railway Company, (2) between Dallas and Waxahachie, Texas, jointly with The Chicago, Rock Island and Gulf Railway Company under trackage contract with Missouri-Kansas-Texas Railroad Company of Texas; (3) between Waxahachie and Teague, Texas, jointly with The Chicago, Rock Island and Gulf Railway Company under lease from Burlington-Rock Island Railroad Company; and (4) uses jointly with other proprietary lines the terminal facilities of The Union Terminal Company (of Dallas), one-eighth of the capital stock of which is owned by the Fort Worth and Denver City Railway Company.

(d) The railroad of the Fort Worth and Denver City Railway Company is subject to a First Mortgage dated December 1, 1935, securing \$8,176,000 First Mortgage 4½ per cent Bonds due December 1, 1961, which bonds are pledged with Reconstruction Finance Corporation as collateral for note of the Fort Worth and Denver City Railway Company for the same principal amount, dated October 21, 1936, and due October 21, 1946, bearing interest at the rate of 4 per cent on which the balance of unpaid principal is \$8,000,000.

(e) Fort Worth and Denver South Plains Railway Company, Fort Worth and Denver Northern Railway Company, and Fort Worth and Denver Terminal Rail-

(c) Petitioner owns more than 99 per cent of the outstanding capital stock of Fort Worth and Denver City Railway Company and owns all the capital stock of Fort Worth and Denver South Plains Railway Company, Fort Worth and Denver Northern Railway Company, and Fort Worth and Denver Terminal Railway Company. Fort Worth and Denver City Railway Company also operates (1) between Fort Worth and Dallas, Texas, under trackage contract with The Chicago, Rock Island and Gulf Railway Company, (2) between Dallas and Waxahachie, Texas, jointly with The Chicago, Rock Island and Gulf Railway Company under trackage contract with Missouri-Kansas-Texas Railroad Company of Texas; (3) between Waxahachie and Teague, Texas, jointly with The Chicago, Rock Island and Gulf Railway Company under lease from Burlington-Rock Island Railroad Company; and (4) uses jointly with other proprietary lines the terminal facilities of The Union Terminal Company (of Dallas), one-eighth of the capital stock of which is owned by the Fort Worth and Denver City Railway Company.

(d) The railroad of the Fort Worth and Denver City Railway Company is subject to a First Mortgage dated December 1, 1935, securing \$8,176,000 First Mortgage 4½ per cent Bonds due December 1, 1961, which bonds are pledged with Reconstruction Finance Corporation as collateral for note of the Fort Worth and Denver City Railway Company for the same principal amount, dated October 21, 1936, and due October 21, 1946, bearing interest at the rate of 4 per cent on which the balance of unpaid principal is \$8,000,000.

(e) Fort Worth and Denver South Plains Railway Company, Fort Worth and Denver Northern Railway Company, and Fort Worth and Denver Terminal Rail-

way Company have no bonds or other securities or indebtedness outstanding in the hands of the public, but Fort Worth and Denver South Plains Railway Company owes Petitioner \$7,634,508.82 for construction advances; Fort Worth and Denver Northern Railway Company owes Petitioner \$4,215,711.66 for construction advances, of which \$4,182,091.26 is evidenced by a note; and Fort Worth and Denver Terminal Railway Company owes Petitioner \$728,000 advanced by Petitioner to pay the First Mortgage Bonds of said Terminal Company which matured December 1, 1937, and also owes Fort Worth and Denver City Railway Company \$290,319.93 for construction advances.

(f) The Refunding and Extension Mortgage of Petitioner is a first lien on 92,291 shares of the capital stock of the Fort Worth and Denver City Railway Company owned by Petitioner.

(g) The General Mortgage of Petitioner is a first lien on 116 shares of the capital stock of the Fort Worth and Denver City Railway Company; on all the capital stock of Fort Worth and Denver South Plains Railway Company, and on the \$7,634,508.82 indebtedness of said Company to Petitioner, and on the capital stock of Fort Worth and Denver Terminal Railway Company, and on the \$728,000 indebtedness of said Company to Petitioner.

(h) All the capital stock and the note of \$4,182,091.26 of Fort Worth and Denver Northern Railway Company are pledged with Reconstruction Finance Corporation as collateral for the obligations of Petitioner.

(i) The Wichita Valley Railway Company owns and operates approximately 52 miles of railroad between Seymour and Wichita Falls, Texas, where it connects with the Fort Worth and Denver City Railway Com-

pany. The Wichita Valley Railway Company also operates, under lease, the properties of each of the following companies, which connect with it or with each other:

Wichita Valley Railroad Company (which owns approximately 60 miles of railroad between Seymour and Stamford, Texas);

Abilene and Northern Railway Company (which owns approximately 38 miles of railroad between Stamford and Abilene, Texas);

Stamford and Northwestern Railway Company (which owns approximately 82 miles of railroad between Stamford and Spur, Texas).

(j) Petitioner owns all the capital stock and all the mortgage bonds of The Wichita Valley Railway Company and the three other companies whose lines it operates, above enumerated. The Refunding and Extension Mortgage of Petitioner is a first lien on all the capital stocks and bonds of The Wichita Valley Railway Company and its three lesser Companies.

(k) Petitioner owns one-half of the capital stock, bonds and receivership certificates of Burlington-Rock Island Railroad Company, which owns approximately 225 miles of railroad between Waxahachie and Houston, Texas, of which approximately 67 miles between Waxahachie and Teague, Texas, are operated jointly under lease by Fort Worth and Denver City Railway Company and the Trustees of The Chicago, Rock Island and Pacific Railway Company. Said Burlington-Rock Island Railroad Company operates its owned line between Teague and Houston, approximately 143 miles, and from Houston to Galveston approximately 47 miles under trackage contract with the Gulf, Colorado and Santa Fe Railway Company; also owns a proprietary interest in the Houston Belt

& Terminal Railway Company and uses the terminal facilities of Galveston Terminal Railway Company under lease. The Refunding and Extension Mortgage of Petitioner is a first lien on Petitioner's one-half of the capital stock and securities of Burlington-Rock Island Railroad Company.

(l) Petitioner owns one-half of the capital stock of Galveston Terminal Railway Company and has guaranteed payment of principal of and interest on the \$546,000 First Mortgage 5% Bonds of said company owned by Reconstruction Finance Corporation, which bonds Petitioner heretofore contracted to repurchase from Reconstruction Finance Corporation on or before March 1, 1944. Petitioner's General Mortgage is a first lien on said one-half of said capital stock owned by Petitioner and upon Petitioner's one-fourth of the capital stock of Pueblo Union Depot and Railroad Company, a terminal company in Pueblo, Colorado.

(m) The General Mortgage of Petitioner is a second lien on substantially all the property and securities of the Petitioner on which the Refunding and Extension Mortgage is a first lien.

(n) The outstanding capital stock of Petitioner consists of 85,000 shares of First Preferred stock, 85,000 shares of Second Preferred stock, and 310,000 shares of Common stock; each share has a par value of \$100 and equal voting rights. The First Preferred is entitled to dividends, when earned and declared for any year, to the amount of 4 per cent before dividends on the remaining stock, and the Second Preferred is entitled to dividends, when earned and declared for any year, to the amount of 4 per cent, before any dividends on the Common. Chicago, Burlington & Quincy Railroad Company owns 70.7% of the total capital stock of Petitioner.

5. Petitioner has prepared a Plan of Adjustment for Extension of Maturities and Modification of Interest Charges, dated June 30, 1942, which was made a part of its said Petition and introduced in evidence, the adjustment provided thereby being in words and figures as follows:

**"I.**

**"EXTENSION OF THE MATURITY OF OBLIGATIONS OF THE RAILWAY COMPANY AND OF CERTAIN OF ITS AFFILIATED SYSTEM COMPANIES HELD BY RECONSTRUCTION FINANCE CORPORATION.**

"The respective maturity dates of the following obligations of The Colorado and Southern Railway Company, herein called the Railway Company, Fort Worth and Denver City Railway Company, Galveston Terminal Railway Company and Fort Worth and Denver Northern Railway Company, all of which are presently held by Reconstruction Finance Corporation, will be extended as follows:

"(a) The maturity of the \$28,015,700, principal amount, of Refunding and Extension Mortgage 4½ Per Cent Bonds of the Railway Company, will be extended from May 1, 1945, their present maturity date, to January 1, 1955; and the obligation of the Railway Company to purchase the \$27,015,700, principal amount, of said Refunding and Extension Mortgage Bonds owned by Reconstruction Finance Corporation, now maturing January 1, 1945, will be extended to January 1, 1955;

"(b) The maturity of the 4 per cent promissory note of Fort Worth and Denver City Railway Company dated October 21, 1936, in the principal amount of \$8,176,000, on which the balance of unpaid principal on June 1, 1942, was \$8,000,000, made to Reconstruction Finance Corporation in connection with the 1936 refinancing of the First Mortgage Bonds of Fort Worth and Denver City

Railway Company, as noted below, will be extended from October 21, 1946, its present maturity date, to January 1, 1955.

“(c) The maturity of the \$546,000, principal amount, of First Mortgage 5 Per Cent Bonds of Galveston Terminal Railway Company, owned by Reconstruction Finance Corporation, the payment of the principal of and interest on which has been guaranteed by the Railway Company, will be extended from March 1, 1948, their present maturity date, to January 1, 1955; and the obligation of the Railway Company to purchase said First Mortgage Bonds from Reconstruction Finance Corporation, now maturing March 1, 1944, will be extended to January 1, 1955;

“(d) The maturity of the 5 per cent promissory note of the Railway Company, dated May 5, 1938, in the principal amount of \$525,500, on which the balance of unpaid principal on June 1, 1942 was \$445,659.32, (made to Reconstruction Finance Corporation in connection with the 1938 refinancing of the First Mortgage Bonds of the Galveston Terminal Railway Company as noted above) will be extended from March 1, 1944, its present maturity date, to January 1, 1955;

“(e) The maturity of the 6 per cent promissory note of Fort Worth and Denver Northern Railway Company, dated April 27, 1935, in the principal amount of \$4,182,091.26, owned by the Railway Company and by it pledged with Reconstruction Finance Corporation as security for the performance of the obligations of the Railway Company to Reconstruction Finance Corporation, will be extended from May 1, 1945, its present maturity date, to January 1, 1955.

“During the Interest Modification Period, hereinafter defined, Reconstruction Finance Corporation will not collect any interest on any of the securities pledged to secure the obligations to Reconstruction Finance Corporation of the Railway Company or of Fort Worth and Denver City Rail-

way Company or of Galveston Terminal Railway Company prior to a default in the performance of the obligation or obligations to secure which the same are respectively pledged.

**"II.**

**"MODIFICATION OF INTEREST ON THE REFUNDING AND EXTENSION MORTGAGE BONDS AND ON THE GENERAL MORTGAGE BONDS OF THE RAILWAY COMPANY.**

**"1. *Modification of Interest on the Bonds of the Railway Company:***

"During the Interest Modification Period, hereinafter defined:

"(a) Interest on the \$28,015,700, principal amount, of Refunding and Extension Mortgage Bonds of the Railway Company will be reduced from the present rate of  $4\frac{1}{2}$  per cent per annum to a maximum of 4 per cent per annum, and the obligation of the Railway Company in respect of such reduced interest will be further modified so that interest at the rate of  $2\frac{1}{2}$  per cent per annum on each such Bond, herein called Fixed Interest, will continue as a fixed charge obligation, payable at the times hereinafter provided, and interest at the rate of up to  $1\frac{1}{2}$  per cent per annum on each such Bond, herein called Contingent Interest, will be contingently payable, and non-cumulative, as hereinafter provided; and

"(b) Interest on the \$24,918,000, principal amount, of General Mortgage Bonds of the Railway Company will be reduced from the present rate of  $4\frac{1}{2}$  per cent per annum to a maximum of 4 per cent per annum, and the obligation of the Railway Company in respect of such reduced interest will be further modified so that interest at the rate of  $1\frac{1}{2}$  per cent per annum on each such Bond, herein called Fixed Interest, will continue as a fixed charge obligation, payable at the times hereinafter provided, and interest at the rate of up to  $2\frac{1}{2}$  per cent per annum on each such bond.

herein called Contingent Interest, will be contingently payable, and non-cumulative, as hereinafter provided.

"The Interest Modification Period will be the period commencing as of November 1, 1941 and terminating as of November 1, 1954, except that if any of the events mentioned in subdivision 5 of this Article II shall occur at any time prior to said November 1, 1954, the Interest Modification Period will terminate as of the May 1 or November 1, as the case may be, next preceding the happening of such event.

"From and after the termination date of the Interest Modification Period, interest on the Refunding and Extension Mortgage Bonds and on the General Mortgage Bonds bound by the Plan will again accrue, as a fixed charge obligation of the Railway Company, at the rate of 4½ per cent per annum, and will be payable semi-annually on May 1 and November 1 of each year. The termination of the Interest Modification Period will not affect any of the extensions proposed in Article I hereof, or any of the modifications proposed in Article III hereof, except that the redemption prices of the Refunding and Extension Mortgage Bonds and the General Mortgage Bonds will change upon the termination of the Interest Modification Period, as provided in subdivisions 1(b) and 2(b), respectively, of said Article III, and except that after the termination of the Interest Modification Period the Sinking Fund provisions referred to in subdivision 1(a) of said Article III will again become operative as provided therein.

"The Plan does not impair the lien of either the Refunding and Extension Mortgage or the General Mortgage and does not reduce the principal amount of any bond or obligation of the Railway Company. The Plan makes no change in the par value or number of shares of any of the several classes of capital stock of the Railway Company but allocates, as provided in Subdivision 4 of Ar-

ticle II, to the retirement of debt and the other purposes provided therein any earnings which otherwise might have been available for dividends.

"The Plan does not contemplate change of control of the Railway Company except as provided in Subdivision 5 of Article II hereof.

**"2. *Payment of Fixed Interest and Contingent Interest:***

"Fixed Interest on the Refunding and Extension Mortgage Bonds and on the General Mortgage Bonds bound by the Plan will, in each case, be payable semi-annually on May 1, and November 1, in each year.

"Contingent Interest on the Refunding and Extension Mortgage Bonds and on the General Mortgage Bonds bound by the Plan will, in each case, be payable on May 1 of each year, out of, but only to the extent of, the Available Net Income of the Railway Company, determined as hereinafter provided, for the preceding calendar year, or that part of the preceding calendar year, in respect of which Contingent Interest is contingently payable, and applicable to the payment of Contingent Interest on the Refunding and Extension Mortgage Bonds and to the payment of Contingent Interest on the General Mortgage Bonds bound by the Plan, respectively, as provided in subdivision 4 of this Article II.

"Regardless of the foregoing, the Fixed Interest and any Contingent Interest which, had the Plan been in effect, would have been payable on a May 1 or a November 1 prior to the consummation of the Plan, will be payable on the consummation of the Plan as hereinafter provided, unless the Railway Company shall have paid such interest earlier as hereinafter permitted.

"The Contingent Interest on the Refunding and Extension Mortgage Bonds and the Contingent Interest on the General Mortgage Bonds bound

by the Plan will be non-cumulative, that is to say, if the Available Net Income of the Railway Company, determined as hereinafter provided, for any calendar year, or that part of any calendar year, in respect of which Contingent Interest is contingently payable on the Refunding and Extension Mortgage Bonds, and applicable to the payment of Contingent Interest thereon as provided in subdivision 4 of this Article II, shall not be sufficient to pay Contingent Interest at the rate of  $1\frac{1}{2}$  per cent per annum on the Refunding and Extension Mortgage Bonds as to which Contingent Interest is contingently payable in respect of such calendar year, or part thereof, or if the Available Net Income of the Railway Company, determined as hereinafter provided, for any calendar year, or that part of any calendar year, in respect of which Contingent Interest is contingently payable on the General Mortgage Bonds and applicable to the payment of Contingent Interest thereon, as provided in subdivision 4 of this Article II, shall not be sufficient to pay Contingent Interest at the rate of  $2\frac{1}{2}$  per cent per annum on the General Mortgage Bonds as to which Contingent Interest is contingently payable in respect of such calendar year, or part thereof, then, in either case, the deficiency, whether total or partial, shall not thereafter be payable.

“Anything herein to the contrary notwithstanding, no payment of Contingent Interest on either the Refunding and Extension Mortgage Bonds or the General Mortgage Bonds need be made if the amount of Available Net Income applicable to the payment thereof is less than one-fourth of one per cent of the principal amount of the Refunding and Extension Mortgage Bonds or of the General Mortgage Bonds, respectively, in respect of which such Contingent Interest is payable, and no payment of Contingent Interest need be made in multiples of less than one-eighth of one per cent. Any amount applicable to the payment of Contingent Interest on either the Refunding

and Extension Mortgage Bonds or the General Mortgage Bonds, but not paid on any Contingent Interest payment date because of the provision in the next preceding sentence, shall be reserved and added to the respective amounts otherwise applicable to the payment of Contingent Interest on such Bonds, respectively, next becoming payable.

**"3. Determination of Available Net Income:**

"Available Net Income of the Railway Company will be determined for each calendar year, or part thereof, in respect of which Contingent Interest is contingently payable on either the Refunding and Extension Mortgage Bonds or the General Mortgage Bonds, such determination to be made by the Railway Company within three months after the termination of such calendar year.

"Available Net Income for each such calendar year will be determined by deducting from the income of the Railway Company available for fixed charges for such calendar year (determined in accordance with the accounting rules and classifications of the Interstate Commerce Commission or other similar Federal authority having jurisdiction in the premises at the time in force, or, to the extent not so governed, in accordance with sound accounting practice) :

"(a) All fixed charges of the Railway Company accrued during such calendar year; and

"(b) All other charges properly deductible from such income in determining income after fixed charges under such accounting rules, classifications or practice.

"Available Net Income for any part of any calendar year will be that fraction of the total Available Net Income for such calendar year which such part of the calendar year is of the entire calendar year.

"Available Net Income for each such calendar year will be determined as the accounts shall be stated on the books of the Railway Company for such year, without adjustments, except that (1) if, in respect of any calendar year, the income of the Railway Company available for fixed charges shall be inadequate to meet the amounts specified in (a) and (b) above, the amount of such deficit may, in the discretion of the Board of Directors of the Railway Company be carried forward and be deducted in determining Available Net Income for the succeeding calendar year or calendar years until such deficit (or accumulated or remaining deficits) has been made up by earnings which, in the absence of such deficit or deficits, would have been Available Net Income; and (2) any adjustment necessary to correct the Income Account of the Railway Company for any prior year shall be made by appropriate entries, and may either be made in the accounts of the current year, unless such making of such entries would be in violation of the applicable orders, rules, and regulations of the Interstate Commerce Commission or such other Federal authority, if any, as at the time may have jurisdiction over the accounting practices of the Railway Company, or in the discretion of the Board of Directors of the Railway Company and with the approval of the Interstate Commerce Commission or such other Federal authority, if any, may be made in whole or in part in the accounts of any subsequent year or years, and in computing the Available Net Income of the Railway Company for any calendar year, any such debits or credits made in the accounts of that year to adjust entries in the income account of prior years shall, whether cleared through income or profit and loss accounts, be treated as income items for the year in which entered on the books, except that adjustments for any year or years prior to the year 1941, shall be treated as income items in any subsequent year in so far, but only in so far

as such debits and credits reflect cash receipts or disbursements in the year in which they are entered on the books.

"In the event that the properties of the Railway Company shall be unified with those of any other corporation or corporations, Available Net Income of the Railway Company shall continue to be determined by deducting from the income available for fixed charges from the properties of the Railway Company all charges and other items in respect of the properties of the Railway Company within the categories set forth in (a) and (b) above, without inclusion of the income available for fixed charges from, or deduction of the charges and other items, within such categories, in respect of, the properties of such other corporation or corporations, or in the alternative, unless request to the contrary shall be made in writing by or on behalf of holders of a majority in principal amount of the Refunding and Extension Mortgage Bonds or of the General Mortgage Bonds bound by the Plan, Available Net Income may be determined by deducting from the aggregate of the income, from the properties of the Railway Company and from the properties of such other corporation or corporations, available for fixed charges of the Railway Company and such other corporation or corporations, all charges of, and other items in respect of, the Railway Company and of such other corporation or corporations, within the categories set forth in subparagraphs (a) and (b) above. If such income of the properties of such other corporation or corporations shall be excluded in whole or in part in determining Available Net Income, provision may be made with the written consent by or on behalf of holders of a majority in principal amount of the Refunding and Extension Mortgage Bonds and a majority in principal amount of the General Mortgage Bonds bound by the Plan, respectively, for determining Available Net Income of the Railway Company without the maintenance of separate accounts.

**"4. Application of Available Net Income:**

"Available Net Income of the Railway Company for each such calendar year, or part thereof, of the Interest Modification Period, determined as hereinabove provided, will be applied to the following purposes and in the following order:

"First: To the pro rata payment of the Contingent Interest payable in respect of such calendar year, or part thereof, on the Refunding and Extension Mortgage Bonds in respect of which Contingent Interest is payable;

"Second: \$300,000 in each such calendar year, beginning with the calendar year 1942,\* to the establishment of a Capital Fund, unless in any such calendar year the Railway Company shall make charges against Income for depreciation of roadway and structures in which event there shall be applied to the Capital Fund \$300,000 less the amount, if any, by which such depreciation charges against Income for such calendar year shall exceed the cost of retirements charged in such calendar year to surplus or accounts other than Income but which under the present accounting rules, classifications and regulations of the Interstate Commerce Commission would be chargeable to Income; provided that if the amount of Available Net Income of the Railway Company applicable to the Capital Fund for any calendar year shall be less than said \$300,000, or such lesser amount, such deficit amount shall be carried forward and the amount which may be applied to the Capital Fund in the succeeding calendar year will be increased by the amount of such deficit; but in no event shall the amount applied to the Capital Fund in any calendar year be in excess of the amount necessary to increase the then unappropriated amount in the Capital Fund to \$600,000. Regardless of the foregoing, with the consent by or on behalf of holders of 60 per cent in

\* No part of the Available Net Income of the Railway Company for the calendar year 1941 will be applied to the Capital Fund.

principal amount of the General Mortgage Bonds bound by the Plan, the amount hereinabove provided to be applied to the Capital Fund may be increased by the Railway Company at any time and from time to time to such larger amount as shall be so approved by such holders. Such Capital Fund shall be applied as shall be from time to time determined by the Board of Directors of the Railway Company either to provide for or to reimburse the Treasury of the Railway Company for all or any part of the cost to the Railway Company of capital investments, as hereinafter defined, remaining after deducting from such cost all retirements of roadway and structures charged against Income in such calendar year, with proper adjustments for donations and other items not involving a cash outlay by the Railway Company, such capital investments to be as defined by the Interstate Commerce Commission's Classification of Income, Profit and Loss, and General Balance Sheet Accounts for Steam Roads, Account No. 701, Investment in Road and Equipment, 702, Improvements in Leased Railway Property, and 705, Miscellaneous Physical Property, or advances to subsidiaries for expenditures which if made directly by the Railway Company in respect of its own and leased properties would be chargeable to said accounts, or such substituted accounts as may at the time be in effect, and to the extent not required for the foregoing to the payment of fixed charges for any period in respect of which such fixed charges are not earned, but only to the extent to which such fixed charges are not earned. To the extent that such Capital Fund is used for the payment of fixed charges, the Capital Fund shall be reimbursed before Available Net Income is applied as provided in the next succeeding paragraphs THIRD and FOURTH hereof;

"THIRD: To the pro rata payment of the Contingent Interest payable in respect of such calendar year, or part thereof, on the General Mortgage

Bonds in respect of which Contingent Interest is payable;

"FOURTH: So long as the Railway Company is obligated to Reconstruction Finance Corporation, all remaining Available Net Income for such calendar year, or part thereof, will be applied as shall from time to time be required or permitted by Reconstruction Finance Corporation, (1) to the purchase of Refunding and Extension Mortgage Bonds at not exceeding the then applicable redemption price to be provided in the Supplemental Indenture to the Refunding and Extension Mortgage hereafter provided for, or (2) to the purchase of Galveston Terminal Bonds at not exceeding their principal amount plus accrued interest, or, (3) to the retirement of other debt of the Railway Company, or, (4) to the replenishing or increasing of working capital of the Railway Company.

"After the Railway Company no longer is obligated to Reconstruction Finance Corporation, and so long as any of the Refunding and Extension Mortgage Bonds remain outstanding, all of such remaining Available Net Income will be applied to the purchase of Refunding and Extension Mortgage Bonds, at not exceeding the then applicable redemption price to be provided in the Supplemental Indenture to the Refunding and Extension Mortgage hereinafter provided for, and to the extent not so applied (unless such amount shall be less than \$25,000) to the redemption of Refunding and Extension Mortgage Bonds on the November 1 following the calendar year in which such Available Net Income was earned, at the then applicable redemption price and in the manner to be provided in said Supplemental Indenture to the Refunding and Extension Mortgage. After all the Refunding and Extension Mortgage Bonds have been retired, all of such remaining Available Net Income will be applied to the purchase of General Mortgage Bonds, at not exceeding their

present redemption price, plus accrued interest, and to the extent not so applied (unless such amount shall be less than \$25,000) to the redemption of General Mortgage Bonds on the November 1 following the calendar year in which such Available Net Income was earned, at the then applicable redemption price and in the manner provided in the General Mortgage Bonds and in the General Mortgage and to be provided, in respect of the General Mortgage Bonds bound by the Plan, in the Supplemental Indenture to the General Mortgage hereinafter provided for.

"All Refunding and Extension Mortgage Bonds and all General Mortgage Bonds so purchased or redeemed, will be retired.

*"5. Events Terminating the Interest Modification Period prior to November 1, 1954:*

"If any of the following events occur at any time after the Plan becomes effective, that is to say:

"(a) If the Railway Company shall file a petition under Section 77 of the Bankruptcy Act, or if, in a proceeding thereunder instituted against the Railway Company, a court of competent jurisdiction shall approve the petition therein, or if a permanent or confirmed appointment shall be made of a receiver of the Railway Company's property; or

"(b) If (1) the Railway Company shall pay interest on any General Mortgage Bond, Series A, not bound by the Plan at a rate in excess of that paid during the preceding twelve-month period on the Refunding and Extension Mortgage Bonds owned by Reconstruction Finance Corporation, unless during such period Reconstruction Finance Corporation shall have been paid interest on such Refunding and Extension Mortgage Bonds at the rate of 4 per cent per annum, and (2) if Reconstruction Finance Corporation shall

make written demand upon the Railway Company that the Interest Modification Period shall terminate; which demand Reconstruction Finance Corporation shall have the right to make so long as it owns a majority in principal amount of the Refunding and Extension Mortgage Bonds then outstanding, exclusive of those held in pledge by Reconstruction Finance Corporation; or

“(c) If (1) there shall have been delivered to the Railway Company, by or on behalf of holders of a majority in principal amount of the Refunding and Extension Mortgage Bonds then outstanding, a written request that the person or persons, not exceeding two in number, eligible to act as directors if elected, named in such request be elected to the Board of Directors of the Railway Company at the annual meeting of the stockholders of the Railway Company next succeeding such delivery of such request, which request may be so delivered by such holders at any time prior to 90 days before the day upon which such annual meeting is to be held, and if (2) the person or persons so named in such request shall not be elected to the Board of Directors of the Railway Company at such annual meeting, and if (3) within six months after the date of such annual meeting there shall be delivered to the Railway Company, by or on behalf of holders of a majority in principal amount of Refunding and Extension Mortgage Bonds then outstanding, written demand that the Interest Modification Period shall terminate; or

“(d) If (1) there shall have been delivered to the Railway Company, by or on behalf of holders of a majority in principal amount of the General Mortgage Bonds bound by the Plan then outstanding, exclusive of those held in pledge by Reconstruction Finance Corporation, a written request that the person or persons, not exceeding two in number, eligible to act as directors if elected, named in such request be elected to the Board of Directors of the Railway Company at

the annual meeting of the stockholders of the Railway Company next succeeding such delivery of such request, which request may be so delivered by such holders at any time prior to 90 days before the day upon which such annual meeting is to be held, and if (2) the person or persons so named in such request shall not be elected to the Board of Directors of the Railway Company at such annual meeting, and if (3) within six months after the date of such annual meeting there shall be delivered to the Railway Company, by or on behalf of holders of a majority in principal amount of General Mortgage Bonds bound by the Plan, then outstanding, exclusive of those held in pledge by Reconstruction Finance Corporation, written demand that the Interest Modification period shall terminate; or

“(e) If (1) a majority of the Board of Directors of the Railway Company shall not, within six months after receipt by the Railway Company of written request by Reconstruction Finance Corporation to that effect, be persons designated or approved by Reconstruction Finance Corporation, unless the persons so designated by Reconstruction Finance Corporation shall not be eligible to act as Directors if elected; which request Reconstruction Finance Corporation shall, so long as it owns a majority in principal amount of the Refunding and Extension Mortgage Bonds then outstanding, exclusive of those held in pledge by Reconstruction Finance Corporation, have the right to make within thirty days after any May 1 in respect of which the Railway Company shall have failed to pay, whether or not there shall have been Available Net Income applicable to the payment thereof as hereinabove provided, Contingent Interest at the rate of 1½ per cent on the Refunding and Extension Mortgage Bonds, and if (2) Reconstruction Finance Corporation, within 90 days after the expiration of such six-month period, shall make written demand upon the Railway

Company that the Interest Modification Period shall terminate; or

“(f) If the Railway Company shall issue and sell any additional General Mortgage Bonds without first having obtained the consent of the holders of a majority in principal amount of the General Mortgage Bonds bound by the Plan, then outstanding, exclusive of those held in pledge by Reconstruction Finance Corporation;

then, the Interest Modification Period shall be deemed to have terminated as provided hereinabove in subdivision 1 of this Article II.

### “III.

“OTHER MODIFICATIONS OF THE REFUNDING AND EXTENSION MORTGAGE AND OF THE GENERAL MORTGAGE AND OF THE BONDS RESPECTIVELY SECURED THEREBY.

#### “1. *Refunding and Extension Mortgage and Bonds:*

“(a) The Sinking Fund provisions contained in the April 30, 1935 Supplemental Indenture to the Refunding and Extension Mortgage, will not be operative in respect of the Railway Company's net income for any calendar year during all or part of which the Interest Modification Period is in effect, but said Sinking Fund provisions shall be operative with respect to the Railway Company's net income for each calendar year thereafter.

“(b) The Refunding and Extension Mortgage Bonds will be redeemable, in whole or in part, on any May 1, or November 1, during any calendar year in which, or in any part of which, the Interest Modification Period is in effect, at their principal amount plus any unpaid Fixed Interest accrued to the redemption date, plus any unpaid Contingent Interest payable in respect of the preceding calendar year, or part thereof, and plus interest at the rate of 1½ per cent per annum from

the preceding January 1 to the redemption date, and, thereafter, at their principal amount plus accrued interest and plus any unpaid Contingent Interest payable in respect of the preceding calendar year, instead of at 101 per cent of their principal amount plus accrued interest, as at present. Such redemption shall be upon such notice and publication and otherwise as may be provided in such Supplemental Indenture to the Refunding and Extension Mortgage.

"(c) Provision will also be made in such Supplemental Indenture to the Refunding and Extension Mortgage for the calling by the Trustee under the Refunding and Extension Mortgage, the Railway Company or by holders of 10 per cent in principal amount of the Refunding and Extension Mortgage Bonds then outstanding, and for the holding of meetings of the Refunding and Extension Mortgage Bondholders for the purpose of considering and taking such action as may be determined upon in respect of matters as to which action by holders of the Refunding and Extension Mortgage Bonds is contemplated under the Plan.

*"2. General Mortgage and Bonds:*

"(a) Assent to the Plan by holders of the General Mortgage Bonds will also, as shall be provided in the Supplemental Indenture to the General Mortgage hereinafter provided for, constitute their assent to the extension of the maturity, and the other modifications in respect of, the Refunding and Extension Mortgage Bonds proposed by the Plan, and will constitute their agreement to waive, in respect of such extension, each and every right and remedy, whether arising under the General Mortgage or by operation of law or otherwise, consequent upon the making of such extension or the resulting non-payment of the principal of, or failure to take up and pledge under the General Mortgage, any Refunding and Extension Mortgage Bonds at the present maturity date thereof.

“(b) The General Mortgage Bonds bound by the Plan will be redeemable, in whole or in part, on any May 1 or November 1, during any calendar year in which, or in any part of which, the Interest Modification Period is in effect, at their principal amount plus any unpaid Fixed Interest accrued to the redemption date, plus any unpaid Contingent Interest payable in respect of the preceding calendar year, or part thereof, and plus interest at the rate of 2½ per cent per annum from the preceding January 1 to the redemption date, and, thereafter, at their principal amount plus accrued interest and plus any unpaid Contingent Interest payable in respect of the preceding calendar year, instead of at 110 per cent of their principal amount plus accrued interest, as at present. Such redemption shall be upon such notice and publication and otherwise as may be provided in such Supplemental Indenture to the General Mortgage.

“(c) Provision will also be made in such Supplemental Indenture to the General Mortgage for the calling by the Trustee under the General Mortgage, the Railway Company or by holders of 10 per cent in principal amount of the General Mortgage Bonds bound by the Plan, then outstanding, exclusive of those held in pledge by Reconstruction Finance Corporation, and for the holding of meetings of the General Mortgage Bondholders bound by the Plan, exclusive of those held in pledge by Reconstruction Finance Corporation, for the purpose of considering and taking such action as may be determined upon in respect of matters as to which action by holders of the General Mortgage Bonds bound by the Plan is contemplated under the Plan.

#### “IV.

##### “MISCELLANEOUS PROVISIONS IN RESPECT OF THE PLAN.

“Except as herein otherwise expressly provided, all notice required or permitted under the provi-

sions of the Plan unless otherwise expressly provided, shall be sufficiently given if published once in each of two successive calendar weeks in a newspaper of general circulation published in New York City.

"Wherever it is provided in the Plan that action may be taken by or on behalf of holders of the Refunding and Extension Mortgage Bonds or of the General Mortgage Bonds bound by the Plan, such action may be taken by such holders individually or by action in a meeting of such holders called and held in accordance with the provisions to be contained in the Supplemental Indentures to the Refunding and Extension Mortgage and the General Mortgage respectively as hereinabove provided for. Provision will be made in such Supplemental Indentures respectively that in the event that such action is taken individually, the Railway Company may require appropriate evidence as to the identity of the holders purporting to take such action and as to the principal amount of the bonds owned by them and for certification of such action to the Railway Company by the Trustee under that mortgage in the event that such action is taken in a meeting of such holders."

6. Due notice was given of this proceeding and of the hearing herein on said Petition and Plan in conformity with law and with Order No. 1 made, entered and filed by this Special Court on December 15, 1942.

7. All persons in interest seeking to intervene in this proceeding have been allowed to intervene herein; and all persons in interest offering evidence in this proceeding and asking to be heard thereon, have been permitted to present all evidence offered and to be heard thereon, in person or by attorney, with or without intervention.

8. The aggregate amount of all claims affected by said Plan, and the aggregate amount of claims of each

affected class, as the same should be classified, are as follows:

<u>Class</u>	<u>Description</u>	<u>Amount</u>
I	Petitioner's 4½% Refunding and Extension Mortgage Bonds (secured for the most part by a first lien), due May 1, 1945, of which \$27,015,700 are owned, and \$1,000,000 are held in pledge, by Reconstruction Finance Corporation, and which \$27,015,700 Petitioner is obligated to purchase from Reconstruction Finance Corporation on or before January 1, 1945.....	\$28,015,700.00
II	Petitioner's General Mortgage 4½% Gold Bonds, Series "A" (secured for the most part by a second lien) due May 1, 1980, owned and held as follows: \$16,800,000 outstanding in the hands of the public; \$3,200,000 owned by Fort Worth and Denver City Railway Company and by it pledged with Reconstruction Finance Corporation; and \$4,918,000 pledged by Petitioner with Reconstruction Finance Corporation; total .....	\$24,918,000.00
III	Galveston Terminal Railway Company's First Mortgage 5% Bonds, due March 1, 1948, owned by Reconstruction Finance Corporation, the payment of principal of and interest on which has been guaranteed by Petitioner and which bonds Petitioner is obligated to purchase from Reconstruction Finance Corporation on or before March 1, 1944 .....	\$ 546,000.00
IV	Petitioner's 5% promissory note to Reconstruction Finance Corporation, dated May 5, 1938, due March 1, 1944, for \$525,500, on which the balance of unpaid principal is \$445,565.82 .....	\$ 445,565.82
V	Fort Worth and Denver Northern Railway Company's 6% promissory note to Petitioner, dated April 27, 1935, due May 1, 1945, for \$4,182,091.26, held in pledge by Reconstruction Finance Corporation .....	\$ 4,182,091.26
Total.....		\$58,107,357.08

9. The Petitioner duly and at proper time secured assurances satisfactory to the Interstate Commerce Commission of the acceptance of said Plan from creditors holding at least 25 per centum of the aggregate amount of all claims affected by said Plan.

10. Thereafter, prior to October 16, 1942, and on August 31, 1942, the Interstate Commerce Commission, by Division 4 thereof, made and entered a report and order under Section 20a of the Interstate

Commerce Act, in its Finance Docket No. 8350, authorizing the issuance and modification of securities of Petitioner as proposed by said Plan, other than securities held by Reconstruction Finance Corporation, which said report and order included the specific findings that such proposed issuance and modification of securities is compatible with the public interest, and is consistent with the proper performance by Petitioner of service to the public as a common carrier, and will not impair its ability to perform such service.

11. On August 31, 1942, the Interstate Commerce Commission, by Division 4 thereof, also made and entered reports and orders under Section 20a of the Interstate Commerce Act in its Finance Dockets Nos. 10820, 10821, and 11957, authorizing the modification of securities of Petitioner and its subsidiaries held by Reconstruction Finance Corporation as proposed by said Plan.

12. On August 31, 1942, the Interstate Commerce Commission, by Division 4 thereof, also made and entered a report and order under Section 5 of the Reconstruction Finance Corporation Act, in its Finance Dockets Nos. 10814, 11941, and 11029, approving the extensions by Reconstruction Finance Corporation of the obligations of Petitioner and its subsidiaries, as proposed by said Plan.

13. A copy of each of said orders obtained from said Commission was filed with the Petition of said Railway Company and made a part thereof.

14. By its said reports and orders the Interstate Commerce Commission has granted Petitioner all necessary Commission authorizations to enable Petitioner to carry out said Plan.

15. As averred in said Petition, the Petitioner is unable to meet its debts, matured or about to mature, and desires to carry out said Plan of Adjustment.

16. Neither the United States nor any agency thereof, nor any corporation (other than the Reconstruction Finance Corporation), the majority of the stock of which is owned by the United States, is a stockholder of the Petitioner, or a creditor of the Petitioner on claims for taxes or custom's duties, or on any claim affected by said Plan.

17. From and after the filing of its Petition herein and until the making of this final order approving said Plan, Petitioner has made or tendered payments to all creditors affected by the Plan of sums currently payable to such creditors equal to the amounts proposed to be paid to such creditors under said Plan, without prejudice to any of the existing rights of any of the creditors of the Petitioner.

18. Interveners and persons appearing at the hearing herein have suggested divers modifications of said Plan; but none of said proposed modifications is of benefit to the Petitioner, or to any class of creditors of the Petitioner, or in the public interest; and each and all of said proposed modifications are without merit.

19. At the time of the filing of said Petition, the proposed Plan had been assented to by more than two-thirds of the aggregate amount of all claims of the Petitioner affected by said Plan, including more than a majority of the aggregate amount of the claims of each of said classes affected by said Plan.

20. The Plan has been accepted, as submitted, by or on behalf of creditors affected by said Plan holding more than three-fourths of the aggregate amount of the claims affected by said Plan, including more than three-fifths of the aggregate amount of the claims of each of said classes affected by the Plan.

21. All corporate action required to authorize the issuance or modification of securities pursuant to said Plan has been duly taken.

22. The Petitioner has not, in connection with said Plan or the effectuation thereof, done any act or failed to perform any duty which act or failure would be a bar to the discharge of a bankrupt, and the Plan and the acceptance thereof are in good faith and have not been made or procured by any means, promises, or acts forbidden by said Bankruptcy Act.

23. All amounts or considerations directly or indirectly paid by or for the Petitioner for expenses, fees, reimbursement, or compensation of any character whatsoever incurred in connection with the proceeding and Plan, or preliminary thereto or in aid thereof, together with all the facts and circumstances relating to the incurring thereof, have been fully disclosed to the Special Court so far as such amounts or considerations could be ascertained at the time of the hearing; all such amounts or considerations are fair and reasonable; and to the extent that any such amounts or considerations were not then ascertainable, the same are to be disclosed to the Court when ascertained, and are to be subject to approval by the Special Court as fair and reasonable.

24. The provisions of Sections 722, 736, and 737 of Chapter XV of said Act have been complied with.

25. Said Plan makes full disclosure with respect to the continuation of, and any change in, the voting rights of the Petitioner, control of the Petitioner, and the identity of, and the power and manner of selection of the persons who are to be directors and officers, upon the consummation of the Plan, and their respective successors; and with respect thereto said Plan is adequate, equitable, in the best interests of credi-

tors and stockholders of each class, and consistent with public policy.

26. The injunction heretofore ordered, entered and filed on December 15, 1942, in this proceeding should be continued in full force and effect until the further order of this Special Court.

27. The minimum probable earnings of the Petitioner available therefor will support fixed charges of not in excess of \$1,000,000 a year and the Plan does not provide for fixed charges of whatsoever nature (including \$927,393 a year Fixed Interest on bonds, approximately \$15,000 a year Fixed Interest on equipment obligations, approximately \$2,000 a year interest on unfunded debt, and approximately \$43,300 amortization of discount on debt, or an aggregate of \$987,693 annual fixed charges) in an amount in excess of what will be adequately covered by said minimum probable earnings available for the payment thereof. Petitioner has no annual charge for rent for leased roads.

28. Under the Plan and within said limitations of said minimum probable earnings, the total annual Fixed Interest on bonds will not exceed \$927,393 a year. Of said Fixed Interest, the Plan allocates \$675,393, or 72.8%, to the Refunding and Extension Mortgage Bonds, and \$252,000, or 27.2%, to the \$16,800,000 General Mortgage Bonds outstanding with the public. During the Interest Modification Period, Reconstruction Finance Corporation has agreed not to collect any interest, on the General Mortgage Bonds pledged to it, prior to a default in the performance of the obligation or obligations to secure which said bonds are pledged. The allocation of Fixed Interest to the General Mortgage Bonds outstanding with the public fully and adequately reflects the earnings and value of all

property on which the General Mortgage constitutes a first lien, and fully compensates the holders of said bonds for all modifications of interest thereon under the Plan.

29. Under the Plan, Fixed Interest and all other fixed charges probably will not exceed \$987,693 a year, Contingent Interest on the Refunding and Extension Mortgage Bonds will not exceed \$405,236 a year, which amount, added to the annual appropriation of \$300,000 a year to the capital fund, will aggregate \$1,692,929. Petitioner reasonably is expected to have annual earnings sufficient to cover this amount in normal years during the Interest Modification Period. With the present heavy war traffic, Petitioner is earning an amount sufficient to cover also the \$420,000 a year Contingent Interest on the General Mortgage Bonds and a substantial surplus in excess thereof available for reduction of Petitioner's debt under the Plan. The Capital Fund of \$300,000 a year, under the Plan, is adequate for additions and betterments to Petitioner's property which it is anticipated will be reasonably necessary during the Interest Modification Period.

30. The Plan provides for non-cumulative Contingent Interest at not to exceed \$825,236 a year, allocated \$405,236, or approximately 49% of the total Contingent Interest, to the Refunding and Extension Mortgage Bonds, and \$420,000, or approximately 51% of the Contingent Interest, to the \$16,800,000 General Mortgage Bonds outstanding with the public. The Plan provides a maximum interest rate of 4% a year on each class of bonds in lieu of the stated contract rates of  $4\frac{1}{2}\%$ . The interest rate reduction of  $\frac{1}{2}\%$  a year on the Refunding and Extension Mortgage Bonds amounts to approximately \$135,000 a year and the in-

terest rate reduction of  $\frac{1}{2}\%$  a year on the \$16,800,000 General Mortgage Bonds amounts to approximately \$84,000 a year. Subordination of said Contingent Interest on said General Mortgage Bonds to prior payment of Contingent Interest on the Refunding and Extension Mortgage Bonds and to prior annual appropriation of \$300,000 to a capital fund, as provided in the Plan, is required to compensate the holder of the Refunding and Extension Mortgage Bonds for the allocation to it of Contingent Interest on said bonds in the amount of  $1\frac{1}{2}\%$  per annum of the principal amount thereof, in lieu of the balance of the contract fixed rate which would amount to  $2\%$  per annum of the principal of said bonds, and for the suspension of the sinking fund provisions of the Refunding and Extension Mortgage. The treatment of the General Mortgage Bonds in respect of Contingent Interest and in reduction of the contract rate of  $4\frac{1}{2}\%$  to a maximum of  $4\%$  interest, is fair and equitable as an adjustment, and as such affords due recognition of the rights of, and fair consideration to, said General Mortgage bondholders.

31. During the Interest Modification Period, the Plan allocates all available Net Income to retirement of debt or increase or replenishment of working capital, as required or permitted by Reconstruction Finance Corporation so long as Petitioner is indebted to that Corporation, and after Petitioner is no longer indebted to that Corporation, to purchase or redemption for retirement of Refunding and Extension Mortgage Bonds, and after retirement of all said bonds, to purchase or redemption for retirement of General Mortgage Bonds. The Plan thereby precludes the declaration or payment of any dividends on any class of capital stock of the Petitioner during the Interest Modification Period. The Plan assures to the holders

of Refunding and Extension Mortgage Bonds as a class and to the holders of General Mortgage Bonds outstanding with the public as a class, representation on Petitioner's Board of 13 Directors through two directors to be designated by each class of bondholders, respectively. The relinquishment by the stockholders of all right to dividends during the Interest Modification Period, and the relinquishment to Reconstruction Finance Corporation of the right to determine the manner in which debt will be retired, and the assurance to bondholders of active participation in the management of Petitioner through representation on its Board of Directors, constitute substantial contributions by stockholders of the Petitioner to the adjustment provided by the Plan. Subject to said limitations of rights of the stockholders, as aforesaid, the Plan contemplates continuation of control and management of Petitioner by Chicago, Burlington & Quincy Railroad Company, which owns 70.7% of the voting stock of Petitioner, and continuation of the affiliation of said company with Petitioner. Such control, management, and affiliation, have been and will be of substantial benefit to Petitioner and to each class of its creditors and stockholders.

32. Upon and after due consideration of the probable prospective earnings of the property of the Petitioner, in the light of its earnings experience and of such changes as may reasonably be expected, said Plan—

(i) is in the public interest and in the best interests of each class of creditors and stockholders;

(ii) is feasible, financially advisable, and not likely to be followed by the insolvency of Petitioner, or by need of financial reorganization or adjustment;

(iii) does not provide for fixed charges of whatsoever nature, including fixed charges on debt, amortization of discount on debt, and rent for leased roads, in an amount in excess of what will be adequately covered by the probable earnings available for the payment thereof;

(iv) leaves adequate means for such future financing as may be requisite;

(v) is consistent with adequate maintenance of said property;

(vi) is consistent with the proper performance by the Petitioner of service to the public as a common carrier, and will not impair its ability to perform such service.

33. The Petitioner is not in need of financial reorganization of the character provided for under Section 77 of the Bankruptcy act.

34. The Petitioner's inability to meet its debts matured or about to mature is reasonably expected to be temporary only.

35. Said Plan is fair and equitable as an adjustment and as such will—

(a) afford due recognition to the rights of each class of creditors and stockholders and fair consideration to each class adversely affected and

(b) will conform to the law of the land regarding the participation of the various classes of creditors and stockholders.

36. The foregoing findings numbered 32 to 35, inclusive, have been made by the Special Court after said Court has scrutinized the facts independently of the extent of acceptances of said Plan, and of any lack of opposition thereto, and of the fact that the Interstate Commerce Commission, under Section 20a of the Interstate Commerce Act, has authorized the issuance and modification of securities as proposed by said

Plan, and of the fact that said Commission has made such or similar findings.

Upon the foregoing Findings of Fact the Special Court states its following

**CONCLUSIONS OF LAW:**

(a) All the procedural requirements of Chapter XV of said Bankruptcy Act have been duly complied with and the Special Court has jurisdiction of this proceeding and of all the parties in interest herein.

(b) Petitioner and the Plan of Adjustment, respectively, meet all requirements of Chapter XV of said Bankruptcy Act.

(c) Said Plan is fair and equitable as an adjustment and as such affords due recognition to the rights of each class of Petitioner's creditors and stockholders and fair consideration to each class adversely affected and conforms to the law of the land regarding the participation of the various classes of Petitioner's creditors and stockholders.

(d) The claims against Petitioner affected by said Plan are properly and lawfully classified as set forth in paragraph 8 of the foregoing Findings of Fact.

(e) Petitioner is entitled to a decree, as authorized by Chapter XV of said Bankruptcy Act, approving and confirming said Plan and the adjustment provided thereby, without modification.

(f) Petitioner is entitled to the relief prayed in the Petition.

**IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED AND DECREED** by the Special Court:

(1) that the claims against the Petitioner affected by said Plan be, and they hereby are, classified as and

in the manner set forth in paragraph 8 of the foregoing Findings of Fact;

(2) that each modification of said Plan proposed in this proceeding be, and hereby is, denied and rejected;

(3) that said Plan and the adjustment provided thereby be, and they hereby are, approved and confirmed;

(4) that this decree shall be binding upon the Petitioner and upon all creditors and security holders of the Petitioner;

(5) that from and after the making and entry of this decree the Petitioner shall have full power and authority to, and shall, put into effect and carry out said Plan and all orders of this Special Court relative thereto, and shall issue and modify its securities as provided by said Plan, without further reference to or authority from the Interstate Commerce Commission or any other authority, State or Federal, except where required by any law relating to the Reconstruction Finance Corporation;

(6) that the rights of all creditors and security holders of Petitioner with respect to claims and securities affected by said Plan shall be those provided by said Plan;

(7) that this order and decree shall not affect the title of any owner, whether as trustee or otherwise, to rolling stock equipment leased or conditionally sold to the Petitioner, or any right of such owner to take possession of such property in compliance with the provisions of any such lease or conditional sale contract;

(8) that the Clerk of this Court transmit forthwith to the Secretary of the Treasury of the United States, and to the Interstate Commerce Commission, respec-

tively, copies of this order and decree and of transcripts of testimony herein, but not copies of the exhibits filed herein as transmission of said exhibits would be impracticable;

(9) that Petitioner is hereby authorized and directed to cause all of its bonds affected by the Plan, and appurtenant coupons affected by the Plan, to be stamped with appropriate legends in conformity with the Plan; that Petitioner's General Mortgage 4½% Gold Bonds Series "A" of 1980, deposited under the Plan with The First National Bank of the City of New York, N. Y., as Agent of Petitioner, and the appurtenant coupons affected by the Plan, shall be stamped in conformity with the Plan by Petitioner; that notice shall be given by Petitioner to the holders of Certificates of Deposit issued in respect of said bonds, as their names and addresses are shown on the record of said Agent, of the time when and place where said Certificates of Deposit may be presented and exchanged for said bonds, stamped as aforesaid, in respect of which said Certificates were issued; that holders of Petitioner's bonds affected by the Plan who assented to the Plan without deposit of the bonds in respect of which said assents were given, and holders of Petitioner's General Mortgage 4½% Gold Bonds Series "A" of 1980 who did not assent to the Plan, shall be duly notified by such publication and mailing as this Special Court hereafter shall direct, to present said bonds, with all appurtenant coupons, on and after the date to be fixed in said notice, and at the place to be designated in said notice, for stamping of said bonds and appurtenant coupons in conformity with the Plan; that Petitioner shall not be required to pay the Contingent Interest for the year 1942 under the Plan, on May 1, 1943, or the Fixed Interest due May 1,

1943, under the Plan, or any Fixed or Contingent Interest on said bonds during the Interest Modification Period under the Plan, on any of Petitioner's bonds not deposited for stamping in conformity with the Plan; Provided, however, that in respect of any of Petitioner's General Mortgage 4½% Gold Bonds Series "A" of 1980 which have been lost, stolen, mutilated, destroyed, or otherwise are beyond the possession or control of the owners thereof, so that it is physically impossible for said owners to present said bonds for stamping, as aforesaid, application may be made to this Special Court for an order authorizing Petitioner to pay interest on said bonds under the Plan to said owners, on such terms and conditions with respect to security and otherwise as this Special Court may direct;

(10) that Petitioner is hereby directed to submit to this Special Court for its approval, within 30 days after the date of this decree, the forms of legends proposed to be stamped by Petitioner upon its bonds and appurtenant coupons affected by the Plan, the form of notice of the time, place and manner of stamping said legends on said bonds and coupons, and the manner of publication and mailing of said notice as proposed by Petitioner;

(11) that Petitioner is hereby directed to submit to this Special Court, for its approval, 30 days after the date of this decree, all Supplemental Indentures necessary to carry out the Plan and on approval by this Court, to execute or cause the same to be executed, within 30 days after such approval;

(12) that Petitioner is hereby directed to report in writing to the Special Court amounts or considerations directly or indirectly to be paid by or for Petitioner for expenses, fees, reimbursement, or compensation of

any character whatsoever, incurred in connection with this proceeding and the Plan or preliminary thereto or in aid thereof, which Petitioner was unable to ascertain at the time of the hearing herein, together with all the facts and circumstances relating to the incurring thereof, as soon as Petitioner shall have ascertained same;

(13) that the injunction order entered and filed herein by the Special Court on December 15, 1942, be and it hereby is continued in full force and effect until the further order of the Special Court; and

(14) that this Court reserves full right and jurisdiction to make, from time to time, such further orders as may be necessary to protect and enforce the rights and duties of the parties under said Plan and the orders of the Special Court herein.

Done and entered in open Court at Denver, Colorado, this 8th day of March, 1943.

ORIE L. PHILLIPS, U.S. Circuit Judge,  
T. BLAKE KENNEDY, U.S. District Judge,  
J. FOSTER SYMES, U.S. District Judge,  
Constituting the Special Court.

UNITED STATES OF AMERICA }  
District of Colorado } SS.

I, G. WALTER BOWMAN, Clerk of the District Court of the United States for the District of Colorado, do hereby certify that the foregoing is a true copy of the Findings of Fact, Conclusions of Law, and Decree Approving and Confirming the Plan of Adjustment dated by the Special Court on the eighth day of March, 1943, and entered on the Clerk's Docket on the 13th day of March, A. D. 1943, in the therein entitled matter of The Colorado and Southern Railway Company, Petitioner, No. 11842 Bankruptcy Docket, pending in said District Court, as the same appears of record and remains on file in my office.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix the seal of said District Court, at Denver, Colorado, this 13th day of March, A. D. 1943.

(Signed) G. Walter Bowman  
Clerk of said District Court.

(SEAL)

## FILING AND RECORDING DATA.

### COLORADO

STATE OF COLORADO }  
 COUNTY OF ADAMS } SS 282017

#### INDEXED

I hereby certify that this instrument was filed for record in my office at 9:00 o'clock A.M. NOV 29 1943 and is duly recorded in book 293, page 1-88 Inc.

CLYDE L. MILLER  
 Recorder

Cora Russell  
 Deputy

Fee \$31.90

STATE OF COLORADO }  
 County of Arapahoe } ss.

315297

#### EXAMINED

I hereby certify that this instrument was filed for record in my office at 8:30 o'clock A.M., NOV 27 1943, and is duly recorded in book 492 page 1.

Earl K. Downing, Recorder  
 By Ira Van Dreal, Deputy.

Fees \$31.65

STATE OF COLORADO }  
 COUNTY OF BOULDER } SS. 408357

#### INDEXED COMPARED

I hereby certify that this instrument was filed in my office at 11:36 o'clock A.M., Nov. 6th, 1943, and is duly recorded in book 738 page 51.

Ed Adams,  
 Recorder  
 By Elma C. Davis  
 Deputy

Fees, \$25.10 pd.

STATE OF COLORADO }  
 City and County of Denver } SS. 958100

#### EXAMINED

I hereby certify that this instrument was filed for record in my office at 11:45 o'clock A.M., NOV 26 1943 and duly recorded in Book 5732 Page 1.

Paul F. Perske  
 Clerk and Recorder  
 By Ruth Bridgford, Deputy

FEE 21.75

STATE OF COLORADO }  
Douglas County } ss. 78327

I hereby certify that this instrument was filed for record in my office at 9:10 o'clock A.M. NOV 20 1943 and is duly recorded in Book 96A Page 1 to 88.

FEES \$38.00 Chas. Prescott  
Recorder.

STATE OF COLORADO }  
COUNTY OF EL PASO } 689508

COMPARED

I hereby certify that this instrument was filed for record in my office at 11:25 o'clock A.M. NOV 15 1943 and is duly recorded in Book 1037 Page 511.

CHARLES OZIAS  
Recorder  
By John A. McDougall  
Deputy  
FEES 25.00

STATE OF COLORADO }  
County of Huerfano } ss. 164538

I hereby certify that this Instrument was filed for record in my office, at 1:36 o'clock P.M. 11/3/43, and is duly recorded in book 197 page 333.

Damacio Vigil, Recorder  
Virginia Pamon, Dep.

STATE OF COLORADO, }  
County of Jefferson, } ss. 356135

EXAMINED

I hereby certify that this instrument was filed for record in my office, at 11:00 o'clock A.M. NOV 9 1943, and recorded in book 479 on page 409.

William T. Olson, Recorder.

Supplemental Indenture  
Colo. & Southern Railway Co.  
to  
First Nat'l. Bank, New York,  
Trustee

STATE OF COLORADO }  
COUNTY OF LARIMER } ss 533778

I hereby certify that this instrument was filed for record in my office at 10:12 o'clock A.M., NOV 3-1943 and is duly recorded in book 762, Page 90.

A. Walter Lawson  
Recorder  
By Dorothy Suhl  
Deputy

NOV-343 9336 \$0026.70

Supplemental Indenture  
Colo. & Southern Railway Company  
and  
The First National Bank of the  
City of New York as Trustee

STATE OF COLORADO }  
Las Animas County } SS. 325617

INDEXED COMPARED

I hereby certify that this instrument was filed for record in my office at 11:00 o'clock A.M. NOV 13 1943 and is duly recorded in Book 495 Page No. 376.

SEAL  
Fee \$24.20

JOHN C. COOK, COUNTY CLERK  
Recorder  
Donald Wade, Deputy

STATE OF COLORADO }  
County of Pueblo } SS 712045

I hereby certify that this instrument was filed for record at 11:04 o'clock A.M. NOV 19 1943 and duly recorded in Book 959 Page 51.

Fees 22.00

A. G. Kochenberger  
Recorder  
By H. H. King  
Deputy

STATE OF COLORADO }  
County of Weld } ss 927154

PHOTOGRAPHED

I hereby certify that this instrument was filed for record in my office, at 9:00 o'clock A.M. NOV 19 1943 and is duly recorded in Book No. 1121 Page 184.

FEES \$40.00

Ann Spomer  
Recorder  
By Claude E. McKnight  
Deputy

WYOMING

Supplemental Indenture  
Colorado & Southern Railway Company  
to  
The First National Bank of the City  
of New York  
Filing No. 196241

OFFICE OF THE REGISTER OF DEEDS

STATE OF WYOMING }  
County of Converse } ss.

This instrument was filed for record this 9th day of December A.D. 1943 at 9:00 o'clock A.M., and duly recorded in Book 197 on Page 198

Lloyd Froggatt  
County Clerk and Ex-Officio Register  
of Deeds

State of Wyoming }  
 Converse County } ss.

I hereby certify that a true copy of the within Supplemental Indenture (with a certificate by me duly endorsed thereon that the same is such true copy) was filed in my office, in the chattel mortgage records, on the 9th day of December, 1943, at 9:00 o'clock A.M.

Lloyd Froggatt  
 County Clerk and Ex-Officio Register  
 of Deeds

SEAL

By Edith L. Browning, Deputy

The State of Wyoming }  
 County of Laramie } SS 416890

This instrument was filed for record at 10:22 o'clock A.M. on the 11 day of December A.D. 1943 and duly recorded in Book 389 on page 424-513.

Verner H. Franson  
 County Clerk & Ex-Officio Register  
 of Deeds.

By Anne Wolinsky, Deputy.

THE STATE OF WYOMING }  
 County of Laramie } ss. 416890

I, Verner H. Franson, County Clerk and Ex-Officio Register of Deeds within and for said County, in the State aforesaid, Do Hereby Certify that the Supplemental Indenture of which this instrument is a true and correct copy, was filed in this office in the Chattel Mortgage records on the 11th day of December, 1943, at 10:22 o'clock A.M., and was duly indexed according to law.

Verner H. Franson  
 County Clerk and Ex-Officio  
 Register of Deeds

By Anne Wolinsky, Deputy.

SEAL

The State of Wyoming }  
 County of Platte } SS 151277

This Instrument was filed for record on the 13th day of Dec. A.D. 1943 at 10:30 o'clock A.M. and duly recorded according to law. Book 76 Page 381.

Lyle B. Clay  
 County Clerk  
 and Ex-Officio Register of Deeds  
 Vivian B. Freeman, Deputy

Fee 36.00

State of Wyoming }  
 Platte County } ss. 151278

I hereby certify that a true copy of the within Supplemental Indenture dated May 1, 1943, supplemental to the General Mortgage of The Colorado and Southern Railway Company, dated May 1, 1930 (with a certificate by me duly endorsed thereon that the same is such true copy) was filed in my office, in the chattel mortgage records of said county, on the 13th day of December, 1943, at 10:30 o'clock A.M.

Lyle B. Clay  
 County Clerk and Ex-Officio  
 Register of Deeds.  
 Vivian B. Freeman  
 Deputy

SEAL

NEW MEXICO

State of New Mexico }  
 County of UNION } ss. 75717

INDEXED

I hereby certify that this instrument was filed for record on the 3 day of Dec. A.D. 1943 at 11:00 o'clock A.M. and was duly recorded in Book V Page 535 Records of Said County.  
 Witness my hand and seal of office.

SEAL

Darden Grimes  
 County Clerk  
 Per Margaret Rardin, Deputy.

State of New Mexico }  
 Union County } ss

I hereby certify that a true copy of the within Supplemental Indenture dated May 1, 1943, supplemental to the General Mortgage of The Colorado and Southern Railway Company, dated May 1, 1930, was filed in the Chattel Mortgage Records of said County on the 3d day of December, 1943, at 11:00 o'clock A.M.  
 Witness my hand and seal of office.

Darden Grimes,  
 County Clerk  
 Per Margaret Rardin,  
 Deputy.

STATE OF NEW MEXICO }  
 COUNTY OF COLFAX } ss.

This instrument was filed for record on this 18th day of February, 1944 A.D., at 10:00 o'clock A.M., and duly recorded in Book 59 of M.D. page 580.

SEAL

Viola K. Reynolds, County Clerk  
 By Loyce C. Craig, Deputy

INDEXED 2-201  
 RECORDED  
 COMPARED—MW-LC