

NOV 22 1968

Dec 25 10 31 AM  
FEE OPERATION DIV

DEC 23 1968 7:01 AM

INTERSTATE COMMERCE COMMISSION

NO. 3 TRANSPORTATION CORPORATION OF AMERICA  
CHATTEL MORTGAGE TRUST DEED, ASSIGNMENT OF RENTS  
and  
SECURITY AGREEMENT

THIS CHATTEL MORTGAGE TRUST DEED, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT (the "Mortgage") dated as of October 31, 1968 from NO. 3 TRANSPORTATION CORPORATION OF AMERICA, an Illinois corporation (the "Company"), whose Post Office address is Post Office Box 218, Chicago Heights, Illinois to LA SALLE NATIONAL BANK, as Trustee (the "Trustee"), having its principal office at 135 South La Salle Street, Chicago, Illinois,

W I T N E S S E T H:

WHEREAS the Company, La Salle National Bank in its individual capacity and Mutual Trust Life Insurance Company (the "Lenders") have entered into a Loan Agreement dated as of October 31, 1968 (the "Loan Agreement") providing for the respective commitments of the Lenders to loan the Company an aggregate principal amount not exceeding \$508,000 on or before December 31, 1968; and

WHEREAS the loan to be made by La Salle National Bank will be evidenced by the Series A Note (the "Series A Note") of the Company expressed to bear interest prior to maturity at the rate of 7% per annum and to mature in not more than 60 monthly installments, including both principal and interest, with the final installment payable not later than December 10, 1973, and the loan to be made by Mutual Trust Life Insurance Company will be evidenced by the Series B Note (the "Series B Note") of the Company, expressed to bear interest prior to maturity at the rate of 7% per annum and to mature in not more than 179 monthly installments, with the first 60 installments to include interest only and the last 119 installments to include both principal and interest and with the final installment payable not later than November 10, 1983; and

WHEREAS subject to the variations in principal amount, installments and maturities set forth above, the Series A Note and the Series B Note (hereinafter collectively referred to as the "Notes") are to be otherwise substantially in the form attached hereto as Exhibit A; and

WHEREAS the Notes and all principal thereof and interest thereon and all additional amounts and other sums at any time due and owing from or required to be paid by the Company under the terms of the Notes, this Mortgage or the Loan Agreement are hereinafter sometimes referred to as "indebtedness hereby secured"; and

WHEREAS all of the requirements of law have been fully complied with and all other acts and things necessary to make this Mortgage a valid, binding and legal instrument for the security of the Notes have been done and performed;

NOW, THEREFORE, the Company in consideration of the premises and of the sum of Ten Dollars received by the Company from the Trustee and other good and valuable consideration, the receipt whereof is hereby acknowledged, and in order to secure the payment of all principal of and interest on the Notes according to their tenor and effect, and to secure the payment of all other indebtedness hereby secured and the performance and observance of all the covenants and conditions in the Notes, in this Mortgage, and in the Loan Agreement contained, does hereby sell, convey, warrant, mortgage, assign, pledge, grant a security interest in, hypothecate unto the Trustee, its successors in trust and assigns, forever, all and singular the following described properties, rights, interests and privileges (all of which properties hereby mortgaged, assigned and pledged or intended so to be are hereinafter collectively referred to as the "mortgaged property");

#### DIVISION I

75 70-ton capacity wood rack flatcars bearing Gulf, Mobile and Ohio Railroad Company Identification Numbers GM&O 3425 through 3499, inclusive (the "railroad cars"), being the railroad cars leased and delivered or to be leased and delivered under that certain Railroad Equipment Lease dated as of August 9, 1968, as amended by the First Amendment thereto dated as of October 1, 1968 (herein collectively referred to as the "Lease"), between the Company, as Lessor, and Gulf, Mobile and Ohio Railroad Company, as Lessee (the "Lessee"), together with all accessories, equipment, parts and appurtenances appertaining or attached to any of the railroad cars hereinabove described, whether now owned or hereafter acquired, and all substitutions, renewals and replacements of and additions, improvements, accessions and accumulations to any and all of said railroad cars together with all the rents, issues, income, profits and avails therefrom; and

#### DIVISION II

All right, title and interest of the Company, as Lessor, in, under and to the Lease and all rents and other sums due and to become due thereunder including any and all extensions or renewals thereof and all sums due and to become due under any purchase option granted to the Lessee by the Company insofar as the same cover or relate to the railroad cars; it being the intent and purpose hereof that

the assignment and transfer to the Trustee of said rents and other sums due and to become due under the Lease shall be effective and operative immediately and shall continue in full force and effect and the Trustee shall have the right to collect and receive said rents and other sums for application in accordance with the provisions of Section 3 hereof at all times during the period from and after the date of this Mortgage until the indebtedness hereby secured has been fully paid and discharged;

SUBJECT, HOWEVER, to (a) the right, title and interest of the Lessee under the Lease, and (b) the lien of current taxes and assessments not in default, or, if delinquent, the validity of which is being contested in good faith;

TO HAVE AND TO HOLD the mortgaged property unto the Trustee, its successors and assigns, forever; IN TRUST, NEVERTHELESS, upon the terms and trusts herein set forth, for the equal and proportionate benefit, security and protection of all present and future holders of the Notes outstanding under the Loan Agreement, without preference, priority or distinction of any Note over any other Note by reason of priority at the time of issue, sale, negotiation, date of maturity thereof or otherwise for any cause whatsoever; provided always, however, that these presents are upon the express condition that if the Company shall pay or cause to be paid all the indebtedness hereby secured and shall observe, keep and perform all the terms and conditions, covenants and agreements herein and in the Loan Agreement and the Notes contained, then these presents and the estate hereby granted and conveyed shall cease and this Mortgage shall become null and void; otherwise to remain in full force and effect.

SECTION 1. COVENANTS AND WARRANTIES:

The Company covenants, warrants and agrees as follows:

1.1. The Company covenants and agrees well and truly to perform, abide by and to be governed and restricted by each and all of the terms, provisions, restrictions, covenants and agreements set forth in the Loan Agreement, and in each and every supplement thereto or amendment thereof which may at any time or from time to time be executed and delivered by the parties thereto or their successors and assigns, to the same extent as though each and all of said terms, provisions, restrictions, covenants and agreements were fully set out herein and as though any amendments or supplements to the Loan Agreement were fully set out in an amendment or supplement to this Mortgage.

1.2. Warranty of Title. The Company is lawfully seized and possessed of the railroad cars described in Division I of the granting clauses hereof and has good right, full power and authority to convey, transfer and mortgage the same to the Trustee for the uses, purposes and trusts set forth herein; the railroad cars described in said Division I are owned by the Company free from any and all liens and encumbrances (excepting only the lien of current ad valorem taxes not in default and the right, title and interest of the Lessee and encumbrances thereon under the Lessee); and the Company will warrant and defend the title thereto against all claims and demands whatsoever (excepting only the right, title and interest of the Lessee and encumbrances thereon under the Lease). The Company further represents and warrants that the right, title and interest of the Company in and to the rents and other sums assigned in the granting clauses hereof are free and clear of any liens and encumbrances whatsoever excepting only the lien of this Mortgage.

1.3. Further Assurances. The Company will, at its own expense, do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, transfers and assurances necessary or proper for the better assuring, conveying, assigning and confirming unto the Trustee all of the mortgaged property, or property intended so to be, whether now owned or hereafter acquired. Without limiting the foregoing but in furtherance of the assignment of rents and other sums due and to become due under the Lease, the Company covenants and agrees that it will notify the Lessee of such assignment and direct and cause the Lessee to make all payments of such rents and other sums due and to become due under the Lease directly to the Trustee.

1.4. Payment of Secured Indebtedness. The Company will promptly pay the indebtedness hereby secured as and when the same or any part thereof becomes due (whether by lapse of time, declaration, demand or otherwise).

1.5. Maintenance and Repair of Cars. The Company will keep the railroad cars in good working order, condition and repair, reasonable wear and tear excepted and, without limiting the foregoing, shall make all replacements, changes or additions to the railroad cars or their equipment and appliances to the extent required from time to time by the Code of Rules of the Association of American Railroads for continuing cars in interchange service and by applicable laws and regulations of any state or governmental body; provided, however, that the Company shall not be required to make any repairs or replacements to any railroad car with respect to which settlement has been made by the Lessee pursuant to Section 13 of the Lease.

1.6. Payment of Taxes and Liens. The Company will from time to time duly pay and discharge or cause to be paid and discharged all taxes, assessments and governmental charges lawfully imposed upon or against the mortgaged property or any part thereof, and will not create or incur or suffer to be incurred or to exist any mortgage, pledge, encumbrance, mechanics', laborers', statutory or other liens on the mortgaged property or any part thereof (excepting, however, the liens and claims permitted by Section 1.2 hereof); provided, however that nothing herein contained shall be deemed to require the Company to pay any tax, assessment, charge or lien, or any claim or demand of mechanics, laborers or others prior to the due date thereof, or to require the Company to pay or discharge any tax, assessment, lien, claim or other charge (whether or not due or delinquent) the validity or amount of which is being contested in good faith by appropriate proceedings, except that if any such proceedings are determined adversely to the Company, the Company shall thereupon pay any tax, assessment, lien, claim or other charge resulting therefrom.

1.7. Advances by Trustee. If the Company shall fail to comply with the covenants herein with respect to the payment of taxes, assessments and other charges, or the keeping of the mortgaged property in repair and free of other liens, the Trustee or the holder or holders of any of the indebtedness hereby secured may make advances to perform the same; and the Company agrees to repay all sums so advanced upon demand, with interest at the rate of 7% per annum after demand, and all sums so advanced together with the interest shall become so much additional indebtedness hereby secured; but no such advance shall be deemed to relieve the Company from any default hereunder.

1.8. After-acquired Property. Any and all property described or referred to in the granting clauses hereof which is hereafter acquired shall ipso facto, and without any further conveyance, assignment, or act on the part of the Company or the Trustee become and be, subject to the lien of this Mortgage as fully and completely as though specifically described herein, but nothing contained in this Section 1.8 shall be deemed to modify or change the obligations of the Company under Section 1.3 hereof.

1.9. Recordation and Filing. The Company will cause this Mortgage and all mortgages supplemental hereto at all times to be kept, recorded and filed at its own expense in such manner and in such places as may be required by law in order fully to preserve and protect the rights of the holders of the Notes and the Trustee hereunder, and will furnish to the Trustee promptly after the execution and delivery of this Mortgage and of each supplemental mortgage an opinion of counsel stating that in the opinion of such counsel this Mortgage or such supplemental mortgage, as the case may be, has been properly recorded or filed for record so as to make effective of record the lien intended to be created hereby.

1.10. Financial Statements. The Company will keep proper books of account and records and will deliver, or cause to be delivered to the Trustee and to the holder or holders of the Notes, in duplicate:

(a) As soon as available but within 60 days after the end of each quarterly fiscal period (except the last such period in each fiscal year) of the Company and Thrall Car Manufacturing Company, an Illinois corporation ("Thrall"), respectively (i) a copy of the balance sheet of the Company as at the end of such quarterly fiscal period and of the income and surplus statement of the Company for the period of the current fiscal year ending at the date of the balance sheet, and (ii) a copy of the consolidated balance sheet of Thrall as at the end of such quarterly fiscal period and a copy of the consolidated income and surplus statement of Thrall for the period of the current fiscal year ending at the date of the quarterly balance sheet, in each case in comparative form covering the corresponding date and period of the preceding fiscal year and all in reasonable detail and certified by an authorized financial officer of the respective corporation.

(b) As soon as available and in any event within 120 days after the close of each fiscal year of the Company and Thrall, respectively, (i) a copy of the audit report (including the balance sheet, income and surplus statement) of the Company for such fiscal year and (ii) a copy of the audit report (including balance sheet, income and surplus statement) of Thrall for such fiscal year, in each case in comparative form covering the preceding fiscal year of such corporation, all as prepared and certified by independent public accountants of recognized standing.

The audit report of the Company shall be accompanied by a written statement of the Company signed by its President or a Vice President or the Treasurer certifying such financial statements to the effect that the Company is not in default in the observance or performance of any of the terms, covenants or provisions of the Notes or this Mortgage, or if any such default exists, disclosing in such statement the nature of such default.

(c) As soon as available and in any event within 120 days after the close of each fiscal year of each subsidiary of Thrall, audit reports certified by an independent public accountant or firm of independent public accountants covering the operation of the respective subsidiaries for their fiscal year and an analysis of surplus and income statement for each subsidiary for such fiscal year in comparative form covering the preceding fiscal year of the respective subsidiaries.

(d) As soon as available with copies of all financial statements of the Lessee which are delivered to the Company pursuant to the terms of the Lease.

1.11. Modification of the Lease. The Company will not:

(a) terminate, modify or accept a surrender of or offer or permit any termination, modification or surrender of the Lease (except as otherwise expressly provided herein) or consent to the creation or existence of any mortgage or other lien to secure the payment of indebtedness upon the leasehold estate created by the Lease or any part thereof, except insofar as the provisions of Section 12.4 of the Lease may be deemed to be such a consent; or

(b) receive or collect or permit the receipt or collection of any rental payment under the Lease prior to the date of payment thereof provided for by the Lease or assign, transfer or hypothecate (other than to the Trustee hereunder) any rental payment then due or to accrue in the future under the Lease in respect of the mortgaged property; or

(c) sell, mortgage, transfer, assign or hypothecate (other than to the Trustee hereunder) its interest in the railroad cars or any part thereof or in any amount to be received by it from the use or disposition of the railroad cars.

1.12. Permitted Debt. The Company will not create, guarantee, assume or suffer to exist or in any manner be or become liable in respect of any indebtedness of any kind or character (including, without limiting the generality of the foregoing, sale, at a discount or otherwise, of any bills, notes, accounts receivable, credit claims, choses in action or securities from time to time owned by the Company in any manner or upon any terms whereby there may be imposed upon the Company any liability by way of endorsement, guaranty or agreement to repurchase, or any liability on any contractual or other obligations of others or under any agreement to maintain working capital of others, or any liability under any agreement requiring payment by the Company for goods or services whether or not the same are furnished) except:

- (a) indebtedness of the Company on the Notes;
- (b) endorsement for collection or deposit of any commercial paper received by the Company in the ordinary course of business; and
- (c) indebtedness of the Company to Thrall.

1.13. Permitted Investments. The Company will not make or have outstanding any investments in (whether through the ownership or purchase of stock or obligations) or loans or advances or extensions of credit to any person, firm or corporation, except:

- (a) obligations of corporations having an original maturity of not more than 12 months from the date of such obligation and customarily known as commercial paper;
- (b) direct obligations of the United States of America;
- (c) loans and advances to Thrall.

The Company will not have any subsidiary, as defined in the Loan Agreement.

1.14. Dividends. The Company will not declare or pay any dividends, either in cash or property, on any class of its stock (except dividends payable solely in stock), or directly or indirectly purchase, redeem or retire any of its stock, or make any other distribution, either directly or indirectly, in respect of its stock.

1.15. Permitted Business. The Company covenants and agrees that it will not engage in any business other than the ownership of the mortgaged property and the leasing thereof to the Lessee.

1.16. Sales, Mergers and Consolidations. The Company will not sell all or substantially all of its assets as an entirety or consolidate or merge with or into any other corporation.

1.17. Power of Attorney in respect of the Lease. The Company does hereby irrevocably constitute and appoint the Trustee, its true and lawful attorney with full power of substitution, for it and in its name, place and stead, to ask, demand, collect, receive, receipt for, sue for, compound and give acquittance for any and all rents, income and other sums which are assigned under Division II of the granting clauses hereof with full power to settle, adjust or compromise any claim thereunder as fully as the Company could itself do, and to endorse the name of the Company on all commercial paper given in payment or in part payment thereof, and in its discretion to file

any claim or take any other action or proceedings, either in its own name or in the name of the Company, or otherwise, which the Trustee may deem necessary or appropriate to collect any and all sums which may be or become due or payable under the Lease or which may be necessary or appropriate to protect and preserve the right, title and interest of the Trustee in and to such rents and other sums and the security intended to be afforded hereby.

SECTION 2. POSSESSION, USE AND RELEASE OF PROPERTY:

2.1. While the Company is not in default hereunder it shall be suffered and permitted to remain in full possession, enjoyment and control of the railroad cars and to manage, operate and use the same and each part thereof with the rights and franchises appertaining thereto; provided always, that the possession, enjoyment, control and use of the railroad cars shall at all times be subject to the observance and performance of the terms of this Mortgage. It is expressly understood that the use and possession of the railroad cars by the Lessee under and subject to the Lease shall not constitute a violation of this Section 2.1.

2.2. So long as no event of default referred to in Section 17 of the Lease has occurred and is continuing to the knowledge of the Trustee, the Trustee shall execute a release in respect of any railroad car designated by the Lessee for settlement pursuant to the provisions of Section 13 of the Lease upon receipt of:

(a) a copy of the written notice given by the Lessee pursuant to Section 13.1(a) of the Lease delivered to the Trustee not less than 20 days prior to the settlement date referred to therein; and

(b) the prepayment required by Section 3.1 hereof together with accrued interest thereon to and including the date of prepayment.

2.3. In addition to the release contemplated by the foregoing Section 2.2, the Company may sell or otherwise dispose of any railroad cars then subject to the lien of this Mortgage, and the Trustee shall release the same from the lien hereof to the extent and on the terms and upon compliance with the conditions provided for in any written consent given thereto at any time or from time to time by the holder or holders of the indebtedness hereby secured.

2.4. No purchaser in good faith of property purporting to be released hereunder shall be bound to ascertain the authority of the Trustee to execute the release, or to inquire as to any facts required by the provisions hereof for the exercise of such authority; nor shall any purchaser, in good faith, of any item or unit of the mortgaged property be under obligation to ascertain or inquire into the conditions upon which any such sale is hereby authorized.

SECTION 3. PREPAYMENT OF NOTES; APPLICATION OF ASSIGNED RENTALS, INSURANCE PROCEEDS AND CERTAIN OTHER MONEYS RECEIVED BY THE TRUSTEE.

3.1. Required Prepayments. On each settlement date designated by the Lessee pursuant to Section 13.1 of the Lease the Company agrees to pay the Trustee an amount equal to the "Loan Value" of the railroad car for which settlement is being made computed as of the settlement date, together with accrued interest thereon to and including the date of prepayment. Any such prepayment shall be applied to the payment of the unpaid principal amounts of the Notes then outstanding ratably in accordance with such unpaid principal amounts, and each of the remaining installments on each Note shall be reduced in the proportion that the principal prepayment on such Note bears to the unpaid principal amount thereof immediately prior to such prepayment. For all purposes of this Section 3.1 the "Loan Value" of any railroad car shall mean as of any date an amount equal to .013333 of the principal amount of the Notes remaining unpaid as of said date.

3.2. Application of Assigned Rentals and Other Sums. As more fully set forth in Division II of the granting clauses hereof, the Company has hereby assigned to the Trustee all rents and other sums due and to become due under the Lease as additional security for the Notes. So long as no event of default referred to in Section 4.1 hereof has occurred and is continuing, all rents and other sums received by the Trustee pursuant to such assignment shall be paid and applied as follows:

(a) The amounts from time to time received by the Trustee which constitute payment of fixed rents for the railroad cars shall be applied or held for application by the Trustee on the next installment date on the Notes as follows:

(i) First, to the payment of accrued and unpaid interest on the Notes to and including the date such application is made;

(ii) Second, to the payment of any installment of principal then owing on the Notes;

and the balance of any such amounts shall be released to or upon the order of the Company; and

(b) The amounts from time to time received by the Trustee which constitute payments by the Lessee of the "settlement value" in respect of any railroad car pursuant to Section 13 of the Lease shall be applied to the prepayment on the Notes in the manner required by Section 3.1 hereof, and the balance of any such amounts shall be released to or upon the order of the Company.

If an event of default referred to in Section 4.1 hereof has occurred and is continuing, however, all amounts received by the Trustee under such assignment shall be applied in the manner provided for in Section 4.5 in respect of proceeds and avails of the mortgaged property.

3.3. Application of Insurance Proceeds. In the event the Trustee shall receive any proceeds of insurance required to be maintained by the Lessee pursuant to the provisions of Section 15 of the Lease, then, so long as no event of default referred to in Section 17 of the Lease has occurred and is continuing, the same shall be held by the Trustee as part of the mortgaged property and shall be applied by the Trustee from time to time to any one or more of the following purposes:

(a) Proceeds covering any railroad car for which settlement has been made pursuant to Section 13 of the Lease and in respect whereof the Company has made a prepayment pursuant to Section 3.1 hereof shall be released to or upon the order of the Lessee.

(b) Proceeds covering any railroad car for which settlement has not been made pursuant to Section 13 of the Lease, shall, upon written application therefor, be released to the Lessee to reimburse the Lessee for expenditures made for the repair, restoration or replacement of such railroad car upon receipt by the Trustee of;

(i) a certificate of the treasurer or an assistant treasurer of the Lessee showing in reasonable detail the purpose for which the expenditures were made and the actual cash expenditures made for such purpose and stating that there is no default under the Lease; and

(ii) an appropriate supplement to the Lease subjecting any additions to or replacements for such railroad car to the provisions of the Lease for the balance of the term thereof and a mortgage supplemental hereto sufficient to subject any such additions or replacements to the lien hereof together with an opinion of counsel (who may be counsel for the Lessee) covering the validity, enforceability and recording of such instruments, all in form and content satisfactory to the Trustee; or

(iii) an opinion of counsel that no such supplemental lease or supplemental mortgage is required for such purposes.

(c) If such proceeds shall not have been applied to either of the purposes specified in the preceding paragraphs (a) and (b) within 60 days from the receipt thereof by the Trustee, or if within such period the Company shall have notified the Trustee in writing that the Lessee has requested a termination of the Lease as to the railroad car or cars covered thereby, then such proceeds shall be applied by the Trustee to the prepayment of the Notes in the manner provided for by Section 3.1 hereof and the balance of such proceeds, if any, shall be paid over to or upon the order of the Lessee.

If a default referred to in Section 17 of the Lease has occurred and is continuing, however, such insurance proceeds shall be taken, held and applied as proceeds and avails of the mortgaged property in accordance with the provisions of Section 4.5 hereof.

#### SECTION 4. DEFAULTS AND OTHER PROVISIONS:

4.1. The term "event of default" for the purpose hereof shall mean any one or more of the following:

(a) Default for a period of 10 days in the payment of any installment on any Note; or

(b) Default for a period of 10 days in the payment of the principal of any Note at any date fixed for prepayment pursuant to Section 3.1 hereof; or

(c) Default or the happening of an event shall occur under any indenture, agreement or other similar instrument under which any evidence of indebtedness of the Company may be issued and such default or event shall continue for a period of time sufficient to permit the acceleration of the maturity of any indebtedness of the Company outstanding thereunder; or

(d) Default in the due observance or performance of any covenant, condition or agreement set forth in Sections 1.12 to 1.16, both inclusive, hereof; or

(e) Default in the due observance or performance by the Company of any other covenant, condition or agreement required to be observed or performed by the Company by the terms of the Loan Agreement, the Notes or this Mortgage and such default shall continue for 30 days after written notice thereof to the Company by the Trustee or the holder or holders of any Note; or

(f) Default in the due observance or performance by the Lessee of any covenant, condition or agreement required to be observed or performed by the Lessee under the terms of the Lease and such default shall continue for a period of time sufficient to permit the Lessor thereunder to exercise any one or more of the remedies set forth in Section 17 of the Lease; or

(g) Any representation or warranty made by the Company in writing herein, in the Loan Agreement or in any statement or certificate furnished by the Company to the Trustee or the holder or holders of any Note pursuant to any terms of this Mortgage or in connection with the loans evidenced by the Notes proves untrue in any material respect as of the date of issuance or making thereof and shall not be made good within 30 days after notice thereof to the Company by the Trustee or the holder or holders of any Note; or

(h) Any judgment, writ or warrant of attachment or of any similar process in an amount in excess of \$50,000 shall be entered or filed against the Company or Thrall, or against any property or assets of the Company or Thrall and remains unpaid, unvacated, unbonded or unstayed for a period of 30 days; or

(i) The Company or Thrall shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent or shall file any petition or answer seeking or acquiescing in any reorganization arrangement, composition, readjustment, liquidation, dissolution or similar relief for either of themselves under any present or future federal, state or other statute, law or regulation or shall seek or consent to or acquiesce in the appointment of any trustee or receiver or liquidator of the Company or Thrall or of all or any substantial part of the Company's property or all or any of the rents, revenues, issues, earnings, profits or income thereof, or the Company or Thrall shall make any general assignment for the benefit of creditors or shall admit in writing bankruptcy, insolvency or its inability to pay its debts generally as they become due; or

(j) If a court of competent jurisdiction shall enter any order, judgment or decree approving a petition filed against the Company or Thrall seeking any reorganization arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present federal, state or other statute, law or regulation and such order, judgment or decree shall remain unvacated or unstayed for an

aggregate of 60 days (whether or not consecutive) from the date of entry thereof, or if any such petition shall be filed against the Company or Thrall and not dismissed in 120 days, or if any trustee, receiver or liquidator of the Company or Thrall or of all or any substantial part of its property or of all or of any of the rents, revenues, issues, profits or income thereof shall be appointed without the consent or acquiescence of the Company or Thrall, as the case may be, and such appointment shall remain unvacated or unstayed for an aggregate of 60 days (whether or not consecutive); or

(k) Default shall be made by Thrall in the payment of any obligation for borrowed money or under any mortgage, agreement or other similar instrument under which any evidence of indebtedness of said corporation may be issued and such default shall continue beyond the period of grace, if any, allowed with respect thereto or for a period of time sufficient to permit the acceleration of the maturity of any such indebtedness; or

(l) Thrall shall default in the observance or performance of any of the covenants contained in that certain Agreement dated as of December 10, 1968 providing for the payment of all taxes, etc., and the removal of all liens not paid or discharged by the Company.

4.2. When any such event of default has happened and is continuing, the Trustee shall have the rights, options, duties and remedies of a secured party, and the Company shall have the rights and duties of a debtor, under the Uniform Commercial Code of Illinois (regardless of whether such Code or a law similar thereto has been enacted in a jurisdiction wherein the rights or remedies are asserted), and without limiting the foregoing may exercise any one or more or all, and in any order, of the remedies hereinafter set forth, it being expressly understood that no remedy herein conferred is intended to be exclusive of any other remedy or remedies; but each and every remedy shall be cumulative and shall be in addition to every other remedy given herein or now or hereafter existing at law or in equity or by statute:

(a) The Trustee may, by notice in writing to the Company declare the entire unpaid balance of the Notes to be immediately due and payable; and thereupon all such unpaid balance, together with all accrued interest thereon, shall be and become immediately due and payable;

(b) Subject always to the then existing rights, if any, of the Lessee under the Lease, the Trustee personally or by agents or attorneys, shall have the right (subject to compliance with any applicable mandatory legal requirements) to take immediate possession of the mortgaged property, or any portion thereof, and for that purpose may pursue the same wherever it may be found, and may enter any of the premises of the Company, with or without notice, demand, process of law or legal procedure, and search for, take possession of, remove, keep and store the same, or use and operate the same until sold; it being understood, without limiting the foregoing, that the Trustee may, and is hereby given the right and authority to, keep and store said mortgaged property, or any part thereof, on the premises of the Company and that the Trustee shall not thereby be deemed to have surrendered, or to have failed to take possession of such mortgaged property;

(c) Subject always to the then existing rights, if any, of the Lessee under the Lease, the Trustee may, if at the time such action may be lawful and always subject to compliance with any mandatory legal requirements, either with or without taking possession and either before or after taking possession, and without instituting any legal proceedings whatsoever, and having first given notice of such sale by registered mail to the Company once at least 10 days prior to the date of such sale, and any other notice which may be required by law, sell and dispose of said mortgaged property, or any part thereof, at public auction to the highest bidder, in one lot as an entirety or in separate lots, and either for cash or on credit and on such terms as the Trustee may determine, and at any place (whether or not it be the location of the mortgaged property or any part thereof) designated in the notice above referred to. Any such sale or sales may be adjourned from time to time by announcement at the time and place appointed for such sale or sales, or for any such adjourned sale or sales, without further published notice; and the Trustee or the holder or holders of the Notes, or of any interest therein, may bid and become the purchaser at any such sale;

(d) The Trustee may proceed to protect and enforce this Mortgage and the Notes by suit or suits or proceedings in equity, at law or in bankruptcy, and whether for the specific performance of any covenant or agreement herein contained or in execution or aid of any power herein granted, or for foreclosure hereunder, or for the appointment of a receiver or receivers for the mortgaged property or any part thereof, or for the recovery of judgment for the indebtedness hereby secured, or for the enforcement of any other proper legal or equitable remedy available under applicable law;

(e) Subject always to the then existing rights, if any, of the Lessee under the Lease, the Trustee may proceed to exercise in respect of the Lease and the mortgaged property covered thereby and the duties and obligations and liabilities of the Lessee thereunder, all rights, privileges and remedies in the Lease or by applicable law permitted or provided to be exercised by the Company, and may exercise all such rights and remedies either in the name of the Trustee or in the name of the Company for the use and benefit of the Trustee; or

(f) Subject always to the then existing rights, if any, of the Lessee under the Lease, the Trustee may sell the rentals reserved under the Lease which have been assigned to the Trustee and all right, title and interest of the Trustee, as assignee thereof, at public auction to the highest bidder and either for cash or on credit, the Trustee to give the Company 10 days prior written notice of the time and place of holding any such sale, and provided always that the Trustee shall also comply with any applicable mandatory legal requirements in connection with such sale.

4.3. In case of any sale of the mortgaged property, or of any part thereof, pursuant to any judgment or decree of any court or otherwise in connection with the enforcement of any of the terms of this Mortgage, the principal of the Notes if not previously due, and the interest accrued thereon, shall at once become and be immediately due and payable; also in the case of any such sale, the purchaser or purchasers, for the purpose of making settlement for or payment of the purchase price, shall be entitled to turn in and use the Notes and any claims for interest matured and unpaid thereon, in order that there may be credited as paid on the purchase price the sum apportionable and applicable to the Notes including principal and interest thereof out of the net proceeds of such sale after allowing for the proportion of the total purchase price required to be paid in actual cash. If at any foreclosure proceeding the mortgaged property shall be sold for a sum less than the total amount of indebtedness for which judgment is therein given, the judgment creditor shall be entitled to the entry of a deficiency decree against the Company and against the property of the Company for the amount of such deficiency; and the Company does hereby irrevocably consent to the appointment of a receiver for the mortgaged property and the property of the Company and of the rents, issues and profits thereof after such sale and until such deficiency decree is satisfied in full.

4.4. The Company covenants that it will not at any time insist upon or plead, or in any manner whatever claim or take any benefit or advantage of, any stay or extension law now or at any time hereafter in force, nor claim, take nor insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the mortgaged property or any part thereof, prior to any sale or sales thereof to be made pursuant to any provision herein contained, or to the decree, judgment or order of any court of competent jurisdiction; nor, after such sale or sales, claim or exercise any right under any statute now or hereafter made or enacted by any state or otherwise to redeem the property so sold or any part thereof, and hereby expressly waives for itself and on behalf of each and every person, except decree or judgment creditors of the Company acquiring any interest in or title to the mortgaged property or any part thereof subsequent to the date of this Mortgage, all benefit and advantage of any such law or laws, and covenants that it will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any power herein granted and delegated to the Trustee, but will suffer and permit the execution of every such power as though no such law or laws had been made or enacted.

Any sale, whether under any power of sale hereby given or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Company in and to the property sold and shall be a perpetual bar, both at law and in equity, against the Company, its successors and assigns, and against any and all persons claiming the property sold or any part thereof under, by or through the Company, its successors or assigns (subject, however, to the then existing rights, if any, of the Lessee under the Lease).

4.5. The purchase money proceeds and/or avails of any sale of the mortgaged property, or any part thereof (including any sale made pursuant to subparagraph (f) of Section 4.2 hereof), and the proceeds and avails of any remedy hereunder shall be paid to and applied as follows:

(a) To the payment of costs and expenses of foreclosure or suit, if any, and of such sale, and the reasonable compensation of the Trustee, its agents, attorneys and counsel, and of all proper expenses, liability and advances incurred or made hereunder by the Trustee, or the holder or holders of the Notes, and of all taxes, assessments or liens superior to the lien of these presents, except any taxes, assessments or other superior lien subject to which said sale may have been made;

(b) To the payment to the holder or holders of the Notes of the amount then owing or unpaid on the Notes for principal and interest; and in case any such proceeds shall be insufficient to pay the whole amount so due upon the Notes then to the payment of such principal and accrued and unpaid interest in such manner as the holder or holders thereof may elect; and

(c) To the payment of the surplus, if any, to the Company, its successors and assigns, or to whomsoever may be lawfully entitled to receive the same.

4.6. In case the Trustee shall have proceeded to enforce any right under this Mortgage by foreclosure, sale, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely, then and in every such case the Company, the Trustee and the holder or holders of the Notes shall be restored to their former positions and rights hereunder with respect to the property subject to the lien of this Mortgage.

4.7. No delay or omission of the Trustee or of any holder of any Note to exercise any right or power arising from any default on the part of the Company shall exhaust or impair any such right or power or prevent its exercise during the continuance of such default. No waiver by the Trustee, or any holder or holders of the Notes of any such default, whether such waiver be full or partial, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom, except as may be otherwise provided herein. No remedy hereunder is intended to be exclusive of any other remedy but each and every remedy shall be cumulative and in addition to any and every other remedy given hereunder or otherwise existing. Nor shall the giving, taking or enforcement of any other or additional security, collateral or guaranty for the payment of the indebtedness secured under this Mortgage operate to prejudice, waive or affect the security of this Mortgage or any rights, powers, or remedies hereunder, nor shall the Trustee or the holder or holders of any of the indebtedness hereby secured be required to first look to, enforce or exhaust such other or additional security, collateral or guaranties.

#### SECTION 5. SUCCESSOR TRUSTEES AND OTHER PROVISIONS:

5.1. The Trustee shall not be answerable for the default or misconduct of any agent or attorney appointed in pursuance hereof if such agent or attorney shall have been selected with reasonable care, or for anything whatsoever in connection with this Mortgage or the Notes or the proceeds thereof except for its own willful misconduct or gross negligence, nor shall the Trustee be under any obligation to take any action toward the execution or enforcement of the trusts hereby created which in its opinion shall be likely to involve expense or liability, unless as often as required the holder or holders of the Notes shall furnish indemnity satisfactory to the Trustee against such expense or liability.

5.2. The Trustee shall be entitled to reasonable compensation for all services rendered in and about the administration of the trusts herein provided for and in and about foreclosure, enforcement or other protection of this Mortgage or the lien hereof, and the Company agrees to pay such compensation and to indemnify the Trustee against any liability or damages incurred or sustained by it under this Mortgage. Without limiting the foregoing the Trustee shall have a lien for such compensation and indemnity, as well as for all out-of-pocket expenses and counsel fees and court costs incurred by the Trustee in any foreclosure, enforcement or other protection of this Mortgage or the lien hereof, on the mortgaged property prior to the lien for the benefit of the Notes. It is understood and agreed, however, that if a trustee is appointed in succession of the Trustee named in this Mortgage, the Company shall not be required to pay compensation for ordinary administrative services to such trustee in excess of the amounts it has presently agreed to pay the Trustee named herein.

5.3. The Trustee shall not be responsible for any recitals herein or in the Loan Agreement or for insuring the mortgaged property, or for the recording, filing or refiling of this Mortgage, or of any supplemental or further mortgage or trust deed; nor shall the Trustee be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of the Company contained herein or in the Loan Agreement, and the Trustee shall be deemed to have knowledge of any default on the part of the Company in the performance or observance of any such covenants, conditions or agreements only upon receipt of written notice thereof from one of the Lenders.

5.4. The Trustee shall not be liable for any action taken or omitted to be taken in good faith and believed by it to be within the discretion or power conferred upon the Trustee by this Mortgage, or be responsible for the consequences of any oversight or error of judgment, and the Trustee shall be protected in acting upon any notice, consent, certificate or other instrument believed by it to be genuine and correct and to have been signed by the proper person or persons.

5.5. Notwithstanding anything elsewhere in this Mortgage contained, the Trustee shall have the right, but shall not be required to demand in respect of withdrawal of any cash, the release of any property, the subjection of any after acquired property to the lien of this Mortgage, or any other action whatsoever within the purview hereof, any showings, certificates, opinions, appraisals or other information by the Trustee deemed necessary or appropriate in addition to the matters by the terms hereof required as a condition precedent to such action.

5.6. All moneys received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys, except to the extent required by law, and may be deposited by the Trustee under such general conditions as may be prescribed by law in the Trustee's general banking department, and

the Trustee shall be under no liability for interest on any moneys received by it hereunder. The Trustee and any affiliated corporation may become the owner of any Note secured hereby and be interested in any financial transaction with the Company, or the Trustee may act as depositary or otherwise in respect to other securities of the Company, all with the same rights which it would have if not Trustee.

5.7. The Trustee may resign and be discharged of the trusts hereby created by giving notice specifying the date when such resignation shall take effect to the Company and to the holders of the Notes named in the Loan Agreement. Such resignation shall take effect on the day specified in such notice (being not less than 30 days after the first mailing of such notice) unless previously a successor trustee shall have been appointed as hereinafter provided, in which event such resignation shall take effect immediately upon the appointment of such successor.

The Trustee may be removed and/or a successor trustee may be appointed at any time by an instrument in writing delivered to the Trustee and to the Company, duly acknowledged and filed for record in each place where this Mortgage shall have been recorded and signed by the holder or holders of the Notes.

Each trustee appointed in succession of the Trustee named in this Mortgage, or its successor in the trust, shall be a trust company or banking corporation having an office in the City of Chicago, Illinois, in good standing and having a capital and surplus aggregating at least \$10,000,000, if there be such a trust company or banking corporation qualified, able and willing to accept the trust upon reasonable or customary terms.

5.8. Any company into which the Trustee, or any successor to it in the trust created by this Mortgage, may be merged or converted or with which it or any successor to it may be consolidated, or any company resulting from any merger or consolidation to which the Trustee or any successor to it shall be a party (provided such company shall be a corporation organized under the laws of the State of Illinois or of the United States of America, having a capital and surplus of at least \$10,000,000), shall be the successor to the Trustee under this Mortgage without the execution or filing of any paper or any further act on the part of any of the parties hereto. The Company covenants that in case of any such merger, consolidation or conversion it will, upon the request of the merged, consolidated or converted corporation, execute, acknowledge and cause to be recorded or filed suitable instruments in writing to confirm the estates, rights and interests of such corporation as trustee under this Mortgage.

5.9. Should any deed, conveyance or instrument in writing from the Company be required by any successor Trustee for more fully and certainly vesting in and confirming to such new Trustee such estates, rights, powers and duties, then upon request any and all such deeds, conveyances and instruments in writing shall be made, executed, acknowledged and delivered, and shall be caused to be recorded and/or filed, by the Company.

5.10. Any new Trustee appointed pursuant to any of the provisions hereof shall execute, acknowledge and deliver to the Company an instrument accepting such appointment; and thereupon such new Trustee, without any further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers and trusts of its predecessor in the rights hereunder with like effect as if originally named as Trustee herein; but nevertheless, upon the written request of the Company or of the successor Trustee, the Trustee ceasing to act shall execute and deliver an instrument transferring to such successor Trustee, upon the trusts herein expressed, all the estates, properties, rights, powers and trusts of the Trustee so ceasing to act, and shall duly assign, transfer and deliver any of the property and moneys held by such Trustee to the successor Trustee so appointed in its or his place.

5.11. Upon the payment in full of all principal and interest owing on the Series A Note, the Trustee shall by an appropriate instrument forthwith transfer and convey all its right, title and interest in, under and to this Mortgage and the mortgaged property to Mutual Trust Life Insurance Company if it is then the holder of the Series B Note or to whomsoever it or the holder or holders of such Note, as the case may be, shall designate. Upon such conveyance the Trustee shall be discharged and relieved of any and all further obligations hereunder or with respect to the mortgaged property or any part thereof, and Mutual Trust Life Insurance Company or such other transferee, as the case may be, shall succeed to all of the rights and obligations of the Trustee hereunder; provided, however, that in no event shall Mutual Trust Life Insurance Company or such other transferee be liable for the acts or omissions of the Trustee prior to the effective date of such transfer. The Company agrees to join in any such conveyance, to give the Lessee prompt notice thereof and to direct and cause the Lessee to make all payments of fixed rents and other sums then due and to become due under the Lease directly to Mutual Trust Life Insurance Company or such other transferee. It is understood and agreed, however, that following such conveyance (i) Mutual Trust Life Insurance Company shall not receive any compensation for acting as mortgagee hereunder and (ii) the provisions of Section 5 hereof shall thereupon become inapplicable to this Mortgage.

#### SECTION 6. MISCELLANEOUS:

6.1. Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the covenants, premises and agreements in this Mortgage contained by or on behalf of the Company, or by or

on behalf of the Trustee, shall bind and inure to the benefit of the respective successors and assigns of such parties whether so expressed or not.

6.2. The unenforceability or invalidity of any provision or provisions of this Mortgage shall not render any other provision or provisions herein contained unenforceable or invalid.

6.3. All communications provided for herein shall be in writing and shall be deemed to have been given (unless otherwise required by the specific provisions hereof in respect of any matter) when delivered personally or when deposited in the United States mail, registered, postage prepaid, addressed as follows:

If to the Company, at Post Office Box 218  
Chicago Heights, Illinois  
with a copy thereof sent to  
Messrs. Carroll, Connelly & Hartigan  
One North La Salle Street  
Chicago, Illinois 60602

If to the Trustee, at 135 South La Salle Street  
Chicago, Illinois 60603

If to La Salle National Bank, at  
135 South La Salle Street  
Chicago, Illinois 60603

If to Mutual Trust Life Insurance Company, at  
77 South Wacker Drive  
Chicago, Illinois 60606

or as to the Company, the Trustee or either Lender at such other address as the Company, the Trustee or such Lender may designate by notice duly given in accordance with this Section to the other party.

If any subsequent holder of any Note shall have presented the same to the Trustee for inspection accompanied by a written designation of the address to which notice in respect of such Note is to be given, then wherever herein it is provided that notice shall be given to the holder or holders of the Notes, the notice shall be addressed to such holder at the address so given but unless and until such subsequent holder or holders shall so present a Note to the Trustee and designate the address, all communications herein provided to be made or given to the holder or holders of the Notes shall be sufficiently given if addressed to the Trustee at its address above given.

6.4. The Trustee shall release this Mortgage and the lien hereof by proper instrument or instruments upon presentation of satisfactory evidence that all indebtedness secured hereby has been fully paid or discharged.

6.5. This Mortgage may be executed, acknowledged and delivered in any number of counterparts, each of such counterparts constituting an original but all together only one Mortgage.

IN WITNESS WHEREOF, the Company has caused this Mortgage to be executed on its behalf by its Vice President and its corporate seal to be hereunto affixed and attested by its ASSISTANT Secretary; and LA SALLE NATIONAL BANK in evidence of its acceptance of the trusts hereby created has caused this Mortgage to be executed on its behalf by one of its Vice Presidents and its corporate seal to be hereunto affixed, and said seal and this Mortgage to be attested by one of its Assistant Secretaries; all as of the day and year first above written.

NO. 3 TRANSPORTATION CORPORATION  
OF AMERICA

By CA Maff  
Its Vice President

(Corporate Seal)

Attest:

W. J. Stout  
Its ASSISTANT Secretary

LA SALLE NATIONAL BANK,  
Trustee as aforesaid

By [Signature]  
Its Vice President

(Corporate Seal)

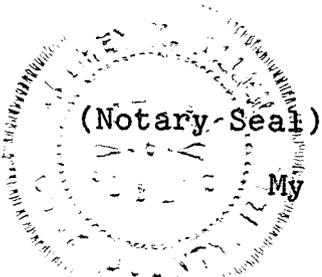
Attest:

[Signature]  
Its Assistant Secretary

STATE OF ILLINOIS )  
                          ) SS  
COUNTY OF COOK     )

On this 17th day of December, 1968, before me personally appeared C.A. Mapp, to me personally known, who being by me duly sworn, says that he is Vice President of NO. 3 TRANSPORTATION CORPORATION OF AMERICA, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Audrey K. Allen  
Notary Public

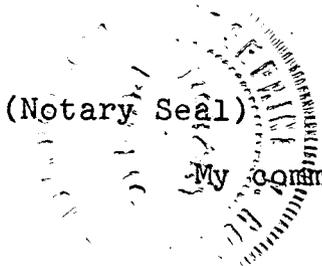


My commission expires: June 6, 1972.

STATE OF ILLINOIS )  
                          ) SS  
COUNTY OF COOK     )

On this 18th day of December, 1968, before me personally appeared EDWARD MALO, to me personally known, who being by me duly sworn, says that he is the Vice President of LA SALLE NATIONAL BANK, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Josephine V. Homik  
Notary Public



My commission expires: June 1, 1969.

NO. 3 TRANSPORTATION CORPORATION OF AMERICA

7% SECURED NOTE, SERIES \_\_\_\_\_

\$

December 10, 1968

FOR VALUE RECEIVED, the undersigned, NO. 3 TRANSPORTATION CORPORATION OF AMERICA, an Illinois corporation (the "Company"), promises to pay to the order of

the principal sum of Dollars (\$ \_\_\_\_\_), together with interest from the date hereof on the principal balance from time to time remaining unpaid hereon at the rate of 7% per annum (computed on the basis of a 360-day year of twelve 30-day months), in installments, as follows:

\$ \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 1969;

\$ \_\_\_\_\_ on the \_\_\_\_\_ day of each calendar month thereafter to and including \_\_\_\_\_, 19 \_\_\_\_\_;

\$ \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 1969;

\$ \_\_\_\_\_ on the \_\_\_\_\_ day of each calendar month thereafter to and including \_\_\_\_\_, 19 \_\_\_\_\_;

with a final installment on \_\_\_\_\_, 19 \_\_\_\_\_, in an amount equal to the entire principal and interest remaining unpaid as of said date;

and to pay interest at said office on any overdue installment of principal and (to the extent legally enforceable) interest at the rate of 7% per annum, whether by acceleration or otherwise, until paid.

All payments of principal of and interest on this Note shall be made at the principal office of the payee herein named in Chicago, Illinois, or at such other place as the holder hereof shall designate in writing to the Company, in coin or currency of the United States of America which at the time of payment shall be legal tender for the payment of public and private debts.

This Note is one of a series of Notes in the aggregate principal amount of \$ \_\_\_\_\_ issued under and pursuant to that certain Loan Agreement dated as of October 31, 1968 (the "Loan Agreement") between the Company, La Salle National Bank and Mutual Trust Life Insurance Company and is further issued under and, equally and ratably with said other Notes, secured by that certain Chattel Mortgage Trust Deed, Assignment of Rents and Security Agreement dated as of October 31, 1968 (the "Mortgage"), from the Company to La Salle National Bank, as Trustee (the "Trustee").

