

*Counterparts - J.W.L.*

RECORDATION NO. 21842 FILED

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DEC 8 '98 4-25 PM

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RECORDATION NO. 21842-A B F FILED

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DEC 8 '98 4-25 PM '98

RECEIVED  
SURFACE TRANSPORTATION  
BOARD

December 8, 1998

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are three (3) copies of a Railcar Lease Agreement, dated as of December 8, 1998, a primary document as defined in the Board's Rules for the Recordation of Documents and three (3) copies of the following documents related thereto: a Trust Indenture and Lease Supplement dated December 8, 1998.

The names and addresses of the parties to the enclosed documents are:

Railcar Lease Agreement  
and Lease Supplement

Lessor: GE Capital Railcar Services Canada Company  
421 7<sup>th</sup> Avenue S.W., Suite 2401  
Calgary, Alberta T2P 4K0

Lessee: NOVA Chemicals Ltd.  
645 - 7<sup>th</sup> Avenue S.W., 23<sup>rd</sup> Floor  
Calgary, Alberta T2P 4G8

Mr. Vernon A. Williams  
December 8, 1998  
Page 2

Trust Indenture A

Issuer: GE Capital Railcar Services Canada Company  
421 7<sup>th</sup> Avenue S.W., Suite 2401  
Calgary, Alberta T2P 4K0

Indenture Trustee: Montreal Trust Company of Canada  
151 Front Street West, Suite 605  
Toronto, Ontario M5J 2N1

A description of the railroad equipment covered by the enclosed documents is:

300 railcars bearing reporting marks and road numbers  
NCLX 1 through NCLX 300

Also enclosed is a check in the amount of \$78.00 payable to the order of the  
Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,



Robert W. Alvord

RWA/bg  
Enclosures

**GE CAPITAL RAILCAR SERVICES CANADA COMPANY**

ISSUER

RECORDATION NO. 21842-A FILED

DEC 8 '98

4-25 PM

- and -

**MONTREAL TRUST COMPANY OF CANADA**

INDENTURE TRUSTEE

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**TRUST INDENTURE**

PROVIDING FOR THE ISSUE OF \$20,107,219.60 PRINCIPAL AMOUNT OF 6.78%  
LIMITED RECOURSE NOTES DUE MARCH 27, 2018

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December 8, 1998

**Tory Tory DesLauriers & Binnington**

Barristers & Solicitors

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**THIS TRUST INDENTURE** made as of the 8th day of December, 1998

**B E T W E E N:**

**GE CAPITAL RAILCAR SERVICES CANADA COMPANY**, an unlimited liability company incorporated under the laws of the Province of Nova Scotia and having its chief executive office in the City of Calgary in the Province of Alberta

(hereinafter called the "Issuer")

**OF THE FIRST PART**

- and -

**MONTREAL TRUST COMPANY OF CANADA**, a trust company incorporated under the laws of Canada and having an office in the City of Toronto in the Province of Ontario

(hereinafter called the "Indenture Trustee")

**OF THE SECOND PART**

**WHEREAS** the Issuer considers it necessary for its commercial purposes to create and issue the Notes in the manner provided herein;

**AND WHEREAS** the Issuer is duly authorized to create and issue the Notes to be issued as provided herein; and

**AND WHEREAS** all necessary resolutions of the directors and shareholders of the Issuer have been duly passed and confirmed and other proceedings taken to make the Notes, when certified by the Indenture Trustee and issued as provided in this Trust Indenture, valid, binding and legal obligations of the Issuer with the benefits of and subject to the terms of this Trust Indenture and to make this Trust Indenture a valid and binding indenture in accordance with its terms;

**AND WHEREAS** the foregoing recitals are made as representations and statements of fact by the Issuer and not by the Indenture Trustee;

**NOW THEREFORE THIS INDENTURE WITNESSETH** and it is hereby covenanted, agreed and declared as follows.

**ARTICLE 1.**  
**INTERPRETATION**

**1.1. Definitions**

In this Trust Indenture, unless there is something in the subject matter or context inconsistent therewith:

1.1.1. **“Affiliate”** of any Person means any other Person controlling, controlled by or under direct or indirect common control with such Person, and, for the purposes of this definition, “control”, when used with respect to any specified Person, means the power to direct the management or policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms “controlling” and “controlled” have meanings correlative to the foregoing;

1.1.2. **“Amortization Schedule”** means the amortization schedule of the Notes annexed hereto as Schedule 1.1.2, as the same may be revised from time to time following a partial prepayment or repurchase of the Notes in accordance with the terms of this Trust Indenture;

1.1.3. **“Applicable Laws”** means, in relation to any Person, property, transaction or event, all applicable provisions of federal, provincial, state or local statutory rules, regulations, official directives and orders of all governmental authorities having jurisdictions in actions or proceedings in which such Person is a party or by which it is bound or having application to such Person, property, transaction or event;

1.1.4. **“Basic Rent”** shall have the meaning attributed to such term in the Lease;

1.1.5. **“Business Day”** means each day, other than Saturday, Sunday or a day on which banks in the Provinces of Alberta or Ontario are required or authorized to close;

1.1.6. **“Casualty Occurrence”** shall have the meaning attributed to such term in the Lease;

1.1.7. **“Collateral”** shall have the meaning attributed to such term in section 3.1;

1.1.8. **“Default”** means any event which, with the giving of notice or passage of time or both, could become an Event of Default;

1.1.9. **“Direction”** means the direction of the Issuer to the Lessee, substantially in the form of Schedule 1.1.9 hereto, directing the Lessee *inter alia* to pay all amounts payable by it to the Issuer under the Lease, other than Excepted Payments, to the Note Liquidation Account;

1.1.10. **“Director”** means a director of the Issuer for the time being, and **“Directors”** means the board of directors of the Issuer or, whenever duly empowered, the executive committee (if any) of the board of directors of the Issuer for the time being, and reference to

action by the Directors means action by the directors as a board or action by the executive committee of the board as a committee;

1.1.11. **“Discount Rate”** means, with respect to each Note to be prepaid, 0.4375% plus the arithmetic average of the rates quoted by two major investment dealers based in Canada, selected by the independent investment dealer of national standing selected to determine the Makewhole Amount, as being the semi-annual interest rate equal to the new issue yield for a Government of Canada bond trading at or near par in Canadian dollars with a modified duration approximately equal to the Remaining Modified Duration of such Note (as determined through an iterative process), determined at 11:00 a.m. (Toronto time) on the second Business Day preceding the applicable Prepayment Date or Redemption Date;

1.1.12. **“Event of Default”** shall have the meaning attributed to such term in section 8.1;

1.1.13. **“Excepted Payments”** means (i) indemnity payments payable to or for the benefit of the Issuer under the Lease, including, without limitation, indemnity payments under articles 26 and 27 of the Lease; (ii) proceeds of third party liability insurance payable to the Issuer pursuant to the Lease as a result of insurance claims paid or losses suffered by the Issuer; (iii) proceeds of any insurance maintained by the Issuer for the benefit of the Issuer pursuant to section 7.6 of the Lease; (iv) transaction costs and fees and expenses payable by the Lessee to the Issuer pursuant to the Lease; (v) provided that an interest in the Notes shall have been duly assumed by the Lessee pursuant to the Note Assumption Agreement, the amount payable by the Lessee as the purchase price for the applicable Units pursuant to section 6.2(a)(i) of the Lease; (vi) where payments are to be made to the Issuer on an “After-Tax Basis”, the increment to the underlying payment obligation referred to in the preceding clauses (i) through (v) arising by virtue of the operation of the definition of “After-Tax Basis”; (vii) any payments of holdover rent pursuant to section 16.3 of the Lease; (viii) any payments in respect of interest payable by the Lessee pursuant to the Lease to the extent attributable to payments referred to in the preceding clauses (i) through (vii); (ix) any right of the Issuer to restitution from the Lessee in respect of any of the foregoing payments resulting from a determination of invalidity of such payment; (x) the right to enforce and the proceeds of enforcement of any amount referred to in the preceding clauses (i) through (ix) hereof; and (xi) Transfer Taxes (as such term is defined in the Lease) payable by the Lessee to the Issuer pursuant to section 5.4(d) of the Lease;

1.1.14. **“Extraordinary Resolution”** shall have the meaning attributed to such term in sections 11.12 and 11.15;

1.1.15. **“Generally Accepted Accounting Principles”** means Canadian generally accepted principles as in effect from time to time;

1.1.16. **“Guaranty”** means the guaranty, dated the date hereof, by General Electric Capital Corporation, a New York corporation, of the performance obligations of the Issuer hereunder;

1.1.17. **“Indenture Legislation”** shall have the meaning attributed to such term in subsection 13.1.1;

1.1.18. **“Lease”** means the lease agreement, dated December 8, 1998, between the Issuer, as lessor, and the Lessee, as lessee, with respect to the Units, as amended, supplemented or restated from time to time in accordance with its terms and the terms of this Trust Indenture;

1.1.19. **“Lessee”** means NOVA Chemicals Ltd., a corporation incorporated under the laws of the Province of Alberta, and its successors and permitted assigns;

1.1.20. **“Lessee Acknowledgement and Agreement”** means the acknowledgement of the Lessee to the Issuer and the Indenture Trustee, substantially in the form of Schedule 1.1.20, whereby the Lessee agrees *inter alia* to follow the Direction;

1.1.21. **“Lessee Default”** shall have the meaning attributed to the term “Event of Default” in the Lease;

1.1.22. **“Lessor Default”** shall have the meaning attributed to the term “Lessor Event of Default” in the Lease;

1.1.23. **“Lessor Liens”** means any Lien arising as a result of (i) a claim against the Issuer not related to the transactions contemplated by the Operative Agreements, (ii) taxes imposed against the Issuer or (iii) a claim against the Issuer arising out of a voluntary transfer or other voluntary disposition by the Issuer of all or any portion of its interest in the Collateral or the Operative Agreements unless, in either case, (i) such transfer or disposition occurs in connection with the exercise of rights following an Event of Default under and defined in the Lease or (ii) such transfer or disposition is expressly permitted pursuant to subsection 7.1.2 hereof;

1.1.24. **“Lien”** means any mortgage, pledge, lien, charge, assignment, attachment, levy, security interest, hypothec or capital lease (including, without limitation, any conditional sale agreement, equipment trust agreement or other title retention agreement);

1.1.25. **“Makewhole Amount”** means, with respect to any prepayment or acceleration of any Note prior to the Maturity Date, the excess, if any, of (i) the present value of all the remaining scheduled payments of principal and interest from the date of prepayment of the Note, discounted at a rate equal to the Discount Rate, over (ii) the aggregate unpaid Principal Balance and accrued interest thereon which is unpaid, which excess shall be determined by an independent investment dealer of national standing selected by the Issuer and acceptable to the Indenture Trustee;

1.1.26. **“Maturity Date”** means March 27, 2018;

1.1.27. **“Note Assumption Agreement”** means an agreement, substantially in the form of Schedule 1.1.27, among the Lessee, the Issuer and the Indenture Trustee;

1.1.28. **“Note Liquidation Account”** means an account of the Issuer maintained with The Bank of Nova Scotia, International Banking Division, Toronto, transit no. 80002, for further credit to Montreal Trust Company of Canada, account no. 03308-17, which designation shall be subject to change from time to time upon reasonable notice given by the Indenture Trustee to the Issuer;

1.1.29. **“Noteholder”** or **“Holder”** means any Person for the time being entered in the register referred to in subsection 2.9.1 as a holder of an outstanding Note or Notes;

1.1.30. **“Noteholders’ Request”** means an instrument, signed in one or more counterparts by the Holders of not less than 25% in principal amount of the outstanding Notes, requesting the Indenture Trustee to take the action or proceeding specified therein;

1.1.31. **“Notes”** means the 6.78% limited recourse notes due December 8, 2020 issued hereunder, and **“Note”** means any one of them;

1.1.32. **“Operative Agreement”** shall have the meaning attributed to such term in the Lease together with any subscription agreements entered into by the Issuer relating to the issue of Notes hereunder;

1.1.33. **“Payment Date”** means the 27th day of every month of March and September commencing on March 27, 1999 to and including March 27, 2018;

1.1.34. **“Permitted Investments”** means negotiable instruments or securities represented by instruments in bearer or registered form (including, without limitation, in book-based form) which evidence:

- (a) obligations issued or fully guaranteed as to both credit and timeliness by the Government of Canada; or
- (b) debt obligations issued or fully guaranteed by the provinces of British Columbia, Alberta and Ontario, provided that such securities are rated at least AA by Dominion Bond Rating Service Limited; or
- (c) deposits or bankers’ acceptances issued or accepted by any of Royal Bank of Canada, Canadian Imperial Bank of Commerce, The Toronto-Dominion Bank, The Bank of Nova Scotia and Bank of Montreal (and their respective successors), provided that the long term debt obligations of such banks are rated at least AA by Dominion Bond Rating Service Limited;

1.1.35. **“Permitted Lessor Liens”** means (i) the respective rights of the Lessee under the Lease and any permitted sublessee or assignee under the Lease; (ii) the Security Interest; (iii) Liens for taxes either not yet due or being contested in good faith and by appropriate proceedings diligently conducted so long as such proceedings stay the enforcement thereof and the sale or forfeiture of any Unit, part thereof, title thereto or interest therein; and (iv) undetermined or inchoate materialmen’s, mechanic’s, workmen’s, repairmen’s or employees’ Liens or other like Liens arising in the ordinary course of business and securing obligations

which are not delinquent or which have been bonded or the enforcement of which shall have been suspended (but only for the duration of such suspension);

1.1.36. **“Person”** means an individual, a corporation, a partnership, an unincorporated organization, an association, a joint venture, a trust, an estate, a government or any agency or political subdivision thereof or other entity, whether acting in an individual, fiduciary or other capacity;

1.1.37. **“Prepayment Amount”** shall have the meaning attributed to such term in subsection 4.1.1;

1.1.38. **“Prepayment Date”** shall have the meaning attributed to such term in subsection 4.1.1;

1.1.39. **“Principal Balance”** means, at any time, the outstanding principal balance of a Note or of Notes, as applicable;

1.1.40. **“Proceeds”** means identifiable or traceable personal property in any form derived directly or indirectly from any dealing with property or the proceeds therefrom and includes a right to an insurance payment or any other payment representing indemnity or compensation for loss of, or damage to, property or proceeds therefrom;

1.1.41. **“Redemption Amount”** shall have the meaning attributed to such term in subsection 4.2.1;

1.1.42. **“Redemption Date”** shall have the meaning attributed to such term in subsection 4.2.1;

1.1.43. **“Remaining Modified Duration”** means, with respect to a Note on the prepayment of such Note, a number of years, expressed to two decimal places, calculated as follows:

$$D_M = \frac{\left[ \sum_{i=0}^n \frac{(P_i + I_i)(i / 365)}{\left(1 + \frac{r}{2}\right)^{2i/365}} \right]}{\left[ \sum_{i=0}^n \frac{(P_i + I_i)}{\left(1 + \frac{r}{2}\right)^{2i/365}} \right] \left(1 + \frac{r}{2}\right)}$$

where:

- $D_M$  = Remaining Modified Duration
- $i$  = the number of days following the Prepayment Date of such Note
- $P_i$  = the scheduled principal payments at day " $i$ "
- $I_i$  = the scheduled interest payments at day " $i$ "
- $n$  = the total number of days until final maturity of such Note
- $r$  = the Discount Rate, expressed as a decimal;

1.1.44. **"Rent"** shall have the meaning attributed to such term in the Lease;

1.1.45. **"Sale Agreement"** means the sale agreement, dated December 8, 1998, between the Lessee as seller and the Lessor as buyer in respect of the purchase of the Units;

1.1.46. **"Security Interest"** shall have the meaning attributed to such term in section 3;

1.1.47. **"Subsidiary"** of any Person means any entity of which more than 50% of the issued and outstanding shares of voting capital stock are owned, directly or indirectly, by such Person;

1.1.48. **"Successor Issuer"** shall have the meaning attributed to such term in section 10.1;

1.1.49. **"Trust Indenture"**, **"hereto"**, **hereby"**, **"hereunder"**, **"hereof"**, **"herein"** and similar expressions refer to this trust indenture and not to any particular article, section, subdivision or portion hereof and include any and every supplemental indenture; and **"supplemental indenture"** and **"indenture supplemental hereto"** include any and every instrument supplemental or ancillary hereto or in implementation hereof;

1.1.50. **"Units"** means the railcars more particularly described in Schedule 1.1.50 together with any Replacement Units, and **"Unit"** means any one of them;

1.1.51. **"Warranties"** means any and all applicable manufacturer warranties applicable to the Units; and

1.1.52. **"Written Order of the Issuer"** and **"Written Request of the Issuer"** mean, respectively, an order or a request signed in the name of the Issuer by a director, the President or a Vice-President and by the Secretary, the Comptroller & Treasurer, an Assistant Secretary or an Assistant Treasurer of the Issuer and may consist of one or more instruments so executed;

Capitalized terms used herein and not otherwise defined shall have the meanings attributed to such terms in the Lease.

**1.2. Number and Gender**

In this Trust Indenture, unless there is something in the subject matter or context inconsistent therewith, words importing the singular include the plural and vice versa, and words importing the masculine gender include all genders.

**1.3. Meaning of "Outstanding" for Certain Purposes**

Every Note certified and delivered by the Indenture Trustee hereunder shall be deemed to be outstanding until such Note is redeemed, cancelled or delivered to the Indenture Trustee for cancellation or a new Note is issued in substitution therefor under section 2.13 or monies for the payment thereof is set aside under article 9, provided that:

1.3.1. where a new Note has been issued in substitution for a Note which has been lost, stolen or destroyed, only one of these Notes shall be counted for the purpose of determining the aggregate Principal Balance of Notes outstanding;

1.3.2. Notes which have been partially purchased or repaid shall be deemed to be outstanding only to the extent of the unpurchased or unpaid part of the Principal Balance thereof;

1.3.3. for the purpose of any provision of this Trust Indenture entitling Holders of outstanding Notes to vote, sign consents, requests or other instruments or take other action under this Trust Indenture, Notes owned directly or indirectly, legally or equitably, by the Issuer, any Subsidiary or any Affiliate thereof shall be disregarded, except that:

1.3.3.1. for the purpose of determining whether the Indenture Trustee shall be protected in relying on any such vote, consent, request or other instrument or other action, only the Notes of which the Indenture Trustee has notice that they are so owned shall be so disregarded; and

1.3.3.2. Notes so owned which have been pledged in good faith other than to the Issuer, a Subsidiary or an Affiliate thereof shall not be so disregarded if the pledgee establishes, to the satisfaction of the Indenture Trustee, the pledgee's right to vote such Notes in his discretion free from the control of the Issuer, a Subsidiary or an Affiliate thereof.

**1.4. Interpretation Not Affected By Headings, etc.**

The division of this Trust Indenture into articles and sections, the provision of a table of contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Trust Indenture.

**1.5. Statute References**

Any reference in this Trust Indenture to a statute shall be deemed to be a reference to such statute as amended, re-enacted or replaced from time to time.

**1.6. Monetary References**

Unless otherwise indicated, any reference in this Trust Indenture to money amounts shall be deemed to be a reference to lawful money of Canada.

**1.7. Day Not a Business Day**

Whenever any payment to be made hereunder is stated to be due, any period of time would begin or end, any calculation is to be made or any other action to be taken hereunder is stated to be required to be taken on a day other than a Business Day, such payment shall be made, such period of time shall begin or end, such calculations shall be made and such other action shall be taken on the next succeeding Business Day.

Any payment not sent to the Note Liquidation Account for same day value by 11:00 a.m. (Toronto time) on a Business Day shall be deemed to be made on the next following Business Day, and any payment not sent to the Noteholders out of the Note Liquidation Account for same day value by 1:00 p.m. (Toronto time) on a Business Day shall be deemed to be made on the next following Business Day. In the event that a payment is sent to the Note Liquidation Account for same day value by 11:00 a.m. (Toronto time) on a Business Day but a corresponding payment is not sent to the Noteholders for same day value by 1:00 p.m. (Toronto time) on such Business Day, the Indenture Trustee shall be liable for any additional interest hereunder in the event a Noteholder does not receive such funds for same day value but shall not have any liability whatsoever for consequential damages to such Noteholder.

**1.8. Schedules**

The following Schedules referred to herein and annexed hereto are incorporated by reference and form part of this Trust Indenture:

Schedule	1.1.2	Amortization Schedule
Schedule	1.1.9	Direction
Schedule	1.1.20	Lessee Acknowledgement and Agreement
Schedule	1.1.27	Note Assumption Agreement
Schedule	1.1.50	Units
Schedule	2.3	Form of Fully Registered Note
Schedule	2.8	Original Noteholders and Amounts

**1.9. Invalidity of Provisions**

Each of the provisions contained in this Trust Indenture or the Notes is distinct and severable, and a declaration of invalidity or unenforceability of any such provision by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision.

**1.10. Makewhole Amount Pre-estimate of Damages**

The Issuer and the Indenture Trustee each hereby acknowledge that, wherever in this Trust Indenture the Issuer is required to pay a Makewhole Amount, such Makewhole Amount is not, and is not intended to be, a penalty but is a genuine pre-estimate of damages which would be suffered otherwise by the Indenture Trustee and the Noteholders in the circumstances. The Issuer and the original Noteholders (set forth in Schedule 2.8), being sophisticated commercial entities, have agreed, after negotiations and with the benefit of independent financial and legal advice, to the circumstances in which a Makewhole Amount will be payable by the Issuer, and the provisions herein requiring the payment of a Makewhole Amount reflect the bargain made by the Issuer and the original Noteholders.

**1.11. Governing Law**

This Trust Indenture and the Notes shall be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein and shall be treated in all respects as Alberta contracts.

**ARTICLE 2.**  
**THE NOTES**

**2.1. Limitation on Issue and Designation**

The aggregate principal amount of Notes which may be issued and certified hereunder shall consist of, and be limited to, \$20,107,219.60 in lawful money of Canada, and such Notes are hereby designated "6.78% Limited Recourse Notes Due March 27, 2018".

**2.2. Terms of Notes**

The Notes shall be dated December 8, 1998, regardless of their actual date of issue, shall mature on the Maturity Date and shall bear interest on the Principal Balance thereof from and including December 8, 1998 at the rate of 6.78% per annum calculated semi-annually on the basis of a year of 365 days (or 366 days in a leap year), after as well as before maturity, default and judgment, with interest on amounts in default at the same rate, payable on each Payment Date as shown under column [4] of the Amortization Schedule.

Principal instalments on account of the Principal Balance shall be due and payable on the applicable Payment Dates set forth under column [1] of the Amortization Schedule in the respective amounts set forth under column [5] of the Amortization Schedule opposite the applicable Payment Dates.

**2.3. Form of Notes**

The Notes and the certificate of the Indenture Trustee endorsed thereon shall be substantially in the form set out in Schedule 2.3 to this Trust Indenture, with such appropriate additions, deletions, substitutions and variations as the Indenture Trustee may approve, and shall

bear such distinguishing letters and numbers as the Indenture Trustee may approve, such approval of the Indenture Trustee to be evidenced conclusively by its certification of the Notes.

The Notes may be engraved, printed or lithographed, or partly in one form and partly in another, as the Issuer may determine.

**2.4. Issue of Notes**

Notes in the aggregate principal amount of \$20,107,219.60, in denominations of no less than \$1,000, may forthwith and from time to time be executed by the Issuer and delivered to the Indenture Trustee and shall be certified by the Indenture Trustee and delivered to, or to the order of, the Issuer pursuant to a Written Order of the Issuer, without the Indenture Trustee receiving any consideration therefor.

**2.5. Execution of Notes**

The Notes shall be signed (either manually or by facsimile signature) by a director, the President or Vice President Finance of the Issuer. A facsimile signature upon any of the Notes, for all purposes of this Trust Indenture, shall be deemed to be the signature of the individual whose signature it purports to be and to have been signed at the time such facsimile signature is reproduced. Notwithstanding that any individual whose signature (either manual or facsimile) may appear on the Notes is not, at the date of this Trust Indenture or at the date of the Notes or at the date of the certifying and delivery thereof, a director, the President or Vice President Finance, the Secretary, the Comptroller & Treasurer, an Assistant Secretary or an Assistant Treasurer, as the case may be, of the Issuer, such Notes shall be valid and binding upon the Issuer and entitled to the benefits of this Trust Indenture.

**2.6. Certification**

No Note shall be issued or, if issued, shall be obligatory or shall entitle the Holder thereof to the benefits of this Trust Indenture until such Note has been certified by or on behalf of the Indenture Trustee substantially in the form set out in Schedule 2.3 hereto or in some other form approved by the Indenture Trustee whose approval shall be conclusively evidenced by the certification thereof. Such certificate on any Note shall be conclusive evidence that the Note is duly issued and is a valid obligation of the Issuer.

The certificate of the Indenture Trustee on any Note shall not be construed as a representation or warranty by the Indenture Trustee as to the validity of this Trust Indenture or of the Notes (except the due certification thereof), and the Indenture Trustee shall in no respect be liable or answerable for the use made of the Notes or any of them or the proceeds thereof.

**2.7. Concerning Interest**

2.7.1. Every Note, whether issued originally or in exchange for other Notes, shall bear interest from December 8, 1998 or from the last Payment Date to which interest shall have been paid or made available for payment on the Notes, whichever is later.

2.7.2. Wherever in this Trust Indenture or the Notes there is mention, in any context, of the payment of interest, such mention shall be deemed to include the payment of interest on amounts in default to the extent that, in such context, such interest is, was or would be payable pursuant to section 2.2, and express mention of interest on amounts in default in any of the provisions hereof shall not be construed as excluding such interest in those provisions hereof where such express mention is not made.

## **2.8. Notes to Rank Equally**

The Notes shall be issued only as fully registered Notes issued initially to the original Noteholders in the amounts set out in Schedule 2.8, and, otherwise, the Notes may be issued in such amounts, to such Persons and on such terms not inconsistent with the provisions of this Trust Indenture. The Notes may be issued at par only. Subject to the terms hereof, each Note, as soon as issued or negotiated, shall be entitled equally and rateably to the benefits hereof as if all the Notes had been issued and negotiated simultaneously.

## **2.9. Registration of Notes**

2.9.1. The Issuer shall cause to be kept by, and at the principal office of, the Indenture Trustee in Toronto, a register in which shall be entered the names and latest known addresses of the Holders of Notes and the other particulars, as prescribed by law, of the Notes held by the Noteholders respectively and of all transfers of Notes. Such registration shall be noted on the Notes by the Indenture Trustee. No transfer of a Note shall be effective as against the Issuer unless made on the register by the Holder of the Note or his executors or administrators or other legal representatives or his or their attorney duly appointed by an instrument in form and execution satisfactory to the Indenture Trustee and upon compliance with such requirements as the Indenture Trustee may prescribe and unless such transfer shall have been duly noted on such Note by the Indenture Trustee or by the issuance of a new Note by the Indenture Trustee.

2.9.2. The register referred to in subsection 2.9.1 shall be open at all reasonable times for inspection by the Issuer, the Indenture Trustee and any Noteholder.

2.9.3. The Holder of a Note, at any time and from time to time, may have such Note transferred at the place at which the register is kept, pursuant to the provisions of this section 2.9, in accordance with such reasonable regulations as the Indenture Trustee may prescribe; provided that the Principal Balance of the Note to be registered in the name of the transferee shall not be less than the lesser of (i) the total Principal Balance of all Notes held by the transferor and (ii) \$500,000.

2.9.4. Neither the Issuer nor the Indenture Trustee shall be required to transfer or exchange any Notes on any Prepayment Date or Payment Date or during the 5 Business Days immediately preceding any Prepayment Date or Payment Date.

2.9.5. Neither the Trustee nor the Issuer shall be charged with notice of or be bound to see to the execution of any trust, whether express, implied or constructive, in respect of any

Note and may transfer any Note on the direction of the Holder thereof, whether named as trustee or otherwise, as though that Person were the beneficial owner thereof.

2.9.6. When requested to do so by the Issuer, the Indenture Trustee shall furnish the Issuer with a list of the names and addresses of the Holders of Notes showing the principal amounts and serial numbers of the Notes held by each Noteholder.

## **2.10. Payment of Principal and Interest in Respect of Notes**

2.10.1. On each date on which interest, principal and any Makewhole Amount, if any, on the Notes become due, the Issuer shall pay, or cause to be paid, such interest, principal and Makewhole Amount, if any, payable to the Noteholders hereunder or under the Notes, less any applicable withholding taxes. The Issuer shall deliver the Direction to the Lessee and obtain the Lessee Acknowledgement and Agreement, and payments made by the Lessee pursuant to the terms thereof shall be applied, in satisfaction of the Issuer's obligations hereunder, first in payment of interest, principal, Makewhole Amounts, if any, and any other amounts due and payable to Noteholders hereunder, and, provided that no Default or Event of Default has occurred and is continuing of which the Indenture Trustee has notice, the balance of any amounts paid pursuant to the Direction to the Note Liquidation Account shall be paid to the Issuer promptly by the Indenture Trustee. In order to implement the foregoing, all payments made by the Lessee to the Note Liquidation Account, which are not paid to the Issuer pursuant to the preceding sentence, shall be paid by the Indenture Trustee to the Noteholders, for value on the same date as payment is received into the Note Liquidation Account, in accordance with their rateable portions by wire transfer to such account as is directed from time to time by each Noteholder, unless the Indenture Trustee is otherwise jointly directed by the Noteholders and the Issuer (which direction shall be provided by each of the Noteholders and the Issuer in order to give effect to the terms hereof).

2.10.2. Where Notes are registered in the name of more than one Person, the interest, principal and Makewhole Amount, if any, from time to time payable in respect thereof shall be paid by cheque payable to the order of all such Holders unless the Issuer and the Indenture Trustee have received written instructions from them to the contrary, and the receipt of any one of such Holders therefor shall be a valid discharge to the Indenture Trustee, the Issuer and any paying agent.

## **2.11. Ownership of Notes**

2.11.1. The Person in whose name any Note is registered shall be deemed to be the owner thereof for all purposes of this Trust Indenture, and payment of or on account of the principal of and interest and Makewhole Amount, if any, on such Note shall be made only to, or upon the written order of, the Holder thereof, and such payment shall be a complete discharge to the Indenture Trustee, the Issuer and any paying agent for the amounts so paid.

2.11.2. The Holder for the time being of any Note shall be entitled to the interest, principal and Makewhole Amount, if any, evidenced by such Note, free from all equities or rights of

set-off or counterclaim between the Issuer and the original or any intermediate Holder of the Note (except any equities of which the Issuer is required to take notice by law), and all Persons may act accordingly, and a transferee of a Note, after the appropriate form of transfer is lodged with the Indenture Trustee and upon compliance with all other conditions in that regard required by this Trust Indenture or by any conditions contained in such Note or by law, shall be entitled to be entered on the appropriate register as the owner of such Note, free from all equities or rights of set-off or counterclaim between the Issuer and the transferor of the Note or any previous Holder thereof, save in respect of equities of which the Issuer is required to take notice by statute or by order of a court of competent jurisdiction.

**2.12. Exchange of Notes**

2.12.1. Notes of any denomination may be exchanged for Notes of any other authorized denomination or denominations, any such exchange to be for Notes of an equivalent aggregate principal amount. Exchanges of Notes may be made at the principal offices of the Indenture Trustee in Toronto. Any Notes tendered for exchange shall be surrendered to the Indenture Trustee and shall be cancelled. The Issuer shall execute, and the Indenture Trustee shall certify, all Notes necessary to carry out such exchanges.

2.12.2. Except as otherwise provided herein, upon any exchange of Notes of any denomination for Notes of any other authorized denominations and upon any transfer of Notes, the Indenture Trustee may charge a fee sufficient to reimburse it for any stamp tax, security transfer tax or other governmental charge required to be paid and, in addition, a reasonable fee for the Indenture Trustee's services for each Note exchanged or transferred, and payment of such fees shall be made by the party requesting such exchange or transfer as a condition precedent thereto.

2.12.3. Notwithstanding the foregoing, no fee (other than for insurance on any Notes forwarded by mail) shall be charged by the Indenture Trustee or the Issuer:

2.12.3.1. for any exchange, registration or transfer of any Note applied for within a period of 30 days from the date hereof; or

2.12.3.2. after such period, for any exchange of Notes for Notes in lesser denominations;

provided that the Notes surrendered for exchange shall not have been issued as a result of any previous exchange, other than an exchange pursuant to subsection 2.12.3.1 or section 4.8.

2.12.4. Neither the Issuer nor the Indenture Trustee shall be required to make exchanges of Notes on any Prepayment Date or Payment Date or during the 5 Business Days immediately preceding any Prepayment Date or Payment Date.

**2.13. Mutilation, Loss or Destruction**

If any Notes shall become mutilated or be lost, stolen or destroyed, the Indenture Trustee, in its discretion and on behalf of the Issuer, may issue a new Note, of like date and terms as the one mutilated, lost, stolen or destroyed, in exchange for and in place of and upon cancellation of the mutilated Note and in lieu of and in substitution for the same if lost, stolen or destroyed. The substituted instrument shall be in a form approved by the Indenture Trustee and shall be entitled to the benefits of this Trust Indenture equally with all other Notes issued hereunder. In case of loss, theft or destruction, the applicant for a substituted Note shall furnish to the Indenture Trustee evidence, satisfactory in form and substance to the Indenture Trustee, of such ownership and of such loss, theft or destruction, shall provide indemnification to the Indenture Trustee in amount, form and substance, and from a source, satisfactory to the Indenture Trustee and shall pay all expenses incidental thereto.

**2.14. Place of Payment**

Except as otherwise provided herein, all sums which may at any time become payable, whether on the Maturity Date, the Prepayment Date or the Redemption Date or on a declaration by the Indenture Trustee pursuant to section 8.4 or otherwise, on account of any Note or any interest thereon or any Makewhole Amount, shall be payable in the same manner as the interest, principal and Makewhole Amount, if any, on such Note are payable.

**2.15. Payment Agreements for Notes**

Subject to section 4.7, notwithstanding anything contained herein, the Issuer may enter into an agreement with the Holder of a Note or with the Person for whom such Holder is acting as nominee, providing for the payment to such Holder of interest, principal and Makewhole Amount, if any, on such Note, at a place or places other than the place or places specified herein or in such Note as the place or places for such payment and without presentation or surrender thereof to the Indenture Trustee, provided that such agreement shall specify that (i) payment or prepayment in full of such Note shall be made only upon surrender thereof to the Indenture Trustee; and (ii) it will be a condition of any sale, assignment or transfer of such Note that such Holder shall first present the Note to the Indenture Trustee for notation thereon of the portion of the principal amount thereof theretofore paid by the Issuer or for the issuance of a new Note reflecting the reduced Principal Balance. The Issuer shall furnish the Indenture Trustee with a copy of any such agreement entered into. Notwithstanding any other provision of this Trust Indenture, any payment of interest, principal and Makewhole Amount, if any, on any such Note at such other place or places pursuant to such agreement shall be valid and binding on the Issuer, the Indenture Trustee, any paying agent and the Holder of Notes.

**2.16. Notation of Payments on Notes**

The payment of instalments of interest, principal and Makewhole Amount, if any, on the Notes may be noted thereon. However, prior to registering any transfer of any Note, the Indenture Trustee shall make a notation of all payments of interest, principal and Makewhole Amount, if any, on such Note or issue a new Note reflecting the redeemed Principal Balance. The

records of the Indenture Trustee shall be *prima facie* proof as to the amounts of interest, principal and Makewhole Amount, if any, paid on or in respect of the Notes outstanding under this Trust Indenture.

**ARTICLE 3.**  
**SECURITY**

**3.1.        Security**

To secure the due payment of interest, principal and Makewhole Amount, if any, on the Notes and all other monies, for the time being and from time to time, owing pursuant to the terms hereof and the due performance of the obligations of the Issuer contained herein and in the Notes, the Issuer hereby unconditionally and irrevocably grants to the Indenture Trustee, as and by way of a first fixed and specific security interest and charge, a security interest (the "Security Interest") in:

- 3.1.1.     the Units;
- 3.1.2.     the Note Liquidation Account;
- 3.1.3.     the Warranties;
- 3.1.4.     all of the Issuer's right, title and interest in the Lease, including, without limitation, the right to receive all amounts payable thereunder;
- 3.1.5.     the Issuer's interest in all present and future insurance policies covering any of the Collateral, to the extent that such policies relate to the Collateral, and all claims which the Issuer now has or may have hereafter under such policies to the extent that such policies relate to the Collateral;
- 3.1.6.     all compensation arising from a governmental requisition of Units;
- 3.1.7.     all of the Issuer's right, title and interest in the Sale Agreement;
- 3.1.8.     all renewals of, accessions to and substitutions for any of the foregoing; and
- 3.1.9.     all Proceeds of the foregoing;

in each case, other than Excepted Payments (collectively, the "Collateral").

**3.2.        Attachment**

The Security Interest shall be effective as of the date of this Trust Indenture whether or not the Notes are issued, or any monies secured by the Notes are advanced, before or after or at the same time as the execution of this Trust Indenture. The attachment of the Security Interest has not been postponed, and the Security Interest shall attach to any particular Collateral as soon as the Issuer has rights in such Collateral.

**3.3. Equal and Rateable Security**

As soon as it is duly issued and certified, each Note, subject to the terms hereof, shall be equally and rateably secured hereby. No preference or priority in the Security Interest shall be given to any Note over any other Note.

**3.4. Further Assurances**

The Issuer shall take, forthwith and from time to time, such action and execute and deliver to the Indenture Trustee such agreements, conveyances, deeds and other documents and instruments and make or cause to be made all such registrations, filing or recordings in respect of the Security Interest and create such further Liens (and provide notices, caveats or financing statements in respect thereof) as, in the opinion of the Indenture Trustee or counsel for the Indenture Trustee, are reasonably necessary or advisable for giving the Indenture Trustee, and enabling it to constitute, perfect and/or maintain, a fixed and specific first priority security interest and charge in any of the Collateral, subject only to Permitted Lessor Liens.

**3.5. [INTENTIONALLY DELETED]**

**3.6. Limited Recourse**

Notwithstanding anything to the contrary contained in this Trust Indenture, in any Note or in any other Operative Document, the recourse of the Indenture Trustee and the Noteholders against the Issuer hereunder, under the Notes or under any other Operative Document for the payment of amounts owing under the Notes or any other obligations of the Issuer to the Noteholders shall be limited to the Collateral alone, it being understood and agreed that the Issuer shall not be liable to the Noteholders for any deficiency or otherwise. Therefore, notwithstanding anything to the contrary contained in this Trust Indenture, in the Notes or in any other Operative Document, no recourse shall be had under this Trust Indenture, the Notes or under any other Operative Document against the Issuer or against its undertaking, property or assets, other than the Collateral for any amounts payable or for the performance of any covenants or obligations hereunder, under the Notes or under any other Operative Document. All amounts disbursed by the Indenture Trustee to the Noteholders, on behalf of the Issuer, under the Notes, this Trust Indenture or any other Operative Document, shall be made only from the Collateral and proceeds of the Collateral, and each Noteholder by its acceptance of such Note agrees that (a) it will look solely to such Collateral for the payment of all liabilities of the Issuer hereunder and thereunder and (b) the Issuer shall be liable hereunder and thereunder only to the extent that its obligations and liabilities hereunder and thereunder may be satisfied from the Collateral.

**3.7. Indenture Trustee Under No Obligation**

Any other provision of this Trust Indenture notwithstanding, there shall be no obligation on the Indenture Trustee to determine or verify where any registration, filing or recording should be effected in respect of the Collateral.

**ARTICLE 4.**  
**PREPAYMENT AND PURCHASE OF NOTES**

**4.1. Mandatory Prepayment of Notes**

4.1.1. Subject to the exercise by the Lessee of its rights under the Note Assumption Agreement, in the event of a termination of the Lease with respect to one or more Units prior to the Maturity Date for any reason whatsoever, the Issuer shall prepay, or cause to be prepaid, to the Indenture Trustee on behalf of the Noteholders, on a *pro rata* basis, an amount (the "Prepayment Amount") equal to the product of (i) the sum of the Principal Balance of all the Notes outstanding, the interest accrued but unpaid thereon to the date of termination of the Lease with respect to such Units and the Makewhole Amount and (ii) a fraction, the numerator of which is the Basic Rent attributable to such Units and the denominator of which is the Basic Rent that would be attributable to all of the Units on the basis that the Lease has not been terminated with respect to any of the Units. Notwithstanding the foregoing, if the Lease is terminated with respect to one or more Units because of the occurrence of a Casualty Occurrence, the calculation of the Prepayment Amount above shall be made without regard to any Makewhole Amount, such that it is an amount equal to the product of (i) the sum of the Principal Balance of all the Notes outstanding and the interest accrued but unpaid thereon to the date of termination of the Lease with respect to such Units and (ii) a fraction, the numerator of which is the Basic Rent attributable to such Units and the denominator of which is the Basic Rent that would be attributable to all of the Units on the basis that the Lease has not been terminated with respect to any of the Units. The Prepayment Amount shall be calculated by the Issuer in accordance with the terms hereof, evidence of such calculation shall be provided to the Indenture Trustee and the Noteholders and such calculation shall be subject to the confirmation of the Indenture Trustee and the Noteholders. The Prepayment Amount shall be payable to the Indenture Trustee on the day of the termination of the Lease with respect to the applicable Unit or Units (the "Prepayment Date"). The prepayment provisions of this subsection 4.1.1 shall have no application to any Notes in respect of which the Lessee has exercised its rights to assume some or all of the Notes in accordance with the Note Assumption Agreement.

4.1.2. The Prepayment Amount shall be paid and applied as follows:

4.1.2.1. first, to the payment of accrued and unpaid interest and the Makewhole Amount, if any, in respect of the Notes being prepaid;

4.1.2.2. second, to the payment of the Principal Balance; and

4.1.2.3. then, to the payment of any other sums secured by this Trust Indenture and unpaid as of the Prepayment Date.

4.1.3. In the case of a prepayment of the aggregate Principal Balance of all Notes, together with accrued and unpaid interest thereon and the Makewhole Amount, if any, which is to be made pursuant to this section 4.1 on a date which is not a Payment Date, such

prepayment shall be made in accordance with subsection 4.1.6 below. Where the amount of a prepayment is not sufficient to pay the aggregate Principal Balance of all Notes and all accrued and unpaid interest thereon and the Makewhole Amount, if any, the Indenture Trustee shall be entitled either to invest the amount of any such prepayment in Permitted Investments until the next Payment Date or prepay the amount outstanding hereunder and under the Notes in accordance with this section 4.1. All income from the Permitted Investments shall be for the account of the Noteholders.

4.1.4. Where the Prepayment Amount is less than the aggregate Principal Balance and all accrued and unpaid interest thereon and Makewhole Amount, if any, the portion of the Prepayment Amount on account of principal shall be applied to reduce the outstanding Principal Balance, and the Issuer shall revise promptly the Amortization Schedule accordingly to reflect such reduction and shall deliver a copy of it to each of the Noteholders and the Lessee for approval (on a basis that reflects the reduced Principal Balance being amortized at the same rate until the Maturity Date). Upon confirmation in writing of each of the Noteholders and the Lessee of the revised Amortization Schedule, the Issuer shall deliver a copy of the revised Amortization Schedule to the Indenture Trustee, and the Issuer and the Indenture Trustee shall enter into a supplemental indenture amending this Trust Indenture to reflect the revised Amortization Schedule.

4.1.5. Upon application of the Prepayment Amount as aforesaid, this Trust Indenture and the Notes shall remain in full force and effect with respect to the unpaid Principal Balance, interest thereon and Makewhole Amount, if any, and all other amounts secured hereby.

4.1.6. Where a prepayment in full of the aggregate Principal Balance occurs on a date which is not a Payment Date, the accrued and unpaid interest on the aggregate Principal Balance, for the period from but not including the immediately preceding Payment Date (set forth under column [1] of the Amortization Schedule) to and including the date of such prepayment, shall be due and payable on the date of prepayment on a *pro rata* basis, based on the proportion that the number of days in such period which have elapsed since the immediately preceding Payment Date, bears to the total number of days of the period from but not including the immediately preceding Payment Date to and including the immediately succeeding Payment Date.

## **4.2. Optional Redemption of Notes**

4.2.1. At any time, including but not limited to after the occurrence of a Lessee Default, upon prior written notice to the Noteholders in accordance with section 4.3, the Issuer shall have the right to redeem on the day specified in such notice (the "Redemption Date"), all the Notes outstanding in whole but not in part. The amount payable on redemption of the Notes on the Redemption Date shall be an amount (the "Redemption Amount") equal to the sum of (i) the Principal Balance as at the Redemption Date, (ii) all accrued and unpaid interest thereon to and including the Redemption Date, (iii) the applicable Makewhole Amount and (iv) all other sums, if any, secured by this Trust Indenture.

4.2.2. If the Redemption Date is not a Payment Date, the accrued and unpaid interest on the Principal Balance, for the period from but not including the immediately preceding Payment Date (set forth under column [1] of the Amortization Schedule, as the same may be revised pursuant to subsection 4.1.4) to and including the date of such prepayment, shall be due and payable on the date of prepayment on a *pro rata* basis, based on the proportion that the number of days in such period which have elapsed since the immediately preceding Payment Date, bears to the total number of days of the period from but not including the immediately preceding Payment Date to and including the immediately succeeding Payment Date.

**4.3. Notice of Redemption**

Notice of intention to redeem the Notes shall be given by the Issuer to each Noteholder by personal delivery, addressed to the Noteholder at its last address appearing upon the register referred to in subsection 2.9.1, and sent not less than 30 days and not more than 60 days prior to the Redemption Date. The non-receipt of any such letter or circular by any Noteholder shall not invalidate or otherwise affect prejudicially the redemption of the Notes.

**4.4. Notes Due on Redemption Dates**

Notice having been given as aforesaid, all the Notes so called for redemption shall thereupon be and become due and payable at the applicable amounts, on the Redemption Date, in the same manner and with the same effect as if the Redemption Date were the Maturity Date. If the monies necessary to prepay such Notes are deposited as provided in section 4.5 and affidavits or other proof satisfactory to the Indenture Trustee as to the mailing of the notice are lodged with the Indenture Trustee, interest upon the Notes shall cease to accrue on the Redemption Date.

In case any question arises as to whether the required notice has been given as provided above and the required deposit made, such question shall be decided by the Indenture Trustee whose decision shall be final and binding upon all parties concerned.

**4.5. Deposit of Redemption Monies**

The Issuer shall cause to be deposited with the Indenture Trustee, on or prior to the Redemption Date, such sums as are sufficient to pay the Redemption Amount of the Notes being redeemed. The Issuer shall also deposit with the Indenture Trustee a sum sufficient to pay any charges or expenses which may be incurred by the Indenture Trustee in connection with such redemption. From the sums set aside in trust or so deposited, the Indenture Trustee shall pay, or cause to be paid, to the Holders of Notes called for redemption, upon surrender of the Notes to the Indenture Trustee, the Redemption Amount of the Notes.

**4.6. Cancellation of Notes**

All Notes prepaid or redeemed in full under this article 4 shall forthwith be delivered to and cancelled by the Indenture Trustee, and no Notes shall be issued in substitution therefor.

**4.7. Surrender of Notes for Cancellation**

If the principal monies due upon any Note shall become payable in full by prepayment, redemption or otherwise before the Maturity Date, the Person presenting such Note for payment must surrender it to the Indenture Trustee for cancellation, provided that the Issuer shall nevertheless pay the interest for the fraction of the current half-year (computed on a *per diem* basis) if the date fixed for payment is not a Payment Date or a Prepayment Date.

**4.8. Purchase of Notes for Cancellation**

At any time except when an Event of Default has occurred and is continuing, the Issuer may purchase all or any of the Notes by invitation for tenders at any price. All Notes so purchased shall forthwith be delivered to the Indenture Trustee and shall be cancelled by it and, except as hereinafter provided, no Notes shall be issued in substitution therefor.

If, upon an invitation for tenders, the Notes tendered at the same lowest price that the Issuer is prepared to accept exceed the aggregate amount to be purchased, such tendered Notes will be purchased by the Issuer in proportion to their respective face amounts. The Holder of any Note of which only a part is purchased, upon surrender of such Note for payment, shall be entitled to receive, without expense to the Holder, one or more new Notes for the unpurchased part so surrendered, and the Indenture Trustee shall certify and deliver such new Note or Notes upon receipt of the surrendered Note. The Issuer shall revise promptly the Amortization Schedule accordingly to reflect the reduction of the outstanding Principal Balance and deliver a copy of the revised Amortization Schedule to each of the Noteholders and the Lessee for approval (on a basis that reflects the reduced Principal Balance being amortized at the same rate until the Maturity Date). Upon confirmation in writing of each of the Noteholders and the Lessee of the revised Amortization Schedule, the Issuer shall deliver a copy of the revised Amortization Schedule to the Indenture Trustee, and the Issuer and the Indenture Trustee shall enter into a supplemental indenture amending this Trust Indenture to reflect the revised Amortization Schedule.

**ARTICLE 5.**

**REPRESENTATIONS AND WARRANTIES OF THE ISSUER**

**5.1. Representations and Warranties of the Issuer**

The Issuer represents and warrants to the Indenture Trustee as follows:

5.1.1. **Organization and Status.** The Issuer is duly organized and validly existing under the laws of the Province of Nova Scotia;

5.1.2. **Authority.** The Issuer has full and complete authority to execute and deliver this Trust Indenture, the Notes and all other Operative Agreements to which it is a party, and this Trust Indenture, the Notes and the other Operative Agreements so executed by the Issuer constitute legal, valid and binding obligations of the Issuer in accordance with their respective terms;

5.1.3. **Power and Capacity.** The Issuer has the power and capacity to own all of its property and assets, wherever held, including without limitation, the Collateral, to carry on its business as presently carried on by it and to do all acts and things as are required or contemplated hereunder to be done, observed and performed by the Issuer;

5.1.4. **Due Authorization.** The Issuer has taken all necessary action to authorize the execution, delivery and performance of this Trust Indenture, the Notes, and the other Operative Agreements to which it is a party;

5.1.5. **No Contravention.** The execution and delivery of this Trust Indenture, the Notes and the other Operative Agreements to which the Issuer is a party and the performance by the Issuer of its obligations hereunder and thereunder do not and will not contravene, breach or result in any default under the constating documents or other organizational documents of the Issuer or under any other legally binding instrument, licence, permit or applicable law by which the Issuer or its assets is bound;

5.1.6. **No Consents Required.** No authorization, consent or approval of, or filing with or notice to, any Person is required in connection with the execution, delivery or performance of this Trust Indenture, the Notes and the other Operative Agreements to which it is a party;

5.1.7. **Ownership.** The Issuer has such title to the Units and the Warranties transferred to it by the Lessee and is the absolute owner of the Collateral described in subsection 3.1.2 and is beneficially entitled to the rights of the Lessor under the Lease and of the Purchaser under the Sale Agreement, free and clear of all Lessor Liens except Permitted Lessor Liens;

5.1.8. **No Litigation.** To the knowledge of the Issuer, there is no court, administrative, regulatory or similar proceeding (whether civil, quasi-criminal, or criminal), arbitration or other dispute settlement procedure, investigation or enquiry by any governmental authority or any similar matter or proceeding (collectively "proceedings") against or involving the Issuer (whether in progress or threatened) which, if determined adversely to the Issuer (to the extent not covered by insurance) would materially adversely affect the Collateral or the Issuer's ability to perform any of the provisions of this Trust Indenture or the Notes or which purports to affect the legality, validity and enforceability of this Trust Indenture or the Notes, and no event has occurred which might give rise to any such proceedings, and there is no judgment, decree, injunction, rule, award or order of any governmental authority outstanding against the Issuer which has or may reasonably be expected to have a material adverse effect on the Collateral or on the Issuer's ability to perform any of the provisions of this Trust Indenture or the Notes;

5.1.9. **Issuer's Obligations hereunder and under the Notes.** The Issuer's obligations hereunder and under the Notes are unconditionally guaranteed by General Electric Capital Corporation, a corporation incorporated under the laws of the State of New York, pursuant to the Guaranty;

5.1.10. **Lessee Defaults.** The Issuer has no actual knowledge of the existence of any Lessee Default at the date hereof; and

5.1.11. **Residency.** The Issuer is not a non-resident of Canada under the *Income Tax Act* (Canada).

**5.2. Survival of Representations and Warranties**

The representations and warranties of the Issuer contained in section 5.1 shall survive the issuance of the Notes and shall continue in full force and effect for the benefit of each of the Noteholders and the Indenture Trustee.

**ARTICLE 6.**  
**POSITIVE COVENANTS OF THE ISSUER**

**6.1. General Covenants**

So long as any Notes remain outstanding, the Issuer covenants with the Indenture Trustee, for the benefit of the Indenture Trustee and the Noteholders, as follows:

6.1.1. the Issuer duly and punctually will pay, or cause to be paid, to every Noteholder the interest, principal and Makewhole Amount, if any, on the Notes held by such Holder (including, in the case of default, interest on the amount in default) on the dates, at the places, in the currency and in the manner mentioned herein and in the Notes;

6.1.2. except as herein otherwise expressly provided, the Issuer shall, at all times, maintain its corporate existence;

6.1.3. the Issuer will duly and punctually perform and carry out all of the acts or things to be done by it as provided in this Trust Indenture and any of the Operative Agreements;

6.1.4. with respect to the Lease, the Issuer covenants and agrees as follows:

6.1.4.1. without first obtaining the consent of the Noteholders given by means of an Extraordinary Resolution, the Issuer shall not amend, modify or terminate the Lease or agree to any of the same, nor grant any release, forbearance, compromise, reduction or waiver with respect to the performance of the obligations thereunder by any party, or engage in any course of action that modifies the Lease; and

6.1.4.2. the Issuer shall take no action under the Lease without first obtaining the Indenture Trustee's written consent thereto except with respect to those matters described in the following sections of the Lease: 4.2(c), 4.2(d), 6.2(d), 7.4, 7.6, 9.3, 9.4, 10.1, 11.3, 11.4, 16.1, 19, 20, 22, 24.2, 25 (subject to subsection 7.1.1 hereof), 26.2 (to the extent not affecting the Noteholders) and 27;

6.1.5. the Issuer shall pay all taxes, rates, levies, assessments and other charges of every kind which may be lawfully levied, assessed or imposed against, or in respect of, the Issuer or (to the extent that they are not obligations of the Lessee under the Lease) the Collateral,

where any such non-payment could have an adverse effect on the Collateral, as and when the same becomes due and payable, unless being contested in good faith and by appropriate proceedings and without risk of sale or forfeiture of any of the Collateral;

6.1.6. the Issuer shall notify the Indenture Trustee promptly of:

6.1.6.1. any change in information, contained in this Trust Indenture or in the Schedules, relating to the Issuer, its business or the Collateral;

6.1.6.2. the details of any claims or litigation affecting the Issuer or the Collateral;

6.1.6.3. any loss of or damage to the Collateral;

6.1.6.4. any Lessee Default; and

6.1.6.5. acquisition by the Issuer of any of the Collateral;

in each case if known to the Issuer and (other than in the case of a Lessee Default) only to the extent that the Lessee is not required to provide notice thereof under the Lease; and

6.1.7. the Issuer shall not change its name without giving prior written notice to the Indenture Trustee of the new name and the date upon which such change of name is to take place, and, within 15 days of the change of name, the Issuer at its own expense shall provide the Indenture Trustee with:

6.1.7.1. a notarial or certified copy of the articles of amendment effecting the change of name; and

6.1.7.2. an opinion of legal counsel satisfactory to the Indenture Trustee confirming that all appropriate registrations, filings and/or recordings have been made to maintain fully and effectively the perfection and priority of the Security Interest created hereby.

## **6.2. To Provide Certificates of Compliance**

The Issuer covenants that, on or before each Payment Date and at any other time if so requested by the Indenture Trustee, the Issuer shall furnish to the Indenture Trustee and the Noteholders a certificate of the Issuer stating that it has complied with all covenants, conditions and other requirements contained in this Trust Indenture, non-compliance with which would, with the giving of notice or the lapse of time or both, constitute an Event of Default hereunder or, if such is not the case, specifying the covenant, condition or other requirement which has not been complied with and giving particulars of such non-compliance and the action, if any, that the Issuer proposes to take with respect thereto. The Issuer further covenants to notify the Indenture Trustee immediately upon becoming aware of any Event of Default, giving particulars thereof and the actions, if any, that the Issuer proposes to take with respect thereto.

**6.3. [INTENTIONALLY DELETED]**

**6.4. General Indemnity**

The Issuer shall promptly do, make, execute or deliver, or cause to be done, made, executed or delivered, all such acts, documents and things as may be necessary or desirable, from time to time, to assist the Indenture Trustee and the Noteholders in obtaining the full benefit of the indemnity by the Lessee set out in article 26 of the Lease.

**6.5. Indenture Trustee May Perform Covenants**

If the Issuer fails to perform any of its covenants contained herein and the Indenture Trustee has actual knowledge of such failure, the Indenture Trustee shall notify the Noteholders of such failure or may perform itself, but shall be under no obligation to, any of such covenants capable of being performed by it, and, if any such covenant requires the payment of money, the Indenture Trustee may make such payment with its own funds, or with money borrowed by it for such purpose, but shall be under no obligation to do so. All sums so paid shall be payable by the Issuer in accordance with the provisions of the Lessee Acknowledgement and Agreement. No such performance by the Indenture Trustee of any covenant contained herein or payment by the Issuer of any sums advanced or borrowed by the Indenture Trustee pursuant to the foregoing provisions shall be deemed to relieve the Issuer from any default hereunder.

**ARTICLE 7.**  
**NEGATIVE COVENANTS OF THE ISSUER**

**7.1. Negative Covenants**

The Issuer covenants with the Indenture Trustee, for the benefit of the Indenture Trustee and the Noteholders, that it shall not:

7.1.1. create, assume or suffer to exist any Lessor Lien upon the Collateral, other than a Permitted Lessor Lien, unless:

7.1.1.1. such Lien has been authorized by an Extraordinary Resolution; and

7.1.1.2. such Lien is, to the satisfaction of the Indenture Trustee and in the opinion of counsel for the Indenture Trustee, upon such terms as substantially to preserve and not to impair any of the rights and powers of the Indenture Trustee or of the Noteholders and upon such terms as are not in any way prejudicial to the interests of the Noteholders;

7.1.2. sell, lease, or otherwise dispose of, or agree to sell, lease or dispose of any of the Collateral except:

7.1.2.1. the lease of the Units to the Lessee pursuant to the Lease;

7.1.2.2. subject to section 4.1 hereof, the sale of all or any of the Units (i) to the Lessee in accordance with the terms of the Lease or (ii) in circumstances where the Lessee assumes the Issuer's obligations under the related Notes pursuant to the Note Assumption Agreement or (iii) to a third party in accordance with the provisions of section 4.2 of the Lease;

7.1.2.3. the sale of all but not less than all of the Units owned by the Issuer to another Person who satisfies all the requirements of a Successor Issuer under section 10.1 hereof; or

7.1.2.4. in accordance with article 25 (other than section 25.6(ii)) of the Lease;

provided that the Issuer may sell, lease or otherwise dispose of, or agree to sell, lease or otherwise dispose of all, but not less than all, of the Units other than pursuant to subsections 7.1.2.1, 7.1.2.2 or 7.1.2.3 above if, concurrently with such disposal, the Issuer redeems all of the Notes outstanding (which have not been assumed by the Lessee pursuant to the Note Assumption Agreement) in accordance with article 4 hereof.

7.1.3. become a non-resident of Canada under the *Income Tax Act* (Canada).

## **ARTICLE 8.** **DEFAULT AND ENFORCEMENT**

### **8.1. Events of Default**

Each of the following events is sometimes referred to herein as an "Event of Default":

8.1.1. if the Issuer makes default in payment of principal or interest on any Note when such principal or interest becomes due and payable, whether at maturity or by acceleration or as part of any prepayment, redemption or otherwise and such default continues for 5 Business Days (other than any such default arising as a result of a Lessee Default);

8.1.2. if the Issuer makes default in payment of any amount to be paid under this Trust Indenture or any Note (including in respect of any Makewhole Amount), other than any principal or interest, when such amounts become due and payable, whether at maturity or by acceleration or as part of any prepayment, redemption or otherwise, and such default continues for a period of 10 days (other than any such default arising as a result of a Lessee Default);

8.1.3. if the Issuer makes default in observing or performing any other covenant or obligation contained in this Trust Indenture or any other Operative Agreement on its part to be observed or performed and if such default (other than in the case of subsections 6.1.1, 6.1.2, 6.1.4, 7.1.1 or 7.1.2 hereof) has a material adverse effect on the Collateral or on the ability of the Issuer to perform its obligations under this Trust Indenture or the Notes and, in

all cases, such default continues for a period of 30 days after notice in writing has been given to the Issuer by the Indenture Trustee, specifying such default and requiring the Issuer to rectify the same, unless the Indenture Trustee (having regard to the subject matter of the default) agrees to a longer period and, in such event, for the period agreed to by the Indenture Trustee;

8.1.4. if any representation or warranty of the Issuer in this Trust Indenture or any other Operative Agreement is untrue and remains untrue for 30 days following notice to the Issuer of such breach of representation or warranty and if such default (other than in the case of subsections 5.1.7 and 5.1.10 hereof) has a material adverse effect on the Collateral or on the ability of the Issuer to perform its obligations under this Trust Indenture or the Notes and, in all cases, such default continues for a period of 30 days after notice in writing has been given to the Issuer by the Indenture Trustee, specifying such default and requiring the Issuer to rectify the same, unless the Indenture Trustee (having regard to the subject matter of the default) agrees to a longer period and, in such event, for the period agreed to by the Indenture Trustee;

8.1.5. the Issuer:

8.1.5.1. applies for or consents to the appointment of a receiver, trustee or liquidator of itself or of all or a substantial part of its assets;

8.1.5.2. is unable or admits in writing its inability or failure to pay its debts generally as they become due;

8.1.5.3. makes a general assignment for the benefit of creditors;

8.1.5.4. commits an act of bankruptcy under the *Bankruptcy and Insolvency Act* (Canada);

8.1.5.5. commences any cause, proceeding or other action under any existing or future law relating to bankruptcy, insolvency, reorganization or relief of debtors seeking to adjudicate it a bankrupt or insolvent or seeking reorganization, arrangement, adjustment, winding up, liquidation, dissolution, composition or other relief with respect to it or its debts or an arrangement with creditors or taking advantage of any insolvency law or proceeding for the relief of debtors or files an answer admitting the material allegations of a petition filed against it in any bankruptcy, reorganization or insolvency proceeding; or

8.1.5.6. takes corporate action for the purpose of effecting any of the foregoing;

8.1.6. any cause, proceeding or other action is instituted in any court of competent jurisdiction against the Issuer seeking, in respect of the Issuer, an adjudication in bankruptcy, a reorganization, dissolution, winding up, liquidation, a composition or arrangement with creditors, a readjustment of debts, the appointment of a trustee, receiver, liquidator or the

like of the Issuer or of all or any substantial part of its assets or any other like relief in respect of the Issuer under any bankruptcy or insolvency law, and:

8.1.6.1. such cause, proceeding or other action results in an entry of an order for relief or any such adjudication or appointment; or

8.1.6.2. if such cause, proceeding or other action is contested by the Issuer in good faith, the same continues undismissed or unstayed and in effect for any period of 60 consecutive days;

8.1.7. subject to section 8.3, if there occurs a Lessee Default;

8.1.8. if there occurs a Lessor Default; and

8.1.9. if the Indenture Trustee is prevented by law from dealing with the Rent, in whole or in part, including but not limited to, a situation in which the Indenture Trustee has received Rent under the Lease but is required by law to remit such Rent, or any part thereof, to the Issuer or to a third party in satisfaction of a claim against the Issuer, other than any such restriction on dealing with the Rent arising as a result of a Lessee Default.

## **8.2. Notice of Events of Default**

8.2.1. If an Event of Default occurs and is continuing and the Indenture Trustee has actual knowledge thereof, the Indenture Trustee shall give notice thereof promptly to the Noteholders.

8.2.2. Where notice of the occurrence of an Event of Default has been given and the Event of Default is thereafter cured, notice that the Event of Default is no longer continuing shall be given by the Indenture Trustee to the Noteholders promptly after the Indenture Trustee becomes aware that the Event of Default has been cured.

8.2.3. The Indenture Trustee shall promptly notify the Issuer when it has actual knowledge of the Lessee's failure to pay Rent under the Lease to the Note Liquidation Account.

## **8.3. Lessor Cure Rights**

8.3.1. The Issuer shall have the right, but not the obligation, to cure up to four instances of the Lessee's failure to pay the Rent under the Lease within 6 Business Days following the later of (i) the occurrence of the related Event of Default in subsection 8.1.7 hereof and (ii) the date that notice of the failure of the Lessee to pay Rent has been provided to the Issuer by the Indenture Trustee; provided that such failure does not occur on consecutive Payment Dates more than twice.

8.3.2. The Issuer shall have the right, but not the obligation, to cure any other Lessee Default within 6 Business Days following notice of such default to the Issuer by the Indenture Trustee or the Issuer otherwise having knowledge of the occurrence of such

Lessee Default, provided that such cure can be effected by payment of money and provided that payment of money in respect of such cures does not exceed \$1,000,000 in the aggregate during any 12-month period.

**8.4. Acceleration on Default**

Subject to sections 8.3 and 8.5, if any Event of Default occurs and is continuing, the Indenture Trustee, upon receipt of a Noteholders' Request, by notice in writing to the Issuer, shall declare the interest, principal and Makewhole Amount, if any, on the Notes then outstanding and any other monies payable hereunder to be due and payable, and the same shall forthwith become immediately due and payable to the Indenture Trustee, notwithstanding anything contained herein or under the Notes to the contrary, and the Issuer, subject to section 3.6, shall pay forthwith to the Indenture Trustee for the benefit of the Noteholders the principal of, Makewhole Amount (if any) and accrued and unpaid interest (including interest on amounts in default) on the Notes and all other monies payable hereunder, together with subsequent interest thereon at the rate borne by the Notes from the date of such declaration until payment is received by the Indenture Trustee. Such payment, when made, shall be deemed to have been made in discharge of the Issuer's obligations hereunder and any monies so received by the Indenture Trustee shall be applied as provided in section 8.8.

**8.5. Waiver of Default**

If an Event of Default occurs, the Holders of more than 50% of the principal amount of the Notes then outstanding shall have the power (in addition to the powers exercisable by Extraordinary Resolution as hereinafter provided) by instrument signed by such Holders to instruct the Indenture Trustee to waive any Event of Default hereunder and/or to cancel any declaration made by the Indenture Trustee pursuant to section 8.4, and the Indenture Trustee shall thereupon waive the Event of Default and/or cancel such declaration upon such terms and conditions as such Noteholders shall prescribe; provided that no delay or omission of the Indenture Trustee or of the Noteholders to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein and provided further that no act or omission either of the Indenture Trustee or of the Noteholders shall extend, to or be taken in any manner whatsoever to affect, any subsequent Event of Default hereunder or the rights resulting therefrom.

**8.6. Enforcement by the Indenture Trustee**

Subject to sections 3.6, 8.3 and 8.5 and to the provisions of any Extraordinary Resolution that may be passed by the Noteholders as hereinafter provided, and subject always to the Lessee's rights under the Lease, if an Event of Default occurs:

8.6.1. if such Event of Default is also a Lessee Default, the Indenture Trustee shall not commence the exercise of the remedies set out in this section 8.6 (other than as they relate to realization in respect of the Lease) unless, concurrently therewith, the Indenture Trustee (or Noteholder pursuant to section 8.7) commences the exercise of the remedies available to the Issuer under the Lease unless the ability of the Indenture Trustee (or the Noteholder, as the

case may be) to exercise such remedies is limited by a judicial stay of proceedings, by operation of law or equity or otherwise for a period of over 60 days from the date that such Lessee Default first occurred;

8.6.2. subject to subsection 8.6.1, the Indenture Trustee, by itself or by agent appointed by it, at any time during the continuance of such Event of Default, may realize upon any of the Collateral by foreclosure, sale, transfer or delivery of notice or exercise of any other rights available to the Indenture Trustee hereunder or at law or equity and enforce all or any of the rights and remedies of the Issuer under the Lease as if the Indenture Trustee were the absolute owner thereof, without control by the Issuer, and any such right or remedy may be exercised separately or cumulatively and will be in addition to, and not in substitution for, any other rights of the Indenture Trustee however created, provided, however, that the Indenture Trustee shall not be bound to exercise any such right or remedy;

8.6.3. the Indenture Trustee may apply to a court for the appointment of a receiver to take possession of all or such part of the Collateral as the Indenture Trustee shall designate, with such duties, powers and obligations as the court making the appointment shall confer, and the Issuer hereby irrevocably consents to the appointment of such receiver;

8.6.4. with or without taking possession, by instrument executed by the Indenture Trustee, the Indenture Trustee may appoint a receiver of all or any part of the Collateral and of the rents, income and profits therefrom and, from time to time by similar instrument, may remove any receiver and appoint another in its place and, upon the appointment of any such receiver from time to time, the following provisions shall apply:

8.6.4.1. every such receiver shall be vested with all of the rights, powers, remedies and discretions of the Indenture Trustee set forth in this section 8.6, including without limitation, the power to do all acts, exercise all discretions and make all determinations of the Indenture Trustee described herein;

8.6.4.2. the Indenture Trustee, from time to time, may fix the remuneration of every receiver appointed who shall be entitled to deduct the same out of the receipts derived from, or comprising part of, the Collateral or the proceeds thereof;

8.6.4.3. every receiver appointed shall be deemed to be an agent of the Issuer, and not of the Indenture Trustee, for the purposes of establishing liability for all of the acts or omissions of the receiver while acting as such, and the Indenture Trustee shall not be responsible in any way for any acts or omissions on the part of any such receiver, its officers, employees and agents, provided that, without restricting the generality of the foregoing, the Issuer irrevocably authorizes the Indenture Trustee to give instructions to the receiver appointed relating to the performance of its powers and discretions as set out herein;

8.6.4.4. no receiver shall be liable to the Issuer to account for monies other than monies actually received by such receiver in respect of the Collateral, and

every such receiver shall apply such monies so received in the manner provided in section 8.8;

8.6.4.5. the Indenture Trustee may terminate, at any time and from time to time, any such receivership by written notice, executed by the Indenture Trustee, to any such receiver;

8.6.5. the Indenture Trustee, in its discretion, may proceed (but, subject to subsection 8.6.8 shall have no obligation to) to enforce the rights of the Indenture Trustee and of the Noteholders by any action, suit, remedy or proceeding authorized or permitted by this Trust Indenture or by law or equity and may file, but shall have no obligation to, such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Indenture Trustee and of the Noteholders filed in any bankruptcy, insolvency, winding-up or other judicial proceedings relating to the Issuer;

8.6.6. no remedy for the enforcement of the rights of the Indenture Trustee or the Noteholders shall be exclusive of, or dependent on, any other remedy, but any one or more of such remedies may from time to time be exercised independently or in combination;

8.6.7. all rights of action and enforcement hereunder may be enforced by the Indenture Trustee without the possession of any of the Notes or the production thereof on the trial or other proceedings relating thereto; and

8.6.8. upon the receipt of a Noteholders' Request and upon being funded and indemnified to its satisfaction as provided in subsection 13.3.2, the Indenture Trustee shall exercise such one or more of such remedies or take such proceedings as the Noteholders' Request may direct or, if the Noteholders' Request contains no direction, as the Indenture Trustee may consider expedient, provided that, if any such Noteholders' Request directs the Indenture Trustee to take proceedings out of court, the Indenture Trustee may in its discretion take judicial proceedings in lieu thereof.

#### **8.7. Noteholders May Not Sue**

No Holder of any Note shall have the right to institute any action, suit or proceeding or to exercise any other remedy authorized or permitted by this Trust Indenture or by law or equity for the purpose of enforcing payment of interest, principal or Makewhole Amount, if any, owing on any Note or for the execution of any trust or power hereunder, unless:

8.7.1. such Holder previously shall have given to the Indenture Trustee written notice of the occurrence of an Event of Default;

8.7.2. the Noteholders, by Extraordinary Resolution, shall have made a request to the Indenture Trustee to take action hereunder or the Noteholders' Request referred to in subsection 8.6.8 shall have been delivered to the Indenture Trustee, and the Indenture Trustee shall have been offered a reasonable opportunity either to proceed itself to exercise the powers hereinbefore granted or to institute an action, suit or proceeding in its name for such purpose;

8.7.3. the Noteholders or any of them shall have furnished to the Indenture Trustee, when requested by the Indenture Trustee, sufficient funds and an indemnity in accordance with subsection 13.3.2; and

8.7.4. the Indenture Trustee shall have failed so to act within 5 days thereafter.

In such event but not otherwise, any Noteholder, acting on behalf of itself and all other Noteholders shall be entitled, subject to section 3.6, to take proceedings in any court of competent jurisdiction such as the Indenture Trustee might have taken under section 8.6, but in no event shall any Noteholder or combination of Noteholders have any right to take any other remedy or proceedings out of court, it being understood and intended that no one or more Holders of Notes shall have any right in any manner whatsoever to enforce any right hereunder or under any Note except subject to the conditions and in the manner herein provided and that all powers and trusts hereunder shall be exercised and all proceedings at law shall be instituted, had and maintained by the Indenture Trustee, except only as herein provided, and, in any event, for the equal benefit of all Holders of outstanding Notes.

#### **8.8. Application of Monies**

Except as otherwise provided herein, any monies arising from any enforcement hereof, whether by the Indenture Trustee or any Holder of a Note, shall be held by, or provided to, the Indenture Trustee and applied by it, together with any monies then or thereafter in the hands of the Indenture Trustee available for the purpose, as follows:

8.8.1. first, in payment or reimbursement to the Indenture Trustee of the remuneration, expenses, disbursements and advances of the Indenture Trustee earned, incurred or made in the administration or execution of the trusts hereunder or otherwise in relation to this Trust Indenture with interest thereon as herein provided;

8.8.2. second, in or toward payment of the accrued and unpaid interest and interest on overdue interest and Makewhole Amount, if any, on the Notes and thereafter in or toward payment of the principal of all of the Notes then outstanding (or if the Noteholders, by Extraordinary Resolution, shall have directed payments to be made in accordance with any other order of priority, or without priority as between principal and interest, then such monies shall be applied in accordance with such direction); and

8.8.3. third, the surplus, if any, of such monies shall be paid to the Issuer or as it may direct;

provided, however, that no payments shall be made in respect of the principal of or interest or Makewhole Amount, if any, on any Note held, directly or indirectly, by or for the benefit of the Issuer, any Subsidiary or any Affiliate thereof (other than any Note pledged for value and in good faith to a Person other than the Issuer, a Subsidiary or an Affiliate thereof, but only to the extent of such Person's interest therein) except subject to the prior payment in full of the interest, principal and Makewhole Amount, if any, on all Notes which are not so held.

**8.9. Distribution of Monies**

Payments to Holders of Notes pursuant to subsection 8.8.2 shall be made as follows:

8.9.1. at least 21 days' notice of every such payment shall be given in the manner provided in article 12 specifying the date and time when, and the place or places where, such payments are to be made and the amount of the payment and the application thereof as between interest, principal and Makewhole Amount, if any;

8.9.2. payment of any Note shall be made upon presentation thereof at any one of the places specified in such notice, and any such Note thereby paid in full shall be surrendered, otherwise a notation of such payment shall be endorsed thereon; but the Indenture Trustee, in its discretion, may dispense with presentation and surrender or endorsement in any special case upon receipt by it of such indemnity as the Indenture Trustee shall consider sufficient;

8.9.3. from and after the date of payment specified in the notice, interest shall accrue only on the amount owing on each Note after giving credit for the amount of the payment specified in such notice unless the Note, in respect of which such amount is owing, is duly presented on or after the date so specified and payment of such amount is not made; and

8.9.4. the Indenture Trustee shall not be required to make any partial or interim payment to Noteholders unless the monies in its hands, after reserving therefrom such amount as the Indenture Trustee may think necessary to provide for the payments mentioned in subsection 8.8.1, exceed 5% of the aggregate principal amount of the outstanding Notes, but the Indenture Trustee may retain the monies so received by it and deal with the same as provided in section 13.7 until the monies or investments representing the same, with the income derived therefrom, together with any other monies for the time being under its control, shall be sufficient for such purpose or until the Indenture Trustee considers it advisable to apply the same in the manner hereinbefore set forth.

**8.10. Persons Dealing with the Indenture Trustee**

No Person dealing with the Indenture Trustee or any of its agents need enquire whether an Event of Default has occurred or whether the powers which the Indenture Trustee is purporting to exercise have become exercisable or whether any monies remain due under this Trust Indenture or on the Notes or to see to the application of any monies paid to the Indenture Trustee, and, in the absence of fraud on the part of such Person, such dealing shall be deemed to be within the powers hereby conferred and to be valid and effective accordingly.

**8.11. Indenture Trustee Appointed Attorney**

The Issuer irrevocably appoints the Indenture Trustee to be the attorney of the Issuer in the name and on behalf of the Issuer to execute any instruments and do any things which the Issuer ought to execute and do, and has not executed or done, under the covenants and provisions contained in this Trust Indenture and generally to use the name of the Issuer in the

exercise of all or any of the powers hereby conferred on the Indenture Trustee with full powers of substitution and revocation.

**8.12. Remedies Cumulative**

No remedy herein conferred upon or reserved to the Indenture Trustee or the Holders of Notes is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing by law or by statute.

**8.13. Immunity of Shareholders, Directors and Others**

The Noteholders and the Indenture Trustee waive and release any right, cause of action or remedy now or hereafter existing in any jurisdiction against any past, present or future incorporator, shareholder, director or officer of the Issuer or of any Successor Issuer for the payment of the interest, principal or Makewhole Amount, if any, on any of the Notes or on any covenant, agreement, representation or warranty by the Issuer contained herein or in the Notes.

**8.14. Judgment Against the Issuer**

Notwithstanding anything to the contrary contained herein, the remedies of the Indenture Trustee and the Noteholders against the Issuer with respect to collection of any monies in connection with any obligations hereunder or under the Notes shall be limited solely to the Collateral, so that no other property or asset of the Issuer shall be subject to levy, execution or other enforcement procedure whatsoever by the Indenture Trustee or any Noteholder. However, the foregoing shall not:

8.14.1. constitute a waiver of, or a limitation on, the right of the Indenture Trustee or the Noteholders to pursue all applicable remedies in law or equity with respect to collection in respect of (i) all or any part of the Collateral or (ii) the general assets of any Person, other than the Issuer, in respect of any obligation, including those under the Lease;

8.14.2. constitute a waiver of any obligation of the Issuer under this Trust Indenture or the Notes;

8.14.3. subject to section 3.6, limit the right of the Indenture Trustee or the Noteholders to name the Issuer as a party defendant in any action or suit for judicial foreclosure and/or sale of the Collateral as long as collection of any judgment against the Issuer is limited as provided by this section 8.14.

**8.15. Limitation of Indenture Trustee's Liability**

The Indenture Trustee will not, nor will any receiver appointed by it, be responsible or liable, otherwise than as a trustee, for any debts contracted by it, for damages to Persons or property or for salaries or non-fulfilment of contracts during any period wherein the Indenture Trustee or receiver manages any of the Collateral or the activities of the Issuer upon or after entry, as herein provided, nor will the Indenture Trustee or any receiver be liable to account

as mortgagee in possession or for anything except actual receipts or be liable for any loss on realization or for any default or omission for which a mortgagee in possession might be liable (other than losses resulting from its negligence or wilful misconduct).

**ARTICLE 9.**  
**SATISFACTION AND DISCHARGE**

**9.1.           Cancellation**

All matured Notes shall forthwith after payment thereof be delivered to the Indenture Trustee and cancelled by it. If required by the Issuer, the Indenture Trustee shall furnish to the Issuer a certificate setting out the designating numbers and denominations of the Notes so cancelled.

**9.2.           Non-Presentation of Notes**

If the Holder of any Note fails to present the same for payment on the date on which the principal thereof, Makewhole Amount, if any, and/or the interest thereon or represented thereby becomes payable either at maturity or otherwise or shall not accept payment on account thereof and give such receipt therefor, if any, as the Indenture Trustee may require:

9.2.1.       the Issuer shall be entitled to pay to the Indenture Trustee and direct it to set aside;  
or

9.2.2.       in respect of monies in the hands of the Indenture Trustee which may or should be applied to the payment of the Notes, the Issuer shall be entitled to direct the Indenture Trustee to set aside;

the principal, the Makewhole Amount, if any, and/or the interest, as the case may be, in trust to be paid to the Holder of such Note upon due presentation and surrender thereof in accordance with the provisions of this Trust Indenture. Thereupon, the principal, the Makewhole Amount, if any, and/or the interest payable on or represented by each Note in respect whereof such monies have been set aside shall be deemed to have been paid, and, thereafter, such Notes shall not be considered as outstanding hereunder and the Holders thereof shall thereafter have no right in respect thereof except that of receiving payment of the monies so set aside by the Indenture Trustee (without interest thereon) upon due presentation and surrender thereof, subject always to the provisions of section 9.3. Any monies so set aside may, and, if remaining unclaimed for 60 days, shall, be invested by the Indenture Trustee in accordance with section 13.7.

**9.3.           Repayment of Unclaimed Monies**

Any monies set aside under section 9.2 and not claimed by and paid to Holders of Notes within six years after the date of such setting aside shall be repaid to the Issuer by the Indenture Trustee on demand, and, thereupon, the Indenture Trustee shall be released from all further liability with respect to such monies, and, thereafter, the Noteholders in respect of which

such monies were so repaid to the Issuer shall have no rights in respect thereof except to obtain payment of such monies without interest thereon from the Issuer.

**9.4. Discharge**

Upon proof being given to the reasonable satisfaction of the Indenture Trustee that all the Notes and interest (including interest on amounts in default) and Makewhole Amount, if any, thereon have been paid or satisfied or that, all the outstanding Notes having matured, such payment has been duly provided for by payment to the Indenture Trustee or otherwise, and upon payment of all costs, charges and expenses properly incurred by the Indenture Trustee in relation to this Trust Indenture and all interest thereon and the remuneration of the Indenture Trustee, or upon provision satisfactory to the Indenture Trustee being made therefor, the Indenture Trustee, following notice to and at the request and expense of the Lessee (as provided in the Lessee Acknowledgement and Agreement), shall execute and deliver to the Issuer such deeds or other instruments as shall be necessary to evidence the satisfaction and discharge of this Trust Indenture, to release the Issuer from its covenants contained herein (except those relating to the indemnification of the Indenture Trustee) and to release the Security Interest.

**ARTICLE 10.**  
**SUCCESSOR ISSUERS**

**10.1. Certain Requirements in Respect of Merger, etc.**

The Issuer shall not enter into any transaction, whether by way of amalgamation, merger, reconstruction, reorganization, consolidation, transfer, sale, lease or otherwise, whereby all or substantially all of the Issuer's undertaking, property and assets would become the property of any other Person or, in the case of any such amalgamation, of the continuing corporation resulting therefrom, unless:

10.1.1. such other Person or continuing corporation is a corporation (the "Successor Issuer") incorporated or amalgamated under the laws of Canada or any province thereof;

10.1.2. the Successor Issuer executes, prior to or contemporaneously with the completion of such transaction, such indenture supplemental hereto and other instruments, if any, as are satisfactory to the Indenture Trustee and, in the opinion of counsel for the Indenture Trustee, are necessary or advisable to evidence the assumption (subject in all cases to section 3.6) by the Successor Issuer of the liability for the due and punctual payment of the Principal Balance of the Notes and the interest and Makewhole Amount thereon and all other monies payable hereunder and the covenant of such Successor Issuer to pay the same and its agreement to observe and perform all the covenants and obligations of the Issuer under this Trust Indenture;

10.1.3. such transaction shall be, to the satisfaction of the Indenture Trustee and in the opinion of counsel for the Indenture Trustee, upon such terms as substantially preserve and do not impair any of the rights and powers of the Indenture Trustee or of the Noteholders;

10.1.4. either (i) the obligations of the Successor Issuer continue to be guaranteed by the Guaranty or (ii) the long term indebtedness of the Successor Issuer or any guarantor of its obligations hereunder is rated at least "AA" by either Standard & Poors or Dominion Bond Rating Services Limited (or their successors); and

10.1.5. no condition or event shall exist in respect of the Issuer or the Successor Issuer, either at the time of such transaction or immediately thereafter after giving full effect thereto, which constitutes or would constitute, after the giving of notice or the lapse of time or both, an Event of Default hereunder.

For greater certainty, subject to compliance with subsections 10.1.2 and 10.1.5, this section 10.1 shall not restrict the amalgamation, to occur on or about December 31, 1998, of the Issuer and GE Capital Railcar Services Canada Inc., the parent corporation of the Issuer and a corporation governed by the *Canada Business Corporations Act*, to form GE Capital Railcar Services Canada Inc. under the *Canada Business Corporations Act*.

## **10.2. Delivery Requirements**

Contemporaneously with the completion of any transaction permitted by section 10.1, the Successor Issuer at its expense shall provide the Indenture Trustee and the original Noteholders set out in Schedule 2.8 with:

10.2.1. a notarial or certified copy of the articles of amalgamation of the continuing corporation (if the transaction involved the amalgamation of the Issuer with one or more other corporations); and

10.2.2. an opinion of counsel satisfactory to the Indenture Trustee confirming that all appropriate registrations, filings and/or recordings have been made to maintain fully and effectively the perfection and priority of the Security Interest created hereby.

## **10.3. Vesting of Powers in Successor**

Whenever the conditions of section 10.1 have been duly observed and performed (including, without limitation, by virtue of a transfer permitted pursuant to subsection 7.1.2.3), the Indenture Trustee shall execute and deliver the supplemental indenture provided for in article 14, and thereupon:

10.3.1. the Successor Issuer or transferee, as the case may be, shall possess, and from time to time, may exercise each and every right and power of the Issuer under this Trust Indenture in the name of the Issuer or otherwise, and any act or proceeding by any provision of this Trust Indenture required to be done or performed by any directors or officers of the Issuer may be done and performed with like force and effect by the directors or officers of the Successor Issuer or transferee, as the case may be; and

10.3.2. other than in the case of an amalgamation, the Issuer shall be released and discharged from liability under this Trust Indenture, and the Indenture Trustee shall execute

any documents which it is advised are necessary or advisable for effecting or evidencing such release and discharge.

**ARTICLE 11.**  
**MEETINGS OF NOTEHOLDERS**

**11.1. Right to Convene Meetings**

The Indenture Trustee may convene a meeting of the Noteholders at any time and from time to time and shall convene a meeting of the Noteholders on receipt of a Written Request of the Issuer or a Noteholders' Request and upon being indemnified to the Indenture Trustee's reasonable satisfaction by the Issuer or by the Noteholders signing such Noteholders' Request against the costs which may be incurred in connection with the calling and holding of such meeting. If the Indenture Trustee fails to give notice convening a meeting of the Noteholders within 10 days after receipt of such Written Request of the Issuer or Noteholders' Request and such indemnity, the Issuer or such Noteholders, as the case may be, may convene such meeting. Every such meeting shall be held in Toronto or at such other place as may be approved or determined by the Indenture Trustee.

**11.2. Notice of Meetings**

At least 21 days' notice of any meeting shall be given to the Noteholders, and a copy thereof shall be sent by mail to the Indenture Trustee, unless the meeting has been called by the Indenture Trustee, and to the Issuer unless the meeting has been called by the Issuer. Such notice shall state the time when and the place where the meeting is to be held and shall state briefly the general nature of the business to be transacted thereat, but it shall not be necessary for any such notice to set out the terms of any resolution to be proposed at the meeting or any of the provisions of this article 11.

**11.3. Chairman**

An individual, who need not be a Noteholder, nominated in writing by the Indenture Trustee shall be chairman of the meeting, and if no individual is so nominated or the individual so nominated is unable or unwilling to act or if the individual so nominated is not present within 15 minutes from the time fixed for the holding of the meeting, the Noteholders present in person or by proxy shall choose an individual present to be chairman of the meeting.

**11.4. Quorum**

At any meeting of the Noteholders other than a meeting convened for the purpose of considering a resolution proposed to be passed as an Extraordinary Resolution, to which the provisions of section 11.12 shall be applicable, a quorum shall consist of Noteholders present in person or by proxy and representing at least 25% in principal amount of the outstanding Notes. If a quorum of the Noteholders is not present within 30 minutes from the time fixed for holding the meeting, the meeting, if convened by the Noteholders or pursuant to a Noteholder's Request, shall be dissolved. In any other case, the meeting shall be adjourned to the same day in the next

week (unless such day is not a Business Day, in which case, it shall be adjourned to the next following Business Day) at the same time and place. At the adjourned meeting, the Noteholders present in person or by proxy shall form a quorum and may transact the business for which the meeting was originally convened, notwithstanding that they may not represent 25% of the principal amount of the outstanding Notes.

**11.5. Power to Adjourn**

The chairman of any meeting at which a quorum of the Noteholders is present, with the consent of the Holders of a majority in principal amount of the outstanding Notes represented thereat, may adjourn any such meeting, and no notice of such adjournment needs to be given except such notice, if any, as the meeting may prescribe.

**11.6. Show of Hands**

Every question submitted to a meeting shall be decided in the first place by a majority of the votes given on a show of hands except that votes on Extraordinary Resolutions shall be given in the manner hereinafter provided. At such meeting, unless a poll is duly demanded as herein provided, a declaration by the chairman of the meeting that a resolution has been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority shall be conclusive evidence of the fact.

**11.7. Poll**

On every Extraordinary Resolution and on any other question submitted to a meeting, when demanded by the chairman of the meeting or by one or more Noteholders and/or proxies for Noteholders holding at least 5% of the principal amount of the outstanding Notes represented thereat, a poll shall be taken in such manner and either at once or after an adjournment as the chairman of the meeting shall direct. If a poll is taken, questions other than Extraordinary Resolutions shall be decided by the votes of the Holders of a majority in principal amount of the outstanding Notes represented at the meeting and voted on the poll.

**11.8. Voting**

On a show of hands, every Person who is present and entitled to vote, whether as a Noteholder or as proxy, shall have one vote. On a poll, each Noteholder present in person or represented by a duly appointed proxy shall be entitled to one vote in respect of each \$1,000 principal amount of outstanding Notes of which he is then the Holder. A proxy need not be a Noteholder. In the case of joint registered Holders of a Note, any one of them present in person or by proxy at the meeting may vote in the absence of the other or others; but in case more than one of them are present in person or by proxy, they shall vote together in respect of the Notes of which they are joint registered Holders.

**11.9. Regulations**

The Indenture Trustee or the Issuer, with the approval of the Indenture Trustee, may make and vary, from time to time, such regulations as the Indenture Trustee or the Issuer from time to time thinks fit, providing for:

11.9.1. voting by proxy and the form of the instrument appointing a proxy (which shall be in writing) and the manner in which the same shall be executed and for the production of the authority of any Person signing on behalf of a Noteholder;

11.9.2. the deposit of instruments appointing proxies at such place as the Indenture Trustee, the Issuer or the Noteholders convening the meeting, as the case may be, may direct in the notice convening the meeting and the time, if any, before the holding of the meeting or any adjournment thereof by which the same shall be deposited; and

11.9.3. the deposit of instruments appointing proxies at some approved place or places other than the place at which the meeting is to be held and enabling particulars of instruments appointing proxies to be mailed, cabled, telegraphed, telecopied or sent by telex before the meeting to the Issuer or to the Indenture Trustee at the place where the same is to be held and for the voting of proxies so deposited as though the instruments themselves were produced at the meeting.

Any regulations so made shall be binding and effective, and the votes given in accordance therewith shall be valid and shall be counted. Save as such regulations may provide, the only Persons who shall be recognized at any meeting as the Holders of any Notes, or as entitled to vote or be present at the meeting in respect thereof, shall be Noteholders and persons whom Noteholders have duly appointed as their proxies.

**11.10. Issuer and Indenture Trustee May Be Represented**

The Indenture Trustee, by its respective officers and directors, and the legal advisors of the Indenture Trustee may attend any meeting of the Noteholders but shall have no vote thereat. The Issuer, by its officers and directors, and the legal advisors of the Issuer may attend any meeting of the Noteholders called by the Issuer but shall have no vote thereat.

**11.11. Powers Exercisable by Extraordinary Resolution**

In addition to the powers conferred upon them by any other provisions of this Trust Indenture or by law, a meeting of the Noteholders, convened pursuant to this article 11, shall have the following powers exercisable from time to time by Extraordinary Resolution:

11.11.1. power to approve any change whatsoever in any of the provisions of this Trust Indenture or the Notes and any modification, abrogation, alteration, compromise or arrangement of the rights of the Noteholders and/or the Indenture Trustee against the Issuer or against its undertaking, property and assets or any part thereof, whether such rights arise under this Trust Indenture or the Notes or otherwise provided that no change which imposes new or increased responsibilities upon the Indenture Trustee, or which prejudices any rights

of the Indenture Trustee which are held for its own benefit and not for the benefit of the Noteholders, shall be effective without the express written consent of the Indenture Trustee;

11.11.2. power to approve any scheme for the reconstruction or reorganization of the Issuer or for the consolidation, amalgamation or merger of the Issuer with any other Person or for the selling or leasing of the undertaking, property and assets of the Issuer or any part thereof, provided that no such approval shall be necessary in respect of any such transaction if the provisions of article 10 have been complied with;

11.11.3. subject to section 13.3, power to direct or authorize the Indenture Trustee to exercise any power, right, remedy or authority given to it by this Trust Indenture or the Notes in any manner specified in such Extraordinary Resolution or to refrain from exercising any such power, right, remedy or authority;

11.11.4. power to waive and direct the Indenture Trustee to waive any Default or Event of Default hereunder and/or cancel any declaration made by the Indenture Trustee pursuant to section 8.4 either unconditionally or upon any conditions specified in such Extraordinary Resolution;

11.11.5. power to restrain any Noteholder from taking or instituting any suit, action or proceeding for the purpose of enforcing payment of the principal of or interest or Makewhole Amount, if any, on any Note or for the execution of any trust or power hereunder or for any other remedy hereunder;

11.11.6. power to direct any Noteholder who, as such, has brought any action, suit or proceeding, to stay or discontinue, or otherwise deal with, the same in the manner directed by such Extraordinary Resolution upon payment, if the taking of such action, suit or proceeding shall have been permitted by section 8.7, of the costs, charges and expenses reasonably and properly incurred by such Noteholder in connection therewith;

11.11.7. power to appoint a committee to consult with the Indenture Trustee (and to remove any committee so appointed) and to delegate to such committee (subject to such limitations, if any, as may be prescribed in such Extraordinary Resolution) all or any of the powers which the Noteholders may exercise by Extraordinary Resolution under this section 11.11; the Extraordinary Resolution making such appointment may provide for payment of the reasonable expenses and disbursements and compensation of such committee; such committee shall consist of such number of individuals (who need not be Noteholders) as shall be prescribed in the Extraordinary Resolution appointing it; subject to the Extraordinary Resolution appointing it, every such committee may elect its chairman and may make regulations respecting its quorum, the calling of its meetings, the filling of vacancies occurring in its number, the manner in which it may act and its procedures generally, and such regulations may provide that the committee may act at a meeting at which a quorum is present or may act by resolution signed in one or more counterparts by a majority of the members thereof or the number of members thereof necessary to constitute a quorum, whichever is the greater; all acts of any such committee within the authority delegated to it shall be binding upon all Noteholders;

11.11.8. power to agree to any compromise or arrangement with any creditor or creditors or any class or classes of creditors, whether secured or otherwise, and with holders of any shares or other securities of the Issuer;

11.11.9. power to authorize the distribution *in specie* of any shares, bonds, Notes or other securities or obligations and/or cash or other consideration received or the use or disposition of the whole or any part of such shares, bonds, Notes or other securities or obligations and/or cash or other consideration in such manner and for such purpose as may be considered advisable and specified in such Extraordinary Resolution;

11.11.10. power to approve the exchange of the Notes for, or the conversion thereof into, shares, bonds, Notes or other securities or obligations of the Issuer or of any corporation formed or to be formed;

11.11.11. power to remove the Indenture Trustee from office and to appoint a new Indenture Trustee or Indenture Trustees; and

11.11.12. power to amend, alter or repeal any Extraordinary Resolution previously passed or approved by the Noteholders or by any committee appointed pursuant to subsection 11.11.7.

**11.12. Meaning of “Extraordinary Resolution”**

11.12.1. The expression “Extraordinary Resolution” when used in this Trust Indenture means, subject as hereinafter provided in this article 11, a resolution proposed to be passed as an Extraordinary Resolution at a meeting of Noteholders duly convened for the purpose and held in accordance with the provisions of this article 11 at which the Holders of more than 50% of the principal amount of the Notes then outstanding are present in person or by proxy and passed by the favourable votes of the Holders of not less than 66% of the principal amount of Notes represented at the meeting and voted on a poll upon such resolution.

11.12.2. If at any such meeting, the Holders of more than 50% of the principal amount of the Notes then outstanding are not present in person or by proxy within 30 minutes after the time appointed for the meeting, then the meeting, if convened by the Noteholders or pursuant to a Noteholder’s Request, shall be dissolved; but in any other case, the meeting shall be adjourned to such date, being not less than 21 days nor more than 60 days later, and to such place and time as may be appointed by the chairman of the meeting. Not less than 10 days’ notice shall be given of the time and place of such adjourned meeting in the manner provided in article 12. Such notice shall state that, at the adjourned meeting, the Noteholders present in person or by proxy shall form a quorum, but it shall not be necessary to set forth the purposes for which the meeting was originally called or any other particulars. At the adjourned meeting, the Noteholders present in person or by proxy shall form a quorum and may transact the business for which the meeting was originally convened, and a resolution proposed at such adjourned meeting and passed in accordance with subsection 11.12.1 shall be an Extraordinary Resolution within the meaning of this Trust Indenture, notwithstanding that the Holders of more than 50% of the principal amount of the Notes then outstanding are not present in person or by proxy at such adjourned meeting.

11.12.3. Votes on an Extraordinary Resolution shall always be given on a poll, and no demand for a poll on an Extraordinary Resolution shall be necessary.

**11.13. Powers Cumulative**

It is hereby declared and agreed that any one or more of the powers and/or any combination of the powers in this Trust Indenture stated to be exercisable by the Noteholders by Extraordinary Resolution or otherwise may be exercised from time to time, and the exercise of any one or more of such powers or any combination of powers from time to time shall not be deemed to exhaust the right of the Noteholders to exercise the same or any other such power or powers or combination of powers thereafter from time to time.

**11.14. Minutes**

Minutes of all resolutions and proceedings at every meeting of Noteholders shall be made and duly entered in books to be provided for that purpose by the Indenture Trustee at the expense of the Issuer, and any such minutes, if signed by the chairman of the meeting at which such resolutions were passed or proceedings had, or by the chairman of the next succeeding meeting of the Noteholders, shall be *prima facie* evidence of the matters therein stated and, until the contrary is proved, every such meeting, in respect of the proceedings of which minutes shall have been made, shall be deemed to have been duly held and convened, and all resolutions passed or proceedings had thereat, to have been duly passed and had.

**11.15. Signed Instruments**

Any action which may be taken and any power which may be exercised by the Noteholders at a meeting held as provided hereinbefore in this article 11 may also be taken and exercised by the Holders of not less than 66% of the principal amount of the outstanding Notes by signed instrument, and the expression "Extraordinary Resolution" when used in this Trust Indenture shall include an instrument so signed. Notice of any Extraordinary Resolution passed in accordance with this section 11.15 shall be given by the Indenture Trustee to the Noteholders affected thereby within 30 days of the date on which such Extraordinary Resolution was passed.

**11.16. Binding Effect of Resolutions**

Every resolution and every Extraordinary Resolution passed in accordance with the provisions of this article 11 at a meeting of Noteholders shall be binding upon all the Noteholders, whether present at or absent from such meeting, and every instrument signed by Noteholders in accordance with section 11.15 shall be binding upon all the Noteholders, whether signatories thereto or not, and each and every Noteholder and the Indenture Trustee (subject to the provisions for its indemnity herein contained) shall be bound to give effect to every such resolution, Extraordinary Resolution and instrument.

**11.17. Evidence of Rights of Noteholders**

Any request, direction, notice, consent or other instrument which this Trust Indenture may require or permit to be signed or executed by Noteholders may be in any number

of concurrent instruments of similar tenor and may be signed or executed by Noteholders in person or by attorney duly appointed in writing. Proof of the execution of any such request, direction, notice, consent or other instrument or of a writing appointing any such attorney shall be sufficient for any purpose of this Trust Indenture if made in the following manner, namely, the fact and date of the execution by any Person of such request, direction, notice, consent or other instrument or writing may be proved by the certificate of any notary public, or other officer authorized to take acknowledgements of deeds to be recorded at the place where such certificate is made, that the Person signing such request, direction, notice, consent or other instrument or writing acknowledged to him the execution thereof or by an affidavit of a witness of such execution or in any other manner which the Indenture Trustee may consider adequate.

The Indenture Trustee nevertheless, in its discretion, may require further proof in cases where it considers further proof necessary or desirable or may accept such other proof as it considers proper.

**ARTICLE 12.**  
**NOTICES**

**12.1.        Notice Procedures**

All notices given hereunder (a) shall be given not later than the date required hereunder, (b) shall be signed by an appropriate officer or other representative, (c) shall be addressed as provided below and (d) shall be considered as properly given (i) if delivered in person, (ii) if sent by a nationally recognized overnight delivery service, (iii) if overnight delivery services are not readily available, if mailed by first class mail, postage prepaid, and registered or certified with return receipt requested or (iv) if sent by facsimile transmission and receipt thereof confirmed. Notice so given shall be effective upon receipt by the addressee, provided, however, that if any notice is tendered to an addressee and the delivery thereof is refused by such addressee, such notice shall be effective upon such tender. For the purposes of notice, the addresses of the parties shall be as set forth below or at such other address as such parties shall advise in writing to the other parties from time to time:

Issuer:	GE Railcar Services Canada Company 421 7th Avenue S.W. Suite 2401 Calgary, Alberta T2P 4K9
Attention:	Vice President, Finance
Facsimile No.:	(403) 531-2864

with a copy to: GE Railcar Capital Inc.  
33 West Monroe Street  
Chicago, Illinois 60603

Attention: Vice-President, Structured Sales  
Facsimile No.: (312) 853-5023

with a copy to: McCarthy Tétrault  
Suite 4700  
Toronto Dominion Bank Tower  
Toronto Dominion Centre  
Toronto, Ontario M5K 1E6

Attention: Managing Partner  
Facsimile No.: (416) 868-0673

and with a further copy to the Lessee, to the extent required by the Lessee Acknowledgement and Agreement;

Noteholders: to their addresses appearing in the register referred to in subsection 2.9.1;

Indenture Trustee: Montreal Trust Company of Canada  
151 Front Street West  
Suite 605  
Toronto, Ontario  
M5J 2N1

Attention: Manager, Client Services  
Corporate Trust Services  
Facsimile No.: (416) 981-9777

and with a further copy to the Lessee at its address set out in the Lease, to the extent required by the Lessee Acknowledgement and Agreement.

Any failure to give or deliver a copy of any notice shall not invalidate or otherwise prejudicially affect any action or proceeding founded on such notice.

Noteholders can require the Indenture Trustee to deliver notices by facsimile transmission, provided that such Noteholders provide the Indenture Trustee with the necessary information. Any notice delivered by facsimile transmission shall be deemed to have been given on the day of the facsimile transmission, except any facsimile transmission received after 4:00 p.m. (Toronto time), which shall be deemed to have been given on the next following Business Day.

**12.2. Mail Service Interruption**

If the Indenture Trustee or the Issuer determines that mail service is interrupted or is threatened to be interrupted at a time when the Indenture Trustee or the Issuer is required or elects to give any notice to the other and/or the Noteholders, the Indenture Trustee or the Issuer, as the case may be, notwithstanding the provisions hereof, shall give such notice by means of personal delivery in accordance with section 12.1.

**ARTICLE 13.**  
**CONCERNING THE INDENTURE TRUSTEE**

**13.1. Trust Indenture Legislation**

13.1.1. In this article 13, the term "Indenture Legislation" means the provisions, if any, of the *Canada Business Corporations Act*, the *Business Corporations Act* (Alberta), the *Companies Act* (Nova Scotia) and any other statute of Canada or a province thereof and of the regulations under any such statute, relating to trust indentures and to the rights, duties and obligations of trustees under trust indentures and of issuers issuing debt obligations under trust indentures, to the extent that such provisions are at the time in force and applicable to this Trust Indenture or the Issuer.

13.1.2. If and to the extent that any provision of this Trust Indenture limits, qualifies or conflicts with a mandatory requirement of Indenture Legislation, such mandatory requirement shall prevail.

13.1.3. At all times in relation to this Trust Indenture and any action to be taken hereunder, the Issuer and the Indenture Trustee each shall observe and comply with Indenture Legislation, and the Issuer, the Indenture Trustee and each Noteholder shall be entitled to the benefits of Indenture Legislation.

**13.2. No Conflict of Interest**

The Indenture Trustee represents to the Issuer that at the date of the execution and delivery of this Trust Indenture, there exists no material conflict of interest in the role of the Indenture Trustee as a fiduciary hereunder, but if, notwithstanding the provisions of this section 13.2, such a material conflict of interest exists, the validity and enforceability of this Trust Indenture and the Notes issued hereunder shall not be affected in any manner whatsoever by reason only that such material conflict of interest exists. If at any time a material conflict of interest exists in the Indenture Trustee's role as a fiduciary hereunder, the Indenture Trustee, within 90 days after ascertaining that such a material conflict of interest exists, either shall eliminate the same or else resign from the trusts hereunder by giving notice in writing to the Issuer at least 21 days prior to such resignation, and, upon its resignation, the Indenture Trustee shall be discharged from all further duties and liabilities hereunder.

**13.3. Rights and Duties of Indenture Trustee**

13.3.1. In the exercise of the rights and duties prescribed or conferred by the terms of this Trust Indenture, the Indenture Trustee shall exercise that degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances. Subject to the foregoing, the Indenture Trustee shall not be liable for any error in judgment or for any act done or step taken or omitted by it in good faith or for anything which it may do or refrain from doing in good faith in connection herewith.

13.3.2. Subject only to subsection 13.3.1, the obligation of the Indenture Trustee to commence or continue any act, action or proceeding for the purpose of enforcing any rights of the Indenture Trustee or the Noteholders hereunder or pursuant to the Lease or the Lessee Acknowledgement and Agreement shall be conditional upon the Noteholders furnishing, when required by notice in writing by the Indenture Trustee, sufficient funds to commence or continue such act, action or proceeding and indemnity reasonably satisfactory to the Indenture Trustee to protect and hold harmless the Indenture Trustee, its officers, directors, employees and agents, against all costs, charges and expenses, damages and liabilities to be incurred or which may be incurred thereby and any and all actions, proceedings, claims, demands, loss or damage whatsoever which the Indenture Trustee, its officers, directors, employee or agents may suffer by reason thereof (including, without limitation, reasonable legal fees and disbursements on a solicitor and his own client basis). None of the provisions contained in this Trust Indenture, in the Lease or in the Lessee Acknowledgement and Agreement shall require the Indenture Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers unless funded and indemnified as aforesaid.

13.3.3. Before commencing, or at any time during the continuance of, any such act, action or proceeding, the Indenture Trustee may require the Noteholders, at whose instance the Indenture Trustee is acting, to deposit with the Indenture Trustee the Notes held by them, for which Notes the Trustee shall issue receipts.

13.3.4. Every provision of this Trust Indenture that by its terms relieves the Indenture Trustee of liability or entitles it to rely upon any evidence submitted to it is subject to the provisions of Indenture Legislation, this section 13.3 and section 13.4.

13.3.5. Subject only to subsection 13.3.1, unless and until it shall have been required so to do under the terms hereof, the Indenture Trustee shall not be bound to do or take any act, action or proceeding in virtue of the powers conferred on it hereby or pursuant to the Lease or the Lessee Acknowledgement and Agreement; nor shall the Indenture Trustee be required to take notice of any Event of Default hereunder, other than in payment of any monies required by any provision hereof to be paid to it, unless and until notified in writing of such Event of Default (which notice shall specify clearly the Event of Default desired to be brought to the attention of the Indenture Trustee), and, in the absence of any such notice, the Indenture Trustee may for all purposes of this Trust Indenture conclusively assume that the Issuer is not in default hereunder and the Lessee is not in default under the Lease or the Lessee Acknowledgement and Agreement and that no Event of Default has occurred. Any

such notice in no way shall limit any discretion herein given to the Indenture Trustee to determine whether or not the Indenture Trustee shall take action with respect to any Event of Default or take action without any such notice.

13.3.6. Subject only to subsection 13.3.1, the Indenture Trustee shall not be bound to do, observe or perform, or see to the observance or performance by the Issuer or the Lessee of, any of the obligations herein or in the Lease or the Lessee Acknowledgement and Agreement imposed upon the Issuer or the Lessee or of the covenants on the part of the Issuer or the Lessee herein or in the Lease or the Lessee Acknowledgement and Agreement contained, nor to take any steps to enforce the Security Interest, nor in any way to supervise or interfere with the conduct of the Issuer's or the Lessee's business unless and until the Security Interest shall have become enforceable and the Indenture Trustee shall have determined or become bound to enforce the same and unless the Indenture Trustee shall have been directed to do so by a Noteholders' Request or by an Extraordinary Resolution and then only after the Indenture Trustee has been indemnified and provided with sufficient funds, in each case, to its reasonable satisfaction against all actions, proceedings, claims and demands to which it may become liable and all costs, charges, damages and expenses which it may incur, as provided in subsection 13.3.2.

#### **13.4. Evidence, Experts and Advisors**

13.4.1. In addition to the reports, certificates, opinions, statutory declarations and other evidence required by this Trust Indenture, the Issuer shall furnish to the Indenture Trustee such additional evidence of compliance with any provisions hereof in such form as may be prescribed by Indenture Legislation or as the Indenture Trustee may reasonably require by written notice to the Issuer.

13.4.2. In the exercise of its rights, duties and obligations, the Indenture Trustee may accept as genuine and rely, if it is acting in good faith, not only as to the due execution and the validity and effectiveness of provisions but also as to the truth of statements and the accuracy and acceptability of any information contained and/or opinions expressed therein, upon statutory declarations, opinions, reports, certificates, notices, requests, waivers, consents, directions, receipts or other papers, documents or evidence (including, without limitation, any of the same received by facsimile transmission or other electronic means of communication) furnished to it by any Person (including the Issuer); provided that, with respect to evidence referred to in subsection 13.4.1, the Indenture Trustee examines the same and determines that such evidence complies with the applicable requirements of this Trust Indenture and of Indenture Legislation. Without limitation, the Indenture Trustee may accept a certificate of any officer of the Issuer (or any officer of the Lessee in the case of the Lessee) as conclusive evidence (including as to regularity and validity) of any action taken, decision made, opinion held, resolution passed or by-law enacted by the Issuer (or the Lessee if the certificate is that of an officer of the Lessee) or the directors or shareholders thereof and of the truth of any statement of fact made therein relating to the Issuer or the Lessee, as applicable; and the Indenture Trustee will be fully protected from all liability in acting upon instruments purporting to be Written Requests of the Issuer or Written Orders of the Issuer and believed by the Indenture Trustee to be genuine. Notwithstanding the foregoing, the

Indenture Trustee may require, in its discretion, further evidence (including evidence of due execution of any document) or information before acting or relying on what has been furnished to it.

13.4.3. The Indenture Trustee may employ or retain or consult with, and obtain advice from, such counsel, auditors, accountants, appraisers or other experts or advisors (collectively, "Advisors") whose qualifications give authority to any opinion or report made by them, and such agents as the Indenture Trustee, in its opinion, may reasonably require for the purpose of determining or discharging its duties or determining its and/or the Noteholders' rights hereunder or under the Lease or the Lessee Acknowledgement and Agreement or interpreting any provisions hereof or of the Lease or the Lessee Acknowledgement and Agreement, and may pay reasonable compensation for all such advice or assistance and shall be fully protected in acting or not acting in good faith in accordance with any advice, information or opinion of any such Advisor or agent and shall not be responsible for any negligence or misconduct on the part of any of such Advisors or agents or for any liability incurred by any Person as a result of not employing, retaining or consulting with such Advisors. In its discretion, the Indenture Trustee may, but need not, act and rely on the information, advice or opinion of Advisors retained or employed by the Issuer or the Lessee and shall be fully protected in so doing.

13.4.4. The Indenture Trustee shall retain the right not to act and shall not be held liable for refusing to act unless it receives clear and reasonable documentation which complies with the terms of this Trust Indenture and the Lease, if applicable. Such documentation must not require the exercise of any discretion or independent judgment, except as otherwise provided herein.

13.4.5. As a condition precedent to any action to be taken by it under this Trust Indenture or under, or in respect of, the Lease, the Indenture Trustee may require such opinions, statutory declarations, reports, certificates or other evidence as it, acting reasonably, considers necessary or advisable.

13.4.6. Whenever applicable legislation requires that evidence be in the form of a statutory declaration, the Indenture Trustee may accept such statutory declaration in lieu of a certificate of the Issuer or of an officer of the Issuer or of any other Person.

13.4.7. The Indenture Trustee, in the exercise of all or any of the trusts, powers and discretions vested in it hereunder, under the Lease and the Lessee Acknowledgement and Agreement, may act by its officers or employees. The Indenture Trustee may delegate to any Person the performance of any of the trusts and powers vested in the Indenture Trustee by this Trust Indenture, the Lease and the Lessee Acknowledgement and Agreement and any delegation may be made upon terms and conditions and subject to regulations as the Indenture Trustee thinks to be in the interests of the Noteholders as a whole.

**13.5. Indenture Trustee Not Required to Give Security**

The Indenture Trustee shall not be required to give any bond or security in respect of the execution of the trusts and powers of this Trust Indenture or otherwise in respect of this Trust Indenture or the Lease and will be required to disburse monies according to this Trust Indenture only to the extent that monies have been deposited with it.

**13.6. Protection of Indenture Trustee**

By way of supplement to the provisions of any law for the time being relating to trustees, it is expressly declared and agreed as follows:

13.6.1. the Indenture Trustee shall not be liable for, or by reason of, any statements of fact or law contained in or arising out of anything contained in this Trust Indenture or in the Notes (except the representation contained in section 13.2 and in the certificate of the Indenture Trustee on the Notes) or required to verify the same, but all such statements are and shall be deemed to have been made by the Issuer only;

13.6.2. nothing contained herein, in the Lease or in the Lessee Acknowledgement and Agreement shall impose any obligation on the Indenture Trustee to see to, or to require evidence of, the registration or filing (or renewal thereof) of this Trust Indenture or any instrument ancillary or supplemental hereto or the Lease, or of notice of any of the same or of the Security Interest, in any jurisdiction at any time, or to procure any Lien or instrument of further assurance, and the Indenture Trustee shall not be liable for or by reason of:

- (i) any failure or defect of title to, or Lien upon, the Collateral or any part thereof;
- (ii) any failure of or defect in the registration, filing or recording of this Trust Indenture or the Lease or any other deed or writing delivered hereunder by way of mortgage or charge upon or security interest in the Collateral or any part thereof, or any notice, caveat or financing statement with respect to the foregoing; or
- (iii) any failure to do any act necessary to constitute, perfect and/or maintain the priority of the security hereby created.

13.6.3. the Indenture Trustee shall not be bound to give notice to any Person or Persons of the execution hereof;

13.6.4. the Indenture Trustee shall not incur any liability or responsibility whatever or be in any way responsible for the consequence of any breach on the part of the Issuer or the Lessee of any of the representations, warranties or covenants contained herein or in the Lease or the Lessee Acknowledgement and Agreement or of any acts of the agents of the Issuer or the Lessee;

13.6.5. the forwarding of a cheque or payment by wire transfer by the Indenture Trustee will satisfy and discharge the liability for any amounts due to the extent of the sum or sums represented thereby (plus the amounts of any tax deducted or withheld as required by law) unless, in the case of payment by cheque, such cheque is not honoured on presentation; in the event of the non-receipt of a cheque by the payee, or the loss or destruction thereof, the Indenture Trustee, upon being furnished with reasonable evidence of such non-receipt, loss or destruction and indemnity reasonably satisfactory to it, will issue to such payee a replacement cheque for the amount of the original cheque;

13.6.6. nothing herein or in the Lessee Acknowledgement and Agreement shall be deemed to hold the Indenture Trustee responsible for failure by the Issuer or the Lessee to maintain any insurance coverage or for any loss arising out of any want, defect or insufficiency in any insurance policy or because of failure of any insurer to pay the full amount of any loss or damage or any liability insured against other than for the negligence or wilful misconduct of the Indenture Trustee, and the Indenture Trustee shall be entitled to request and rely absolutely on a certificate of the Issuer or the Lessee or any officer thereof stating that the Issuer or the Lessee, as the case may be, is in compliance with any covenant to maintain insurance coverage; no duty with respect to effecting or maintaining or reviewing or requiring evidence of insurance coverage shall rest with the Indenture Trustee, and, without limitation, the Indenture Trustee shall have no duty to keep itself informed or advised as to the payment of premiums of insurance by the Issuer or the Lessee or to require such payments to be made;

13.6.7. it shall be no part of the duty of the Indenture Trustee to see to or require, or keep itself informed or advised as to, the payment of any tax, assessment or other governmental charge which may be levied upon or imposed against the Indenture Trustee, the Issuer, the Lessee, the Collateral or the Noteholders; and

13.6.8. the Indenture Trustee shall not be obligated to analyze financial statements, auditors' reports or other information relating to the business or finances of the Issuer, any Successor Issuer or the Lessee, which may come into the Indenture Trustee's possession, or to evaluate, at any time in any manner whatsoever, the performance of the Issuer, any Successor Issuer or the Lessee.

The Issuer and the Noteholders, by accepting Notes issued pursuant to this Trust Indenture, expressly acknowledge, accept and agree that (i) the Indenture Trustee does not represent or warrant that it is authorized or qualified to carry on the business of a trust company or to act as a trustee in any jurisdiction outside of Canada, (ii) the Indenture Trustee may not be authorized or qualified to carry on the business of a trust company or to act as a trustee in jurisdictions outside Canada and that the Indenture Trustee may not be so authorized or qualified, in particular, but without limitation, with respect to the United States of America and/or jurisdictions therein and that the Indenture Trustee does not herein or otherwise undertake, either expressly or implied, to become so authorized or qualified and (iii) delays, difficulties and expenses (including those associated with obtaining the advice of legal counsel, meeting qualifications and/or appointing local trustees or other intermediaries or agents) related to lack of authorization or qualification of the Indenture Trustee to carry on the business of a trust company

and/or to act as a trustee in particular non-Canadian jurisdictions may be encountered or incurred, in particular, in connection with proposed or actual enforcement of the Security Interest.

**13.7. Investment of Trust Monies**

Unless otherwise provided in this Trust Indenture, any monies held by the Indenture Trustee, which under the trusts of this Trust Indenture may or ought to be invested or which may be on deposit with the Indenture Trustee or which may be in the hands of the Indenture Trustee, may be invested and reinvested in the name of or under the control of the Indenture Trustee only in Permitted Investments. Pending such investment, such monies may be placed by the Indenture Trustee on deposit in a chartered bank in Canada or with its own deposit department. The Indenture Trustee shall allow interest at the current rate for similar deposits on monies remaining on deposit with it and, provided that the Issuer is not in default hereunder, shall credit the Issuer with interest received on monies deposited with other depositaries and on all monies invested as provided in this section 13.7.

The Indenture Trustee shall be accountable only for reasonable diligence in the investment of monies under this section 13.7 and the Indenture Trustee shall not be liable for any loss or losses realized on such investments, negligence, wilful acts or defaults only excepted.

**13.8. Action by Indenture Trustee to Protect Interests**

Subject to section 3.6, the Indenture Trustee shall have the power to institute and maintain all and any such actions, suits or proceedings as it may consider necessary or expedient to preserve, protect or enforce its interests and those of the Holders of the Notes.

**13.9. Replacement of Indenture Trustee**

The Indenture Trustee may resign its trusts and thereupon be discharged from all further duties and liabilities hereunder by giving to the Issuer not less than three months' notice in writing or such shorter notice as the Issuer may accept as sufficient. The Noteholders, by Extraordinary Resolution, shall have power at any time to remove the Indenture Trustee and to appoint a new trustee hereunder. In the event of the Indenture Trustee resigning or being removed as aforesaid or being dissolved, becoming bankrupt, going into liquidation or otherwise becoming incapable of acting hereunder, the Issuer shall forthwith appoint a new trustee hereunder unless a new trustee has already been appointed by the Noteholders. Failing such appointment by the Issuer, the retiring trustee hereunder (at the Lessee's expense as provided in the Lessee Acknowledgement and Agreement) or any Noteholder may apply to a court, on such notice as such court may direct, for the appointment of a new trustee hereunder; but any trustee so appointed by the Issuer or by the court shall be subject to removal as aforesaid by the Noteholders. Any new trustee hereunder appointed under this section 13.9 shall be a corporation authorized and qualified to carry on the business of a trust company in all the provinces of Canada and shall certify that it will not have any material conflict of interest upon becoming trustee hereunder. On any new appointment, the new Indenture Trustee shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named herein as Indenture Trustee without any further assurance, conveyance, act or deed, but there shall be immediately

executed, at the Lessee's expense, as provided in the Lessee Acknowledgement and Agreement, all such conveyances or other instruments as, in the opinion of counsel, may be necessary or advisable for the purpose of assuring the same to the new Indenture Trustee. At the request of the Issuer or the new Indenture Trustee, the Indenture Trustee, upon payment of the amounts, if any, due to it pursuant to the Lessee Acknowledgement and Agreement, shall duly assign, transfer and deliver to the new Indenture Trustee all property and money held and all records kept by the Indenture Trustee hereunder or in connection herewith.

**13.10. Successor Trustee**

Any Person into which the Indenture Trustee may be merged or with which it may be consolidated or amalgamated, or any Issuer resulting from any merger, consolidation or amalgamation to which the Indenture Trustee shall be a party, shall be the successor trustee under this Trust Indenture without the necessity of the execution of any instrument or any further act.

**13.11. Acceptance of Trusts**

The Indenture Trustee accepts the trusts in this Trust Indenture declared and provided for and agrees to perform the same upon the terms and conditions herein set forth and in trust for the various Persons who shall be Noteholders from time to time, subject to the terms and conditions herein set forth.

**ARTICLE 14.**  
**SUPPLEMENTAL INDENTURES**

**14.1. Supplemental Indentures**

From time to time, the Indenture Trustee and, when authorized by a resolution of the Directors, the Issuer may, and they shall when required by this Trust Indenture, execute, acknowledge and deliver by their proper officers deeds or indentures supplemental hereto, which thereafter shall form part hereof, for any one or more of the following purposes:

- 14.1.1. adding to the provisions hereof such additional covenants of the Issuer, enforcement provisions and other provisions for the protection of the Holders of the Notes and/or providing for events of default in addition to those herein specified;
- 14.1.2. revising the Amortization Schedule pursuant to subsection 4.1.4 and section 4.8;
- 14.1.3. evidencing the succession or successive successions of other corporations to the Issuer and the covenants of, and obligations assumed by, any such successor in accordance with the provisions of this Trust Indenture; and
- 14.1.4. giving effect to any Extraordinary Resolution passed as provided in article 11.

The Indenture Trustee shall provide promptly to each Noteholder and, in accordance with the Lessee Acknowledgement and Agreement, the Lessee, copies of all supplemental deeds and indentures.

**ARTICLE 15.**  
**EXECUTION**

**15.1.      Counterparts and Formal Date**

This Trust Indenture may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument and, notwithstanding their date of execution, shall be deemed to bear the date as of the 8th day of December, 1998.

**IN WITNESS WHEREOF** the parties hereto have executed this Trust Indenture under their respective corporate seals and the hands of their proper officers duly authorized in that behalf.

**GE CAPITAL RAILCAR SERVICES CANADA  
COMPANY**

By:  \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_ (corporate seal)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**MONTREAL TRUST COMPANY OF  
CANADA**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_ (corporate seal)

by: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

IN WITNESS WHEREOF the parties hereto have executed this Trust Indenture under their respective corporate seals and the hands of their proper officers duly authorized in that behalf.

**GE CAPITAL RAILCAR SERVICES CANADA  
COMPANY**

By: \_\_\_\_\_  
Name:  
Title: (corporate seal)

By: \_\_\_\_\_  
Name:  
Title:

**MONTREAL TRUST COMPANY OF  
CANADA**

By:  \_\_\_\_\_  
Name: J. ROBERT ARMSTRONG  
Title: REGIONAL MANAGER (corporate seal)

by:  \_\_\_\_\_  
Name: ROBERT MCKENZIE  
Title: CORPORATE TRUST OFFICER

**SCHEDULE 1.1.2**  
**AMORTIZATION SCHEDULE**

## SCHEDULE 1.1.9

### DIRECTION

**TO:** NOVA Chemicals Ltd. (the "Lessee")

**FROM:** GE Capital Railcar Services Canada Company (the "Lessor")

**RE:** Railcar lease agreement, dated December 8, 1998, between the Lessor and the Lessee (the "Lease")

**DATE:** December 8, 1998

Dear Sirs/Mesdames:

We hereby give you notice that the Lessor has entered into a trust indenture (the "Trust Indenture") with Montreal Trust Company of Canada (the "Indenture Trustee"), dated as of December 8, 1998, providing for the issue of \$20,107,219.60 principal amount of 6.78% Limited Recourse Notes due March 27, 2018.

Under the Trust Indenture, the Lessor has granted to the Indenture Trustee a security interest in, among other things, all of the Lessor's right, title and interest in the Lease, other than the Lessor's right to receive the Excepted Payments, as that term is defined in the Trust Indenture.

We hereby irrevocably direct you to pay all monies payable by you under the Lease, other than any Excepted Payments, to the account of the Lessor maintained with The Bank of Nova Scotia, International Banking Division, Toronto, transit no. 80002, for further credit to Montreal Trust Company of Canada, account no. 03308-17 (which account is the Note Liquidation Account as that term is defined in the Trust Indenture), unless and until the Indenture Trustee otherwise directs, whereupon you are authorized and required to comply with the direction of the Indenture Trustee.

In the event that the Indenture Trustee issues to you a notice that its rights under the Trust Indenture have become exercisable, the Lessor hereby irrevocably directs and authorizes you at all times thereafter to perform all of your obligations under the Lease, other than those relating to the payment of the Excepted Payments, in favour of the Indenture Trustee, to the exclusion of the Lessor. Your obligations under the Lease relating to the payment of the Excepted Payments shall remain unaffected by the notice of the Indenture Trustee.

This notice and the direction contained herein are irrevocable. Please acknowledge receipt of this notice to the Lessor and the Indenture Trustee on the enclosed acknowledgement. You are hereby authorized to assume the obligations expressed to be assumed by you thereunder to the effect that, insofar as the same would be otherwise incompatible with those under the Lease, your obligations to the Lessor under the Lease shall be modified accordingly.

Yours truly,

**GE CAPITAL RAILCAR SERVICES CANADA COMPANY**

By: \_\_\_\_\_

Name:

Title:

**SCHEDULE 1.1.20**

**LESSEE ACKNOWLEDGEMENT AND AGREEMENT**

**THIS LESSEE ACKNOWLEDGEMENT AND AGREEMENT** made this 8th day of December, 1998

**BETWEEN:**

**GE CAPITAL RAILCAR SERVICES CANADA COMPANY**, an unlimited liability company incorporated under the laws of the Province of Nova Scotia

(the "Lessor")

- and -

**MONTREAL TRUST COMPANY OF CANADA**, a trust company incorporated under the laws of Canada, as trustee for and on behalf of the Noteholders (as hereinafter defined)

(the "Indenture Trustee")

- and -

**NOVA CHEMICALS LTD.**, a corporation governed by the laws of Alberta

(the "Lessee")

**WHEREAS** the Lessor and the Lessee are parties to a railcar lease agreement dated as of December 8, 1998 (as amended, restated or supplemented from time to time, the "Lease");

**AND WHEREAS** the Lessor and the Indenture Trustee are parties to a trust indenture dated December 8, 1998 (as amended, restated or supplemented from time to time, the "Trust Indenture") providing for the issuance of \$20,107,219.60 principal amount of 6.78% limited recourse notes due March 27, 2018 (as amended, restated or supplemented from time to time, the "Notes");

**AND WHEREAS** the Lessor, the Lessee and the Indenture Trustee (on its own behalf and for and on behalf of the Noteholders) wish to provide for certain agreements directly between the parties;

**NOW THEREFORE** for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. Capitalized terms used herein and not otherwise defined shall have the meanings attributed to such terms in the Trust Indenture.
2. The Lessee hereby acknowledges receipt of a direction (the "Direction") dated December 8, 1998, relating to the Trust Indenture.
3. The Lessee acknowledges that the Trust Indenture is effective to grant to the Indenture Trustee by way of security all of the Lessor's right, title and interest in the Lease (other than the Lessor's right to receive the Excepted Payments) and the other Collateral therein described, to secure the Lessor's obligations to the Indenture Trustee and the Noteholders under the Trust Indenture and the Notes.
4. The Lessee acknowledges that:
  - (a) until such time as the Lessee is directed to do otherwise by the Indenture Trustee, the Lessee shall pay all monies payable by the Lessee under the Lease (other than Excepted Payments) to the account of the Lessor maintained with The Bank of Nova Scotia, International Banking Division, Toronto, transit no. 80002, for further credit to Montreal Trust Company of Canada, account no. 03308-17, all as set forth in the Direction and that if it does not send any payment on the date it is due to such account for same day value by 11:00 a.m. (Toronto time), the Lessee shall be liable for additional interest under the Lease in the event any Noteholder does not receive such funds for same day value but shall not have any liability whatsoever for consequential damages to the Indenture Trustee or such Noteholder;
  - (b) if the Indenture Trustee issues to the Lessee a notice that its rights under the Trust Indenture have become exercisable, the Lessee shall perform, observe and comply with all its other undertakings and obligations under the Lease (other than those relating to the payment of the Excepted Payments to the Lessor) in the Indenture Trustee's favour and benefit as if it were named as lessor under the Lease instead of the Lessor;
  - (c) upon the occurrence of a Lessor Default under the Lease or if any event occurs which would permit the Lessee to terminate, cancel or surrender the Lease, the Lessee shall (a) give the Indenture Trustee notice of such breach or event immediately upon becoming aware of it and (b) accept as adequate remedy for any such breach performance by the Indenture Trustee of the Lessor's obligations under the Lease within 30 days of such written notice to the Indenture Trustee; and
  - (d) after receipt from the Indenture Trustee of a notice that an Event of Default has occurred under the Trust Indenture (and in the case of a Lessee Default, such default has not been cured pursuant to section 8.3 of the Trust Indenture), the Lessee shall not recognize the exercise by the Lessor of any of its rights and

powers under the Lease (other than those relating to the Excepted Payments) unless and until requested to do so by the Indenture Trustee.

5. The Lessee confirms, in favour of the Indenture Trustee, that the Indenture Trustee and the Noteholders shall have the full benefit of the indemnities given by the Lessee set out in article 26 of the Lease, and all other provisions of the Lease which by their terms impose obligations on the Lessee which are expressed to be for the benefit of the Indenture Trustee and the Noteholders, and that the Lessee is bound by the terms of article 26 and such other provisions as though the same were set out in full herein *mutatis mutandis*. Without limiting the generality of the foregoing, the Lessee confirms that it shall be responsible, at its own cost and expense, for the filing and maintenance of all registrations required by the Lease and by paragraph 14 below. Nothing in this paragraph 5 shall derogate from the rights of the Lessor as an Indemnitee under section 26 of the Lease.
6. The Lessor and the Indenture Trustee agree in favour of the Lessee that, in each case so long as no Default or Event of Default has occurred that is continuing:
  - (a) the approval of the Lessee shall be required for any amendment, whether by way of supplemental indenture or otherwise, to the terms of the Trust Indenture or the Notes;
  - (b) the Lessee shall be provided, by the party delivering the same, with copies of all notices delivered by the Lessor or by the Indenture Trustee pursuant to the Trust Indenture; and
  - (c) notwithstanding the provisions of Section 13.9 of the Trust Indenture, the approval of the Lessee shall be required for the appointment of a successor trustee under the Trust Indenture.
7. The Lessee covenants in favour of the Indenture Trustee and the Lessor that:
  - (a) it will pay to the Indenture Trustee reasonable remuneration for its services as trustee under the Trust Indenture and, on request by the Indenture Trustee, will pay or reimburse all costs, charges, expenses, disbursements and advances properly incurred or made by the Indenture Trustee in connection with the trusts of the Trust Indenture or hereunder (including the reasonable remuneration, disbursements, costs and expenses of those employed, retained or consulted by the Indenture Trustee pursuant to Section 13.4.3 of the Trust Indenture), including, without limitation, all costs incurred by the Indenture Trustee in complying with any laws of any jurisdiction applicable to the Indenture Trustee as a result of its acting hereunder or under the Trust Indenture both before and after default thereunder and thereafter until all duties of the Indenture Trustee under the Trust Indenture shall be finally and fully performed; and
  - (b) it will, in addition to any right of indemnity given to the Indenture Trustee by law, keep indemnified and saved harmless at all times the Indenture Trustee, its officers,

directors, employees and agents against all actions, proceedings, costs, charges, expenses, damages, liabilities, losses, claims and demands whatsoever (including, without limitation, legal fees and disbursements on a solicitor and his own client basis and costs and expenses incurred in connection with enforcement of this indemnity or the indemnity set out in article 26 of the Lease) in respect of any matter or thing done or omitted by the Indenture Trustee, its officers, directors, employees or agents (other than through negligence or wilful misconduct) in any way relating to this Trust Indenture, including without limitation, any matter or thing done or omitted by the Indenture Trustee relating to the registration, perfection, release or discharge of the Security Interest, in whole or in part, as the same may be (or ought to be) registered, filed or recorded in any public office or record; this indemnity will survive the termination or discharge of the Trust Indenture and the resignation or removal of the Indenture Trustee.

Any amount due under this paragraph 7 and unpaid 30 days after request for such payment shall bear interest from the expiration of such 30-day period at a rate per annum equal to the customary rate charged by the Indenture Trustee from time to time on overdue accounts. After default, all amounts so payable and the interest thereon shall be payable out of any funds coming into the possession of the Indenture Trustee in priority to any payment of interest on or principal of the Notes or any Makewhole Amount, if any.

The Indenture Trustee agrees to look only to the Lessee, and not the Lessor, for payment of the amounts expressed to be payable by the Lessee pursuant to this paragraph 7.

8. Notwithstanding paragraph 7 above, the Lessee shall not be liable for any costs related to the Indenture Trustee's entitlement to payment, reimbursement or indemnification which arises solely as a result of a Lessor Default (as defined in the Lease) or an Event of Default other than an Event of Default referred to in Section 8.1.7 of the Trust Indenture). In all such cases, the Lessor shall be responsible for all such costs properly incurred, which costs shall not be subject to the limited recourse provision of sections 3.6 and 8.14 of the Trust Indenture.
9. The Lessee covenants in favour of the Indenture Trustee and the Lessor that:
  - (a) it will pay all amounts payable to or for the benefit of the Indenture Trustee pursuant to Sections 2.12.2, 9.4, 13.4.3 and 13.9 of the Trust Indenture; and
  - (b) it will furnish to the original Noteholders set out in Schedule 2.8 of the Trust Indenture (so long as they remain Noteholders) copies of all statements, reports and notices to be provided to the Indenture Trustee pursuant to section 23.2(e) of the Lease.
10. As long as no Lessee Default (or event that with the passage of time, the giving of notice or both would constitute a Lessee Default) has occurred and is continuing, the Indenture Trustee agrees that, whether before or after the occurrence of an Event of Default (other than a Lessee Default) under the Trust Indenture, it shall respect the Lessee's right to

quiet enjoyment under the Lease and the Lessee's right to obtain title to the Units under the circumstances provided in the Lease and upon payment on account thereof of the amounts stipulated in the Lease.

11. The Indenture Trustee agrees that, on the occurrence (and during the continuance) of an Event of Default under the Trust Indenture, so long as (i) no Lessee Default (or event that with the passage of time, the giving of notice or both would constitute a Lessee Default) has occurred and is continuing, (ii) payments continue to be received by the Indenture Trustee in accordance with the Direction, and (iii) no amounts paid to Noteholders are required to be repaid by Noteholders to the Lessor by virtue of any order of a court of competent jurisdiction or any Applicable Law, the Indenture Trustee, in consultation with the Noteholders, will in good faith negotiate with the Lessee to permit the Lessee to assume the position of the Lessor, or arrange for a replacement lessor satisfactory to the Noteholders in place of the Lessor, subject to (a) the entering into of agreements satisfactory to the Indenture Trustee and the Noteholders with the Lessee or the replacement lessor, as the case may be, (b) such arrangements being pursued with diligence by the Lessee and, in any event, completed within 60 days, and (c) the absence of an adverse impact on the interests of the Noteholders arising from such assumption or replacement (as determined by the Noteholders in their discretion acting reasonably).
12. The Indenture Trustee covenants that it shall notify the Lessee and the Lessor of any transfer or assignment of any of the Notes, as reflected in the register referred to in subsection 2.9.1 of the Trust Indenture, and the particulars of any such transfer or assignment. The Lessee shall indemnify the Lessor for any additional costs incurred by the Lessor as a result of any such transfer or assignment. For greater certainty, the Noteholders shall be responsible for any costs incurred by them in connection with any such transfer.
13. Upon proof being given to the reasonable satisfaction of the Indenture Trustee that all the Notes and interest (including interest on amounts in default) and Makewhole Amount, if any, thereon have been paid or satisfied or that, all the outstanding Notes having matured, such payment has been duly provided for by payment to the Indenture Trustee or otherwise, and upon payment of all costs, charges and expenses properly incurred by the Indenture Trustee in relation to the Trust Indenture and all interest thereon and the remuneration of the Indenture Trustee, or upon provision satisfactory to the Indenture Trustee being made therefor, the Indenture Trustee, at the request and expense of the Lessee, shall execute and deliver to the Lessor such deeds or other instruments as shall be necessary to evidence the satisfaction and discharge of the Trust Indenture, to release the Lessor from its covenants contained therein (except those relating to the indemnification of the Indenture Trustee) and to release the Security Interest.
14. The Lessee covenants in favour of the Indenture Trustee and the Lessor that it will:
  - (a) at its expense, record, file, enter or register, or cause to be recorded, filed, entered or registered, the Trust Indenture, the Lease and all other instruments of further assurance (or notices, caveats or financing statements with respect to the

foregoing) without delay (i) with the Registrar General of Canada pursuant to section 105 of the *Canada Transportation Act* and in any United States federal register applicable to the Units, (ii) under the *Personal Property Security Act* (Alberta), (iii) in such other jurisdictions as the Lessor and the Lessee may maintain their respective chief executive offices from time to time (provided that if the Lessor changes the jurisdiction of its chief executive office, such recording, filing or registration shall be at Lessor's expense) and (iv) in such other jurisdictions in which the Units are used that are necessary to constitute, perfect, protect and/or preserve the Security Interest and the priority thereof in any of the Collateral;

- (b) take, or cause to be taken, all such further action and renew, or cause to be renewed, the recordings, filings or registrations required by section 3.4 of the Trust Indenture or this paragraph 14 from time to time as and when required to maintain the perfection and priority of the Security Interest and the Lease;
- (c) at the time of execution of the Trust Indenture, furnish the Indenture Trustee and the Lessor with an opinion or opinions of counsel, addressed to the Indenture Trustee, the Noteholders and the Lessor, that the provisions of this paragraph 14 have been complied with, and such opinion shall set out in reasonable detail the steps taken to comply with this paragraph 14 and the steps necessary to maintain the perfection and priority of the Security Interest and the rights of the Lessor under the Lease, provided that the receipt of such opinion by the Indenture Trustee and the Lessor, in no way, shall limit or be construed to limit the obligations of the Lessee under this paragraph 14; and
- (d) deliver to the Indenture Trustee and the Lessor evidence satisfactory to the Indenture Trustee of compliance with clauses (a) and (b) above.

If the Lessee fails to perform any of its obligations under this paragraph 14, the Lessor or the Indenture Trustee, in its discretion, may perform at the expense of the Lessee, but shall not be obligated to perform, any such obligation capable of being performed by the Lessor or the Indenture Trustee. Notwithstanding the foregoing, all costs referred to in this paragraph 14 related solely to the proposed amalgamation of the Lessor and GE Capital Railcar Services Canada Inc., referred to in section 10.1 of the Trust Indenture, or any other transaction initiated by the Lessor pursuant to section 10.1 of the Trust Indenture, shall be for the account of the Lessor or the Successor Issuer.

15. This Agreement is governed by and shall be construed in accordance with the laws of the Province of Alberta.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement as of the date first noted above.

**GE CAPITAL RAILCAR SERVICES  
CANADA COMPANY**

By: \_\_\_\_\_

Name:

Title:

\_\_\_\_\_  
Name:

Title:

**MONTREAL TRUST COMPANY OF  
CANADA**

By: \_\_\_\_\_

Name:

Title:

\_\_\_\_\_  
Name:

Title:

**NOVA CHEMICALS LTD.**

By: \_\_\_\_\_

Name:

Title:

\_\_\_\_\_  
Name:

Title:

**SCHEDULE 1.1.27**

**NOTE ASSUMPTION AGREEMENT**

**SCHEDULE 1.1.50**

**UNITS**

Number of Units	Size and Type of Equipment	Manufacturer	Reporting Marks	Lessor's Cost Per Unit
300	6245 cubic foot covered hopper	National Steelcar	NCLX-1 to 300 incl.	\$87,000

**SCHEDULE 2.3**

**FORM OF FULLY REGISTERED NOTE**

**GE CAPITAL RAILCAR SERVICES CANADA COMPANY**

**6.78% Limited Recourse Note Due March 27, 2018**

Note No. \_\_\_\_\_ Principal Amount \_\_\_\_\_

**FOR VALUE RECEIVED, GE Capital Railcar Services Canada Company**  
(the "Issuer") hereby promises to pay, on or prior to March 27, 2018, to or to the order of:

---

(the "Noteholder"), the principal amount owing under this Note in lawful money of Canada and to pay interest on the unpaid principal amount at the rate of 6.78% per annum calculated semi-annually on the basis of a year of 365 days (or 366 days in a leap year) (after as well as before maturity, default and judgment, with interest on amounts in default at the same rate) on each Payment Date, all in accordance with the Amortization Schedule annexed to the Trust Indenture (defined below) and at such other times and in such manner as prepayments, redemption and purchases may be made in accordance with the Trust Indenture.

This Note is one of the Notes of the Issuer issued under, with the benefit of and subject to the terms of, a trust indenture (the "Trust Indenture"), dated as of December 8, 1998, between the Issuer and Montreal Trust Company of Canada (the "Indenture Trustee"). Unless otherwise defined herein, all capitalized terms used in this Note shall have the meanings attributed to them in the Trust Indenture.

The Notes rank equally and rateably and without preference among themselves. Reference is made to the Trust Indenture, which is herein incorporated by reference, for a statement of the respective rights and obligations thereunder of the Issuer, the Indenture Trustee and the holders of Notes issued and to be issued thereunder.

This Note is a registered Note and, as provided in the Trust Indenture, upon surrender of this Note for registration of transfer, duly endorsed or accompanied by a written instrument of transfer duly executed, by the registered Noteholder or the Noteholder's attorney duly authorized in writing, a new Note for the like principal amount will be issued to, and registered in the name of, the transferee, subject to the restrictions on transfer set out in the Trust Indenture. Prior to due presentment for registration of transfer, the Issuer may treat the person in whose name this Note is registered as the owner hereof for the purpose of receiving payment and for all other purposes, and the Issuer shall not be affected by any notice to the contrary. The register of Notes will be open for inspection by the registered holders of Notes at all reasonable times at the principal offices of the Indenture Trustee in Toronto, Ontario.

The Issuer and any and all endorsers, guarantors and sureties severally waive grace, demand, presentment for payment, notice of dishonour or default, protest and diligence in collecting.

The recourse of the Indenture Trustee and the Noteholder hereunder and under the Trust Indenture is limited to the Collateral. No other property or assets of the Issuer, whether owned by it in its personal capacity or otherwise, will be subject to levy, execution or other enforcement procedures with regard to any obligation hereunder or under the Trust Indenture.

This Note is governed by and is to be construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein. In the event of any conflict between the provisions of this Note and the provisions of the Trust Indenture, the provisions of the Trust Indenture shall prevail. This Note shall become valid only when countersigned by a duly authorized officer of the Indenture Trustee.

DATED the \_\_\_\_\_ day of December, 1998

**GE CAPITAL RAILCAR SERVICES  
CANADA COMPANY**

By: \_\_\_\_\_  
Authorized Signing Officer  
Name:  
Title:

By: \_\_\_\_\_  
Authorized Signing Officer  
Name:  
Title:

This Note is one of the 6.78% Limited Recourse Notes Due March 27, 2018 referred to in the Trust Indenture within mentioned.

**MONTREAL TRUST COMPANY OF CANADA** as Indenture Trustee

By: \_\_\_\_\_  
Authorized Signing Officer  
Name:  
Title:

**SCHEDULE 2.8**

**ORIGINAL NOTEHOLDERS AND AMOUNTS**

<b><u>Name and Address of Noteholder</u></b>	<b><u>Principal Amount of Note</u></b>
Sun Life Assurance Company of Canada P.O. Box 4084, Station A, Toronto, Ontario M5W 2K9	\$11,582,201.69
The Mutual Life Assurance Company of Canada 227 King Street South, Waterloo, Ontario N2J 4C5	\$5,000,000
The Maritime Life Assurance Company 2701 Dutch Village Road, P.O. Box 1030, Halifax, Nova Scotia B3J 2X5	\$3,525,017.91

District of Columbia        )  
  )  
City of Washington         )        ss:

I, KIM L. BARTMAN, Notary for the District of Columbia, hereby certify that the attached "Trust Indenture", dated December 8, 1998 between GE CAPITAL RAILCAR SERVICES CANADA COMPANY, Issuer, and MONTREAL TRUST COMPANY OF CANADA, Indenture Trustee, is a true and complete copy of the original thereof.

Certified this 8th day of December, 1998.

  
*Kim L. Bartman*  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: 3-31-2000