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DEC 31 1992 -11 05 AM
INTERSTATE COMMERCE COMMISSION

December 31, 1992

INTERSTATE COMMERCE COMMISSION

Mr. Sidney L. Strickland, Jr., Secretary
Interstate Commerce Commission
Twelfth Street & Constitution Avenue, N.W.
Washington, DC 20423

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INTERSTATE COMMERCE COMMISSION

Re: Southern Pacific Transportation Company
Leveraged Lease Financing of Open Hopper Cars

Dear Mr. Strickland:

We are enclosing for recording pursuant to Section 11303 of Title 49 of the United States Code an original and five counterparts of each of the primary documents and each of the secondary documents described below, which secondary documents are related to the enclosed primary documents. The undersigned has acted as special counsel in connection with the preparation of the enclosed documents and has knowledge of the matters set forth therein.

The enclosed primary documents are as follows:

Equipment Lease dated as of December 15, 1992, between U.S. Trust Company of California, N.A., as lessor (the "Lessor"), and Southern Pacific Transportation Company, as lessee (the "Lessee").

Trust Indenture and Security Agreement dated as of December 15, 1992 between U.S. Trust Company of California, N.A., as owner trustee (the "Owner Trustee"), and The Bank of New York, as indenture trustee (the "Indenture Trustee").

The enclosed secondary documents are as follows:

Lease Supplement No. 1 dated December 31, 1992, between the Lessor and the Lessee. The primary document to which this Lease Supplement No. 1 is connected is the Equipment Lease referred to above and which is being submitted for recording concurrently herewith.

Trust Indenture Supplement No. 1 dated December 31, 1992, of the Owner Trustee. The primary document to which this Trust Indenture Supplement No. 1 is

Handwritten signatures and initials on the left margin.

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connected is the Trust Indenture and Security Agreement referred to above and which is being submitted for recording concurrently herewith.

The names and addresses of the parties to the documents are as follows:

EQUIPMENT LEASE AND LEASE SUPPLEMENT NO. 1:

Lessee: Southern Pacific Transportation Company
Southern Pacific Building
One Market Plaza
San Francisco, California 94105

Lessor: U.S. Trust Company of California, N.A.,
as Owner Trustee
555 South Flower Street
Los Angeles, California 90071

TRUST INDENTURE AND SECURITY AGREEMENT:

Owner Trustee: U.S. Trust Company of California, N.A.,
as Owner Trustee
555 South Flower Street
Los Angeles, California 90071

Indenture Trustee: The Bank of New York
101 Barclay Street
New York, New York 10007

TRUST INDENTURE SUPPLEMENT NO. 1:

Owner Trustee: U.S. Trust Company of California, N.A.,
as Owner Trustee
555 South Flower Street
Los Angeles, California 90071

The Equipment Lease provides, *inter alia*, for the lease by the Lessor to the Lessee of certain open hopper cars (the "*Items of Equipment*"). The Trust Indenture and Security Agreement provides, *inter alia*, for the granting of a security interest in the Items of Equipment in favor of the Indenture Trustee in order to secure the Owner Trustee's performance of certain obligations under the Trust Indenture and any Trust Indenture Supplement executed and delivered from time to time and the Lessee's performance of certain obligations under the Equipment Lease and any Lease Supplement executed and

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delivered from time to time. Lease Supplement No. 1 provides, *inter alia*, for the Equipment Lease to apply to the 300 open hopper cars bearing the road numbers set forth in Exhibit A to Lease Supplement No. 1, namely the road numbers set forth in Schedule 1 hereto. Trust Indenture Supplement No. 1 provides, *inter alia*, for the Trust Indenture to apply to the 300 open hopper cars bearing the road numbers set forth in Schedule 1 to Trust Indenture Supplement No. 1, namely the road numbers set forth in Schedule 1 hereto.

A general description of the equipment covered as of the date hereof by the aforesaid documents is set forth in Schedule 1 attached to this letter and made a part hereof.

A fee of sixty-four dollars (\$64.00) is enclosed. Please time and date stamp the enclosed copy of each of the enclosed documents along with the extra copy of this letter as proof of filing and recordation of the enclosed documents and return the original and any extra copies of such documents and this letter not needed by the Commission for recordation to:

Ross D. Taylor
Chapman and Cutler
111 West Monroe Street
Chicago, Illinois 60603

A short summary of each of the documents to appear in the index follows:

(1) EQUIPMENT LEASE:

Equipment Lease dated as of December 15, 1992 between U.S. Trust Company of California, N.A., as Lessor, 555 South Flower Street, Los Angeles, California 90071, and Southern Pacific Transportation Company, as Lessee, Southern Pacific Building, One Market Plaza, San Francisco, California 94105, covering open hopper cars bearing the road numbers set forth in such Lease Supplements as may be executed and delivered from time to time pursuant to such Equipment Lease.

(2) TRUST INDENTURE AND SECURITY AGREEMENT :

Trust Indenture and Security Agreement dated as of December 15, 1992 between U.S. Trust Company of California, N.A., as Owner Trustee, 555 South Flower Street, Los Angeles, California 90071 and The Bank of New York, as Indenture Trustee, 101 Barclay Street, New York, New York 10007, covering open hopper cars bearing the road numbers set forth in such Trust Indenture Supplements as may be executed and delivered from time to time pursuant to such Trust Indenture and Security Agreement.

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(3) LEASE SUPPLEMENT NO. 1:

Lease Supplement No. 1 dated December 31, 1992 between U.S. Trust Company of California, N.A., as Lessor, 555 South Flower Street, Los Angeles, California 90071, and Southern Pacific Transportation Company, as Lessee, Southern Pacific Building, One Market Plaza, San Francisco, California 94105, covering 300 open hopper cars bearing the road numbers set forth in Exhibit A to such Lease Supplement No. 1, namely road numbers set forth in Schedule 1 hereto. Lease Supplement No. 1 is related to the Equipment Lease dated as of December 15, 1992 which is filed concurrently herewith.

(4) TRUST INDENTURE SUPPLEMENT NO. 1:

Trust Indenture Supplement No. 1 dated December 31, 1992 of U.S. Trust Company of California, N.A., 555 South Flower Street, Los Angeles, California 90071, covering 300 open hopper cars bearing the road numbers set forth in Schedule 1 to such Trust Indenture Supplement No. 1, namely road numbers set forth in Schedule 1 hereto. Trust Indenture Supplement No. 1 is related to the Trust Indenture and Security Agreement dated as of December 15, 1992 which is filed concurrently herewith.

Very truly yours,

CHAPMAN AND CUTLER

By



Ross D. Taylor

RDT:
Enclosures

REGISTRATION NO. 18078 A FILED 1438

DEC 31 1992 -11 05 AM

INTERSTATE COMMERCE COMMISSION

TRUST INDENTURE AND SECURITY AGREEMENT

Dated as of December 15, 1992

Between

U.S. TRUST COMPANY OF CALIFORNIA, N.A.,

as Owner Trustee

And

THE BANK OF NEW YORK,

as Indenture Trustee

Re: Southern Pacific Transportation Company

Open Hopper Cars

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TRUST INDENTURE AND SECURITY AGREEMENT

THIS TRUST INDENTURE AND SECURITY AGREEMENT dated as of December 15, 1992 (this "*Indenture*"), between U.S. TRUST COMPANY OF CALIFORNIA, N.A., a national banking association, not in its individual capacity but solely as trustee under the Trust Agreement (the "*Owner Trustee*"), and THE BANK OF NEW YORK, a New York banking corporation, as Indenture Trustee hereunder (the "*Indenture Trustee*");

WITNESSETH:

WHEREAS, the Owner Participants and the Owner Trustee in its individual capacity have entered into the Trust Agreement whereby, among other things, (i) the Owner Trustee establishes a certain trust for the use and benefit of the Owner Participants, subject, however, to the Indenture Estate created pursuant hereto for the use and benefit of, and with the priority of payment to, the holders of the Notes, and (ii) the Owner Trustee is authorized and directed to execute and deliver this Indenture;

WHEREAS, the Owner Trustee and the Indenture Trustee desire by this Indenture, among other things, (i) to provide for the issuance by the Owner Trustee of the Notes, and (ii) to provide for the assignment, mortgage and pledge by the Owner Trustee to the Indenture Trustee, as part of the Indenture Estate hereunder, among other things, of, and the grant of a security interest in, certain of the Owner Trustee's right, title and interest in and to the Equipment and the Lease and certain payments and other amounts received hereunder or thereunder, in accordance with the terms hereof, in trust, as security for, among other things, the Owner Trustee's obligations hereunder for the equal and ratable benefit of the holders of the Notes; and

WHEREAS, all things necessary to make this Indenture the legal, valid and binding obligation of the Owner Trustee and the Indenture Trustee, for the uses and purposes herein set forth, in accordance with its terms, have been done and performed and have happened.

GRANTING CLAUSE

NOW, THEREFORE, THIS TRUST INDENTURE AND SECURITY AGREEMENT WITNESSETH, that, to secure the prompt payment of the principal of and interest and premium, if any, on and all other amounts due with respect to, the Notes from time to time outstanding hereunder and the performance and observance by the Owner Trustee of all the agreements, covenants and provisions herein and in the Notes all for the benefit of the holders of the Notes, and for the uses and purposes and subject to the terms and provisions hereof, and in consideration of the premises and of the covenants herein contained, and of the acceptance of the Notes by the Loan Participants, the Owner Trustee does hereby sell, assign, transfer, convey, mortgage, pledge, and confirm unto the Indenture Trustee, its successors and assigns, for the security and benefit of the holders of the Notes from time to time, a security interest in and mortgage lien on all right, title and interest of the Owner Trustee in and to the following described property, rights, interests and privileges insofar as it does not constitute Excepted

Property (which collectively, including all property hereafter required to be subjected to the Lien of this Indenture by any instrument supplemental hereto, but excluding Excepted Property, being herein called the "*Indenture Estate*"), to wit:

(1) the Lease, including, without limitation, all amounts of Interim Rent, Basic Rent, Supplemental Rent, insurance proceeds and other payments of any kind for or with respect to the Equipment, subject to Lessee's rights under the Lease, including, without limitation, Lessee's right of quiet enjoyment;

(2) the Equipment and all replacements of any Items thereof and substitutions therefor in which the Owner Trustee shall from time to time acquire an interest under the Lease, all as more particularly described in each Indenture Supplement and Lease Supplement executed and delivered with respect to the Equipment or any such replacements thereof or substitutions therefor, as provided in this Indenture and the Lease;

(3) all requisition proceeds with respect to the Equipment or any Item thereof (to the extent of the Owner Trustee's interest therein pursuant to the terms of the Lease);

(4) all monies and securities now or hereafter paid or deposited or required to be paid or deposited with the Indenture Trustee pursuant to any term of this Indenture, the Lease or the Participation Agreement or required to be held by the Indenture Trustee hereunder or thereunder; and

(5) all proceeds of the foregoing.

Notwithstanding the foregoing provisions:

(a) there shall be excluded from the foregoing sale, assignment, transfer, conveyance, mortgage, pledge or security interest granted by this Indenture and from the Indenture Estate all Excepted Property; and

(b) the leasehold interest granted to the Lessee under the Lease shall not be subject to the security interest granted by this Indenture, and nothing in this Indenture shall affect the rights of the Lessee under the Lease so long as no Lease Event of Default has occurred and is continuing.

TO HAVE AND TO HOLD all and singular the aforesaid property unto the Indenture Trustee, its successors and assigns, in trust for the benefit and security of the holders of the Notes from time to time, without any priority of any one Note over any other, and for the uses and purposes, and subject to the terms and provisions, set forth in this Indenture.

It is expressly agreed that anything herein contained to the contrary notwithstanding, the Owner Trustee shall remain liable under each of the Operative Agreements to which it is a party to perform all of the obligations assumed by it thereunder, all in accordance with and

pursuant to the terms and provisions thereof, and the Indenture Trustee and the holders of the Notes shall have no obligation or liability under any of the Operative Agreements to which the Owner Trustee is a party by reason of or arising out of this assignment, nor shall the Indenture Trustee (unless the Indenture Trustee shall have become the "*Lessor*" under the Lease) or the holders of the Notes be required or obligated in any manner to perform or fulfill any obligations of the Owner Trustee under or pursuant to any of the Operative Agreements to which the Owner Trustee is a party or, except as herein expressly provided, to make any payment, or to make any inquiry as to the nature or sufficiency of any payment received by it, or present or file any claim, or take any action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

The Owner Trustee does hereby constitute the Indenture Trustee the true and lawful attorney of the Owner Trustee, irrevocably, with full power (in the name of the Owner Trustee or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all moneys and claims for moneys due and to become due to the Owner Trustee (other than Excepted Property), under or arising out of the Lease, or to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Indenture Trustee may deem to be necessary or advisable in the premises. The Owner Trustee has directed the Lessee to make all payments of Rent (other than Excepted Property) payable to the Owner Trustee by the Lessee and all other amounts which are required to be paid to or deposited with the Owner Trustee pursuant to the Lease directly to the Indenture Trustee at such address as the Indenture Trustee shall specify, for application as provided in this Indenture. The Owner Trustee agrees that promptly on receipt thereof, it will transfer to the Indenture Trustee any and all moneys from time to time received by it constituting part of the Indenture Estate, for distribution by the Indenture Trustee pursuant to this Indenture, except that the Owner Trustee shall accept for distribution pursuant to the Trust Agreement any amounts distributed to it by the Indenture Trustee as expressly provided in this Indenture and any Excepted Property.

The Owner Trustee agrees that at any time and from time to time, upon the written request of the Indenture Trustee, the Owner Trustee will promptly and duly execute and deliver or cause to be executed and delivered any and all such further instruments and documents as the Indenture Trustee may deem desirable in obtaining the full benefits of this assignment and of the rights and powers herein granted.

The Owner Trustee does hereby warrant and represent that it has not assigned or pledged, and hereby covenants that it will not assign or pledge, so long as the assignment hereunder shall remain in effect, any of its right, title or interest hereby assigned, to anyone other than the Indenture Trustee, and that it will not (other than in respect of Excepted Property), except as provided in or permitted by this Indenture, accept any payment from the Lessee, enter into an agreement amending or supplementing any of the Operative Agreements, execute any waiver or modification of, or consent under the terms of any of the Operative Agreements (other than the Tax Indemnity Agreement), settle or compromise any claim (other than claims in respect of Excepted Property) against the Lessee arising under any of the Operative Agreements, submit or consent to the submission of any dispute, difference or other

matter arising under or in respect of any of the Operative Agreements to arbitration thereunder or enter into any business or activity other than the business of owing and leasing the Equipment.

IT IS HEREBY COVENANTED AND AGREED by and between the parties hereto as follows:

SECTION 1. DEFINITIONS.

Section 1.1. Certain Definitions. Unless the context otherwise requires, all capitalized terms used herein and not otherwise defined shall have the meanings set forth in Appendix A hereto for all purposes of this Indenture. All references to articles, sections, clauses, schedules and appendices in this Indenture are to articles, sections, clauses, schedules and appendices in and to this Indenture unless otherwise indicated.

SECTION 2. THE NOTES.

Section 2.1. Terms of Notes. There shall be issued and delivered to each Loan Participant on the Closing Date one or more of the Owner Trustee's 8.52% Secured Notes due January 2, 2000, in an aggregate principal amount equal to the loan made by such Loan Participant to the Owner Trustee pursuant to Section 2 of the Participation Agreement on the Closing Date, which shall evidence the loan made by such Loan Participant in connection with the purchase of the Equipment by the Owner Trustee on the Closing Date, such Note to be substantially in the form set forth in Exhibit A hereto, duly authenticated by the Indenture Trustee and dated the Closing Date. The principal amount of and interest on each Note issued pursuant to the provisions of this Indenture shall be payable as set forth in the form thereof contained in Exhibit A hereto. Interest accrued on the Notes shall be computed on the basis of a 360-day year of twelve 30-day months on the principal amount thereof remaining unpaid from time to time from and including the date thereof to but excluding the date of payment. The aggregate principal amount of Notes which may be outstanding at any one time shall not exceed \$8,771,520. No Note shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose, unless it shall have been authenticated by or on behalf of the Indenture Trustee.

Section 2.2. Payment from Indenture Estate Only. All payments to be made under the Notes and this Indenture shall be made only from the income and the proceeds from the Indenture Estate and only to the extent that the Indenture Trustee shall have received sufficient income or proceeds from the Indenture Estate to make such payments in accordance with the terms of Section 3 hereof. Each holder of a Note, by its acceptance of such Note, agrees that it will look solely to the income and proceeds from the Indenture Estate to the extent available for distribution to such holder as herein provided and that none of the Owner Trustee, the Owner Participants, the Indenture Trustee or their permitted successors and assigns is or shall be personally liable to the holder of any Note for any amount payable under such Note or the Indenture or, except as expressly provided in the Participation Agreement or the Indenture, for

any liability under the Participation Agreement or (in the case of the Owner Trustee or the Indenture Trustee) the Indenture.

Section 2.3. Method of Payment. (a) The principal of and premium, if any, and interest on each Note will be payable in U.S. dollars in immediately available funds at the principal corporate trust administration office of the Indenture Trustee or as otherwise directed in the manner provided herein. Notwithstanding the foregoing or any provision in any Note to the contrary, the Indenture Trustee will pay, or cause to be paid, if so requested by any holder of a Note by written notice to the Owner Trustee and the Indenture Trustee (and Section 9 of the Participation Agreement shall constitute such notice in the case of the Loan Participants), all amounts payable by the Owner Trustee hereunder to such holder or a nominee therefor either (i) by transferring by wire in immediately available funds to an account maintained by such holder with a bank in the United States the amount to be distributed to such holder or (ii) by mailing a check denominated in U.S. dollars to such holder at such address as such holder shall have specified in such notice, in any case without any presentment or surrender of any Note.

(b) Whenever the date scheduled for any payment to be made hereunder or under any Note shall not be a Business Day, then such payment need not be made on such scheduled date but may be made on the next succeeding Business Day with the same force and effect as if made on such scheduled date and (provided such payment is made on such next succeeding Business Day) no interest shall accrue on the amount of such payment from and after such scheduled date to the time of such payment on such next succeeding Business Day.

Section 2.4. Application of Payments to Principal Amount and Interest. In the case of each Note, each payment of principal thereof and premium, if any, and interest thereon shall be applied, *first*, to the payment of accrued but unpaid interest on such Note then due thereunder, *second*, to the payment of the unpaid principal amount of such Note then due thereunder, *third*, to the payment of any premium then due thereon in the case of a redemption pursuant to Section 2.9(c) and *fourth*, to the payment of the remaining outstanding principal amount of such Note; *provided*, that the Owner Trustee may only prepay such Note in accordance with the provisions of Sections 2.9, 3.2 and 3.3 hereof.

Section 2.5. Termination of Interest in Indenture Estate. A holder shall have no further interest in, or other right with respect to, the Indenture Estate when and if the principal amount of and interest on all Notes held by such holder and all other sums payable to such holder hereunder and under such Notes and under the Participation Agreement shall have been paid in full.

Section 2.6. Transfer of Notes. The Indenture Trustee shall maintain at its corporate trust administration office a register for the purpose of registering transfers and exchanges of Notes (the "*Register*"). A holder of a Note intending to transfer such Note to a new payee, or to exchange any Note or Notes held by it for an Note or Notes of a different denomination or denominations, may surrender such Note or Notes to the Indenture Trustee, together with a written request from such holder for the issuance of a new Note or Notes, specifying the denomination or denominations of the same, and, in the case of a transfer, the name and

address of the transferee or transferees. Promptly upon receipt of such documents, the Owner Trustee will issue, and the Indenture Trustee will authenticate, a new Note or Notes in the same aggregate principal amount and dated the same date or dates as, with the same payment schedule, in the form set forth in Exhibit A, in such denomination or denominations and payable to such payee or payees as shall be specified in the written request from such holder. All Notes issued upon any transfer or exchange of Notes shall be the valid obligations of the Owner Trustee evidencing the same respective obligations, and entitled to the same security and benefits under this Indenture, as the Notes surrendered. The Indenture Trustee shall make a notation on each new Note or Notes of the amount of all payments or prepayments of principal and interest previously made on the old Note or Notes with respect to which such new Note or Notes is or are issued. From time to time, the Indenture Trustee will provide the Owner Trustee and the Lessee with such information as it may request as to the registered holders of Notes. The Owner Trustee shall not be required to exchange any surrendered Notes as above provided during the 10-day period preceding the due date of any payment on such Notes.

Prior to the due presentment for registration of transfer of a Note, the Owner Trustee and the Indenture Trustee may deem and treat the registered holder of such Note as the absolute owner and holder of such Note for the purpose of receiving payment of all amounts payable with respect to such Note and for all other purposes and shall not be affected by any notice to the contrary.

The Indenture Trustee will promptly notify the Owner Trustee and the Lessee of each request for a registration of transfer of a Note. The Indenture Trustee will promptly cancel and destroy all Notes surrendered for transfer or exchange pursuant to this Section.

Section 2.7. Mutilated, Destroyed, Lost or Stolen Notes. If any Note shall become mutilated, destroyed, lost or stolen, the Owner Trustee shall, upon the written request of the holder of such Note, issue, and the Indenture Trustee shall authenticate and deliver in replacement thereof, a new Note in exchange and substitution for the mutilated Note, or in lieu of and in substitution for the Note so destroyed, lost or stolen. The Indenture Trustee shall make a notation on each new Note of the amount of all payments or prepayments of principal and interest theretofore made on the Note so mutilated, destroyed, lost or stolen and the date to which interest on such old Note has been paid. If the Note being replaced has become mutilated, such Note shall be surrendered to the Indenture Trustee and forwarded to the Owner Trustee by the Indenture Trustee. If the Note being replaced has been destroyed, lost or stolen, the holder of such Note shall furnish to the Owner Trustee and the Indenture Trustee such security or indemnity as may be required by them to save the Owner Trustee and the Indenture Trustee harmless and evidence satisfactory to the Owner Trustee and the Indenture Trustee of the destruction, loss or theft of such Note and of the ownership thereof. If an original Loan Participant or its nominee or any other institutional investor is the owner of any mutilated, destroyed, lost or stolen Note, then the affidavit of its President, any Vice President (however denominated), Cashier, any Assistant Cashier, Treasurer, any Assistant Treasurer, Secretary or any Assistant Secretary in form reasonably satisfactory to the Owner Trustee and the Indenture Trustee setting forth the fact of mutilation, destruction, loss or theft and such Loan Participant's (or other institutional investor's) ownership of the Note at the time of such

mutilation, destruction, loss or theft shall be accepted as satisfactory evidence thereof and no indemnity shall be required as a condition to execution and delivery of a new Note other than the written agreement of such Loan Participant (or other institutional investor), in form reasonably satisfactory to the Owner Trustee and the Indenture Trustee, to indemnify the Owner Trustee and the Indenture Trustee from all risks resulting from the authentication and delivery of the substitute Note.

Section 2.8. Payment of Transfer Taxes. Upon the transfer of any Note or Notes pursuant to Section 2.6, the Owner Trustee or the Indenture Trustee may require from the party requesting such new Note or Notes payment of a sum to reimburse the Owner Trustee or the Indenture Trustee for, or to provide funds for the payment of, any tax or other governmental charge in connection therewith.

Section 2.9. Prepayments. (a) Each Note shall be prepaid in whole or in part by the Owner Trustee on a Rent Payment Date upon at least 35 days' prior notice from the Owner Trustee (or the Lessee on its behalf) to the Indenture Trustee in the event that the Lease as applicable to any Item or Items is terminated pursuant to Section 10 thereof, at a price equal to the sum of (i) as to principal thereof, an amount equal to the product obtained by multiplying the unpaid principal amount of such Note as at the date of such prepayment (after deducting therefrom the principal installment, if any, due on or prior to the date of such prepayment) by a fraction, the numerator of which shall be the Equipment Cost of such Item or Items and the denominator of which shall be the aggregate Equipment Cost of all Items included in the Indenture Estate immediately prior to the date of such prepayment, (ii) as to interest, the aggregate amount of interest accrued and unpaid in respect of the principal amount to be prepaid pursuant to clause (i) above to but not including the date of such prepayment (after giving effect to the application of any Basic Rent paid on or prior to the date of such prepayment), but without the payment of any premium.

(b) Each Note shall be prepaid in whole or in part by the Owner Trustee on a Rent Payment Date upon at least 35 days' prior notice from the Owner Trustee (or the Lessee on its behalf) to the Indenture Trustee in connection with the occurrence of an Event of Loss with respect to any Item or Items if such Item or Items are not replaced pursuant to Section 12.2(i) of the Lease, at a price equal to the sum of (i) as to principal thereof, an amount equal to the product obtained by multiplying the aggregate unpaid principal amount of such Note as at such prepayment date (after deducting therefrom the principal installment, if any, due on such date) by a fraction, the numerator of which shall be the Equipment Cost of such Item or Items and the denominator of which shall be the aggregate Equipment Cost of all Items included in the Indenture Estate immediately prior to such date, and (ii) as to interest, the aggregate amount of interest accrued and unpaid in respect of the principal amount to be prepaid pursuant to clause (i) above to but not including the date of prepayment (after giving effect to the application of any Basic Rent paid on or prior to the date of such prepayment), but without the payment of any premium.

(c) Each Note shall be prepaid in whole but not in part by the Owner Trustee on a Refunding Date upon at least 35 days' prior notice from the Owner Trustee (or the Lessee on its behalf) to the Indenture Trustee in connection with a refinancing pursuant to Section 10.1

of the Participation Agreement, at a price equal to principal amount of such Note outstanding plus accrued and unpaid interest thereon plus a premium equal to the Make Whole Amount, if any.

(d) The Indenture Trustee shall give prompt notice of any prepayment of any of the Notes to all holders of the Notes as soon as the Indenture Trustee shall have knowledge that such prepayment is to occur, which notice shall specify the principal amount of the Notes to be prepaid and the date of prepayment which date shall be not less than 30 days after the date of such notice.

Section 2.10. Equally and Ratably Secured. All Notes at any time outstanding under this Indenture shall be equally and ratably secured hereby without preference, priority or distinction on account of the date or dates or the actual time or times of the issue or maturity of such Notes so that all Notes at any time issued and outstanding hereunder shall have the same rights, Liens and preferences under and by virtue of this Indenture.

SECTION 3. RECEIPT, DISTRIBUTION AND APPLICATION OF INCOME FROM THE INDENTURE ESTATE.

Section 3.1. Basic Rent Distribution. Except as otherwise provided in Section 3.3, each installment of Basic Rent as well as any installment of interest on overdue installments of Basic Rent, and any other moneys paid over by the Lessee or the Owner Trustee to the Indenture Trustee for such purpose, shall be distributed by the Indenture Trustee as promptly as possible (it being understood that any payments of Basic Rent received by the Indenture Trustee on a timely basis and in accordance with the provisions of Section 2.5 of the Lease shall be distributed on the date received in the funds so received) in the following order of priority: *first*, so much of such installment as shall be required for the purpose shall be distributed and paid to the holders of the Notes to pay in full the aggregate amount of the payment or payments of principal, premium, if any, in the case of a redemption pursuant to Section 2.9(c) and interest (as well as any interest on overdue principal or interest) then due, such distribution to be made ratably, without priority of one over the other, in the proportion that the amount of such payment or payments then due with respect to each such Note bears to the aggregate amount of payments then due under all such Notes; and *second*, the balance, if any, of such installment remaining thereafter shall be distributed to the Owner Trustee for distribution in accordance with the terms of the Trust Agreement. The portion of each such installment distributed to a holder of a Note shall be applied by such holder in payment of such Note in accordance with the terms of Section 2.4.

Section 3.2. Payments in the Event of Prepayment. (a) Except as otherwise provided in Section 3.3 or 3.5, in the event of any prepayment of the Notes, in whole or in part, in accordance with the provisions of Section 2.9 any amount received shall in each case be distributed and paid in the following order of priority: *first*, so much of such amount as shall be required for the purpose of prepayment shall be distributed and paid to the holders of such Notes to pay the aggregate amount of the payment of principal, premium, if any, and interest to be prepaid on the Notes pursuant to Section 2.9, such prepayment to be made ratably, without priority of one over any other, in the proportion that the amount to be prepaid on each

such Note bears to the aggregate amount to be paid on all such Notes; and *second*, the balance, if any, of such amount remaining thereafter shall be distributed to the Owner Trustee for distribution in accordance with the terms of the Trust Agreement.

(b) Except as otherwise provided in Section 3.3 or 3.5 hereof, any amounts received directly or through the Lessee from any governmental authority or other party pursuant to Section 12 of the Lease with respect to any Item as the result of an Event of Loss, to the extent that such amounts are not at the time required to be paid to the Lessee pursuant to said Section 12, and any amounts of insurance proceeds for damage to the Indenture Estate received directly or through the Lessee from any insurer pursuant to Section 11 of the Lease with respect thereto as the result of an Event of Loss, to the extent such amounts are not at the time required to be paid to the Lessee pursuant to said Section 11, shall be applied as provided in clause (a) of this Section 3.2.

Section 3.3. Payments after Indenture Event of Default. (a) Except as provided in Section 3.5, all payments received and amounts realized by the Indenture Trustee after an Indenture Event of Default shall have occurred and be continuing and after the Indenture Trustee has declared (as assignee from the Owner Trustee of the Lease) the Lease to be in default pursuant to Section 15 thereof or has declared the Notes to be accelerated pursuant to Section 4.2, as the case may be, or has elected to foreclose or otherwise exercise any remedies under this Indenture (including any amounts realized by the Indenture Trustee from the exercise of any remedies pursuant to Section 15 of the Lease, or Section 4), as well as all payments or amounts then held or thereafter received by the Indenture Trustee as part of the Indenture Estate while such Indenture Event of Default shall be continuing, shall be distributed by the Indenture Trustee in the following order of priority:

First, so much of such payments or amounts as shall be required to reimburse the Indenture Trustee for any fees which are due and payable for its services under this Indenture and any tax, expense (including reasonable attorney's fees), liability or other cost or loss incurred by the Indenture Trustee (to the extent payable or reimbursable and not previously paid or reimbursed and to the extent incurred in connection with its duties as Indenture Trustee and whether or not the same shall be payable by the holders of the Notes, the Lessee or any other Person hereunder or under any other Operative Agreement) shall be distributed to the Indenture Trustee;

Second, so much of such payments or amounts as shall be required to reimburse the holders of the Notes for payments made by them to the Indenture Trustee pursuant to Section 5.2(f) (to the extent not previously reimbursed), and to pay such holders of the Notes the amounts payable to them pursuant to the provisions of the Participation Agreement, shall be distributed to such holders of the Notes, without priority of one over the other, in accordance with the amount of the payment or payments made by, or payable to, each such holder;

Third, so much of such payments or amounts remaining as shall be required to pay the principal of, and premium, if any, in the case of a redemption pursuant to Section 2.9(c) and accrued interest (to the date of distribution) on all Notes then due and

payable, whether by declaration of acceleration pursuant to Section 4.2 or otherwise, and in case the aggregate amount so to be distributed shall be insufficient to pay in full the aforesaid amounts, then, ratably, without priority of one over the other, in the proportion that the aggregate unpaid principal amount of all Notes held by each holder, plus the accrued but unpaid interest thereon to the date of distribution, bears to the aggregate unpaid principal amount of all Notes, plus the accrued but unpaid interest thereon to the date of distribution; and

Fourth, the balance, if any, of such payments or amounts remaining thereafter shall be distributed to the Owner Trustee for distribution in accordance with the terms of the Trust Agreement.

(b) Except as provided in Sections 3.3(a) and 3.5, if an Indenture Default or Indenture Event of Default shall have occurred and be continuing, the Indenture Trustee shall not make any distribution to the Owner Trustee but shall hold amounts otherwise distributable to the Owner Trustee as collateral security for the obligations secured hereby until the earliest to occur of (a) as to any such sum so withheld, the 180th day following the commencement of such withholding, (b) the date on which such Indenture Default or Indenture Event of Default shall have been cured or waived, and (c) the date acceleration occurs and such amounts are applied pursuant to Section 3.3(a).

Section 3.4. Other Payments. Except as otherwise provided in Section 3.3 or 3.5,

(a) any payments received by the Indenture Trustee for which no provision as to the application thereof is made in the Lease or the Participation Agreement or elsewhere in this Section 3, and

(b) all payments received and amounts realized by the Indenture Trustee under the Lease or otherwise with respect to the Equipment to the extent received or realized at any time after payment in full of the principal of and interest and premium, if any, in the case of a redemption pursuant to Section 2.9(c) on all Notes, as well as any other amounts remaining as part of the Indenture Estate after payment in full of the principal of and interest and premium, if any, in the case of a redemption pursuant to Section 2.9(c) on all Notes issued hereunder,

shall be distributed forthwith by the Indenture Trustee in the order of priority set forth in Section 3.3(a), except that in the case of any payment described in clause (b) above, such payment shall be distributed omitting clause "*Third*" of such Section 3.3(a).

Any payments received by the Indenture Trustee for which provision as to the application thereof is made in the Lease or the Participation Agreement but not elsewhere in this Indenture shall be applied to the purposes for which such payments were made in accordance with the provisions of the Lease or the Participation Agreement, as the case may be.

Section 3.5. Distribution of Excepted Property. All amounts constituting Excepted Property received by the Indenture Trustee shall be paid by the Indenture Trustee to the Person or Persons entitled thereto.

SECTION 4. DEFAULTS AND OTHER PROVISIONS.

Section 4.1. Indenture Events of Default. The following events shall constitute "Indenture Events of Default":

(a) a Lease Event of Default (other than a Lease Event of Default by reason of a default by the Lessee to pay any amounts which are part of the Excepted Property); or

(b) other than arising out of a Lease Event of Default, default by the Owner Trustee in making any payment when due of principal of, premium, if any, in the case of a redemption pursuant to Section 2.9(c) or interest on, any Note or Notes, and the continuance of such default unremedied for 5 Business Days after notice thereof to the Owner Trustee; or

(c) other than arising out of a Lease Event of Default, default by the Owner Trustee in making any other payment due hereunder to the holders of the Notes and such default shall continue for 10 Business Days after notice thereof to the Owner Trustee; or

(d) default shall be made in the observance or performance of the Owner Trustee's covenants set forth in the last paragraph of the Granting Clauses hereof; or

(e) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Owner Trustee or any Owner Participant contained herein or in any Operative Agreement (other than the Tax Indemnity Agreement), and such default shall continue for thirty (30) days after written notice to the Owner Trustee and such Owner Participant, specifying the default and demanding the same to be remedied; *provided* that if such default is curable but is not capable of cure within such 30 day period, no such default shall constitute an Indenture Event of Default for a period of 90 days after receipt of such notice so long as the Owner Trustee or such Owner Participant is diligently proceeding to cure such default and so long as failure to cure such default will not result in the sale, forfeiture or loss of any Item of Equipment; or

(f) any representation or warranty made by the Owner Trustee or any Owner Participant under the Participation Agreement, or by the Owner Trustee hereunder, or by any representative of the Owner Trustee or such Owner Participant in any document or certificate furnished to the Indenture Trustee or any Loan Participant in connection herewith or therewith or pursuant hereto or thereto, shall be untrue or incorrect in any material respect as of the date made and shall remain material and continue unremedied for a period of 30 days after written notice thereof to the Owner Trustee and such Owner Participant; *provided* that if such misrepresentation is curable but is not capable

of cure within such 30 day period, no such misrepresentation shall constitute an Indenture Event of Default for a period of 90 days after receipt of such notice so long as the Owner Trustee or such Owner Participant is diligently proceeding to cure such misrepresentation and so long as failure to cure such misrepresentation will not result in the sale forfeiture or loss of any Item of Equipment; or

(g) the Owner Trustee or any Owner Participant (i) shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or (ii) shall consent to any such relief or to the appointment of or taking possession by any such official in any voluntary case or other proceeding commenced against it, or (iii) shall make a general assignment for the benefit of creditors, or (iv) shall fail generally to pay its debts as they become due, or (v) shall take any corporate action to authorize any of the foregoing; or

(h) an involuntary case or other proceeding shall be commenced against the Owner Trustee, any Owner Participant or the Trust Estate seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of sixty (60) days.

Notwithstanding any provision herein to the contrary, if an Indenture Event of Default described in clause (g) or (h) of this Section 4.1 results solely from the bankruptcy, reorganization, compromise, arrangement, insolvency, readjustment of debt, dissolution or liquidation of the Owner Trustee in its individual capacity, and can be cured by the appointment of a substitute Owner Trustee, then the Indenture Trustee shall refrain from the exercise of any of the rights, powers or remedies pursuant to this Section 4 for a period of 60 days provided the Owner Participants are diligently seeking to, and do, replace the bank or trust company then serving as Owner Trustee, which replacement shall be deemed to cure such Indenture Event of Default.

Section 4.2. Acceleration; Rescission and Annulment. If an Indenture Event of Default occurs and is continuing, the Indenture Trustee, upon the directions of the holders of more than 50% of the principal amount of the Notes outstanding shall, subject to Section 4.4, declare the unpaid principal amount of all Notes then outstanding and accrued interest thereon to be due and payable. At any time after the Indenture Trustee has declared the unpaid principal amount of all Notes then outstanding to be due and payable in accordance with this Section 4.2, and prior to the sale of any of the Indenture Estate pursuant to this Section 4, the holders of 66-2/3% of the principal amount of the Notes outstanding, by written notice to the Owner Trustee, the Lessee and the Indenture Trustee, may rescind and annul such declaration and thereby annul its consequences if: (i) there has been paid to or deposited with the Indenture Trustee an amount sufficient to pay all overdue installments of interest on the Notes,

and the principal of and premium, if any, in the case of a redemption pursuant to Section 2.9(c) on any Notes that have become due otherwise than by such declaration of acceleration, (ii) the rescission would not conflict with any judgment or decree, and (iii) all other Indenture Defaults and Indenture Events of Default, other than nonpayment of principal or interest on the Notes that have become due solely because of such acceleration, have been cured or waived.

Section 4.3. Remedies with Respect to Indenture Estate. (a) After an Indenture Event of Default shall have occurred and so long as such Indenture Event of Default shall be continuing, then and in every such case the Indenture Trustee, as assignee hereunder of the Lease or as mortgagee hereunder of the Equipment or otherwise, may, and when required pursuant to the provisions of Section 5 hereof, shall, subject to Sections 4.4 and 4.5, exercise any or all of the rights and powers and pursue any and all of the remedies that it is directed to exercise or pursue by the holders of 66-2/3% of the principal amount of the Notes outstanding pursuant to Section 15 of the Lease and this Section 4 and may recover judgment in its own name as Indenture Trustee against the Indenture Estate and may take possession of all or any part of the Indenture Estate, and may exclude the Owner Trustee and the Owner Participants and all persons claiming under any of them wholly or partly therefrom, in each case as so directed by such holders.

(b) Subject to Section 4.4 and Section 4.5, the Indenture Trustee may, if at the time such action may be lawful and always subject to compliance with any mandatory legal requirements, either with or without taking possession, and either before or after taking possession, and without instituting any legal proceedings whatsoever, and having first given notice of such sale by registered mail to the Owner Trustee, the Owner Participants and the Lessee once at least 10 days prior to the date of such sale or the date on which the Indenture Trustee enters into a binding contract for a private sale, and any other notice which may be required by law, sell and dispose of the Indenture Estate, or any part thereof, or interest therein, at public auction to the highest bidder or at private sale in one lot as an entirety or in separate lots, and either for cash or on credit and on such terms as the Indenture Trustee may determine, and at any place (whether or not it be the location of the Indenture Estate or any part thereof) and time designated in the notice above referred to; *provided, however*, that, notwithstanding any provision herein to the contrary, the Indenture Trustee shall not sell any of the Indenture Estate unless a declaration of acceleration has been made pursuant to Section 4.2. Any such public sale or sales may be adjourned from time to time by announcement at the time and place appointed for such sale or sales, or for any such adjourned sale or sales, without further notice, and the Indenture Trustee or the holder or holders of any Notes, or any interest therein, may bid and become the purchaser at any such public sale. The Indenture Trustee may exercise such right without possession or production of the Notes or proof of ownership thereof, and as representative of the holders may exercise such right without including the holders as parties to any suit or proceeding relating to foreclosure of any property in the Indenture Estate. The Owner Trustee hereby irrevocably constitutes the Indenture Trustee the true and lawful attorney-in-fact of the Owner Trustee (in the name of the Owner Trustee or otherwise) for the purpose of effectuating any sale, assignment, transfer or delivery for enforcement of the Lien of this Indenture, whether pursuant to foreclosure or power of sale or otherwise, to execute and deliver all such bills of sale, assignments and other

instruments as the Indenture Trustee may consider necessary or appropriate, with full power of substitution, the Owner Trustee hereby ratifying and confirming all that such attorney or any substitute shall lawfully do by virtue hereof. Nevertheless, if so requested by the Indenture Trustee or any purchaser, the Owner Trustee shall ratify and confirm any such sale, assignment, transfer or delivery, by executing and delivering to the Indenture Trustee or such purchaser all bills of sale, assignments, releases and other proper instruments to effect such ratification and confirmation as may be designated in any such request.

(c) Subject to Section 4.4 and Section 4.5, the Owner Trustee agrees, to the fullest extent that it lawfully may, that, in case one or more of the Indenture Events of Default shall have occurred and be continuing, then, in every such case, the Indenture Trustee may take possession of all or any part of the Indenture Estate and may exclude the Owner Trustee and the Owner Participants and all persons claiming under any of them wholly or partly therefrom. At the request of the Indenture Trustee, the Owner Trustee shall promptly execute and deliver to the Indenture Trustee such instruments of title and other documents as the Indenture Trustee may deem necessary or advisable to enable the Indenture Trustee or an agent or representative designated by the Indenture Trustee, at such time or times and place or places as the Indenture Trustee may specify, to obtain possession of all or any part of the Indenture Estate. If the Owner Trustee shall fail for any reason to execute and deliver such instruments and documents to the Indenture Trustee, the Indenture Trustee may pursue all or part of the Indenture Estate wherever it may be found and may enter any of the premises of the Lessee wherever the Indenture Estate may be or be supposed to be and search for the Indenture Estate and, subject to Section 4.5, take possession of and remove the Indenture Estate. Upon every such taking of possession, the Indenture Trustee may, from time to time, at the expense of the Indenture Estate, make all such expenditures for maintenance, insurance, repairs, replacements, alterations, additions and improvements to any of the Indenture Estate, as it may deem proper. In each such case, the Indenture Trustee shall have the right to use, operate, store, control or manage the Indenture Estate, and to carry on the business and to exercise all rights and powers of the Owner Trustee relating to the Indenture Estate, as the Indenture Trustee shall deem best, including the right to enter into any and all such agreements with respect to the maintenance, operation, leasing or storage of the Indenture Estate or any part thereof as the Indenture Trustee may determine; and the Indenture Trustee shall be entitled to collect and receive all tolls, rents, revenues, issues, income, products and profits of the Indenture Estate and every part thereof, without prejudice, however, to the right of the Indenture Trustee under any provision of this Indenture to collect and receive all cash held by, or required to be deposited with, the Indenture Trustee hereunder. Such tolls, rents, revenues, issues, income, products and profits shall be applied to pay the expenses of holding and operating the Indenture Estate and of conducting the business thereof, and of all maintenance, repairs, replacements, alterations, additions and improvements, and to make all payments which the Indenture Trustee may be required or may elect to make, if any, for taxes, assessments, insurance or other proper charges upon the Indenture Estate or any part thereof (including the employment of engineers and accountants to examine, inspect and make reports upon the properties and books and records of the Indenture Estate), and all other payments which the Indenture Trustee may be required or authorized to make under any provision of this Indenture, as well as just and reasonable compensation for the services of the Indenture

Trustee, and of all persons properly engaged and employed by the Indenture Trustee, including the reasonable expenses of the Indenture Trustee.

(d) If an Indenture Event of Default occurs and is continuing and the Indenture Trustee shall have obtained possession of an Item of Equipment, the Indenture Trustee shall not be obligated to use or operate such Item or cause such Item to be used or operated directly or indirectly by itself or through agents or other representatives or to lease, license or otherwise permit or provide for the use or operation of such Item or Equipment by any other Person unless (i) the Indenture Trustee shall have been able to obtain insurance in kinds, at rates and in amounts satisfactory to it in its discretion to protect the Indenture Estate and the Indenture Trustee, as trustee and individually, against any and all liability for loss or damage to such Item and for public liability and property damage resulting from use or operation of such Item and (ii) funds are available in the Indenture Estate to pay for all such insurance or, in lieu of such insurance, the Indenture Trustee is furnished with indemnification from the holders of the Notes or any other Person upon terms and in amounts satisfactory to the Indenture Trustee in its discretion to protect the Indenture Estate and the Indenture Trustee, as trustee and individually, against any and all such liabilities.

Section 4.4. Certain Rights of the Owner Participants and the Owner Trustee.

(a) *Right to Cure.* (A) If the Lessee shall fail to make any payment of Interim Rent or Basic Rent within 5 Business Days after the same shall become due, then as long as no other Indenture Event of Default (other than arising from such failure to pay Interim Rent or Basic Rent or which is concurrently being cured pursuant to this Section 4.4(a)) shall have occurred and be continuing the Owner Participants or the Owner Trustee may (but need not) pay to the Indenture Trustee, at any time prior to the expiration of a period of 10 Business Days (a "10-Day Period") after receiving written notice of such Lease Event of Default from the Indenture Trustee (prior to the expiration of which 10-Day Period the Indenture Trustee shall not declare the Lease in default pursuant to Section 15 thereof or exercise any of the rights, powers or remedies pursuant to such Section 15 or this Section 4), an amount equal to the full amount of such payment of Interim Rent or Basic Rent, together with any interest due thereon on account of the delayed payment thereof, and such payment by the Owner Participants or the Owner Trustee shall be deemed to cure any Indenture Event of Default which arose from such failure of the Lessee (but such cure shall not relieve the Lessee of any of its obligations) or (B) if there shall occur a Lease Event of Default in respect of any other payment of Rent or any other Lease Event of Default shall have occurred and be continuing which is curable by the payment of money, then as long as no other Indenture Event of Default (other than arising from such Lease Event of Default or which is concurrently being cured pursuant to this Section 4.4(a)) shall have occurred and be continuing the Owner Participants or the Owner Trustee may (but need not) pay to the Indenture Trustee, at any time prior to the expiration of a period of 30 days (a "30-Day Period") after receiving written notice of such Lease Event of Default from the Indenture Trustee (prior to the expiration of which 30-Day Period the Indenture Trustee shall not declare the Lease in default pursuant to Section 15 thereof or exercise any of the rights, powers or remedies pursuant to such Section 15 or this Section 4), an amount equal to the full amount of such payment of Rent, together with any interest due thereon on account of the delayed payment thereof or otherwise

make such payment as shall effect such cure, and such payment by the Owner Participants or the Owner Trustee shall be deemed to cure any Indenture Event of Default which arose from such Lease Event of Default (but such cure shall not relieve the Lessee of any of its obligations); *provided however*, Owner Participants and Owner Trustee, collectively, shall not be entitled to (x) cure more than six consecutive or twelve total defaults in the payment of Interim Rent or Basic Rent, or (y) cure other Lease Events of Default if the unreimbursed amounts exceeds in the aggregate \$3,000,000. Upon any cure by the Owner Participants or the Owner Trustee in accordance with the first sentence of this Section 4.4(a), the Owner Participants or the Owner Trustee shall, to the extent of their respective payments, be subrogated to the rights of the Indenture Trustee, as assignee hereunder of the Owner Trustee to receive such payment of Rent (and any interest due thereon on account of the delayed payment thereof) or right of reimbursement, and shall be entitled to receive such payment upon its receipt by the Indenture Trustee as aforesaid (but in each case only if all amounts of principal and interest at the time due and payable on the Notes shall have been paid in full); *provided* that neither the Owner Participants nor the Owner Trustee shall attempt to recover any such amount paid by it on behalf of the Lessee pursuant to this Section 4.4(a) except by demanding of the Lessee payment of such amount or by commencing an action against the Lessee to require the payment of such amount.

(b) *Option to Purchase Notes.* In the event that (i) at any time one or more Lease Events of Default shall have occurred and any such Lease Events of Default shall have continued for a period of twelve months or more during which time the Indenture Trustee has taken no action with respect thereto, or (ii) the Notes shall have been accelerated pursuant to Section 4.2, then and in any such case, upon 30 days' notice from the Owner Trustee to the Indenture Trustee designating a date of purchase (the "*Purchase Date*"), each holder of an Note agrees that it will, upon and subject to receipt by the Indenture Trustee from the Owner Trustee or its nominee of an amount equal to the aggregate unpaid principal amount of all Notes, together with accrued interest thereon to the Purchase Date, plus all other sums then due and payable to such holder of an Note hereunder, but without any Make Whole Amount or other premium, forthwith sell, assign, transfer and convey to the Owner Trustee or its nominee on the Purchase Date all of the right, title and interest of such holder in and to the Notes then held by such holder, and the Owner Trustee or its nominee shall assume all of such holder's obligations under the Participation Agreement.

(c) *Limits on Foreclosure.* Notwithstanding any provision of this Indenture to the contrary, the Indenture Trustee shall not foreclose the Lien of this Indenture as a result of an Indenture Event of Default that constitutes or occurs solely by virtue of one or more Lease Events of Default (at a time when no other Indenture Event of Default unrelated to any Lease Event of Default shall have occurred and be continuing) unless the Indenture Trustee as security assignee of the Owner Trustee has proceeded or is then currently proceeding, to the extent it is then entitled to do so hereunder and under the Lease and is not then stayed or otherwise prevented from doing so by operation of law or otherwise, to exercise one (or more, as it shall in its good faith discretion determine) of the significant remedies provided for in Section 15 of the Lease for the purpose of recovering possession of the Equipment; *provided* that to the extent that Section 1168 of the Bankruptcy Code shall be applicable, if the Indenture Trustee is stayed or prevented from exercising its remedies under the Lease by

operation of law as a result of a proceeding against the Lessee under the Bankruptcy Code, the Indenture Trustee will not foreclose the lien of the Indenture until after the expiration of the 60-day time period provided for in said Section 1168 (or such later date as such period may be extended to with the consent of the Indenture Trustee or in accordance with said Section 1168, and *provided further* that if the Lessee's bankruptcy trustee shall have agreed to perform all obligations of the Lessee and cured all outstanding Lease Events of Default (other than Lease Events of Default referred to in Sections 15.1(e) or (f) of the Lease) pursuant to said Section 1168 within such 60 day period (or within such time as such period may be extended to with the consent of the Indenture Trustee or in accordance with said Section 1168) and no other Indenture Events of Default shall have occurred and be continuing, then the Indenture Trustee shall terminate the exercise of remedies against the Owner Trustee and any acceleration of the Notes shall be rescinded.

(d) *Shared Rights.* (i) The Owner Trustee and the Owner Participants shall at all times retain the right, to the exclusion of the Indenture Trustee, (A) to Excepted Property and to commence an action at law to obtain such Excepted Property and (B) to adjust Basic Rent and the percentages relating to Stipulated Loss Value and Termination Value as provided in Section 2.4 of the Lease;

(ii) The Owner Trustee and the Indenture Trustee shall each retain the right to receive from Lessee all notices, certificates, reports, filings, opinions of counsel, copies of all documents and all information which the Lessee is permitted or required to give or furnish to the "*Lessor*" pursuant to the Lease or to the Owner Trustee pursuant to any other Operative Agreement and to exercise the inspection rights provided for in Section 13.2 of the Lease; and

(iii) So long as no Indenture Event of Default shall have occurred and be continuing, the Owner Trustee and the Indenture Trustee shall each retain the right, acting jointly, to exercise the rights, elections and options of the Owner Trustee as Lessor under the Lease to make any decision or determination, to consent to any amendment, supplement or modification and to give any notice, consent, waiver or approval under the Lease and upon the occurrence and continuance of an Indenture Event of Default, all such rights may be exercised solely by the Indenture Trustee; *provided* that if an Indenture Event of Default shall have occurred solely because of a Lease Event of Default, and no other Indenture Events of Default unrelated to a Lease Event of Default shall then be continuing, the Indenture Trustee shall not amend the Lease or waive any provision thereof if such amendment or waiver would have a material adverse affect on the Owner Trustee, without the consent of the Owner Trustee.

Section 4.5. Rights of Lessee. Notwithstanding the provisions of this Indenture, including, without limitation, Section 4.3, so long as no Lease Event of Default shall have occurred and be continuing, neither the Indenture Trustee nor the Owner Trustee shall take any action contrary to, or disturb, the Lessee's rights under the Lease, except in accordance with the provisions of the Lease, including, without limitation, the Lessee's rights to possession and use of, and of quiet enjoyment of, the Equipment.

Section 4.6. Waiver of Existing Defaults. The holders of 66-2/3% of the principal amount of the Notes outstanding by notice to the Indenture Trustee on behalf of all holders of

the Notes may waive any past default hereunder and its consequences, except a default: (i) in the payment of the principal of, premium, if any, or interest on any Note, or (ii) in respect of a covenant or provision hereof which under Section 9 hereof cannot be modified or amended without the consent of the holder of each Note affected. Upon any such waiver, such default shall cease to exist, and any Indenture Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 4.7. Remedies Cumulative. Each and every right, power and remedy herein specifically given to the Indenture Trustee or otherwise in this Indenture shall be cumulative and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy whether specifically herein given or otherwise existing may be exercised from time to time and as often and in such order as may be deemed expedient by the Indenture Trustee, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the time or thereafter any other right, power or remedy. No delay or omission by the Indenture Trustee in the exercise of any right, remedy or power or in the pursuance of any remedy shall impair any such right, power or remedy or be construed to be a waiver of any default on the part of the Owner Trustee or the Lessee or to be an acquiescence therein.

Section 4.8. Discontinuance of Proceedings. In case the Indenture Trustee shall have proceeded to enforce any right, power or remedy under this Indenture by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Indenture Trustee, then and in every such case the Owner Trustee, the Owner Participants, the Indenture Trustee and the Lessee shall be restored to their former positions and rights hereunder with respect to the Indenture Estate, and all rights, remedies and powers of the Indenture Trustee shall continue as if no such proceedings had been undertaken (but otherwise without prejudice).

SECTION 5. THE INDENTURE TRUSTEE.

The Indenture Trustee accepts the trusts hereunder and agrees to perform the same, but only upon the terms and conditions hereof, including the following, to all of which the Owner Trustee and the respective holders of the Notes at any time outstanding by their acceptance thereof agree:

Section 5.1. Duties of Indenture Trustee. The Indenture Trustee undertakes (i) except while an Indenture Event of Default actually known to the Indenture Trustee shall have occurred and be continuing, to perform such duties and only such duties as are specifically set forth in this Indenture and the other Operative Agreements (and no others), and (ii) while an Indenture Event of Default actually known to the Indenture Trustee shall have occurred and be continuing, to exercise such of the rights and powers as are vested in it by this Indenture as it is instructed by the holders of the applicable percentage of the principal amount of the Notes outstanding.

The Indenture Trustee upon receipt of instruments furnished to the Indenture Trustee pursuant to the provisions of this Indenture, shall examine the same to determine whether or not such instruments conform to the requirements of this Indenture, but need not make an independent verification of the facts or matters set forth therein.

Section 5.2. Indenture Trustee's Liability. No provision of this Indenture shall be construed to relieve the Indenture Trustee from liability for its own negligent action, negligent failure to act, or its own wilful misconduct, except that:

(a) the Indenture Trustee shall not be liable except for the performance of such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Indenture Trustee but the duties and obligations of the Indenture Trustee shall be determined solely by the express provisions of this Indenture; and

(b) in the absence of bad faith on the part of the Indenture Trustee, the Indenture Trustee may conclusively rely upon the authenticity of, and the truth of the statements and the correctness of the opinions expressed in, and shall be protected in acting upon, any resolution, Officer's Certificate, opinion of counsel, Note, request, notice, consent, waiver, order, signature guaranty, notarial seal, stamp, acknowledgment, verification, appraisal, report, stock certificate, or other paper or document reasonably believed by the Indenture Trustee to be genuine and to have been signed, affixed or presented by the proper party or parties; and

(c) in the absence of bad faith on the part of the Indenture Trustee, whenever the Indenture Trustee, or any of its agents, representatives, experts or counsel, shall consider it necessary or desirable that any matter be proved or established prior to taking or suffering or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by an Officer's Certificate and such certificate in the absence of bad faith on the part of the Indenture Trustee, shall be full warrant to the Indenture Trustee for any action taken, suffered or omitted by it under the provisions of this Indenture upon the faith thereof; *provided, however*, that the Indenture Trustee, or such agent, representative, expert or counsel, may require such further and additional evidence and make such further investigation as it or they may consider reasonable; and

(d) the Indenture Trustee shall not be liable for any error of judgment made in good faith by an officer of the Indenture Trustee unless it shall be proved that the Indenture Trustee was negligent in ascertaining the pertinent facts; and

(e) the Indenture Trustee shall not be deemed to have knowledge of any Indenture Default or Indenture Event of Default unless and until an officer of the corporate trust department of the Indenture Trustee who customarily handles corporate trust administration shall have actual knowledge thereof or the Indenture Trustee shall have received written advice thereof from the holder of any Note; and

(f) whether or not an Indenture Event of Default shall have occurred, the Indenture Trustee shall not be under any obligation to exercise any of the powers vested in it by this Indenture or take any action under this Indenture which may tend to involve it in any expense or liability, the payment of which within a reasonable time is not, in its reasonable opinion, assured to it by the security afforded to it by the terms of this Indenture, unless and until it is requested in writing so to do by one or more holders of Notes outstanding hereunder and furnished, from time to time as it may require, with security and indemnity reasonably satisfactory to the Indenture Trustee against the costs, expenses and liabilities which might be incurred therein or thereby; and

(g) whether or not an Indenture Event of Default shall have occurred, whenever it is provided in this Indenture that the Indenture Trustee consent to any act or omission by any Person or that the Indenture Trustee exercise its discretion in any manner, the Indenture Trustee may (but need not) seek the written direction of the holders of at least 66-2/3% in principal amount of the Notes outstanding (and shall be duly protected in relying thereon) and, unless written evidence of such direction has been received by the Indenture Trustee, it shall be fully justified in refusing so to consent or so to exercise its discretion; *provided, however*, that holders of 66-2/3% in principal amount of the Notes outstanding shall have the right to determine which of the remedies herein set forth shall be adopted and to direct the time, method and place of conducting all proceedings to be taken under the provisions of this Indenture for the enforcement thereof or of the Notes; *provided, however*, that the Indenture Trustee shall have the right to decline to follow any such direction if the Indenture Trustee shall be advised by counsel that the action or proceedings so directed may not lawfully be taken or would be unjustly prejudicial to a holder of Notes not parties to such direction and the Indenture Trustee shall not incur any liability hereunder for so following such advice; and

(h) the Indenture Trustee may consult with counsel of its choice and any advice or opinion of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted to be taken by it hereunder in good faith reliance thereon and in accordance therewith;

(i) the Indenture Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys, whether or not regularly in its employ, or by or through co-trustees or separate trustees; *provided* that the Indenture Trustee shall use due care in appointing the same, and the Indenture Trustee shall not be responsible for any misconduct or negligence on the part of any co-trustee or separate trustee, so long as such parties shall have agreed for the benefit of the holders of the Notes to comply with the standard of care provided herein for the Indenture Trustee. The Indenture Trustee may in all cases pay reasonable compensation to all such attorneys, agents, co-trustees or separate trustees, as may be engaged in connection with the trusts hereof and will be reimbursed by the Lessee on demand for the costs thereof;

(j) the Indenture Trustee shall not be liable for any action taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture and the instructions conforming to the requirements of this Indenture; and

(k) the Indenture Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of the applicable percentage of principal amount of the Notes outstanding, relating to the time, method and place of conducting any proceeding for any remedy available to the Indenture Trustee, or exercising any trust or power conferred upon the Indenture Trustee, under this Indenture.

Section 5.3. No Responsibility of Indenture Trustee for Recitals, Etc. The recitals and statements contained herein and in the Notes (except for the Indenture Trustee's certificate of authentication endorsed on the Notes) shall be taken as the recitals and statements of the Owner Trustee, and the Indenture Trustee assumes no responsibility for the correctness of the same, nor shall the Indenture Trustee have any responsibility for or any liability with respect to any disclosure, warranty, representation or concealment or failure to disclose in connection with the offering, solicitation, sale or distribution of the Notes by the Owner Trustee or by any other Person.

The Indenture Trustee makes no representation as to the validity or sufficiency of this Indenture, or of the Notes secured hereby, the security hereby or thereby afforded, the title of the Owner Trustee to the Equipment or the descriptions thereof, or the value of any such collateral, or the filing or recording or registering of this Indenture or any other document.

The Indenture Trustee shall not be concerned with or accountable to any Person for the use or application of any deposited moneys which shall be released or withdrawn in accordance with the provisions of this Indenture or of any Property or Securities or the proceeds thereof which shall be released from the lien hereof in accordance with the provisions of this Indenture.

Section 5.4. Status of Moneys Received. (a) All moneys received by the Indenture Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but (except as herein otherwise provided with respect to the funds referred to in paragraph (b) of this Section) need not be segregated in any manner from any other moneys or funds, except to the extent required by mandatory provisions of law, and may be deposited by the Indenture Trustee under such general conditions as may be prescribed by law in the Indenture Trustee's general banking department, and neither the Indenture Trustee nor any agent of the Indenture Trustee shall be under any liability for interest on any moneys received by it hereunder. The Indenture Trustee or any agent of the Indenture Trustee, in its individual or any other capacity, may become the owner of any Note and be interested in any financial transaction with the Owner Trustee or any affiliated corporation, or the Indenture Trustee or such agent may act as depository or otherwise in respect to other Securities of the Owner Trustee or any affiliated corporation, all with the same rights which it would have if it were not the Indenture Trustee or such agent.

(b) The Indenture Trustee may invest and reinvest any funds from time to time held by the Indenture Trustee in direct obligations of the United States of America or obligations for which the full faith and credit of the United States is pledged to provide for the payment of principal and interest, maturing not more than 90 days from the date of such investment. Upon any sale or payment of any investment, the proceeds thereof, plus any interest received by the Indenture Trustee thereon shall be held by the Indenture Trustee as part of the fund from which such investment was made for application as a part of such fund.

SECTION 6. CERTAIN LIMITATIONS ON OWNER TRUSTEE'S AND INDENTURE TRUSTEE'S RIGHTS.

Each of the Owner Trustee and the Indenture Trustee agree that it shall have no right against the holders of the Notes or the Indenture Estate (except in the case of the Indenture Trustee as expressly provided in Section 3.3 and 5.2(f) hereof) for any fee as compensation for its services hereunder or any expenses or disbursements incurred in connection with the exercise and performance of its powers and duties hereunder or any indemnification against liability which it may incur in the exercise and performance of such powers and duties but, on the contrary, shall look solely to the Lessee for such payment and indemnification and that neither the Owner Trustee nor the Indenture Trustee shall have any lien on nor security interest in the Indenture Estate as security for such compensation, expenses, reasonable counsel fees, if any, disbursements and indemnification.

SECTION 7. RESIGNATION OR REMOVAL OF INDENTURE TRUSTEE; APPOINTMENT OF SUCCESSOR.

(a) The resignation or removal of the Indenture Trustee and the appointment of a successor Indenture Trustee shall become effective only upon the successor Indenture Trustee's acceptance of appointment as provided in this Section 7. The Indenture Trustee or any successor thereto may resign at any time without cause by giving at least 30 days' prior written notice to the Owner Trustee, the Lessee and the holders of the Notes. The holders of 66-2/3% in principal amount of the Notes outstanding may at any time remove the Indenture Trustee without cause by an instrument in writing delivered to the Owner Trustee, the Lessee and the Indenture Trustee.

(b) In the case of the resignation or removal of the Indenture Trustee, until a successor Indenture Trustee shall be appointed by the holders of 66-2/3% in aggregate principal amount of the Notes outstanding, the Owner Trustee may appoint a successor Indenture Trustee or if a successor Indenture Trustee shall not have been appointed and accepted its appointment hereunder within 60 days after the Indenture Trustee gives notice of resignation or is removed as provided above, the retiring Indenture Trustee, the Lessee, the Owner Trustee or any holder of a Note may petition any court of competent jurisdiction for the appointment of a successor Indenture Trustee. Any successor Indenture Trustee so appointed shall immediately and without further act be superseded by any successor Indenture Trustee appointed by the holders of 66-2/3% in aggregate principal amount of the Notes outstanding.

(c) Any successor Indenture Trustee, however appointed, shall execute and deliver to the Owner Trustee and the Lessee and to the predecessor Indenture Trustee an instrument accepting such appointment, and thereupon such successor Indenture Trustee, without further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers, duties and trusts of the predecessor Indenture Trustee hereunder in the trusts hereunder applicable to it with like effect as if originally named the Indenture Trustee herein; but nevertheless, upon the written request of such successor Indenture Trustee, upon payment of any costs or expenses owed to it, such predecessor Indenture Trustee shall execute and deliver an instrument transferring to such successor Indenture Trustee, upon the trusts herein expressed applicable to it, all the estates, properties, rights, powers and trusts of such predecessor Indenture Trustee, and such predecessor Indenture Trustee shall duly assign, transfer, deliver and pay over to such successor Indenture Trustee all moneys or other property then held by such predecessor Indenture Trustee hereunder.

(d) The Indenture Trustee shall be a bank or trust company organized under the laws of the United States or any State thereof having a combined capital and surplus of at least \$100,000,000, if there be such an institution willing, able and legally qualified to perform the duties of the Indenture Trustee hereunder upon reasonable or customary terms. In case the Indenture Trustee shall cease to be eligible in accordance with the provisions of this clause (d), the Indenture Trustee shall resign immediately in the manner and with the effect specified in clause (a).

(e) Any corporation into which the Indenture Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Indenture Trustee shall be a party, or any corporation to which substantially all the corporate trust business of the Indenture Trustee may be transferred, shall, subject to the terms of paragraph (c) of this Section, be the Indenture Trustee under this Indenture without further act.

SECTION 8. SUPPLEMENTS AND AMENDMENTS.

Section 8.1. Supplemental Indentures without Consent of Holders. (a) The Owner Trustee and the Indenture Trustee, at any time and from time to time, without notice to or the consent of any holders of any Notes, may enter into one or more indentures supplemental hereto for any of the following purposes:

(i) to correct or amplify the description of any property at any time subject to the Lien of this Indenture or better to assure, convey and confirm unto the Indenture Trustee any property subject or required to be subject to the Lien of this Indenture or to subject to the Lien of this Indenture any Item or Items substituted for any Item or Items in accordance with the Lease; *provided, however*, that indenture supplements entered into for the purpose of subjecting to the Lien of this Indenture any Item or Items substituted for any in accordance with the Lease need only be executed by the Owner Trustee; or

(ii) to evidence the succession of another trustee to the Owner Trustee and the assumption by any such successor of the covenants of the Owner Trustee herein and in the Notes contained, or to evidence (in accordance with Section 7) the succession of a new Indenture Trustee hereunder; or

(iii) to add to the covenants of the Owner Trustee, for the benefit of the holders of the Notes, or to surrender any right or power herein conferred upon the Owner Trustee; or

(iv) to cure any ambiguity, to correct or supplement any provision herein which may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising hereunder so long as any such action does not adversely affect the interests of the holders of the Notes.

(b) *Supplemental Indentures with Consent of Holders of the Notes.* With the written consent of the holders of 66-2/3% in principal amount of the Notes outstanding, the Owner Trustee (but only on the written request of the Owner Participants) may, and the Indenture Trustee, subject to Section 8.2 hereof, shall, at any time and from time to time, enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights and obligations of holders of the Notes and of the Owner Trustee under this Indenture; *provided, however,* without the consent of each holder of a Note, no such supplemental indenture shall:

(1) change the final maturity of the principal of any Note, or change the dates or amounts of payment of any installment of the principal of, premium, if any, or interest on any Note, or reduce the principal amount thereof or the premium, if any, or interest thereon, or change to a location outside the United States the place of payment where, or the coin or currency in which, any Note or the premium, if any, or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment of principal or premium, if any, or interest on or after the date such principal or premium, if any, or interest becomes due and payable; or

(2) create any Lien with respect to the Indenture Estate, or deprive any holder of a Note of the benefit of the Lien on the Indenture Estate created by this Indenture; or

(3) reduce the percentage in principal amount of the Notes, the consent of whose holders is required for any such supplemental indenture, or the consent of whose holders is required for any waiver (of compliance with certain provisions of this Indenture, or of certain defaults hereunder and their consequences) provided for in this Indenture; or

(4) modify any provisions of this Section 8.1(b), except to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the holder of each Note affected thereby.

Section 8.2. Indenture Trustee Protected. If in the opinion of the Indenture Trustee any document required to be executed pursuant to the terms of Section 8.1 adversely affects any right, duty, immunity or indemnity in favor of the Indenture Trustee under this Indenture, the Participation Agreement or the Lease, the Indenture Trustee may in its discretion decline to execute such document.

Section 8.3. Request of Substance, Not Form. It shall not be necessary for the consent of the holders of Notes under Section 8.1(b) to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

Section 8.4. Documents Mailed to Holders. Promptly after the execution by the Indenture Trustee of any document entered into pursuant to Section 8.1(b), the Indenture Trustee shall mail, by first-class mail, postage prepaid, a conformed copy thereof to each holder of a Note at its address last known to the Indenture Trustee, but the failure of the Indenture Trustee to mail such conformed copies shall not impair or affect the validity of such document.

Section 8.5. Documents to be Given to Indenture Trustee. The Indenture Trustee, subject to the provisions of Section 5.1 and Section 5.2, may receive an Officer's Certificate and an opinion of counsel as conclusive evidence that any such supplemental indenture complies with the applicable provisions of this Indenture.

SECTION 9. MISCELLANEOUS.

Section 9.1. Termination of Indenture. (a) With respect to each Item, this Indenture and the trusts created hereby shall terminate and this Indenture shall be of no further force or effect upon the earliest to occur of (i) the termination of the Lease Term with respect to such Item by Lessee pursuant to Section 10 of the Lease and upon payment in full to the Indenture Trustee of the amounts required to be paid pursuant to Section 2.9(a) in respect of such Item, (ii) the termination of the Lease with respect to such Item pursuant to Section 11 thereof and upon payment in full to the Indenture Trustee of the amounts required to be paid pursuant to Section 2.9(b) in respect of such Item, and (iii) the payment in full of the principal amount of and interest on all Notes outstanding hereunder and all other sums payable to the Indenture Trustee and the holders of the Notes hereunder and under such Notes and under the Participation Agreement.

(b) At any time and from time to time prior to the expiration of the Lease Term, any Item for which the provisions of Section 12.4(a) of the Lease has been satisfied may be disposed of in accordance with the provisions of Section 12.4(a) of the Lease, and the Owner Trustee shall, from time to time, direct the Indenture Trustee to, provided no Lease Event of Default shall have occurred and be continuing, execute and deliver to it, or as directed in writing by the Owner Trustee, an appropriate instrument furnished by the Owner Trustee or the Lessee releasing such Item from the Lien of the Indenture, but only in respect of such Item.

Section 9.2. No Legal Title to Indenture Estate in Holders. No holder of a Note shall have legal title to any part of the Indenture Estate. No transfer, by operation of law or otherwise, of any Note or other right, title or interest of any holder of a Note in and to the Indenture Estate or hereunder shall operate to terminate this Indenture or the trusts hereunder or entitle any successor or transferee of such holder to an accounting or to the transfer to it of legal title to any part of the Indenture Estate.

Section 9.3. Sale of Equipment by Indenture Trustee is Binding. Any sale or other conveyance of the Equipment by the Indenture Trustee made pursuant to the terms of this Indenture or the Lease shall bind the holders of the Notes, the Owner Trustee and the Owner Participants and shall be effective to transfer or convey all right, title and interest of the Indenture Trustee, the Owner Trustee, the Owner Participants and such holders of the Notes in and to the Equipment. No purchaser or other grantee shall be required to inquire as to the authorization, necessity, expediency or regularity of such sale or conveyance or as to the application of any sale or other proceeds with respect thereto by the Indenture Trustee.

Section 9.4. Notices. Unless otherwise expressly specified or permitted by the terms hereof, all communications and notices provided for herein shall be in writing or by a telecommunications device capable of creating a written record, and any such notice shall become effective (i) upon personal delivery thereof, including, without limitation, by overnight mail and courier service, (ii) in the case of notice by United States mail, certified or registered, postage prepaid, return receipt requested, upon receipt thereof, or (iii) in the case of notice by such a telecommunications device, upon transmission thereof, provided such transmission is promptly confirmed by any of the methods set forth in clauses (i) or (ii) above, in each case addressed to each party hereto at its address set forth below or, in the case of any such party hereto, at such other address as such party may from time to time designate by written notice to the other parties hereto:

If to the Lessee: Southern Pacific Transportation Company
Southern Pacific Building, Room 666
One Market Plaza
San Francisco, California 94105
Attention: Vice President-Finance

If to the Owner Trustee: U.S. Trust Company of California, N.A.
555 South Flower Street
Los Angeles, California 90071
Attention: Corporate Trust Administration

with a copy to:

United States Trust Company of New York
114 West 47th Street
New York, New York 10021
Attention: Louis P. Young
Corporate Trust and Agency Division

If to an Owner Participant:	At its address set forth in the Participation Agreement
If to the Indenture Trustee:	The Bank of New York 101 Barclay Street New York, New York 10007 Attention: Corporate Trust Administration
If to a holder of the Notes:	At its address set forth in the Register.

Section 9.5. Severability. Any provision of this Indenture which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. In the event of any inconsistency or conflict between any provision of this Indenture and any provision of the Trust Agreement, such provision in this Indenture shall govern and control.

Section 9.6. Separate Counterparts. This Indenture may be executed in any number of counterparts, each of such counterparts constituting an original, but all of such counterparts together only one Indenture.

Section 9.7. Successors and Assigns. All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the Owner Trustee and its successors and permitted assigns, the Owner Participants and its successors and permitted assigns, and the Indenture Trustee and its successors and permitted assigns, and each holder of an Note, all as herein provided. Any request, notice, direction, consent, waiver or other instrument or action by any holder of an Note shall bind the successors and assigns of such holder.

Section 9.8. Headings. The headings of the various Sections hereof and the Table of Contents are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

Section 9.9. Governing Law. THIS INDENTURE SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ILLINOIS, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE; PROVIDED THAT THE INDENTURE TRUSTEE'S IMMUNITIES AND ITS STANDARD OF CARE IN THE PERFORMANCE OF ITS DUTIES, RIGHTS AND POWERS UNDER THIS INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE IN WHICH THE INDENTURE TRUSTEE'S PRINCIPAL PLACE OF BUSINESS IS LOCATED.

Section 9.10. No Recourse to the Owner Trustee. It is expressly understood and agreed that all agreements and obligations of the Owner Trustee hereunder and under the Notes shall be binding upon the Owner Trustee, only in its capacity as Owner Trustee under the Trust Agreement, and the Owner Trustee shall not be liable in its individual capacity for the failure to make any payment on the Notes or for any breach thereof, except for its gross negligence or

willful misconduct, or for breach of its covenants, representations and warranties contained herein, except to the extent covenanted or made in its individual capacity.

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

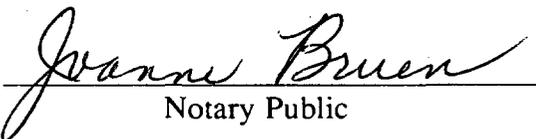
U.S. TRUST COMPANY OF CALIFORNIA, N.A.,
not in its individual capacity, but solely as
Owner Trustee

By 
Its Authorized Signatory

Executed this 29th day of December, 1992
in Oak Park, Illinois.

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 29th day of December, 1992, before me personally appeared Louis P. Young, to me personally known, who being by me duly sworn, say that he is an Authorized Signatory of U.S. TRUST COMPANY OF CALIFORNIA, N.A., that said instrument was signed on such date on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


Notary Public

[NOTARIAL SEAL]

My commission expires:

OFFICIAL SEAL
JOANNE BRUEN
NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXP. OCT. 14, 1996

THE BANK OF NEW YORK, as Indenture
Trustee

By *Todd N. Niemy*
Its Assistant Treasurer

Executed this 28th day of December, 1992
in New York, New York.

STATE OF NEW YORK)
) SS
COUNTY OF NEW YORK)

On this 28th day of December, 1992, before me personally appeared Todd N. Niemy, to me personally known, who being by me duly sworn, say that he is Assistant Treasurer of THE BANK OF NEW YORK, that said instrument was signed on such date on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Marion Papadogonas
Notary Public

[NOTARIAL SEAL]

My commission expires:

MARION PAPADOGONAS
Notary Public, State of New York
No. 31-4842989
Qualified in New York County
Commission Expires May 31, 1993

Hopper Cars
(% of Total Principal)

	<u>Draw</u>	<u>Debt</u>			
	<u>Down</u>	<u>Service</u>	<u>Principal</u>	<u>Interest</u>	<u>Balance</u>
	100.0000				
4/2/93	1	4.78069	2.60336	2.17733	97.3966
7/2/93 *	2	4.78069	2.70614	2.07455	94.6905
10/2/93	3	4.78069	2.76378	2.01691	91.9267
1/2/94	4	4.78069	2.82265	1.95804	89.1041
4/2/94	5	4.78069	2.88278	1.89791	86.2213
7/2/94	6	4.78069	2.94418	1.83651	83.2771
10/2/94	7	4.78069	3.00689	1.77380	80.2702
1/2/95	8	4.78069	3.07094	1.70975	77.1993
4/2/95	9	4.78069	3.13635	1.64434	74.0629
7/2/95	10	4.78069	3.20315	1.57754	70.8598
10/2/95	11	4.78069	3.27138	1.50931	67.5884
1/2/96	12	4.78069	3.34106	1.43963	64.2473
4/2/96	13	4.78069	3.41222	1.36847	60.8351
7/2/96	14	4.78069	3.48490	1.29579	57.3502
10/2/96	15	4.78069	3.55913	1.22156	53.7911
1/2/97	16	4.78069	3.63494	1.14575	50.1562
4/2/97	17	4.78069	3.71237	1.06832	46.4438
7/2/97	18	4.78069	3.79144	0.98925	42.6523
10/2/97	19	4.78069	3.87220	0.90849	38.7801
1/2/98	20	4.78069	3.95467	0.82602	34.8255
4/2/98	21	4.78069	4.03891	0.74178	30.7866
7/2/98	22	4.78069	4.12494	0.65575	26.6616
10/2/98	23	4.78069	4.21280	0.56789	22.4488
1/2/99	24	4.78069	4.30253	0.47816	18.1463
4/2/99	25	4.78069	4.39418	0.38651	13.7521
7/2/99	26	4.78069	4.48777	0.29292	9.2643
10/2/99	27	4.78069	4.58336	0.19733	4.6810
1/2/00	28	<u>4.78069</u>	<u>4.68098</u>	<u>0.09971</u>	0.0000
		133.85937	100.00000	33.85937	

SCHEDULE 1
(to Trust Indenture and Security Agreement)

U.S. TRUST COMPANY OF CALIFORNIA, N.A.,
not in its individual capacity but solely as Owner Trustee

8.52% Secured Note
Due January 2, 2000

No _____

\$ _____, _____

U.S. TRUST COMPANY OF CALIFORNIA, N.A., not in its individual capacity, but solely as owner trustee (the "*Owner Trustee*") under the Trust Agreement dated as of December 15, 1992 (the "*Trust Agreement*"), between the Owner Trustee in its individual capacity and the institution referred to therein as the "*Owner Participants*", hereby promises to pay to _____, or registered assigns, the principal sum of \$ _____, in lawful currency of the United States of America, in installments payable on the dates set forth in Exhibit A hereto, commencing _____ and thereafter to and including January 2, 2000, each such installment to be in an amount equal to the corresponding percentage (if any) of the principal amount hereof set forth in Exhibit A hereto, together with interest thereon on the amount of such principal amount remaining unpaid from time to time from and including the date hereof until such principal amount shall be due and payable, payable on April 2, 1993 and on each April 2, July 2, October 2 and January 2 thereafter to the maturity date hereof at the rate of 8.52% per annum (computed on the basis of a 360-day year of twelve 30-day months). Interest on any overdue principal and (to the extent legally enforceable) on overdue interest shall be paid from the due date thereof at the rate of 9.52% per annum (computed on the basis of a 360-day year of twelve 30-day months), payable on demand.

All payments of principal and interest and premium, if any, to be made hereunder and under the Trust Indenture and Security Agreement dated as of December 15, 1992 (the "*Indenture*", the defined terms therein not otherwise defined herein being used herein with the same meanings), between the Owner Trustee and The Bank of New York, as Indenture Trustee thereunder for the holder of this Note and the holders of other Notes outstanding thereunder (herein in such capacity called the "*Indenture Trustee*") shall be made only from the income and proceeds from the Indenture Estate and only to the extent that the Indenture Trustee shall have sufficient income or proceeds from the Indenture Estate to make such payments in accordance with the terms of Section 3 of the Indenture. Each holder hereof, by its acceptance of this Note, agrees that it will look solely to the income and proceeds from the Indenture Estate to the extent available for distribution to the holder hereof as provided in the Indenture and that none of the Owner Trustee, the Owner Participants, the Indenture Trustee or their permitted successors and assigns is or shall be personally liable to the holder hereof for any amount payable under this Note or the Indenture or, except as expressly provided in the Participation Agreement or the Indenture, for any liability under the Participation Agreement or (in the case of the Owner Trustee or the Indenture Trustee) the Indenture.

EXHIBIT A
(to Trust Indenture and Security Agreement)

Payments with respect to the principal amount hereof, premium, if any, and interest thereon shall be payable in U.S. dollars in immediately available funds at the principal office of the Indenture Trustee, or as otherwise provided in the Indenture. Each such payment shall be made on the date such payment is due and without any presentment or surrender of this Note. Whenever the date scheduled for any payment to be made hereunder or under the Indenture shall not be a Business Day, then such payment need not be made on such scheduled date but may be made on the next succeeding Business Day with the same force and effect as if made on such scheduled date and (provided such payment is made on such next succeeding Business Day) no interest shall accrue on the amount of such payment from and after such scheduled date to the time of such payment on such next succeeding Business Day.

Each holder hereof, by its acceptance of this Note, agrees that each payment received by it hereunder shall be applied, *first*, to the payment of accrued but unpaid interest on this Note then due, *second*, to the payment of the unpaid principal amount of this Note then due, *third*, to the payment of any premium then due in the case of a redemption pursuant to Section 2.9(c) of the Indenture, and *fourth*, to the payment of the remaining outstanding principal amount of this Note; *provided*, that the Owner Trustee may only prepay this Note as provided in Sections 2.9, 3.2 and 3.3 of the Indenture.

This Note is one of the Notes referred to in the Indenture which have been or are to be issued by the Owner Trustee pursuant to the terms of the Indenture. The Indenture Estate is held by the Indenture Trustee as security for the Notes. Reference is hereby made to the Indenture for a statement of the rights of the holder of, and the nature and extent of the security for, this Note, as well as for a statement of the terms and conditions of the trusts created by the Indenture, to all of which terms and conditions in the Indenture each holder hereof agrees by its acceptance of this Note.

This Note is not subject to redemption or prepayment except as provided in Sections 2.9, 3.2 and 3.3 of the Indenture. This Note is subject to purchase by the Owner Trustee without a premium as provided in Section 4.4(b) of the Indenture. The holder hereof, by its acceptance of this Note, agrees to be bound by said provisions.

This Note is a registered Note and is transferable, as provided in the Indenture, only upon surrender of this Note for registration of transfer duly endorsed by, or accompanied by a written statement of transfer duly executed by, the registered holder hereof or his attorney duly authorized in writing. Prior to the due presentation for registration of transfer of this Note, the Owner Trustee and the Indenture Trustee may deem and treat the registered holder of this Note as the absolute owner and holder hereof for the purpose of receiving payment of all amounts payable with respect hereto and for all other purposes and shall not be affected by any notice to the contrary.

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 AND MAY NOT BE TRANSFERRED IN VIOLATION OF SUCH ACT. THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS.

Unless the certificate of authentication hereon has been executed by or on behalf of the Indenture Trustee, this Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Owner Trustee has caused this Note to be executed by one of its authorized officers as of the date hereof.

U.S. TRUST COMPANY OF CALIFORNIA, N.A.,
not in its individual capacity, but solely as
Owner Trustee

By _____
Its

**[FORM OF INDENTURE TRUSTEE'S CERTIFICATE
OF AUTHENTICATION]**

This is one of the Notes referred to in the within-mentioned Indenture.

THE BANK OF NEW YORK, as Indenture
Trustee

By _____
Authorized Signatory

Hopper Cars
(% of Total Principal)

	Draw	Debt			
	<u>Down</u>	<u>Service</u>	<u>Principal</u>	<u>Interest</u>	<u>Balance</u>
	100.0000				
4/2/93	1	4.78069	2.60336	2.17733	97.3966
7/2/93 °	2	4.78069	2.70614	2.07455	94.6905
10/2/93	3	4.78069	2.76378	2.01691	91.9267
1/2/94	4	4.78069	2.82265	1.95804	89.1041
4/2/94	5	4.78069	2.88278	1.89791	86.2213
7/2/94	6	4.78069	2.94418	1.83651	83.2771
10/2/94	7	4.78069	3.00689	1.77380	80.2702
1/2/95	8	4.78069	3.07094	1.70975	77.1993
4/2/95	9	4.78069	3.13635	1.64434	74.0629
7/2/95	10	4.78069	3.20315	1.57754	70.8598
10/2/95	11	4.78069	3.27138	1.50931	67.5884
1/2/96	12	4.78069	3.34106	1.43963	64.2473
4/2/96	13	4.78069	3.41222	1.36847	60.8351
7/2/96	14	4.78069	3.48490	1.29579	57.3502
10/2/96	15	4.78069	3.55913	1.22156	53.7911
1/2/97	16	4.78069	3.63494	1.14575	50.1562
4/2/97	17	4.78069	3.71237	1.06832	46.4438
7/2/97	18	4.78069	3.79144	0.98925	42.6523
10/2/97	19	4.78069	3.87220	0.90849	38.7801
1/2/98	20	4.78069	3.95467	0.82602	34.8255
4/2/98	21	4.78069	4.03891	0.74178	30.7866
7/2/98	22	4.78069	4.12494	0.65575	26.6616
10/2/98	23	4.78069	4.21280	0.56789	22.4488
1/2/99	24	4.78069	4.30253	0.47816	18.1463
4/2/99	25	4.78069	4.39418	0.38651	13.7521
7/2/99	26	4.78069	4.48777	0.29292	9.2643
10/2/99	27	4.78069	4.58336	0.19733	4.6810
1/2/00	28	<u>4.78069</u>	<u>4.68098</u>	<u>0.09971</u>	0.0000
		133.85937	100.00000	33.85937	

EXHIBIT A
(to 8.52% Secured Note due January 2, 2000)

TRUST INDENTURE SUPPLEMENT NO. ____

THIS TRUST INDENTURE SUPPLEMENT NO. ____, dated _____, (this "*Indenture Supplement*"), of U.S. TRUST COMPANY OF CALIFORNIA, N.A., a national banking association, not in its individual capacity but solely as trustee (the "*Owner Trustee*") under the Trust Agreement dated as of December 15, 1992 (the "*Trust Agreement*");

WITNESSETH:

WHEREAS, Trust Indenture and Security Agreement dated as of December 15, 1992 (the "*Indenture*"), between the Owner Trustee and THE BANK OF NEW YORK, as Indenture Trustee (the "*Indenture Trustee*"), provides for the execution and delivery of Indenture Supplements thereto substantially in the form hereof which shall particularly describe the Equipment and shall specifically mortgage the Equipment to the Indenture Trustee; and

WHEREAS, the Indenture relates to the Equipment described on Schedule 1 attached hereto and made a part hereof;

NOW, THEREFORE, in order to secure the prompt payment of the principal of, and premium, if any, and interest on all of the Notes from time to time outstanding under the Indenture and the performance and observance by the Owner Trustee of all the agreements, covenants and provisions in the Indenture for the benefit of the holders of the Notes and in the Notes, subject to the terms and conditions of the Indenture, and in consideration of the premises and of the covenants contained in the Indenture and of the acceptance of the Notes by the holders thereof, and of the sum of \$1.00 paid to the Owner Trustee by the Indenture Trustee at or before the delivery hereof, the receipt whereof is hereby acknowledged, the Owner Trustee (i) has sold, assigned, transferred, pledged and confirmed, and does hereby sell, assign, transfer, pledge and confirm, the property comprising the Equipment described on Schedule 1 attached hereto, and (ii) has sold, assigned, transferred and set over, all of the right, title and interest of the Owner Trustee under, in and to the Lease Supplement of even date herewith with respect to the Equipment described on Schedule 1 hereto (excluding, however, any rights to Excepted Property thereunder), to the Indenture Trustee, its successors and assigns, in the trust created by the Indenture for the benefit of the holders from time to time of the Notes.

To have and to hold all and singular the aforesaid property unto the Indenture Trustee, its successors and assigns, in trust for the benefit and security of the holders from time to time of the Notes and for the uses and purposes and subject to the terms and provisions set forth in the Indenture.

This Supplement shall be construed as supplemental to the Indenture and shall form a part of it, and the Indenture is hereby incorporated by reference herein and is hereby ratified, approved and confirmed.

This Supplement may be executed by the Owner Trustee in separate counterparts, each of which when so executed and delivered is an original, but all such counterparts shall together constitute but one and the same Supplement.

AND FURTHER, the Owner Trustee hereby acknowledges that the Equipment referred to in the attached Schedule 1 has been delivered to the Owner Trustee and is included in the property of the Owner Trustee covered by all the terms and conditions of the Trust Agreement, subject to the pledge or mortgage thereof under the Indenture.

IN WITNESS WHEREOF, the Owner Trustee has caused this Indenture Supplement to be duly executed by one of its duly authorized officers, as of the day and year first above written.

U.S. TRUST COMPANY OF CALIFORNIA, N.A.,
not in its individual capacity, but solely as
Owner Trustee

By _____
Its

Executed this ____ day of December, 1992 in
Oak Park, Illinois.

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this ____ day of December, 1992, before me personally appeared _____, to me personally known, who being by me duly sworn, say that he is _____ of U.S. TRUST COMPANY OF CALIFORNIA, N.A., that said instrument was signed on such date on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[NOTARIAL SEAL]

My commission expires:

APPENDIX A
Equipment Lease
Trust Indenture and Security Agreement
Participation Agreement

DEFINITIONS

GENERAL PROVISIONS

The following terms shall have the following meanings for all purposes of the Operative Agreements referred to below, unless otherwise defined in an Operative Agreement or the context thereof shall otherwise require and such meanings shall be equally applicable to both the singular and the plural forms of the terms herein defined. In the case of any conflict between the provisions of this Appendix A and the provisions of the main body of any Operative Agreement, the provisions of the main body of such Operative Agreement shall control the construction of such Operative Agreement.

Unless the context otherwise requires, (i) references to agreements shall be deemed to mean and include such agreements as the same may be amended, supplemented and otherwise modified from time to time, and (ii) references to parties to agreements shall be deemed to include the permitted successors and assigns of such parties.

DEFINED TERMS

"Affiliate" of any Person shall mean any other Person which directly or indirectly controls, or is controlled by, or is under a common control with, such Person. The term *"control"* means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and the terms *"controlling"* and *"controlled"* shall have meanings correlative to the foregoing.

"Appraisal" shall have the meaning specified in Section 4.2(b) of the Participation Agreement.

"Appraisal Procedure" shall mean the following procedure for determining the Fair Market Value or the Fair Rental Value, as the case may be, of any property. If either party to the Lease shall have given written notice to the other party requesting determination of such value by the Appraisal Procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within fifteen (15) days after such notice is given, each party shall appoint a qualified independent appraiser within twenty (20) days after such notice is given. If one party appoints an appraiser pursuant to the preceding sentence, the appraisal shall be made by such appraiser if the other party fails to appoint a second appraiser within the applicable time limit. If both parties appoint appraisers, the two appraisers so appointed shall within

thirty (30) days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within thirty (30) days after such notice is given, either party may apply to the American Arbitration Association to make such appointment, and both parties shall be bound by any such appointment. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine one or more of the Fair Market Value or the Fair Rental Value of such property within twenty (20) days after its or their appointment. If the parties shall have appointed a single appraiser, its determination of values shall be final. If three appraisers shall be appointed, the values determined by the three appraisers shall be averaged, the determination which differs most from such average shall be excluded, the remaining two determinations shall be averaged and such average shall be final.

"Bankruptcy Code" shall mean the Bankruptcy Code of 1978, as amended from time to time, 11 U.S.C. §101 *et. seq.*

"Basic Rent" shall mean, with respect to any Item of Equipment, all rent payable by the Lessee pursuant to Section 2.2 of the Lease for the Basic Term for such Item, and all rent payable pursuant to Section 19.4 of the Lease for any Renewal Term for such Item.

"Basic Term" shall have the meaning specified in Section 3 of the Lease.

"Basic Term Commencement Date" shall mean January 2, 1993.

"Beneficial Interests" shall mean the interest of the Owner Participants under the Trust Agreement.

"Bill of Sale" shall mean the bill of sale, dated the Closing Date or the date that any Replacement Item is subjected to the Lease, covering any Items of Equipment delivered on the Closing Date or such Replacement Item, as the case may be.

"Business Day" shall mean any day other than a Saturday, Sunday or a day on which commercial banking institutions are authorized or required by law, regulation or executive order to be closed in the States of California and New York.

"Closing Date" shall have the meaning specified in Section 2.3 of the Participation Agreement.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time.

"Commitment" with respect to an Owner Participant, shall have the meaning specified in Section 2.1 of the Participation Agreement and with respect to any Participant, shall have the meaning specified in Section 2.2(b) to the Participation Agreement.

"Debt Rate" shall mean the rate of interest per annum borne by the Notes then outstanding (computed on the basis of a 360-day year of twelve 30-day months).

"Equipment" shall mean collectively those items of railroad rolling stock described in the Lease, the Lease Supplements and the Indenture Supplements, together with any and all accessions, additions, improvements and replacements from time to time incorporated or installed in any item thereof which are the property of the Owner Trustee pursuant to the terms of a Bill of Sale or the Lease.

"Equipment Cost" shall mean, for each Item of Equipment, the purchase price therefor paid by the Owner Trustee pursuant to Section 2 of the Participation Agreement and as set forth in Schedule 1 to the Lease with respect to such Item.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, or any successor law.

"Event of Loss" shall have the meaning specified in Section 12.1 of the Lease.

"Excepted Property" shall mean (i) all indemnity payments (including, without limitation, payments pursuant to Section 7 of the Participation Agreement and payments under the Tax Indemnity Agreement) to which the Owner Participants, the Owner Trustee as trustee or in its individual capacity or any of their respective successors, permitted assigns, directors, officers, employees, servants and agents is entitled pursuant to the Operative Agreements, (ii) any right, title or interest of the Owner Trustee as trustee or in its individual capacity or the Owner Participants to any payment which by the terms of Section 21.2 of the Lease or any corresponding payment under Section 2.3 of the Lease shall be payable to or on behalf of the Owner Trustee as trustee or in its individual capacity or to the Owner Participants, as the case may be, (iii) any insurance proceeds payable to or on behalf of the Owner Trustee as trustee or in its individual capacity or to the Owner Participants, under any public liability insurance maintained by Lessee pursuant to Section 11 of the Lease or by any other Person, (iv) Transaction Costs or other amounts or expenses paid or payable to, or for the benefit of Owner Trustee, as trustee or in its individual capacity, or Owner Participants pursuant to the Participation Agreement or the Trust Agreement, (v) any rights of the Owner Participants or the Owner Trustee as trustee and in its individual capacity to demand, collect, sue for, or otherwise receive and enforce payment of the foregoing amounts, and (vi) the respective rights of the Owner Trustee as trustee and in its individual capacity or the Owner Participants to the proceeds of the foregoing.

"Fair Market Value" shall mean with respect to the Equipment or any Item thereof, the fair market sales value of the Equipment or such Item, determined in accordance with Section 15 or Section 19 of the Lease, as the case may be.

"Fair Rental Value" shall mean with respect to the Equipment or any Item thereof, the fair market rental value of the Equipment or such Item, determined in accordance with Section 15 or Section 19 of the Lease, as the case may be.

"Indemnified Party" shall mean each Owner Participant, the Owner Trustee (both in its individual capacity and as Owner Trustee), the Indenture Trustee, the Loan Participants

and each holder of a Note, and each of their respective directors, officers, employees, Affiliates, successors and permitted assigns, agents and servants, the Trust Estate and the Indenture Estate.

"Indenture" shall mean the Trust Indenture and Security Agreement dated as of December 15, 1992 between the Owner Trustee and the Indenture Trustee, as amended, supplemented or otherwise modified from time to time, including supplementation by each Indenture Supplement pursuant thereto.

"Indenture Default" shall mean an Indenture Event of Default or an event which with notice or the lapse of time or both would become an Indenture Event of Default.

"Indenture Estate" shall have the meaning specified in the Granting Clause of the Indenture.

"Indenture Event of Default" shall have the meaning specified in Section 4.1 of the Indenture.

"Indenture Supplement" shall mean an Indenture Supplement dated the Closing Date or the date that any Replacement Item is subjected to the lien and security interest of the Indenture, substantially in the form of Exhibit B to the Indenture, covering the Items delivered on the Closing Date or such Replacement Item, as the case may be.

"Indenture Trustee" shall mean The Bank of New York, a New York banking corporation, as trustee under the Indenture and its successors thereunder.

"Indenture Trustee Agreements" shall mean the Operative Agreements to which the Indenture Trustee is or will be a party.

"Interchange Rules" shall have the meaning specified in Section 6 of the Lease.

"Item of Equipment" or *"Item"* shall mean each item of the Equipment.

"Interim Rent" shall mean the rent payable by the Lessee to the Lessor pursuant to Section 2.1 of the Lease.

"Interim Term" shall have the meaning specified in Section 3 of the Lease.

"Late Rate" shall mean the lesser of 1% over the Debt Rate and the maximum interest rate from time to time permitted by law.

"Lease" shall mean the Equipment Lease dated as of December 15, 1992, between the Owner Trustee as Lessor and the Lessee as amended, supplemented or otherwise modified from time to time. The term *"Lease"* shall include each Lease Supplement entered into pursuant to the terms of the Lease.

"Lease Default" shall mean a Lease Event of Default or an event which with notice or lapse of time or both would become a Lease Event of Default.

"Lease Event of Default" shall mean a Lease Event of Default under the Lease as specified in Section 15 thereof.

"Lease Supplement" shall mean a Lease Supplement, dated the Closing Date or the date that any Replacement Item is subjected to the Lease, substantially in the form of Exhibit A to the Lease, between the Lessor and the Lessee, in respect of the Equipment delivered on the Closing Date or such Replacement Item, as the case may be.

"Lease Term" shall mean, with respect to any Item of Equipment, the Interim Term, the Basic Term applicable to such Item and any Renewal Term applicable to such Item then in effect.

"Lessee" shall mean Southern Pacific Transportation Company, a Delaware corporation, and any corporation which succeeds thereto by merger or consolidation or which acquires all or substantially all of the assets thereof.

"Lessee Agreements" shall mean the Operative Agreements to which Lessee is a party.

"Lessor" shall have the meaning specified in the recitals to the Lease.

"Lessor's Liens" means any Lien affecting, on or in respect of the Equipment, the Lease or the Trust Estate arising as a result of (i) claims against Lessor (in its individual capacity or as Owner Trustee) or the Owner Participants, not related to the transactions contemplated by the Operative Agreements, or (ii) acts or omissions of the Lessor (in its individual capacity or as Owner Trustee) or the Owner Participants not related to the transactions contemplated by the Operative Agreements or in breach of any covenant or agreement of such Person set forth in any of the Operative Agreements, or (iii) taxes imposed against the Lessor (in its individual capacity or as Owner Trustee) or the Owner Participants or the Trust Estate which are not indemnified against by the Lessee pursuant to the Participation Agreement or under the Tax Indemnity Agreement.

"Lien" shall mean any mortgage, pledge, security interest, lien, encumbrance, lease, disposition of title or other charge of any kind on property.

"Loan Participants" shall mean the Loan Participants named in the Participation Agreement and their respective successors and assigns, including successive holders of the Notes.

"Make Whole Amount" shall mean, with respect to the prepayment of the Notes under Section 2.9(c) of the Indenture, an amount payable by the Lessee equal to the excess of (a) the present value of the principal and interest payments on and in respect of the Notes being prepaid or paid, as the case may be, that would otherwise become due and payable (without giving effect to such prepayment or payment) (including the final payment on the maturity

date of Notes), all determined by discounting such payments and prepayments semiannually at a rate which is equal to the Treasury Rate over (b) the aggregate principal amount of the Notes then to be paid or prepaid. To the extent that the Treasury Rate at the time of such payment is equal to or higher than, 8.52%, the Make Whole Amount is zero.

"Net Economic Return" shall mean after-tax economic yields, aggregate net after-tax cash flows and return on investment.

"Notes" shall mean the 8.52% Secured Notes due January 2, 2000 of the Owner Trustee issued under and pursuant to the Indenture.

"Officer's Certificate" shall mean a certificate signed (i) in the case of a corporation by the President, any Vice President, the Treasurer, an Assistant Treasurer, the Secretary, an Assistant Secretary or the Controller of such corporation, (ii) in the case of a partnership by the Chairman of the Board, the President or any Vice President, the Treasurer or an Assistant Treasurer of a corporate general partner, and (iii) in the case of a commercial bank or trust company, the Chairman or Vice Chairman of the Executive Committee or the Treasurer, any Trust Officer, any Vice President, any Executive or Senior or Second or Assistant Vice President, or any other officer or assistant officer customarily performing the functions similar to those performed by the persons who at the time shall be such officers, or to whom any corporate trust matter is referred because of his knowledge of and familiarity with the particular subject.

"Operative Agreements" shall mean the Participation Agreement, the Trust Agreement, the Notes, the Lease, each Lease Supplement, the Indenture, each Indenture Supplement and the Tax Indemnity Agreement.

"Owner Participants" shall mean AFG Investment Trust A, a Delaware business trust, AFG Investment Trust B, a Delaware business trust and AFG Investment Trust C, a Delaware business trust, and their respective permitted successors and assigns.

"Owner Participant Agreements" shall mean the Operative Agreements to which the Owner Participants are or will be a party.

"Owner Trustee" shall mean U.S. Trust Company of California, N.A., a national banking association, not in its individual capacity but solely as Owner Trustee under the Trust Agreement and its successors thereunder.

"Owner Trustee Agreements" shall mean the Operative Agreements to which the Owner Trustee, either in its individual or fiduciary capacity, is or will be a party.

"Participants" shall mean the Loan Participants and the Owner Participants.

"Participation Agreement" shall mean the Participation Agreement dated as of December 15, 1992, among the Lessee, the Owner Participants, the Owner Trustee, the Indenture Trustee and the Loan Participants.

"Permitted Liens" with respect to the Equipment and each Item thereof, shall mean (i) the interest of the Lessee and the Owner Trustee under the Lease and the Lease Supplements; (ii) any Liens thereon for taxes, assessments, levies, fees and other governmental and similar charges not due and payable or the amount or validity of which is being contested in good faith by appropriate legal proceedings in any reasonable manner which does not adversely affect the property rights or interests of the Owner Trustee or the Indenture Trustee in the Equipment or under any Operative Agreement; (iii) any Liens of mechanics, suppliers, materialmen and laborers for work or services performed or materials furnished in connection with the Equipment or any Item thereof which are not due and payable or the amount or validity of which is being contested in good faith by appropriate legal proceedings in any reasonable manner which does not adversely affect the property rights or interests of the Owner Trustee or the Indenture Trustee in the Equipment or under any Operative Agreement; and (iv) the Lien and security interest of the Indenture Trustee under the Indenture.

"Permitted Sublease" and *"Permitted Sublessee"* shall have the meanings specified in Section 18.1 of the Lease.

"Person" shall mean an individual, partnership, corporation, trust, association or unincorporated organization, and a government or agency or political subdivision thereof.

"Renewal Term" shall mean any term in respect of which the Lessee shall have exercised its option to renew the Lease with respect to any Item of Equipment pursuant to Section 19 thereof.

"Rent" shall mean all Interim Rent, Basic Rent and Supplemental Rent.

"Rent Payment Dates" shall mean, for the Basic Term, the dates provided for payment of Basic Rent in Schedule 4 to the Lease, and for any Renewal Term, each July 2, October 2, January 2 and April 2 throughout, and including the final day of, such Renewal Term.

"Replacement Item" shall mean an open hopper car which shall have been leased under the Lease pursuant to Section 12.4 of the Lease.

"Responsible Officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of any party contained in any Operative Agreement, the President, or any Vice President, Treasurer, Assistant Treasurer, Controller or other officer, who in the normal performance of his operational responsibility would have knowledge of such matters and the requirements with respect thereto.

"Security" shall have the same meaning as in Section 2(1) of the Securities Act of 1933, as amended.

"*Seller*" shall mean The CIT Group/Equipment Financing, Inc., or in the case of any such Item as to which such party has prior to the closing date conveyed title thereto to the Lessee, the "*Seller*" of such Item shall be the Lessee.

"*Stipulated Loss Value*" for any Item of Equipment as of any date of determination shall mean the amount determined by multiplying the Equipment Cost for such Item by the percentage set forth in Schedule 5 to the Lease opposite the Rent Payment Date on which such Stipulated Loss Value is being determined; *provided* that during any Renewal Term, "*Stipulated Loss Value*" shall be determined as provided in Section 19.4 of the Lease; and *provided further* that amounts applied to the prepayment of the Notes pursuant to the provisions of Section 3.2(b) of the Indenture with respect to any Item as the result of an Event of Loss shall correspondingly reduce the Lessee's obligation to pay Stipulated Loss Value with respect to such Item. Anything contained in the Lease or in the Participation Agreement to the contrary notwithstanding, Stipulated Loss Value for such Item will, under any circumstances and in any event, be an amount which, together with any other amounts required to be paid by Lessee under the Lease in connection with an Event of Loss, will be at least sufficient to pay in full as of the date of payment thereof the aggregate unpaid principal of the Equipment Notes issued in respect of such Item, together with all unpaid interest thereon accrued to the date on which such amount is paid in accordance with the terms hereof and all other amounts then due to the holders of the Notes.

"*Subsidiary*" of any Person shall mean any corporation, association, or other business entity of which more than 50% (by number of votes) of the voting stock at the time outstanding shall at the time be owned, directly or indirectly, by such Person or by any other corporation, association or trust which is itself a Subsidiary within the meaning of this definition, or collectively by such Person and any one or more such Subsidiaries.

"*Supplemental Rent*" shall mean all amounts, liabilities and obligations (other than Basic Rent) which the Lessee is obligated to pay under the Operative Agreements to or on behalf of any of the other parties thereto, including, but not limited to, Termination Value and Stipulated Loss Value payments.

"*Taxes*" shall have the meaning specified in Section 7.2(b) of the Participation Agreement.

"*Tax Indemnity Agreement*" shall mean the Tax Indemnity Agreement dated as of December 15, 1992 among the Lessee and the Owner Participants.

"*Terminated Items*" shall have the meaning specified in Section 10.1 of the Lease.

"*Termination Date*" shall have the meaning specified in Section 10.1 of the Lease.

"*Termination Value*" for any Item of Equipment as of any date of determination shall mean the amount determined by multiplying the Equipment Cost for such Item by the percentage set forth in Schedule 6 to the Lease opposite the Rent Payment Date on which such Termination Value is being determined. Anything contained in the Lease or in the

Participation Agreement to the contrary notwithstanding, Termination Value for such Item will, under any circumstances and in any event, be an amount which, together with any other amounts required to be paid by Lessee under the Lease in connection with such termination, will be at least sufficient to pay in full as of the date of payment thereof the aggregate unpaid principal of the Notes issued in respect of such Item, together with all unpaid interest thereon accrued to the date on which such amount is paid in accordance with the terms thereof and all other amounts then due to the holders of the Notes.

"Total Equipment Cost" shall mean the sum of the Equipment Cost for each Item of Equipment.

"Transaction Costs" shall have the meaning specified in Section 2.5 of the Participation Agreement.

"Treasury Rate" shall mean at any time with respect to the Notes being prepaid the sum of (i) .50%, plus (ii) the weekly average of the yield to maturity on the United States Treasury obligations with a constant maturity (as compiled by and published in the most recently published issue of the United States Federal Reserve Statistical Release designated H.15(519) or its successor publication) most nearly equal to (by rounding to the nearest month) the Weighted Average Life to Maturity of the Notes then being prepaid. If no maturity exactly corresponding to such Weighted Average Life to Maturity of the Notes shall appear therein, the weekly average yield for the two most closely corresponding published maturities shall be calculated pursuant to the foregoing sentence and the Treasury Rate shall be interpolated from such yields on a straight-line basis (rounding, in the case of relevant periods, to the nearest month).

"Trust Agreement" shall mean the Trust Agreement dated as of December 15, 1992, between among Owner Participants and U.S. Trust Company of California, N.A., as amended, supplemented or otherwise modified from time to time.

"Trust Estate" shall have the meaning set forth in Section 2.02 of the Trust Agreement.

"Weighted Average Life to Maturity" with respect to the Notes shall mean, as at the time of determination, the number of years obtained by dividing the then Remaining Dollar-years of the Notes by the sum of the remaining scheduled principal payments on such Notes. The term *'Remaining Dollar-years'* of the Notes means the product obtained by (1) multiplying (A) the amount of each then scheduled required principal payment (including payment at final maturity), by (B) the number of years (calculated to the nearest one-twelfth) which will elapse between the date of determination of the Weighted Average Life to Maturity of the Notes and the date of such required payment is due, and (2) totaling all the products obtained in (1).