CSX Corp

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Assistant General Counsel

VIA HAND DELIVERY

2-231A040

August 18, 1992

17921
RECORDATION NO. _____ FILED 1425

AUG 18 1992 12 45 PM

INTERSTATE COMMERCE COMMISSION

AUG 18 12 37 PM '92
MOTOR OPERATIONS UNIT

Sidney L. Strickland, Jr., Secretary
Interstate Commerce Commission
12th Street and Constitution Avenue, N.W.
Washington, D.C. 20423

Dear Mr. Strickland:

On behalf of CSX Transportation, Inc. ("CSXT"), enclosed for filing and recordation under 49 U.S.C. § 11303(a) and the regulations promulgated thereunder are six (6) counterparts of an Equipment Trust Agreement dated as of August 15, 1992, not previously recorded, between CSXT and Mercantile-Safe Deposit and Trust Company ("Trustee"). Equipment covered by the above agreement consists of fifty-nine (59) Dash 8-40CW locomotives, bearing road numbers CSXT 7759 - 7817, inclusive.

The names and addresses of the parties are as follows:

Trustee: Mercantile-Safe Deposit and Trust Company
2 Hopkins Plaza, G Level
Baltimore, Maryland 21201

CSXT: CSX Transportation, Inc.
500 Water Street
Jacksonville, Florida 32202

Each unit of equipment will be marked "CSX Transportation, Inc." or "CSXT", or in some other appropriate manner, and also will be marked with one of the road numbers set forth above.

Enclosed is a check in the amount of $16.00 in payment of the filing fee.

Once this filing has been made, please return to the undersigned time-stamped copies of the Agreement not needed for your files, together with a time-stamped copy of this letter of transmittal (which is attached for your convenience), the fee receipt and a copy of the letter from the Interstate Commerce Commission acknowledging the filing.

Thanking you in advance for your assistance, I am

Very truly yours,

Louis G. Recher

Enclosures

Counterparts

17921
RECORDATION NO. _____ FILED 1425
AUG 18 1992 - 12 45 PM
INTERSTATE COMMERCE COMMISSION

CSX TRANSPORTATION, INC.
EQUIPMENT TRUST OF 1992, SERIES B

EQUIPMENT TRUST AGREEMENT

DATED AS OF AUGUST 15, 1992

BETWEEN

MERCANTILE-SAFE DEPOSIT
AND TRUST COMPANY,

Trustee,

and

CSX TRANSPORTATION, INC.

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EQUIPMENT TRUST AGREEMENT, dated as of August 15, 1992, between MERCANTILE-SAFE DEPOSIT AND TRUST COMPANY, a trust company duly organized and existing under the laws of the State of Maryland, as Trustee (hereinafter called the Trustee) and CSX TRANSPORTATION, INC., a Virginia corporation (hereinafter called the Company);

Witnesseth:

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

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

Whereas, the Trust Certificates (as hereinafter defined) are to be issued and sold in an aggregate principal amount not exceeding $60,750,000 and the net proceeds (as hereinafter defined) of such sale together with such other cash, if any, as may be required to be deposited by the Company as hereinafter provided are to constitute a fund equal to the aggregate principal amount of Trust Certificates so issued and sold, such fund to be known as **CSX Transportation Equipment Trust of 1992, Series B**, to be applied by the Trustee from time to time in part payment of the Cost (as hereinafter defined) of the Trust Equipment (as hereinafter defined), any remainder of the Cost thereof to be paid out of advance rentals to be paid by the Company as provided herein; and

Whereas, the text of the Trust Certificates and the guaranty to be endorsed on the Trust Certificates by the Company is to be substantially in the following form:

(FORM OF TRUST CERTIFICATE)

No. ____ $.....

CSX TRANSPORTATION EQUIPMENT TRUST OF 1992, SERIES B

Equipment Trust Certificate

Total Authorized Issue $60,750,000

Mercantile-Safe Deposit and Trust Company, Trustee

Interest at the Rate of % Per Annum Payable February 15 and August 15

Principal hereof payable August 15,

Mercantile-Safe Deposit and Trust Company, as Trustee (hereinafter called the Trustee) under an Equipment Trust Agreement dated as of August 15, 1992 (hereinafter called the Agreement), between the Trustee and **CSX Transportation, Inc.**, a Virginia corporation (hereinafter called the Company), hereby certifies that

or registered assigns, is entitled to an interest in the principal amount of _____ Dollars ($_____)in **CSX Transportation Equipment Trust of 1992, Series B**, payable on the due date specified above, upon presentation and surrender of this Certificate to the Trustee at its corporate trust office in the City of Baltimore, State of Maryland, and to payment, until said due date, of interest on said principal amount at the rate of percent (__%) per annum from the date of issuance hereof or the interest payment date to which interest shall have been paid, whichever is later, semiannually on February 15 and August 15 in each year, by check mailed by the Trustee to the order of or as directed by the registered holder hereof or registered assigns, with interest at one-quarter of one percent above such interest rate on any overdue principal and on any overdue interest to the extent that it shall be legally enforceable, all in such coin or currency of the United States of America as at the time of payment shall be legal tender for the

payment of public and private debts, but payable only from and out of rentals or other moneys received by the Trustee and applicable to such payment under the provisions of the Agreement.

This Certificate is one of an authorized issue of Equipment Trust Certificates (hereinafter called the Certificates) in an aggregate principal amount not exceeding the Total Authorized Issue as set forth above, all of which are substantially similar except as to date of maturity and interest rate, all issued under and subject to the terms of the Agreement, under which certain railroad equipment leased to the Company (or cash or obligations defined in the Agreement as "Investments" in lieu thereof, as provided in the Agreement) is held by the Trustee in trust for the equal and ratable benefit of the registered holders of the Certificates, to which Agreement (a copy of which is on file with the Trustee at its said office) reference is made for a full statement of the rights and obligations of the Company, the duties and immunities of the Trustee and the rights of the registered holder hereof thereunder, and to all of which the registered holder hereof, by accepting this Certificate, assents.

The Certificates are issuable as fully registered Certificates in denominations of $1,000 and any multiple of $1,000. The Certificates are exchangeable for a like aggregate principal amount of Certificates, in authorized denominations and of the same maturity, upon presentation thereof at said office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges, provided in the Agreement.

This Certificate is transferable by the registered holder hereof in person or by duly authorized attorney on the books of the Trustee upon surrender hereof to the Trustee at its said office, accompanied by appropriate instruments of assignment and transfer, duly executed by the registered holder in person or by such attorney, in form satisfactory to the Trustee, subject to the limitations and upon payment of the charges provided in the Agreement, and thereupon a new Certificate or Certificates in authorized denominations for the same aggregate principal amount and having the same date of maturity will be issued to the transferee in exchange herefor. Prior to due presentment for registration of transfer of this Certificate, the Trustee and the Company may deem and treat the person in whose name this Certificate is registered as the absolute owner hereof for the purpose of receiving payment of principal and interest and for all other purposes and shall not be affected by any notice to the contrary.

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

This Certificate shall not be deemed in any way a promise to pay of the Trustee.

In Witness Whereof, the Trustee has caused this Certificate to be signed by the facsimile signature of one of its Vice Presidents, and its corporate seal, in facsimile, to be imprinted hereon, and to be attested by the manual signature of one of its Authorized Officers.

Dated as of

Mercantile-Safe Deposit and Trust Company,
Trustee,

By.....

Attest:

.....
Authorized Officer

(FORM OF GUARANTY FOR TRUST CERTIFICATE)

CSX Transportation, Inc., for valuable consideration, hereby unconditionally guarantees to the registered holder of the within Certificate, the prompt payment of the principal of said Certificate, and of the interest thereon at the rate specified in said Certificate, with interest at one-quarter of one percent above such interest rate on any overdue principal and on any overdue interest to the extent that it shall be legally enforceable, all in accordance with the terms of said Certificate and the Equipment Trust Agreement referred to therein.

CSX Transportation, Inc.

By.....
Treasurer

; and

Whereas, it is desired to secure the payment of the principal of and interest on the Trust Certificates, as hereinafter more particularly provided, and to evidence the rights of the Holders (as hereinafter defined);

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

ARTICLE ONE

Definitions

The following terms (except as otherwise expressly provided or unless the context otherwise required) for all purposes of this Agreement shall have the respective meanings hereinafter specified:

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

Casualty Occurrence shall mean any occurrence specified in Section 4.7 to be a Casualty Occurrence.

Company shall mean CSX Transportation, Inc., a Virginia corporation, and any successor thereto.

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

Deposited Cash shall mean the aggregate of (a) cash on deposit with the Trustee as provided in the first sentence of Section 2.1, any advance rental on deposit with the Trustee pursuant to Section 4.4(A)(1) and, when required or indicated by the context, any Investments purchased by the use of such cash pursuant to the provisions of Section 7.7, (b) any funds which may be advanced by the Company to the Trustee on a temporary basis (which advances shall be reimbursable to the Company upon a Request to the Trustee out of cash on deposit with the Trustee pursuant to the first sentence of Section 2.1), and (c) any sums restored to Deposited Cash from rentals pursuant to Section 4.4(B)(1) and on deposit with the Trustee.

Equipment shall mean standard gauge railroad equipment (other than passenger cars and work equipment) which shall have been first put into operation not earlier than six months prior to the date hereof.

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

Fair Value of any unit of Equipment shall be deemed to be the Cost thereof less 1/180th of said Cost for each month during which the unit was subject to this Agreement prior to the date of which the Fair Value is so to be determined.

Investments shall mean (i) direct obligations of the United States of America or obligations for which the full faith and credit of the United States of America is pledged to provide for the payment of principal and interest; (ii) open market commercial paper of any company incorporated and doing business under the laws of the United States of America or one of the states thereof rated A-1 or higher by Standard & Poor's Corporation or P-1 or higher by Moody's Investors Service, Inc. or an equivalent rating by a successor thereto or by a similar rating service substituted therefor that is acceptable to both the Company and the Trustee; (iii) certificates of deposit, banker's acceptances or commercial paper of domestic commercial banks that have total assets in excess of $1 billion and have outstanding at least one issue of securities rated in at least one of the four highest categories by Standard & Poor's Corporation or Moody's Investors Service, Inc.; and (iv) repurchase agreements in respect of securities described in clause (i).

Holder shall mean the registered owner of a Trust Certificate and shall include the plural as well as the singular number.

Officer's Certificate shall mean a certificate signed by the Chief Executive Officer, Vice President or any Assistant Vice President or the Treasurer or any Assistant Treasurer or the Secretary or any Assistant Secretary of the Company.

Opinion of Counsel shall mean an opinion in writing signed by legal counsel who may be an employee of or counsel to the Company or who shall be satisfactory to the Trustee.

Penalty Interest Rate shall mean a rate which shall exceed by one-quarter of one percent the annual rate at which interest is payable hereunder.

Principal Office shall mean the principal office of the Trustee at which the corporate trust business of the Trustee shall, at any particular time, be administered.

Replacement Funds shall mean any moneys specified in Section 4.9 to be Replacement Funds.

Request shall mean a written request for the action therein specified, delivered to the Trustee and signed on behalf of the Company by the Chief Executive Officer, Vice President or any Assistant Vice President or the Treasurer or any Assistant Treasurer or the Secretary or any Assistant Secretary of the Company.

Trust Certificates shall mean the equipment trust certificates issued hereunder, and **Trust Certificate** shall mean one of said equipment trust certificates.

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

Trustee shall mean the trustee named herein, and any successor as trustee hereunder.

The words **hereby, herein, hereof, hereto, hereunder** and words of similar import refer to this Agreement as a whole, including the recitals hereto, and not to any particular Article, Section or subdivision hereof.

ARTICLE TWO

Trust Certificates and Issuance Thereof

Section 2.1. **Issuance of Trust Certificates.** The net proceeds (excluding premium and accrued interest, if any) of the sale of the Trust Certificates shall forthwith, upon issuance thereof, be deposited with the Trustee. At the same time, the Company shall, if necessary, deposit with the Trustee any advance rental payable by the Company to the Trustee under Section 4.4(A)(1). Thereupon, without waiting for the recording or filing of this Agreement or of any other instrument respecting the Trust Equipment, the Trustee shall issue and deliver, as the Company shall Request, Trust Certificates substantially in the form set forth herein, and in the aggregate principal amount so sold, bearing interest at the rate or rates specified in such Request.

The aggregate principal amount of Trust Certificates which shall be executed and delivered by the Trustee hereunder shall not exceed the sum of $60,750,000 except as provided in Sections 2.5, 2.6 and 2.7.

Section 2.2. **Interests Represented by Trust Certificates; Interest; Denominations; Dating; Maturities.** Each of the Trust Certificates shall represent an interest in the principal amount therein specified in the trust created hereunder and shall bear interest on said principal amount at the rate to be specified by the Company at the time of delivery thereof by the Trustee, payable semiannually on the fifteenth day of February and August in each year. The interest rate on any Trust Certificates may be changed by an agreement in writing between the Company and the Holders of all the outstanding Trust Certificates of the same maturity. A counterpart of any such agreement shall be filed with the Trustee.

The Trust Certificates shall be in denominations of $1,000 and any multiple of $1,000 and shall be numbered from 1 consecutively upward.

The due date of each Trust Certificate shall appear upon its face. The Trust Certificates shall be dated the date of issuance thereof and shall entitle the Holders to interest from such date or the interest payment date to which interest shall have been paid, whichever is later.

The principal amount of the Trust Certificates shall become due in 15 equal annual installments payable serially on the

fifteenth day of August in each year beginning August 15, 1993 and ending August 15, 2007, both inclusive.

Section 2.3. **Form of Trust Certificate and Guaranty.** The Trust Certificates and the guaranty to be endorsed on the Trust Certificates by the Company as hereinafter provided in Section 6.2 shall be in substantially the form hereinbefore set forth.

Section 2.4. **Execution by Trustee.** The Trust Certificates shall be signed in the name and on behalf of the Trustee by the manual or the facsimile signature of one of its Vice Presidents, and its corporate seal, in facsimile, shall be imprinted thereon and shall be attested by the manual or the facsimile signature of one of its Authorized Officers. In case any officer of the Trustee whose signature, whether facsimile or not, shall appear on any of the Trust Certificates shall cease to be such officer of the Trustee before such Trust Certificates shall have been issued and delivered by the Trustee, or shall not have been acting in such capacity on the date of such Trust Certificates, such Trust Certificates shall be adopted by the Trustee and be issued and delivered as though such person had not ceased to be, or had then been acting as, such officer of the Trustee.

Section 2.5. **Transfer of Trust Certificates; Owners Thereof; Exchange of Trust Certificates.** The Trust Certificates shall be registered in the name of the Holder thereof and shall be transferable upon presentation and surrender thereof for transfer at the Principal Office, accompanied by appropriate instruments of assignment and transfer, duly executed by the Holder of the surrendered Trust Certificate or Certificates or by duly authorized attorney, in form satisfactory to the Trustee.

Prior to due presentation for registration of transfer of any Trust Certificate, the parties hereto may deem and treat the Holder of any Trust Certificate as the absolute owner of such Trust Certificate for all purposes and shall not be affected by any notice to the contrary.

Trust Certificates shall be exchangeable for a like aggregate principal amount of Trust Certificates, in authorized denominations and of the same maturity. The Trust Certificates to be exchanged shall be surrendered at the Principal Office.

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

Each Trust Certificate delivered, pursuant to any provision of this Agreement, in exchange or substitution for, or upon the transfer of, the whole or any part of one or more other Trust Certificates shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by the whole or such part of such one or more other Trust Certificates, and, notwithstanding anything contained in this Agreement (except as provided by the third and fourth paragraphs of Section 2.7 hereof), such Trust Certificate shall be so dated that neither gain nor loss in interest shall result from such exchange, substitution or transfer.

The Trustee shall not be required to issue, register, transfer or exchange Trust Certificates for a period of fifteen days next preceding any interest payment date.

Section 2.6. **Replacement of Mutilated or Lost Trust Certificates.** In case any Trust Certificate shall become mutilated or defaced or be lost, stolen or destroyed, then on the terms herein set forth, and not otherwise, the Trustee, upon Request, shall execute and deliver a new Trust Certificate of like maturity, tenor and date, and bearing a different serial number from the one mutilated, defaced, lost, stolen or destroyed, in exchange and substitution for, and upon cancellation of, the mutilated or defaced Trust Certificate, or in lieu of and in substitution for the same if lost, stolen or destroyed. The Company shall execute its guaranty on any Trust Certificates so delivered. The applicant for a new Trust Certificate shall furnish evidence satisfactory to the Trustee and to the Company of the loss, theft or destruction of such Trust Certificate alleged to have been lost, stolen or destroyed, and of the ownership and authenticity of such mutilated, defaced, lost, stolen or destroyed Trust Certificate, and also such security and indemnity as may be required by the Trustee and by the Company in their discretion; and shall pay all expenses and charges of such substitution or exchange. All Trust Certificates shall be issued, held and owned upon the express condition that the foregoing provisions are exclusive in respect of the replacement of mutilated, defaced, lost, stolen or destroyed Trust Certificates, and shall preclude all other rights and remedies, any law or statute now existing or hereafter enacted to the contrary notwithstanding.

Section 2.7. **Temporary Trust Certificates.** At any time prior to the issue of definitive Trust Certificates, the Trustee shall upon Request, issue and deliver at the Principal Office, in lieu of definitive Trust Certificates, temporary Trust Certificates in any denomination or denominations specified in such Request. Such temporary Trust Certificates shall be substantially of the tenor of

the definitive Trust Certificates in lieu of which they are issued and may be issued with such insertions, omissions, substitutions and variations as may be appropriate.

Temporary Trust Certificates shall be exchangeable at the Principal Office, without charge to the Holder, for the definitive Trust Certificates in lieu of which they were issued, and upon surrender and cancellation of any of such temporary Trust Certificates, the Trustee shall issue and deliver in exchange therefor definitive Trust Certificates, of the same maturity and interest rate, for the same aggregate principal amount. Until so exchanged, the Holders of the temporary Trust Certificates shall be entitled to the same rights hereunder as if the temporary Trust Certificates had been so exchanged.

If temporary Trust Certificates are issued to an Affiliate of the Company, and should such Affiliate resell such Trust Certificates, then, notwithstanding the provisions of the fifth paragraph of Section 2.5 hereof, upon such resale and transfer of all or any of the Trust Certificates by such Affiliate, the Affiliate shall be permitted, if it so desires (and as evidenced by a writing from the Affiliate directed to the Trustee), to retain all its rights to interest accrued and unpaid as of the date of such resale and transfer, and the Trustee shall pay such accrued interest, if at all, only to, or at the direction of, such Affiliate. Such Affiliate, however, shall have the additional right, if it so desires (and as evidenced by a writing from the Affiliate directed to the Trustee), to waive and relinquish all of its rights to interest accrued and unpaid as of the date of such resale and transfer of such Trust Certificates. Interest accruing upon the Trust Certificates after such transfer by the Affiliate shall be paid, when payment is due, in the usual manner to the then Holders of the Trust Certificates, as provided in Section 2.5 hereof, the provisions of which otherwise shall remain in effect, and shall be effective, for all the purposes and to the same extent as originally intended.

Upon the resale of any Trust Certificate by an Affiliate of the Company, as above mentioned, the Certificates shall bear such rate of interest, from their date of delivery to the purchaser following such resale, as shall be named by the purchaser and approved by the Company (as evidenced by a Request). Such interest rate may be the same as, or greater or lesser than, the interest rate borne by the Trust Certificates while owned and held by such Affiliate.

The purchasers of the Trust Certificates, and any subsequent Holders thereof, shall succeed to the interests of the original Holder thereof, as the same shall have been constituted at the time of original issuance thereof.

Section 2.8. **Cancellation and Destruction of Trust Certificates.** All Trust Certificates surrendered to the Trustee for payment, transfer, exchange, replacement or cancellation shall be cancelled by it. The Trustee shall destroy all cancelled Trust Certificates and deliver a certificate of such destruction to the Company.

ARTICLE THREE

Acquisition of Trust Equipment by Trustee; Deposited Cash

Section 3.1. **Acquisition of Trust Equipment by Trustee.** The Company shall promptly cause to be constructed and shall promptly cause to be sold, assigned, transferred and set over unto the Trustee, as trustee for the Holders, the Equipment described in Schedule A hereto, or substitutions therefor or additions thereto as hereinafter provided.

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

In the event that it may be deemed necessary or desirable to procure for the transportation services of the Company, and to include in the trust hereby created, other Equipment in lieu of any of the Equipment specifically described in Schedule A hereto prior to the delivery of such Equipment to the Trustee or its agent, the Company may cause such other Equipment to be constructed and to be sold, assigned, transferred and set over unto the Trustee, to be substituted under the trust hereby created, and to that end the Company, upon entering into a contract or contracts for the construction of such other Equipment, shall assign to the Trustee all its right, title and interest under the said contract or

contracts insofar as such contract or contracts relate to such other Equipment.

Section 3.2. **Payments out of Deposited Cash.** From time to time, after any of the Trust Equipment shall have been delivered to the Trustee or its agent pursuant to this Article Three, the Trustee shall (subject, however, to the provisions of Section 3.3) pay to the builder or builders of the delivered Trust Equipment, upon Request, out of the Deposited Cash, an amount which, together with all payments previously made out of the Deposited Cash upon deliveries of Trust Equipment, will equal not more than 80% of the aggregate Cost of the Trust Equipment then and theretofore delivered to the Trustee or its agent.

Section 3.3. **Payments of and from Advance Rental.** The Company covenants that, contemporaneously with the delivery to the Trustee of the documents required by Section 3.4 in respect of any delivery of Trust Equipment, the Company will pay to the Trustee the advance rental provided in Section 4.4(A)(2), and thereupon the Trustee shall pay to the builder or builders of the delivered Trust Equipment, upon Request, by the use of such advance rental, the portion of any of the Cost of the delivered Trust Equipment not paid out of Deposited Cash as provided in Section 3.2.

Section 3.4. **Supporting Documents; Ratio of Cost and Trust Equipment to Trust Certificates.** The Trustee shall not pay out of any Deposited Cash, or make any payments by the use of advance rental, against the delivery of any of the Trust Equipment until it shall have received:

(A) An Officer's Certificate which shall state (i) that the Trust Equipment described and specified therein by number or numbers has been delivered to the Company as agent for the Trustee, (ii) that such Trust Equipment is Equipment as herein defined, (iii) that the Cost of such Trust Equipment is an amount therein specified or that the Cost of such Trust Equipment is not less than an amount therein specified and (iv) that such Trust Equipment has been marked in accordance with the provisions of Section 4.6;

(B) An invoice or invoices from the builder or builders of such Trust Equipment;

(C) A bill or bills of sale of such Trust Equipment from the builder or builders thereof to the Trustee, which bill or bills of sale shall contain a warranty or guaranty to the

Trustee that the title to the Trust Equipment described therein is free from all prior liens and encumbrances;

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

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

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

If the aggregate final Cost of the Trust Equipment shall be less than 125% of the aggregate principal amount of the Trust Certificates, the Company will cause to be sold, assigned, transferred and set over unto the Trustee additional Equipment in such amount and of such Cost that the aggregate final Cost of the Trust Equipment will be at least 125% of the aggregate principal amount of the Trust Certificates and, whether or not Deposited Cash is to be paid out in respect of such additional Trust Equipment, will furnish to the Trustee in respect of such additional Trust Equipment the documents set forth in the first paragraph of this Section 3.4.

ARTICLE FOUR

Lease of Trust Equipment to the Company

Section 4.1. **Lease of Trust Equipment.** The Trustee does hereby lease the Trust Equipment to the Company, for a term of fifteen years from and after August 15, 1992.

Section 4.2. **Equipment Subjected Hereto by Delivery and Marking.** As and when any Equipment shall from time to time be transferred and delivered to the Company as agent for the Trustee and marked in accordance with the provisions of Section 4.6, the

same shall, ipso facto and without further instrument of lease or transfer, pass under and become subject to all the terms and provisions hereof.

Section 4.3. **Substituted Equipment Subject Hereto; Additions to Trust Equipment.** In the event that the Company shall, as provided in Sections 3.1 and 3.4, or in Section 4.9, cause to be transferred to the Trustee other Equipment in addition to or in substitution for any of the Equipment herein specifically described, such other Equipment shall be included as part of the Trust Equipment by supplement hereto (duly executed by the Trustee and the Company, the consent of the Holders not being required) and shall be subject to all the terms and conditions hereof in all respects as though it had been part of the Equipment herein specifically described. Any and all additions to, and replacement of parts of, the Trust Equipment shall constitute accessions to the Trust Equipment and shall be subject to all the terms and conditions hereof in all respects and included in the term Trust Equipment as used herein.

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

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

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

(2) Contemporaneously with the delivery to the Trustee of the documents required by Section 3.4 in respect of the delivery of any of the Trust Equipment, a sum equal to the portion of the Cost of such delivered Trust Equipment not to be paid out of Deposited Cash as provided in Section 3.2.

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

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

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

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

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

Nothing herein or in the Trust Certificates contained shall be deemed to impose on the Trustee or on the Company any obligation to pay to any Holder any tax assessment or governmental charge required by any present or future law of the United States of

America or of any state, county, municipality or other taxing authority thereof, to be paid on behalf of, or withheld from the amount payable to, such Holder. The Company shall not be required to pay any tax, assessment or governmental charge so long as it shall in good faith and by appropriate legal proceedings contest the validity thereof, unless in the judgment of the Trustee the rights or interests of the Trustee or of the Holders may be materially endangered thereby.

Section 4.5. **Termination of Lease.** At the termination of the lease provided herein and after all payments due or to become due to the Trustee from the Company hereunder shall have been completed and fully made, (a) such payments shall be applied and treated as purchase money and as the full purchase price of the Trust Equipment, (b) any moneys remaining in the hands of the Trustee after providing for all outstanding Trust Certificates and after paying the expenses of the Trustee, including its reasonable compensation, shall be paid to the Company, (c) title to the Trust Equipment shall vest in the Company, and (d) the Trustee shall execute for record in public offices, at the expense of the Company, such instrument or instruments in writing as reasonably shall be requested by the Company in order to make clear upon public records the Company's title to all the Trust Equipment under the laws of any jurisdiction; **provided, however,** that until that time, title to the Trust Equipment shall not pass to or vest in the Company, but title to and ownership of all the Trust Equipment shall be and remain in the Trustee, notwithstanding the delivery of the Trust Equipment to, and the possession and use thereof by, the Company.

Section 4.6. **Marking of Trust Equipment.** The Company agrees that at or before the delivery to the Company of each unit of the Trust Equipment, there shall be plainly, distinctly, permanently and conspicuously marked in stencil or otherwise on each side of such unit the reporting marks of the Company and a road number specified in Schedule A hereto.

In case, prior to the termination of the lease provided for herein, any of such marks shall at any time be removed, defaced, obliterated or destroyed, the Company shall promptly cause the same to be restored or replaced. The Company shall not change, or permit to be changed, the road numbers or initials of any of the Trust Equipment (or any road numbers or initials which may have been substituted as herein provided) except in accordance with a statement of new numbers to be substituted therefor which shall previously have been filed with the Trustee by the Company, and which shall be filed and recorded as provided in Section 6.4.

The Trust Equipment may be lettered with the name, initials or insignia of the Company, or of any Affiliate, or of any sublessee or transferee of the Company which is permitted to use the Trust Equipment as herein provided, or may be lettered in some other appropriate manner for convenience of identification of the interest therein of the Company, or such Affiliate, sublessee or transferee. Except as aforesaid, during the continuance of the lease provided for herein, the Company shall not allow the name of any person, association or corporation to be placed on any of the Trust Equipment as a designation if the right, title and interest of the Trustee therein would thereby be impaired or invalidated. The Trustee shall, upon Request, consent to the placing of the name of any specified person, association or corporation upon any unit of Trust Equipment as a designation if there shall have been delivered to the Trustee an Opinion of Counsel to the effect that such designation will not impair or invalidate the right, title and interest of the Trustee in or to such unit.

Section 4.7. **Maintenance of Trust Equipment; Casualty Occurrences.** The Company agrees that it will maintain and keep the Trust Equipment in good order and proper repair at its own cost and expense. Whenever any of the Trust Equipment shall be lost, stolen, destroyed, irreparably damaged or become unsuitable for use from any cause whatsoever (any such occurrence being herein called a Casualty Occurrence), the Company shall promptly, after obtaining notice of such Casualty Occurrence, deliver to the Trustee an Officer's Certificate describing such Trust Equipment and stating the then Fair Value thereof and shall, subject to the provision in Section 4.9 hereof for application of any credit resulting from a prior acquisition of additional Equipment, deposit with the Trustee an amount in cash equal to such Fair Value. The rights and remedies of the Trustee to enforce or to recover any of the rental payments shall not be affected by reason of any Casualty Occurrence. Cash deposited with the Trustee pursuant to this Section 4.7 shall be held and applied as provided in Section 4.9.

The Company covenants to furnish to the Trustee, whenever required by the Trustee, and on or before April 30 in every calendar year commencing with the year 1993, and during the continuance of the lease provided for herein, an Officer's Certificate, as of the preceding December 31, (a) stating the amount, description and numbers of the Trust Equipment that may have suffered a Casualty Occurrence since the date of the last preceding statement (or, in the case of the first statement, since the inception of the lease provided for herein), (b) stating that, in the case of the Trust Equipment repainted or repaired since the date of the last preceding statement (or the date of this Agreement

in the case of the first statement), the marks required by Section 4.6 have been preserved, or that such Trust Equipment has again been marked as required thereby, and (c) providing such other information as to the condition and state of repair of the Trust Equipment as the Trustee may reasonably request. The Trustee, by its agents, shall have the right once in each calendar year, but shall be under no duty, to inspect, at the Company's expense but at the Trustee's risk, the Trust Equipment, and the Company covenants in that event to furnish to the Trustee all reasonable facilities for the making of such inspection.

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

The Company shall not, without the prior written consent of the Trustee, assign or transfer, or suffer or allow to be assigned or transferred, its rights hereunder or transfer or sublet, or suffer or allow to be transferred or sublet, the Trust Equipment or any part thereof except, and then only so long as the Company shall not then be in default under this Agreement (and only subject to this Agreement and to the rights of the Trustee hereunder, and without releasing the Company from its obligations hereunder), to an Affiliate, or under a written sublease for a term not exceeding one year (including all renewal or extension options reserved to the sublessee or sublessor), to a railroad classified by the Interstate Commerce Commission as a Class I or Class II railroad or to a responsible entity, as determined by the Company; and the Company shall not, without such written consent, except as provided in this Section 4.8, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment. Every such sublease shall expressly subject the rights of the sublessee under such sublease to the rights of the Trustee in respect of the Trust Equipment covered by such sublease in the event of the happening of an Event of Default.

An assignment or transfer to a purchaser which shall acquire all or substantially all of the lines of railroad of the Company, and which, by execution of an appropriate instrument satisfactory to the Trustee, shall assume and agree to perform all of the obligations and covenants of the Company hereunder and under the guaranty endorsed on the Trust Certificates, shall not be deemed a breach of the covenants set forth in this Section 4.8. The appointment of a receiver or receivers in equity or reorganization, or a trustee or trustees in bankruptcy or reorganization for the Company or for its property shall not be deemed an unauthorized assignment if, prior to any action by the Trustee to exercise the remedies herein provided, such receiver or receivers or trustee or trustees shall be discharged or such receiver or receivers or trustee or trustees shall, pursuant to court order or decree, in writing duly assume and agree to pay or perform all of the obligations and covenants of the Company hereunder and under the guaranty endorsed on the Trust Certificates, in such manner that such obligations shall have the same status as obligations incurred directly by such receiver or receivers or trustee or trustees.

Section 4.9. **Release and Replacement of Trust Equipment.** Any units of the Trust Equipment which shall have become worn out or unsuitable in any respect for the use of, or are no longer needed by, the Company may be released, and it is mutually agreed that at any time hereafter until title thereto shall become vested in the Company, the Trustee will release any such units of the Trust Equipment upon the filing with it of a Request and an Officer's Certificate which shall describe such units, shall state that they have become worn out or unsuitable for the use of, or are no longer needed by, the Company, shall state the selling price thereof and shall specify the Cost and the then Fair Value thereof. No such release shall be made until the Company shall have paid to the Trustee such selling price or Fair Value, whichever shall be greater; subject, however, to the provision of this Section 4.9 for application of any credit resulting from a prior acquisition of additional Equipment.

Any moneys paid to the Trustee pursuant to this Section 4.9 or Section 4.7 (such moneys being herein called Replacement Funds), shall be received and held by the Trustee in trust hereunder pending delivery of additional Equipment and may be invested and reinvested as provided in Section 7.7. Upon the filing with it of a Request and an Officer's certificate which shall specify the kind and number of units of such Equipment to be purchased and the Cost and the Fair Value thereof, such moneys in an amount not exceeding the lesser of such Cost or Fair Value, shall, upon receipt by the

Trustee of documents of the nature and tenor as provided in Section 3.4, be applied to the purchase of such Equipment.

If the Cost or Fair Value (whichever is the lesser) of such additional Equipment shall be in excess of such Replacement Funds, then such excess, less depreciation thereof calculated in the manner provided in the definition of "Fair Value," shall constitute credit toward any further replacement of any Trust Equipment.

Section 4.10. **Company's Indemnities.** The Company covenants to indemnify the Trustee against all claims arising out of or connected with the ownership or use of any of the Trust Equipment, and particularly against all claims arising out of the use of any patented inventions in and about the Trust Equipment, and to comply with the laws of the United States of America and of all the states and other jurisdictions in which the Trust Equipment, or any part thereof, may be operated, and with all lawful acts, rules, regulations and orders of the Department of Transportation, the Interstate Commerce Commission and of all other commissions, boards and other legislative, executive, administrative or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment; **provided, however,** that the Company may in good faith contest the validity of any such law, act, rule, regulation or order, or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the Holders. The Company shall not be relieved from any of its obligations hereunder by reason of the assertion or enforcement of any such claims or the commencement or prosecution of any litigation in respect thereof.

Section 4.11. **Intention of the Parties.** The parties hereto intend that the lease of Trust Equipment to the Company incorporated herein shall be construed as a lease intended as security and a security interest, as such term is defined and used in the Uniform Commercial Code of the Commonwealth of Virginia, and that the Trustee shall have all rights and remedies of a holder of a security interest thereunder. The parties hereto further intend that such security interest shall be a "purchase money security interest" in each and every unit of the Trust Equipment, and that all payments made by the Company hereunder, including payments of advance rental pursuant to Section 4.4(A), shall be applied ratably to all units of the Trust Equipment, whether originally subject hereto or substituted pursuant to the provisions of Sections 3.1 or 4.9, or transferred to the Trustee pursuant to Section 3.4.

ARTICLE FIVE

Remedies in Event of Default

Section 5.1. **Events of Default.** The Company covenants that in case

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

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

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

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

(E) a petition for reorganization under Title 11 of the United States Code, as now constituted or as such Title 11 may be hereafter amended, shall be filed by or against the Company, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective within 30 days from the filing of such petition (but then only so long

as such stay shall continue in force or such ineffectiveness shall continue), and all the obligations of the Company under this Agreement and under its guaranty endorsed on the Trust Certificates shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings (whether or not such appointment is subject to ratification) or otherwise, in such manner that such obligations shall have the same status as obligations incurred directly by such trustee or trustees within 60 days after such proceedings shall have been commenced and otherwise in accordance with the provisions of 11 U.S.C. § 1168, or any successor provision, or

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

then, in any such case (herein sometimes called an Event of Default), the Trustee in its discretion may, and upon the written request of the Holders of not less than 25% in principal amount of the then outstanding Trust Certificates shall, by notice in writing delivered to the Company, declare to be due and payable forthwith the entire amount of the rentals (including any unpaid advance rental, but not including rentals required for the payment of interest accruing after the date of such declaration) payable by the Company as set forth in Section 4.4 and not theretofore paid, whereupon the entire amount of such rentals shall be due and payable immediately without further demand, together with interest

at the Penalty Interest Rate to the extent legally enforceable on any portion thereof overdue.

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

The Trustee shall be empowered to institute any action or proceedings at law or in equity to recover judgment for the total amount becoming payable by the Company as aforesaid, together with interest at the Penalty Interest Rate thereon to the extent legally enforceable, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Company or other obligor upon the Trust Certificates and collect in the manner provided by law out of the property of the Company or of such other obligor upon the Trust Certificates wherever situated the moneys adjudged or decreed to be payable.

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

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

Section 5.3. **Application of Proceeds.** If, in case of the happening of any Event of Default, the Trustee shall exercise any of the powers conferred upon it by Sections 5.1 and 5.2, all payments made by the Company to the Trustee hereunder after such Event of Default, and the proceeds of any judgment collected from the Company by the Trustee hereunder, and the proceeds of every sale or lease by the Trustee hereunder of any of the Trust Equipment, together with any other sums which may then be held by the Trustee under any of the provisions hereof (other than sums held in trust for the payment of specific Trust Certificates), shall be applied by the Trustee to the payment in the following order of priority: (a) of all proper charges, expenses or advances made or incurred by the Trustee in accordance with the provisions of this Agreement, and (b) of the interest then due, with interest at the Penalty Interest Rate on overdue interest to the extent legally enforceable, and of the principal of all the outstanding Trust Certificates, with interest thereon at the Penalty Interest Rate to the extent legally enforceable from the date of any

declaration by the Trustee under Section 5.1, whether such Trust Certificates shall have then matured by their terms or not, all such payments to be in full if such proceeds shall be sufficient, and if not sufficient, then **pro rata** without preference between principal and interest.

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

Section 5.4. **Waiver of Default.** If at any time after the principal of all the Trust Certificates shall have been declared, and have become due and payable, or if at any time after the entire amount of rentals shall have been declared and become due and payable, all as in Section 5.1 provided, but before the final payment of the principal amount of the Trust Certificates is due pursuant to the fourth paragraph of Section 2.2, all arrears of rent (with interest at the Penalty Interest Rate upon any overdue installments to the extent legally enforceable), the expenses and reasonable compensation of the Trustee, together with all expenses of the trust occasioned by the Company's default, and all other sums which shall have become due and payable by the Company hereunder (other than the principal of the Trust Certificates and any other rental installments which shall not at the time have matured according to their terms) shall be paid by the Company before any sale or lease by the Trustee of any of the Trust Equipment, and every other default in the observance or performance of any covenant or condition hereof shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then the Trustee, if so requested by the Holders of a majority in principal amount of the Trust Certificates then outstanding and which shall not have matured (other than by declaration) according to their terms, shall, by written notice to the Company, waive the default by reason of which there shall have been made such declaration or declarations and the consequences of such default, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

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

Section 5.6. **Company to Deliver Trust Equipment to Trustee.** In case the Trustee shall demand possession of the Trust Equipment pursuant to the provisions hereof, and shall reasonably designate a point or points upon the railroad of the Company or of any Affiliate for the delivery of the Trust Equipment to it, the Company shall, at its own expense forthwith and in the usual manner, cause the Trust Equipment to be moved to such point or points on such railroads as shall be designated by the Trustee and shall there deliver or cause to be delivered the same to the Trustee, or the Trustee may at its option keep the Trust Equipment on any of the lines of railroad or premises of the Company or of any Affiliate until the Trustee shall have leased, sold or otherwise disposed of the same, and for such purpose the Company agrees to furnish without charge for rent or storage, the necessary facilities at any mutually convenient point or points selected by the Trustee. It is hereby expressly covenanted that the performance of this covenant is of the essence of this Agreement and that, upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company requiring the specific performance thereof.

Section 5.7. **Limitations on Actions by Holders.** No Holder shall have any right to institute any action or proceedings at law or in equity for the execution and enforcement of the trust hereby created unless, after the request in writing, under Section 7.5, by the Holders of not less than 25% in principal amount of the then outstanding Trust Certificates shall have been made to the Trustee, and after indemnity satisfactory to it shall have been provided, and after 90 days shall have elapsed after receipt by the Trustee of such request and indemnity, the Trustee shall decline, fail or neglect to institute any proceedings pursuant thereto. Neither the provisions of this Section 5.7 nor the provisions of Section 7.5 shall affect or limit in any way the obligations of the Company under its guaranty hereinabove provided or the rights of the

Holders to institute suit for the enforcement of payments due under said guaranty in respect of the Trust Certificates.

Section 5.8. **Remedies Cumulative.** The remedies in this Agreement provided in favor of the Trustee and the Holders shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity.

ARTICLE SIX

Additional Covenants and Agreements by the Company

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

Section 6.2. **Guaranty to Holders.** The Company covenants and guarantees that the Holder of each of the Trust Certificates shall receive the principal amount thereof, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, when and as the same shall become due and payable, in accordance with the provisions thereof or of this Agreement (and, if not so paid, with interest thereon at the Penalty Interest Rate to the extent legally enforceable), and the Holder of each Trust Certificate shall receive interest thereon in like money at the rate specified therein from the date specified therein from which interest accrues to the date of maturity thereof (and, if not so paid, with interest thereon at the Penalty Interest Rate to the extent legally enforceable); and the Company further covenants and agrees to endorse upon each of the Trust Certificates, at or before the issuance and delivery thereof by the Trustee, its guaranty of the prompt payment of the principal thereof and of the interest thereon, in substantially the form hereinbefore set forth. Said guaranty so endorsed shall be signed in the name and on behalf of the Company by the facsimile signature of its Chairman of the Board or its Vice Chairman of the Board or its President or one of its Vice Presidents or its Treasurer. In case any officer of the Company whose facsimile signature shall appear on said guaranty shall cease to be such officer of the Company before the Trust Certificates shall have been issued and delivered by the Trustee,

or shall not have been acting in such capacity on the date of the Trust Certificates, such guaranty shall nevertheless be as effective and binding upon the Company as though the person who signed said guaranty had not ceased to be, or had then been acting as, such officer.

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

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

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

ARTICLE SEVEN

The Trustee

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

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

Section 7.3. **Duties Concerning Registration, Exchange and Transfer of Trust Certificates.** The Trustee shall keep at the Principal Office books for the registration, exchange and transfer of the Trust Certificates; and upon presentation for any such purpose the Trustee will register, exchange or transfer, as the case may be, as hereinbefore provided, under such reasonable regulations as it may prescribe, any of the Trust Certificates.

Section 7.4. **Insuring or Possession of Trust Equipment upon Indemnification; Recording; Reliance on Documents.** The Trustee shall not be required to undertake any act or duty in the way of insuring, taking care of or taking possession of the Trust Equipment or to undertake any other act or duty under this Agreement until fully indemnified by the Company or by one or more of the Holders against all liability and expenses. The Trustee shall not be responsible for the filing or recording or refiling or rerecording of this Agreement or of any supplement hereto or of any other instrument or document which may be required to perfect the right, title and interest of the Trustee in the contracts assigned to it pursuant to Section 3.1. The Trustee may issue and deliver Trust Certificates in advance of such filing or recording. In accepting delivery of and making payment for the Trust Equipment hereunder, or in accepting any cash payable hereunder in respect of Trust Equipment, the Trustee may rely upon and shall be fully protected by the certificates, invoices, bills of sale and Opinions of Counsel to be furnished to it under Sections 3.4, 4.7 or 4.9, as the case may be, and shall not be required to make any further investigation of or inquiry concerning the matters covered thereby.

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

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

Section 7.6. **Assumption of No Default; May Rely on Notices and Other Documents.** The Trustee may for all purposes conclusively assume that the Company is not in default under the terms hereof until notified in writing to the contrary by the Holders of at least 10% in principal amount of the then outstanding Trust Certificates, which notice shall distinctly specify the Event of Default desired to be brought to the attention of the Trustee. As to any fact or matter, the manner of determining which is not specifically prescribed herein, the Trustee may for all purposes rely upon an Officer's Certificate as to such fact or matter. The Trustee shall not incur any liability to anyone in relying conclusively on, and in acting upon, any request, notice, consent, opinion, order, certificate, warrant or other paper or instrument believed by it to be genuine or authentic and to be signed by the proper party or parties.

Section 7.7. **Money Held by Trustee; Investments.** Any money at any time paid to or held by the Trustee hereunder until paid out by the Trustee as herein provided may be carried by the Trustee on

deposit with itself, without liability for interest thereon except as may be agreed upon between the Trustee and the Company.

Interest, if any, allowed by the Trustee upon any moneys received by it under the provisions hereof and any interest (in excess of accrued interest paid from Deposited Cash or Replacement Funds at the time of purchase) or other profit accruing upon any investment of Deposited Cash or Replacement Funds as permitted by this Section 7.7 shall belong to the Company and be paid to it by the Trustee, as long as the Company shall not be known to the Trustee to be in default hereunder.

At any time there shall be no default under the terms of this Agreement or of any supplement hereto, the Trustee, from time to time on Request, shall invest and reinvest Deposited Cash and Replacement Funds held by it in Investments (the cost thereof to include any premium and accrued interest thereon) to be held by the Trustee in trust for the benefit of the Holders.

The Trustee shall, on Request, or the Trustee may, in the event funds are required for payment against delivery of Equipment, sell such Investments, or any portion thereof, and restore to Deposited Cash or Replacement Funds, as the case may be, the proceeds of any such sale up to the amount paid for such Investments, including accrued interest and premium.

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

Section 7.8. **No Liability for Trust Equipment; May Act through Others; No Responsibility for Recitals, etc.; Compensation; Owning Trust Certificates; Moneys Unclaimed for Six Years; Moneys Held in Trust.** The Trustee shall not be liable to anyone for any delay in the delivery of any of the Trust Equipment, or for any default on the part of any builder thereof or of the Company, or for any defect in any of the Trust Equipment or in the title thereto, nor shall anything herein be construed as a warranty on the part of the Trustee in respect thereof or as a representation in respect of the value thereof or in respect of the title thereto.

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

The Trustee shall be entitled to receive payment of its expenses and disbursements hereunder, including reasonable counsel fees, and to receive reasonable compensation for all services rendered by it in the execution of the trust hereby created, all of which shall be paid by the Company.

The Trustee in its individual capacity may own, hold and dispose of Trust Certificates with the same rights which it would have if it were not Trustee.

Upon Request, any moneys held by the Trustee which shall have been deposited, or are held for the payment of the principal amount of or interest on any Trust Certificates remaining unclaimed for six years after the date when the last annual installment of principal payable on the Trust Certificates becomes due and payable, shall be repaid by the Trustee to the Company, and all liability of the Trustee with respect to such money shall thereupon cease, and the Holders shall thereafter be entitled to look only to the Company for payment thereof; provided, however, that the Trustee may, before making any such repayment and at the expense of the Company, cause notice that said moneys have not been claimed as aforesaid to be published once in a daily newspaper printed in the English language and published in the Borough of Manhattan, City and State of New York, and in the City of Baltimore, State of Maryland, and that after a date specified in such notice, which shall be not less than 30 days after the date of such publication, any unclaimed balance of such moneys then remaining on deposit with the Trustee will be repaid to the Company. In no event shall the Holders be entitled to interest upon such moneys whether held by the Trustee or so repaid to the Company.

Any moneys at any time held by the Trustee hereunder shall, until paid out or invested by the Trustee as herein provided, be

State of Maryland, or in the city in which the Trustee does business, having a capital and surplus aggregating at least $50,000,000, if there be such a bank or trust company willing and able to accept the trust upon reasonable and customary terms and duly qualified to act as such trustee.

Section 7.10. **Merger, Consolidation or Conversion of Trustee.** Any corporation resulting from any merger, consolidation or conversion to which the Trustee shall be a party, or any corporation in any manner succeeding to the corporate trust business or all or substantially all of the business of the Trustee, provided such corporation shall be a national bank, or a state bank or trust company, having trust powers, qualified as above specified in the case of a successor trustee, shall be the successor trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

ARTICLE EIGHT

Miscellaneous

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

(A) The fact and date of the execution by any person of any such request or of any other instrument in writing may be proved (i) by the affidavit of a witness to such execution, or by the certificate of any notary public or of any other officer authorized to take acknowledgments of deeds to be recorded in the state where the acknowledgments may be taken, certifying in each case that the person signing such request or other instrument acknowledged to him the execution thereof, or (ii) in any other manner the Trustee shall deem sufficient. Where such execution is by a person acting in other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority.

(B) The ownership of Trust Certificates shall be determined by the registry books to be kept as provided in Section 7.3.

Section 8.2. **Amendments.** In addition to any other provisions herein, this Agreement may be amended in any respect by a supplement hereto duly executed by the Trustee and the Company or, if Trust Certificates have been issued and are outstanding under this Agreement, by the Trustee and the Company with the consent of the Holders of all of the outstanding Trust Certificates. Any such supplement shall be binding upon all subsequent Holders of the Trust Certificates.

Section 8.3. **Rights Limited to Parties and Holders.** Nothing expressed or implied herein is intended or shall be construed to confer upon or to give to any person, firm or corporation, other than the parties hereto and the Holders, any right, remedy or claim under or by reason of this Agreement or of any term, covenant or condition hereof, and all the terms, covenants, conditions, promises and agreements contained herein shall be for the sole and exclusive benefit of the parties hereto and their successors and assigns and of the Holders.

Section 8.4. **Binding upon Successors and Assigns.** Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns.

Section 8.5. **Notices.** All demands, notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or mailed, in the case of demands and notices, by certified or registered mail, postage paid, and in the case of other communications, by first class mail, postage paid,

(a) to the Company, at
500 Water Street
J220
Jacksonville, Florida 32202
Attention: Treasurer, and

(b) to the Trustee, at
2 Hopkins Plaza, G Level
Baltimore, Maryland 21201
Attention: Corporate Trust Department

Either party may specify another such address by furnishing to the other party such other address in writing. An affidavit by any

person representing or acting on behalf of the Company or the Trustee as to such mailing shall be conclusive evidence of the giving of such demand, notice or other communication.

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

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

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

Section 8.9. **Virginia Law to Govern.** The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the Commonwealth of Virginia; **provided, however,** that the parties shall be entitled to all rights conferred by Section 11303 of Title 49, United States Code.

In Witness Whereof, the Trustee and the Company have caused this Agreement to be executed by their officers thereunto duly authorized and their corporate seals, duly attested, to be hereunto affixed as of the day and year first above written.

MERCANTILE-SAFE DEPOSIT
AND TRUST COMPANY,
Trustee,

By.....
Vice President

[SEAL]
Attest:

.....
Corporate Trust Officer

CSX TRANSPORTATION, INC.

By.....
Treasurer

[SEAL]
Attest:

.....
Corporate Secretary

In Witness Whereof, the Trustee and the Company have caused this Agreement to be executed by their officers thereunto duly authorized and their corporate seals, duly attested, to be hereunto affixed as of the day and year first above written.

MERCANTILE-SAFE DEPOSIT
AND TRUST COMPANY,
Trustee,

By.....
Vice President

[SEAL]
Attest:

.....
Corporate Trust Officer

CSX TRANSPORTATION, INC.

By.....
Treasurer

[SEAL]
Attest:

.....
Corporate Secretary

State of Maryland)
) ss.:
City of Baltimore)

On this 13th day of August, 1992, before me personally appeared John M. Mitchell, to me personally known who, being by me duly sworn, says he is a Vice President of Mercantile-Safe Deposit and Trust Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Marian A. Allen
Notary Public

[Notarial Seal] My commission expires: Nov. 16, 1994

State of Florida)
) ss.:
County of Duval)

On this day of August, 1992, before me personally appeared A. B. Aftoora, to me personally known who, being by me duly sworn, says he is Treasurer of CSX Transportation, Inc., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal] My commission expires:

State of Maryland)
) ss.:
City of Baltimore)

On this day of August, 1992, before me personally appeared , to me personally known who, being by me duly sworn, says he is a Vice President of Mercantile-Safe Deposit and Trust Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal] My commission expires:

State of Florida)
) ss.:
County of Duval)

On this 14th day of August, 1992, before me personally appeared A. B. Aftoora, to me personally known who, being by me duly sworn, says he is Treasurer of CSX Transportation, Inc., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Geneva M. Chapman
Notary Public

[Notarial Seal] My commission expires:

GENEVA M. CHAPMAN
Notary Public - State of Florida
My Commission Expires
August 14, 1995

Geneve M. Chapman
Notary Public
Comm. No. CC136491

SCHEDULE A

Description of Trust Equipment

No. of Units	Description
59	Dash 8-40CW Locomotives, General Electric Company, Builder, to be numbered CSXT 7759-7817, inclusive.