BNSF Burlington Northern Santa Fe

1700 East Golf Road Schaumburg, Illinois 60173-5860 (847) 995-6000

Direct Dial (847) 995-6819
Facsimile (847) 995-6846

Counterparts - Kim Bortman

PLEASE STAMP AND RETURN

September 16, 1996

20266

SEP 1 1996

SEP 17 10 50 AM '96

RECEIVED
SURFACE TRANSPORTATION BOARD

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
12th and Constitution, N. W.
Washington, DC 20423

Re: Equipment Trust Agreement dated as of September 15, 1996 between First Security Bank, National Association, as Trustee, and Burlington Northern Railroad Company

Dear Mr. Williams:

Enclosed herewith please find an original and six (6) counterparts of the document described below to be recorded pursuant to Section 11301 of Title 49 of the U.S. Code.

This document is an Equipment Trust Agreement dated as of September 16, 1996, between First Security Bank, National Association, as Trustee, and Burlington Northern Railroad Company, as the Company, a primary document.

The name and addresses of the parties to this document are:

Trustee:

First Security Bank, National Association, as Trustee
79 South Main Street
Salt Lake City, Utah 84111

The Company:

Burlington Northern Railroad Company
1700 East Golf Road
Schaumburg, Illinois 60173-5860

The equipment covered by the Equipment Trust Agreement consists of 360 aluminum coal cars built by Johnstown America Corporation and lettered BNSF and numbered 667971 to 668327 (both inclusive) and 699125 to 699127 (both inclusive); 332 coil steel gondola cars built by National Steel Car Limited and lettered BN and numbered 686533 to 686864 (both inclusive);

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and 130 drop bottom ore (taconite) cars built by Johnstown America Corporation and lettered BN and numbered 98100 to 98189 (both inclusive) and lettered BNSF and numbered 601140 to 601179 (both inclusive).

For the convenience of the parties, I have enclosed six (6) additional counterparts of the Equipment Trust Agreement, which I would like to have returned to me bearing the recordation information.

Enclosed please find my Check No. 5081, dated September 16, 1996, for the amount of $21.00 for payment for the Board's prescribed recordation fee.

A short summary of the enclosed document to appear in the Board's Index is:

Primary Document

Equipment Trust Agreement dated as of September 16, 1996, between First Security Bank, National Association, as Trustee (the "Trustee") and Burlington Northern Railroad Company (the "Company") relating to 360 aluminum coal cars built by Johnstown America Corporation and lettered BNSF and numbered 667971 to 668327 (both inclusive) and 699125 to 699127 (both inclusive); 332 coil steel gondola cars built by National Steel Car Limited and lettered BN and numbered 686533 to 686864 (both inclusive); and 130 drop bottom ore (taconite) cars built by Johnstown America Corporation and lettered BN and numbered 98100 to 98189 (both inclusive) and lettered BNSF and numbered 601140 to 601179 (both inclusive).

If you have any questions or comments concerning this request, please contact me.

Very truly yours,

Craig N. Smetko
General Attorney

CNS:cns
Enclosures

cc: Mr. Brett King

CNS\EQUIPTR\BNRR96AA COR

SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423-0001

9/17/96

Craig N. Smetko
General Attorney
BNSF Burlington Northern Santa Fe
1700 East Golf Road
Schaumburg, Illinois 60173-5860

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 9/17/96 at 10:55AM, and assigned recordation number(s). 20266.

Sincerely yours,

Vernon A. Williams
Secretary

Enclosure(s)

$ 22.00 The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid and in no way indicates acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one typed on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had an opportunity to examine your document.

Signature Janice M. Fort

RECORDATION NO. 20266
SEP 17 1996 10:55 AM
INTERSTATE COMMERCE COMMISSION

BURLINGTON NORTHERN RAILROAD COMPANY
EQUIPMENT TRUST SERIES AA

EQUIPMENT TRUST AGREEMENT
DATED AS OF SEPTEMBER 15, 1996

BETWEEN

FIRST SECURITY BANK, NATIONAL ASSOCIATION,
as Trustee

AND

BURLINGTON NORTHERN RAILROAD COMPANY,
as Company

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This EQUIPMENT TRUST AGREEMENT, dated as of September 15, 1996 between FIRST SECURITY BANK, NATIONAL ASSOCIATION, a national banking association incorporated and existing under the laws of the United States of America, as trustee (hereinafter called the **"Trustee"**), and BURLINGTON NORTHERN RAILROAD COMPANY, a Delaware corporation (hereinafter called the **"Company"):**

WITNESSETH:

WHEREAS, the railroad equipment described herein has been or will be constructed and transferred to the Trustee, or contracts therefor have been entered into;

WHEREAS, title to all 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;

WHEREAS, Burlington Northern Railroad Company Equipment Trust Series AA Equipment Trust Certificates (hereinafter called the **"Trust Certificates")** are to be issued and sold from time to time in an aggregate principal amount not exceeding $33,525,000 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 the Trust Certificates so issued and sold, to be known as BURLINGTON NORTHERN RAILROAD COMPANY EQUIPMENT TRUST SERIES AA, to be applied by the Trustee from time to time in full or partial payment of the Cost (as hereinafter defined) of the Trust Equipment, the remainder of the Cost thereof, if any, to be paid out of advance rentals to be paid by the Company as provided herein;

WHEREAS, the texts of the Trust Certificates and the guaranty to be endorsed on the Trust Certificates by the Company may be substantially in the following form or in such other form, not inconsistent with this Agreement, as shall be established by or pursuant to a resolution of the Board of Directors of the Company or in one or more agreements supplemental to this Agreement:

[FORM OF TRUST CERTIFICATE]

[Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation (**"DTC"**), to the issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR

VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered-owner hereof, Cede & Co., has an interest herein.

THIS CERTIFICATE IS A GLOBAL CERTIFICATE AS REFERRED TO IN THE AGREEMENT HEREINAFTER REFERENCED. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR THE INDIVIDUAL TRUST CERTIFICATES REPRESENTED HEREBY, THIS GLOBAL CERTIFICATE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY DTC TO A NOMINEE OF DTC OR BY A NOMINEE OF DTC TO DTC OR ANOTHER NOMINEE OF DTC OR BY DTC OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY.]

No ....

$..... [CUSIP No. .....]

BURLINGTON NORTHERN EQUIPMENT TRUST

SERIES AA

Equipment Trust Certificate

Total Authorized Issue $_____

FIRST SECURITY BANK, NATIONAL ASSOCIATION
Trustee

Interest at the Rate of __% Per Annum Payable
_____ and _____

Principal Hereof Payable _____

FIRST SECURITY BANK, NATIONAL ASSOCIATION, as Trustee (hereinafter called the **"Trustee"**) under an Equipment Trust Agreement, dated as of September 15, 1996 (hereinafter called the **"Agreement"**), between the Trustee and BURLINGTON NORTHERN RAILROAD COMPANY, a Delaware corporation (hereinafter called the **"Company"**), hereby certifies that _____, or registered assigns, is entitled to an interest in the principal amount of_____ Dollars in BURLINGTON NORTHERN RAILROAD COMPANY EQUIPMENT TRUST SERIES AA, payable on the principal payment date stated above, upon presentation and surrender of this Trust Certificate to the Trustee at its principal office or agency for such payment in Salt Lake City, Utah (which agency may be the office of the Company in said city), and to payment, until said last mentioned date, of interest on said principal amount at the rate of ____% per annum from _____, 19__ [or, if interest has been paid or duly provided for after such date, from the _____ or _____ to which interest has been paid or duly provided for next preceding or coinciding with the date of this Trust Certificate]. Such interest shall be payable semi-

annually on _____ and _____ in each year, commencing _____, 19__ together with interest at such interest rate on any unpaid principal, premium, if any, and interest to the extent that it shall be legally enforceable. Interest will, except as otherwise provided in the Agreement, be paid to the holder of record at the close of business on the regular record date for such interest, which regular record date shall be the _____ day (whether or not a business day) of the month [next preceding] [in which] such interest payment date [occurs]. Principal, premium, if any, and interest will be payable to the registered holder hereof at said principal office or agency of the Trustee for such payment, 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; provided, however, that payment of interest, premium, if any, or principal may be made at the option of the Trustee by check mailed to the address of the person so entitled thereto as such address shall appear on the records of the Trustee.

This Equipment Trust 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 specified above except as otherwise provided in the Agreement [issuable in the form of serial Certificates, sinking fund Certificates or single maturity Certificates], all of which are substantially similar except as to serial number, principal amount, [rate of interest and date of maturity,] 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 **"Investment Securities"** 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 issued thereunder. Reference is made to the Agreement (a copy of which is on file with the Trustee at its principal office in Salt Lake City, Utah) 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, to all of which the registered holder hereof, by accepting this Certificate, assents.

As provided in the Agreement and subject to the satisfaction of certain conditions therein set forth, upon the deposit in trust of certain funds or obligations sufficient for the payment of the Certificates, the Company shall be deemed to have paid and discharged the entire indebtedness represented by, and the obligations under, the Certificates and to have satisfied all the obligations under the Agreement relating to the Certificates.

The Certificates are only issuable as fully registered certificates in denominations of $1,000 or more. The several denominations of Certificates are interchangeable for Certificates of like tenor and maturity in authorized denominations upon presentation thereof at the principal office or agency of the Trustee for registration of transfer and exchange, 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 said

principal office or agency, accompanied by an appropriate instrument of assignment and transfer, duly executed by the registered holder in person or by such attorney, in form satisfactory to the Trustee, and thereupon a new Certificate or Certificates of like tenor in authorized denominations for the same aggregate principal amount and having the same interest rate and date of maturity will be issued to the transferee in exchange therefor. Prior to due presentment for registration of transfer, 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.

[As a mandatory sinking fund for the Certificates, the Company will pay to the Trustee, on or before _____, ____ in each year, commencing _____, ____, and continuing to and including _____, ____, rental in an amount sufficient to redeem $_____ in aggregate principal amount of the Certificates.] [The Company may, by a written request delivered to the Trustee not more than 90 days nor less than 45 days preceding any _____, commencing _____, ____, elect to make to the Trustee a payment of additional rental to be applied as an optional sinking fund for this and other Certificates of like tenor. In such event, as an optional sinking fund for this and other Certificates of like tenor, the Company shall pay to the Trustee on or before the _____ next succeeding the delivery of such a request, additional rental in an amount sufficient to redeem the aggregate principal amount of such Certificates (not to exceed the amount of the mandatory sinking fund for that year) set forth in such request.] [As more fully provided in the Agreement, the Certificates are subject to redemption through the application of such rental [and additional rental] on _____, ____, and on each _____ thereafter to and including _____, ____, at 100% of the principal amount thereof, together with accrued and unpaid interest to the date fixed for redemption. [The Certificates are [also] subject to redemption [on and after _____, _____,] at the Company's option, in whole at any time or in principal amounts of not less than $1,000,000 from time to time, at ___% of the principal amount thereof, together with accrued and unpaid interest to the date fixed for redemption.] Notice of any such redemption shall be given, as provided in said Agreement, not less than 30 days nor more than 45 days before the date on which such redemption is to be made. The Agreement further provides that the Company may, at its option, credit against rental payments in respect of the mandatory sinking fund Certificates not theretofore credited or redeemed pursuant to the mandatory sinking fund, such credit to be in an amount equal to 100% of the principal amount of such Certificates, plus accrued interest thereon.][1]

The Agreement [also] provides that this Certificate is subject to redemption in certain circumstances, in whole or in part, at the option of the Company, if any of the railroad

---

[1]The bracketed material included in the form of Trust Certificates may be included, with appropriate insertions, in whole or in part in the form of Certificates issued, all as specified in a Request delivered to the Trustee pursuant to Sections 2.1 or 2.5.

equipment leased to the Company suffers a Casualty Occurrence (as defined in the Agreement).

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.

This Certificate shall not be valid unless authenticated by the manual signature of an authorized signatory of the Trustee.

NO PURCHASER SHOULD PURCHASE THIS CERTIFICATE OR ANY INTEREST IN THIS CERTIFICATE WITH PLAN ASSETS OF ANY PLAN SUBJECT TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("ERISA"), OR SECTION 4975 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE"), IF THE PURCHASE OR HOLDING OF THIS CERTIFICATE OR INTEREST WILL RESULT IN A NONEXEMPT PROHIBITED TRANSACTION UNDER SECTION 406(a) OF ERISA OR SECTION 4975 OF THE CODE.

IN WITNESS WHEREOF, the Trustee has caused this Certificate to be signed by the manual or facsimile signature of one of its [Assistant] Vice Presidents, Trust Officers or Trust Administrators and authenticated by the manual signature of one of its authorized signatories.

Dated as of_____, ____

FIRST SECURITY BANK,
NATIONAL ASSOCIATION
as Trustee

By:_____
Title:_____

This Certificate is one of the Certificates issued under the within-described Agreement.

FIRST SECURITY BANK,
NATIONAL ASSOCIATION

By:_____
Title:_____

[FORM OF GUARANTY FOR TRUST CERTIFICATES]

BURLINGTON NORTHERN RAILROAD COMPANY, for a valuable consideration, hereby unconditionally guarantees to the registered holder of the within Certificate the prompt payment of the principal of the Certificate, of the interest thereon specified in the Certificate, and of the premium, if any, determined in accordance with the Agreement referred to in the within Certificate, with interest at the interest rate of the Certificates on any unpaid principal, premium, if any, and interest to the extent that it shall be legally enforceable, all in accordance with the terms of the Certificate and the Agreement referred to therein.

BURLINGTON NORTHERN
RAILROAD COMPANY

By:_____
Title:_____

; and

WHEREAS, it is desired to provide security to the holders of the Trust Certificates for the payment of the principal thereof, and premium, if any, and interest thereon, and to evidence the rights of the holders of the Trust Certificates in substantially the form hereinbefore set forth;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties agree as follows:

ARTICLE ONE

DEFINITIONS

SECTION 1.1. The following terms (except as otherwise expressly provided or unless the context otherwise requires) for all purposes of this Agreement shall have the respective meanings hereinafter specified:

"Acquisition Deposit" shall mean any deposit or deposits made pursuant to Section 4.6 hereof.

"Affiliate" shall mean any Person that, directly or indirectly, controls, 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 Person, shall mean the possession of 50% or more of the voting power of such Person or the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

"Casualty Occurrence" shall mean any occurrence specified in Section 5.9 to be a Casualty Occurrence.

"Company" shall mean Burlington Northern Railroad Company, a Delaware corporation, its successors and any assignee or successive assignees of its rights under this Agreement pursuant to Section 5.8.

"Cost", when used (i) with respect to Trust Equipment that is new Equipment or used Equipment purchased from a third party other than an Affiliate, shall mean the actual cost thereof paid by the Company, (ii) with respect to Trust Equipment that is new Equipment or used Equipment purchased from an Affiliate, the fair market value of such Equipment as determined by an independent appraiser, (iii) with respect to all or any portion of the Trust Equipment built or rebuilt by the Company, shall mean the so-called "car builder's cost" which shall include cost of labor and material and overhead, but shall exclude any manufacturing profit, and (iv) with respect to Trust Equipment that is used Equipment then owned by the Company, shall mean the fair market value of such Equipment as determined by the chief mechanical officer in the Company's operating department or by an independent appraiser.

"Defaulted Interest" shall have the meaning specified in Section 2.2 hereof.

"Depositary" means, unless otherwise specified by a Request delivered pursuant to Section 2.1 or 2.5, with respect to any Trust Certificates issuable or issued as one or more Global Certificates, The Depository Trust Company, New York, New York, or any successor thereto registered as a clearing agency under the Securities Exchange Act of 1934 or other applicable statute or regulation.

"Deposited Cash" shall mean the aggregate of (a) cash on deposit with the Trustee as provided in the first sentence of Section 2.1 hereof and, when required or indicated by the context, any Investment Securities purchased by the use of such cash pursuant to the provisions of Section 8.7 hereof, (b) any rentals on deposit with the Trustee pursuant to Section 5.4(A)(1) or Section 5.4(B)(7) hereof, and (c) any sums restored to Deposited Cash from rentals pursuant to Section 5.4(B)(1)(b) hereof and on deposit with the Trustee.

"Equipment" means new, rebuilt or used standard gauge railroad equipment (other than passenger cars and work equipment) and autoracks.

"Estimated Cost" of any Trust Equipment shall mean the estimated Cost thereof specifically set forth herein or in any supplement hereto.

"Event of Default" shall mean any event specified in Section 6.1 to be an Event of Default.

"Fair Value" of any unit of Trust Equipment shall be deemed to be the Cost thereof less depreciation accrued thereon computed by the straight-line method at the rate of six and two-thirds percent (6 2/3%) of said Cost for each full year (but not pro rata for any part of a year) during which the unit was subject to this Agreement prior to the date as of which the Fair Value is so to be determined; provided, however, that if the fixed maturity date of the latest maturing Trust Certificate shall be more than 15 years from the Original Issuance Date, the rate of depreciation shall be a percentage equal to 100 divided by the number of full years from the Original Issuance Date to the date of final maturity of the latest maturing Trust Certificate; and provided, further, that in the case of used Equipment, the rate of depreciation shall be a percentage equal to 100 divided by the number of full years left in the remaining useful life (not to exceed 15 years) as specified pursuant to Section 4.4(a) for such Equipment at the time such Equipment becomes subject to this Agreement.

"Financing Percentage" shall mean the percentage specified in the Request delivered pursuant to Section 2.1 or Section 2.5 hereof, which is the percentage of the Cost of the Equipment intended to be financed through the sale of Trust Certificates.

"Global Certificate" means a Trust Certificate issued in the form of a Serial Certificate, Single Maturity Certificate or Sinking Fund Certificate by the Trustee to the Depositary or pursuant to the Depositary's instruction, all in accordance with this Agreement and pursuant to a Request delivered pursuant to Section 2.1 or Section 2.5, which shall be registered in the name of the Depositary or its nominee and which shall represent, and shall be denominated in an amount equal to the aggregate principal amount of, all of the outstanding Trust Certificates or any portion thereof of a particular maturity and interest rate and having sinking fund provisions and redemption provisions, if any, and containing such particular terms as may be specified in the Request.

The word **"holder"** shall mean the registered owner of a Trust Certificate.

"Investment Securities" shall mean bonds, notes or other direct obligations of the United States of America or obligations for which the full faith and credit of the United States are pledged to provide for the payment of the interest and principal; commercial paper rated in the highest grade by a nationally recognized rating agency; and bankers' acceptances and certificates of deposit (including Eurodollar certificates of deposit) issued by (i) any bank or trust company or a foreign branch thereof which is organized under the laws of the United States or any state thereof and has total deposits in excess of one billion dollars, or (ii) any United States branch of a foreign bank if such foreign bank has total deposits (United States dollar equivalent) in excess of ten billion dollars.

"Officer's Certificate" shall mean a certificate signed by any of the Chairman of the Board, the Chief Executive Officer, the Vice Chairman of the Board, the President, any Vice President, the Treasurer, any Assistant Treasurer, the Controller, any Assistant Controller, 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 (1) an employee of or counsel to the Company or (2) other counsel acceptable to the Trustee.

"Original Issuance Date" with respect to the Trust Certificates shall mean the earliest date any such Trust Certificate is issued.

"Person" shall mean any individual, corporation, partnership, joint venture, limited liability company, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

"Principal Office" shall mean the principal office of the Trustee in Salt Lake City, Utah, where at any particular time its corporate trust business shall be principally administered, which office at the date hereof is located at 79 South Main Street, Salt Lake City, Utah 84111, except that with respect to the presentation of Trust Certificates for payment or for registration of transfer and exchange, such term shall mean the office or the agency of the Trustee in such city where at any particular time its corporate agency business shall be conducted, which office at the date hereof is also located at 79 South Main Street, Salt Lake City, Utah 84111.

"Refunding Certificates" shall mean Serial Certificates, Single Maturity Certificates or Sinking Fund Certificates which are issued hereunder, the proceeds of which are to be applied by the Trustee to pay the principal amount of Single Maturity Certificates or Sinking Fund Certificates upon the maturity or redemption thereof.

"Rent Payment Date" shall mean each date on which payments of principal or interest on the Trust Certificates are scheduled to be made.

"Replacement Funds" shall mean any moneys specified in Section 5.9 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 any of the Chairman of the Board, the Chief Executive Officer, the Vice Chairman of the Board, the President, any Vice President, the Treasurer, any Assistant Treasurer, the Controller, any Assistant Controller, the Secretary or any Assistant Secretary of the Company.

"Serial Certificates" shall mean Trust Certificates with serial maturities.

"Single Maturity Certificates" shall mean Trust Certificates not subject to a sinking fund or having serial maturities.

"Sinking Fund Certificates" shall mean Trust Certificates subject to redemption through a sinking fund.

"Surface Transportation Board" shall mean the Surface Transportation Board of the United States Department of Transportation.

"Trust Certificates" shall mean Burlington Northern Railroad Company Equipment Trust Series AA Equipment Trust Certificates, issued hereunder.

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

"Trustee" shall mean First Security Bank, National Association and, subject to the provisions of Article Eight hereof, any successor as Trustee hereunder.

"Trustee Lien" shall mean any lien against the Trust Equipment or any part thereof that results from any act of, or any failure to act by, or as a result of any claim against, the Trustee arising out of any event or condition unrelated to (i) the ownership or use of the Trust Equipment or any part thereof, (ii) the administration of the trust created hereunder, or (iii) the transactions contemplated by this Agreement, excluding any tax, assessment or charge for which the Company is obligated to indemnify the Trustee hereunder.

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

The terms defined in this Section 1.1 shall include the plural as well as the singular.

ARTICLE TWO

TRUST CERTIFICATES AND ISSUANCE THEREOF

SECTION 2.1. ISSUANCE OF TRUST CERTIFICATES. The net proceeds of the sale of the Trust Certificates shall forthwith, upon issuance thereof, be deposited in cash 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 5.4(A)(1) hereof. 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 direct by Request, Trust Certificates substantially in the form set forth herein, in the form of Serial Certificates, Sinking Fund Certificates or Single Maturity Certificates, or a combination thereof, with the guaranty thereon executed by the Company and in the aggregate principal amount so sold, having maturities and bearing interest on the dates and at the rate or rates and

having such sinking fund provisions and redemption provisions, if any, and containing such other provisions (including whether such Trust Certificates are to be issued in the form of one or more Global Certificates), as may be specified in such Request. If any Trust Certificates are to be issued in the form of one or more Global Certificates, the Company may specify by Request the Depositary for such Global Certificates and the terms and conditions, if any, upon which such Global Certificates may be exchanged for other individual Trust Certificates. The Financing Percentage applicable to all Trust Certificates issued hereunder shall be the percentage specified in the first Request made by the Company pursuant to this Section 2.1, or any lower percentage specified in a subsequent Request made by the Company pursuant to this Section 2.1 or Section 2.5.

The aggregate principal amount of Trust Certificates which shall be executed and delivered by the Trustee hereunder shall not exceed the sum of $33,525,000 except as otherwise herein provided. Notwithstanding the foregoing, Refunding Certificates in an aggregate principal amount not to exceed the aggregate principal amount of Single Maturity Certificates or Sinking Fund Certificates due to mature or to be redeemed may be executed and delivered by the Trustee in accordance with the provisions of Section 2.10 hereof.

SECTION 2.2. INTERESTS REPRESENTED BY TRUST CERTIFICATES; INTEREST; DENOMINATIONS; DATING. 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 such principal amount at the rate to be specified by the Company at the time of delivery thereof by the Trustee, payable semi-annually on the dates specified in the Request delivered pursuant to Section 2.1 or Section 2.5.

The Trust Certificates shall be in denominations of $1,000 or more.

Each Trust Certificate shall be dated the date that it is issued by the Trustee. Interest will be paid to the person or persons in whose name or names the Trust Certificates are registered at the close of business on the regular record date for such interest, which regular record date shall be specified by the Company in a Request pursuant to Section 2.1 or Section 2.5.

Any interest on any Trust Certificate which is payable, but is not punctually paid or duly provided for, on any interest payment date (any such interest, together with any interest payable in connection therewith, being hereinafter called "**Defaulted Interest**") shall forthwith cease to be payable to the registered holder on the relevant regular record date by virtue of having been such holder. The Company may provide for the payment of Defaulted Interest by giving notice to the Trustee in writing of the amount of Defaulted Interest to be paid on each Trust Certificate and the date of the proposed payment, and by the deposit with the Trustee (or by making arrangements satisfactory to the Trustee for deposit with the Trustee) before the date of the proposed payment of an amount of money equal to the aggregate amount proposed to be paid in respect of Defaulted Interest, such money when deposited to be held by the Trustee in trust for the benefit of the persons entitled to such Defaulted Interest. After receipt by the Trustee

of such notice, the Trustee shall pay Defaulted Interest, at its election in each case, as provided in either subparagraphs (1) or (2) below, provided in every case that the Trustee receives from or on behalf of the Company before the date of the proposed payment an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest:

(1) The Trustee may elect to make payment of any Defaulted Interest to the persons in whose names the Trust Certificates are registered at the close of business on a special record date for the payment of such Defaulted Interest, which special record date shall be fixed by the Trustee and shall be not more than 15 nor less than 10 days before the date of the proposed payment. The Trustee shall promptly notify the Company of such special record date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the special record date therefor to be mailed, first-class postage prepaid, to the persons in whose names the Trust Certificates are registered, not less than 10 days before such special record date. Notice of the proposed payment of such Defaulted Interest and the special record date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the persons in whose names the Trust Certificates are registered on such special record date and shall no longer be payable pursuant to the next following subparagraph (2).

(2) The Trustee may make payment of any Defaulted Interest in any other lawful manner if, after notice given by the Company to the Trustee of the proposed payment pursuant to this subparagraph, notice shall be given to the holders of Trust Certificates in a manner satisfactory to the Trustee and such payment shall be deemed practicable by the Trustee.

Principal, premium, if any, and interest will be payable at the Principal Office of the Trustee for such payment, 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; provided, however, that payment of interest and Defaulted Interest may be made at the option of the Trustee by check mailed to the address of the person so entitled thereto as such address shall appear on the records of the Trustee; and provided further, that payment of principal, premium, if any, and interest in respect of a Global Certificate shall be made in accordance with the Depositary's procedures.

SECTION 2.3. FORMS OF TRUST CERTIFICATES AND GUARANTY. The Trust Certificates and the guaranty to be endorsed on the Trust Certificates by the Company, as hereinafter provided in Section 7.2 hereof, shall be in substantially the form hereinbefore set forth, with such changes and modifications therein as may be specified in the Request delivered pursuant to Section 2.1 or Section 2.5.

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 facsimile signature of one of its Vice Presidents, Assistant Vice Presidents, Trust Officers or Trust Administrators and authenticated by the manual signature of one of its authorized signatories. In case any officer or authorized signatory of the Trustee whose signature, whether facsimile or not, shall appear on any of the Trust Certificates shall cease to be such officer or authorized signatory of the Trustee 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 Trust Certificates shall be adopted by the Trustee and be issued and delivered, and shall be as effective and binding, as though such persons had not ceased to be or had then been acting as such officer or authorized signatory of the Trustee.

SECTION 2.5. TRANSFER OF TRUST CERTIFICATES; OWNERS THEREOF; EXCHANGE OF TRUST CERTIFICATES. The Trust Certificates shall be registered, as to both principal and interest, in the name of the holder and, subject to Section 2.9, shall be transferable upon presentation and surrender thereof for registration of transfer at the Principal Office or agency of the Trustee in Salt Lake City, Utah (which agency may be an office of the Company in said city), accompanied by an appropriate instrument of assignment and transfer, duly executed by the registered holder of the surrendered Trust Certificate or Certificates or by such registered holder's duly authorized attorney, in form satisfactory to the Trustee. Prior to due presentment for registration of transfer, the parties hereto may deem and treat the registered 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.

Subject to Section 2.9, the several denominations of Trust Certificates may be exchanged for a like aggregate principal amount of Trust Certificates of authorized denominations bearing the same interest rate and maturity. Any Trust Certificate to be exchanged shall be surrendered at the Principal Office or agency of the Trustee in Salt Lake City, Utah.

For any registration of transfer or exchange, the Trustee may, and at the Request of the Company 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, neither gain nor loss in interest shall result from such exchange, substitution or transfer.

In the event that all or any part of the Trust Certificates are issued pursuant to Section 2.1 hereof to an Affiliate of the Company or any interim investor approved by the Company (as evidenced by a Request), and should such Affiliate or interim investor decide to make a secondary offer of such Trust Certificates, upon surrender for transfer of such Trust Certificates

as hereinabove provided in this Section 2.5, the Trustee shall, upon Request, issue and deliver to the purchaser of such Trust Certificates either new Serial Certificates, Sinking Fund Certificates or Single Maturity Certificates, or a combination thereof, as specified in said Request and in like principal amount, having such maturities, bearing interest at such rate or rates to accrue and being payable on such date or dates to holders of record on such date or dates, and having such sinking fund provisions and redemption provisions, if any, and containing such other provisions (including the Financing Percentage and whether such Trust Certificates are to be issued in the form of one or more Global Certificates), as may be specified in said Request. If one or more Global Certificates shall be issued pursuant to this paragraph, the Company may specify by Request the Depositary for such Global Certificates and the terms and conditions, if any, upon which the Global Certificates may be exchanged for other individual Trust Certificates.

The Trustee shall not be required to (i) issue, register the transfer of or exchange any Trust Certificate for a period beginning at the opening of business 15 days before the selection of the Trust Certificates to be called for redemption and ending on the close of business on the day of mailing notice of redemption or (ii) register the transfer of or exchange any Trust Certificate so selected for redemption in whole or in part, except the unredeemed portion of any Trust Certificate being redeemed in part.

No purchaser should purchase a Certificate or any interest in a Certificate with plan assets of any employee benefit plan subject to Title I of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), or Section 4975 of the Internal Revenue Code of 1986, as amended (the "**Code**"), if the purchase or holding of the Certificate or interest would result in a nonexempt prohibited transaction under Section 406(a) of ERISA or Section 4975 of the Code.

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 the Request of the Company, shall execute and deliver a new fully registered Trust Certificate of like interest rate, tenor, maturity and date, and bearing the same or a different serial number as 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 Certificate so delivered. The applicant for a new Trust Certificate shall furnish to the Trustee and to the Company evidence to their satisfaction 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 (to the extent lawful) any and 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 before the issuance of definitive Trust Certificates the Trustee shall, upon Request of the Company, issue and deliver, 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, without charge to the holder, for the definitive Trust Certificates in lieu of which they are 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 interest rate and maturity and 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.

SECTION 2.8. CANCELLATION OF TRUST CERTIFICATES. The Company may at any time deliver to the Trustee for cancellation any Trust Certificates that the Company may have acquired in any manner whatsoever, and all Trust Certificates so delivered shall be promptly canceled and destroyed by the Trustee. The Trustee shall provide written confirmation of the cancellation and destruction of any Trust Certificates to the Company.

SECTION 2.9. TRUST CERTIFICATES ISSUABLE IN THE FORM OF A GLOBAL CERTIFICATE. (a) If the Company shall direct by Request delivered pursuant to Section 2.1 or Section 2.5 that the Trust Certificates are to be issued in whole or in part in the form of one or more Global Certificates, then the Trustee shall issue and deliver, as indicated in the Request, such Global Certificate or Certificates, which (i) shall represent, and shall be denominated in an amount equal to, the aggregate principal amount of the outstanding Trust Certificates to be represented by such Global Certificate or Certificates, or such portion thereof as the Company shall specify in such Request, (ii) shall be registered in the name of the Depositary for such Global Certificate or Certificates or its nominee, (iii) shall be delivered by the Trustee to such Depositary or pursuant to such Depositary's instruction and (iv) shall bear a legend substantially to the following effect:

> "Unless and until it is exchanged in whole or in part for the individual Trust Certificates represented hereby, this Global Certificate may not be transferred except as a whole by the Depositary to a nominee of the Depositary or by a nominee of the Depositary to the Depositary or another nominee of the Depositary or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary."

(b) Notwithstanding any other provision of this Section 2.9 or of Section 2.5, and subject to the provisions of paragraph (c) below, unless the terms of a Global Certificate expressly permit such Global Certificate to be exchanged in whole or in part for individual Trust Certificates, a Global Certificate may be transferred, in whole but not in part and in the manner provided in Section 2.5, only to a nominee of the Depositary for such Global Certificate, or to the Depositary, or to a successor Depositary for such Global Certificate selected or approved by the Company, or to a nominee of such successor Depositary.

(c) (i) If at any time the Depositary for a Global Certificate notifies the Company that it is unwilling or unable to continue as depositary for such Global Certificate or if at any time the Depositary for such Global Certificate shall no longer be eligible or in good standing under the Securities Exchange Act of 1934, or other applicable statute or regulation, the Company shall appoint a successor Depositary with respect to such Global Certificate. If a successor Depositary for such Global Certificate is not appointed by the Company within 90 days after the Company receives such notice or becomes aware of such ineligibility, the Trustee, upon receipt of a Request for the issuance and delivery of individual Trust Certificates in exchange for such Global Certificate, will issue and deliver individual Trust Certificates of like tenor and terms in an aggregate principal amount equal to the principal amount of the Global Certificate in exchange for such Global Certificate.

(ii) The Company may at any time and in its sole discretion determine that the Trust Certificates or portion thereof issued or issuable in the form of one or more Global Certificates shall no longer be represented by such Global Certificate or Certificates. In such event, the Trustee, upon receipt of a Request for the issuance and delivery of individual Trust Certificates in exchange in whole or in part for such Global Certificate or Certificates, will issue and deliver individual Trust Certificates of like tenor and terms in an aggregate principal amount equal to the principal amount of such Global Certificate or Certificates representing such Trust Certificates or portion thereof in exchange for such Global Certificate or Certificates.

(iii) If specified by Request delivered pursuant to Section 2.1 or Section 2.5 with respect to Trust Certificates issued or issuable in the form of a Global Certificate, the Depositary for such Global Certificate may surrender such Global Certificate in exchange in whole or in part for individual Trust Certificates of like tenor and terms in definitive form on such terms as are acceptable to the Company and such Depositary. Thereupon the Trustee shall issue and deliver, (1) to each Person specified by such Depositary a new Trust Certificate or Certificates of like tenor and terms and of any authorized denomination as requested by such Person in aggregate principal amount equal to and in exchange for such Person's beneficial interest as specified by such Depositary in such Global Certificates; and (2) to such Depositary a new Global Certificate of like tenor and terms equal to the difference, if any, between the principal amount of the surrendered Global Certificate and the aggregate principal amount of individual Trust Certificates delivered to holders thereof.

(iv) In any exchange provided for in any of the preceding three paragraphs, the Trustee will issue and deliver individual Trust Certificates in definitive registered form in

authorized denominations. Except as provided in the preceding paragraph, Trust Certificates issued in exchange for a Global Certificate pursuant to this Section shall be registered in such names and in such authorized denominations as the Depositary for such Global Certificate shall instruct the Trustee. The Trustee shall deliver at its Principal Office such Trust Certificates to the Persons in whose names such Trust Certificates are so registered.

SECTION 2.10. ISSUANCE OF REFUNDING CERTIFICATES. On or before the fifteenth business day preceding the maturity date or the redemption date of outstanding Single Maturity Certificates or Sinking Fund Certificates to be refunded, the Company shall notify the Trustee of its intent to issue Refunding Certificates pursuant to this Section 2.10 and, following such notice, the Company shall, on or before such maturity date or redemption date, as the case may be, direct the Trustee by Request to issue Refunding Certificates pursuant to Section 2.1 hereof in an aggregate principal amount not to exceed the aggregate principal amount of such outstanding Single Maturity Certificates or Sinking Fund Certificates.

The Trustee shall apply the net proceeds of the sale of the Refunding Certificates, together with the rental payable by the Company in respect of such sale pursuant to Sections 5.4(B)(6) and 5.4(B)(7), to the repayment of the principal amount of the Single Maturity Certificates or Sinking Fund Certificates maturing or being redeemed, and the rental due from the Company pursuant to Section 5.4(B)(4) or Section 5.4(B)(5), as the case may be, in respect of such Single Maturity Certificates or Sinking Fund Certificates shall be adjusted accordingly; provided, however, that this Section 2.10 shall not affect the validity or scope of the guaranty of the Company in respect of the payment of principal of such Single Maturity Certificates or Sinking Fund Certificates.

ARTICLE THREE

REDEMPTION OF TRUST CERTIFICATES

SECTION 3.1. TRUST CERTIFICATES SUBJECT TO REDEMPTION. The Trust Certificates shall, in the manner specified and subject to the provisions set forth in this Article Three, be redeemable as follows:

(1) Sinking Fund Redemption. Sinking Fund Certificates shall be subject to redemption through the application of the rental payable to the Trustee pursuant to Section 5.4(B)(4) and, to the extent specifically provided therein, Section 5.4(B)(3), on the date or dates and in the amount or amounts set forth in the Request delivered pursuant to Section 2.1 or Section 2.5 (each such date being herein called a **"sinking fund redemption date"**), at a redemption price of 100% of the principal amount thereof, together with accrued and unpaid interest to the date fixed for redemption.

(2) Optional Redemption. If specified in the Request delivered pursuant to Section 2.1 or Section 2.5, Sinking Fund Certificates and Single Maturity Certificates are also subject to redemption, at the option of the Company, as a whole at any time or in principal amounts of not less than $1,000,000 from time to time, on and after the date and at the redemption prices specified in the Request, together with accrued and unpaid interest to the redemption date.

(3) Redemption upon Casualty Occurrence. If at any time the Replacement Funds held by the Trustee in respect of Casualty Occurrences pursuant to Section 5.9 shall equal or exceed $1,000,000, Trust Certificates in a principal amount not exceeding such amount of Replacement Funds may be redeemed upon the Request of the Company on the date (complying with the requirements of Section 3.4) specified in such Request and at a redemption price of 100% of the principal amount thereof, together with accrued and unpaid interest to the date fixed for redemption.

Any redemption resulting from a Casualty Occurrence shall not require the payment of any premium.

SECTION 3.2. SELECTION OF SINKING FUND CERTIFICATES TO BE CALLED FOR REDEMPTION; NOTICE OF REDEMPTION. On or before each sinking fund redemption date, the Trustee shall select for redemption, in such manner as in its discretion it shall deem appropriate and fair (provided, however, that portions of Sinking Fund Certificates shall be selected only in multiples of $1,000), a principal amount of Sinking Fund Certificates so as to exhaust the amount of rental to be paid by the Company to it in cash pursuant to Section 5.4(B)(4) on or before such sinking fund redemption date, subject to the provisions of the second paragraph of Section 5.4(B).

Except in the case of Global Certificates, if and to the extent provided in the Request delivered to the Trustee in respect of the issuance of the Sinking Fund Certificates, any holder of Sinking Fund Certificates in whose name is registered an aggregate principal amount of Sinking Fund Certificates at least equal to $100,000 may, by written notice to the Trustee delivered at least 60 days before a sinking fund redemption date, direct the Trustee to select for redemption on each sinking fund redemption date thereafter occurring such principal amount of Sinking Fund Certificates registered in the name of such holder as has an aggregate redemption price which bears the same proportion to the aggregate redemption price of all Sinking Fund Certificates to be called for redemption on such sinking fund redemption date as (y) the aggregate principal amount of Sinking Fund Certificates registered in the name of such holder on a date selected by the Trustee not more than 10 days before the selection by the Trustee of Sinking Fund Certificates for redemption on such sinking fund redemption date bears to (z) the aggregate principal amount of Sinking Fund Certificates outstanding on such date. In such event (i) the principal amount of Sinking Fund Certificates to be selected by the Trustee, as provided in this Section, shall be proportionately reduced and (ii) there shall not be included in the selection made any Sinking Fund Certificates registered in the name of any holder of Sinking Fund Certificates whose Sinking Fund Certificates are selected for redemption as hereinabove provided in this paragraph. Any notice given by any holder of Sinking Fund Certificates as

provided in the first sentence of this paragraph shall remain in effect unless and until (a) revoked by written notice delivered by such holder to the Trustee at least 60 days before the sinking fund redemption date or dates in respect of which such revocation is expressed to be applicable or (b) such holder is no longer a holder of at least $100,000 in aggregate principal amount of Sinking Fund Certificates. In any selection of Sinking Fund Certificates for redemption pursuant to this paragraph, the Trustee shall, according to such method as it shall deem to be proper, make such adjustments by increasing or decreasing by not more than $1,000 the principal amount of Sinking Fund Certificates of each holder selected pursuant to this paragraph as may be necessary to the end that the principal amount of Sinking Fund Certificates of such holder selected for redemption shall be $1,000 or an integral multiple thereof.

The Trustee shall mail by first-class mail, postage prepaid, a notice of redemption not less than 30 nor more than 45 days before each sinking fund redemption date to each holder of Sinking Fund Certificates so to be redeemed in whole or in part, at such holder's last address as it appears upon the registry books. Failure to mail such notice, or any defect therein, shall not affect the validity of the proceedings for the redemption of any other Sinking Fund Certificates. Any notice which is mailed in the manner herein provided shall be conclusively presumed to have been duly given, whether or not the holder received such notice.

The notice of redemption shall specify the date for redemption and shall state that payment of the principal amount of the Sinking Fund Certificates or portions thereof to be redeemed (together with all accrued and unpaid interest thereon) will be made (provided the Company has deposited the necessary cash for such redemption) at the Principal Office, upon presentation and surrender of such Sinking Fund Certificates, that accrued interest to the date fixed for redemption will be paid as specified in the notice, and that from and after such date interest thereon or on the portions thereof to be redeemed will cease to accrue. The notice of redemption shall also state the aggregate principal amount of Sinking Fund Certificates to be redeemed and, unless all outstanding Sinking Fund Certificates are to be redeemed, the serial numbers thereof; and in case there shall have been selected as aforesaid less than the entire principal amount of any Sinking Fund Certificate, the notice shall identify the serial number of such Sinking Fund Certificate and the principal amount thereof called for redemption, and shall state that on and after the sinking fund redemption date, upon surrender of such Sinking Fund Certificate, the holder will receive the redemption price in respect of the principal amount thereof called for redemption and, without charge, a new Sinking Fund Certificate for the principal amount thereof remaining unredeemed. The serial numbers of any Sinking Fund Certificates to be redeemed, required to be included in any such notice, may be stated in any one or more of the following ways: individually; in groups from one number to another number, both inclusive, except such as shall have been previously called for redemption or otherwise retired; or in such other manner as the Trustee shall deem appropriate.

SECTION 3.3. PROCEDURE FOR OPTIONAL REDEMPTION OF SINKING FUND CERTIFICATES AND SINGLE MATURITY CERTIFICATES. The procedure for the optional redemption of Sinking Fund Certificates and Single Maturity Certificates shall be as follows:

(1) In case the Company shall desire to redeem Sinking Fund Certificates or Single Maturity Certificates pursuant to Section 3.1(2), it shall deliver a Request to the Trustee giving notice of the exercise of such right of redemption and specifying the aggregate principal amount of Sinking Fund Certificates or Single Maturity Certificates to be redeemed and the date fixed for redemption, which date shall be at least 45 days after delivery of such Request or such shorter period of time as shall be satisfactory to the Trustee. Notice of redemption pursuant to this Section 3.3 shall be given by the Trustee to holders of Sinking Fund Certificates and Single Maturity Certificates in like manner as specified in Section 3.2.

(2) If less than all the outstanding Sinking Fund Certificates or Single Maturity Certificates are to be redeemed, selection of the particular Sinking Fund Certificates or Single Maturity Certificates (or portions thereof, but only in multiples of $1,000) to be redeemed shall be made in like manner as specified in Section 3.2.

SECTION 3.4. PROCEDURE FOR REDEMPTION OF TRUST CERTIFICATES DUE TO CASUALTY OCCURRENCE. The procedure for the redemption of Trust Certificates due to a Casualty Occurrence shall be as follows:

(1) In case the Company shall desire to redeem Trust Certificates pursuant to Section 3.1(3) due to a Casualty Occurrence, it shall deliver a Request to the Trustee giving notice of the exercise of such right of redemption and specifying the aggregate principal amount of Trust Certificates to be redeemed and the date fixed for redemption, which date shall be at least 45 days after delivery of such Request or such shorter period of time as shall be satisfactory to the Trustee. Notice of redemption pursuant to this Section 3.4 shall be given by the Trustee to holders of Trust Certificates in like manner as specified in Section 3.2.

(2) If less than all the outstanding Trust Certificates are to be redeemed, the redemption shall be allocated pro rata, based on principal amount, among all outstanding Trust Certificates, or otherwise in such manner as the Trustee shall deem fair and appropriate, provided, however, that portions of Trust Certificates shall be selected only in multiples of $1,000.

SECTION 3.5. PAYMENT OF REDEMPTION PRICE. On or before the date for redemption specified in the notice of redemption, the Company shall deposit with the Trustee an amount in cash, or file with the Trustee the Request and Officer's Certificate required under Section 5.9 for the application of Replacement Funds, sufficient to redeem all the Trust Certificates or portions thereof called for redemption. The Trust Certificates or portions thereof called for redemption shall become due and payable on such redemption date at the Principal Office, and from and after such redemption date interest on such Trust Certificates or portions thereof shall cease to accrue and such Trust Certificates or portions thereof shall no longer be deemed to be outstanding hereunder and shall cease to be entitled to the benefits of this Agreement, except to receive payment from the moneys reserved therefor in the hands of the Trustee. The Trustee shall hold the redemption moneys in trust for the holders of the Trust

Certificates or portions thereof called for redemption and shall pay the same to such holders respectively upon presentation and surrender of such Trust Certificate.

Except as provided in Sections 3.2 and 2.10, all Trust Certificates redeemed and paid under this Article Three shall be canceled by the Trustee and no Trust Certificates shall be issued hereunder in place thereof, except that a new Trust Certificate shall be issued for the unredeemed portion of any Trust Certificate redeemed in part.

ARTICLE FOUR

ACQUISITION OF TRUST EQUIPMENT BY TRUSTEE; DEPOSITED CASH

SECTION 4.1. ACQUISITION OF TRUST EQUIPMENT BY TRUSTEE. As promptly as possible hereafter, the Company shall cause the Equipment described in Schedule A hereto to be sold, assigned, transferred and set over unto the Trustee, as trustee for the holders of the Trust Certificates.

To that end, the Company hereby assigns or, in the case of contracts for Equipment to be executed hereafter, agrees to assign or cause to be assigned, to the Trustee all its right, title and interest under any contract or contracts for the acquisition or rebuilding of the Equipment insofar as such contract or contracts relate to such Equipment. The 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 before the delivery of such Equipment to the Trustee or its agent, the Company may cause such other Equipment to be sold, assigned, transferred and set over unto the Trustee, to be substituted under the trust, and to that end the Company, upon its (or any Affiliate's) entry into a contract or contracts for the acquisition or rebuilding of such other Equipment, shall assign, or cause to be assigned, to the Trustee all its (or such Affiliate's) right, title and interest under such contract or contracts to the extent related to such Equipment.

Notwithstanding the foregoing, so long as no Event of Default shall have occurred and be continuing, the Company shall be authorized to exercise, in the name of the Trustee, all rights under the contract or contracts for Equipment assigned hereunder to the Trustee, including without limitation the right to enforce any warranty or guarantee provided by the builder or rebuilder of the Equipment.

SECTION 4.2. PAYMENTS OUT OF DEPOSITED CASH. From time to time, when any of the Trust Equipment shall have been delivered to the Trustee or its agent pursuant to this Article Four, the Trustee shall (subject, however, to the provisions of Section 4.3 hereof) pay to the Person entitled thereto (which may be the Company), as specified by Request by the Company, 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 not exceed the aggregate Cost of the Trust Equipment then and theretofore delivered to the Trustee multiplied by the Financing Percentage.

SECTION 4.3. PAYMENTS OF AND FROM ADVANCE RENTAL. The Company covenants that, contemporaneously with the delivery to the Trustee of the documents required by Section 4.4 hereof in respect of any delivery of Trust Equipment, the Company will either (i) pay to the Trustee the advance rental, if any, provided in Section 5.4(A)(2) hereof, and thereupon the Trustee shall pay to the Person entitled thereto (which may be the Company), as specified by Request by the Company, by the use of such advance rental, the portion of the Cost of the delivered Trust Equipment, if any, not paid out of Deposited Cash as provided for in Section 4.2 hereof or (ii) in order to obtain a credit toward such advance rental, provide to the Trustee a receipt for payment from the builder or seller or an Officer's Certificate or other evidence that such portion of the Cost is not payable, as provided for in Section 5.4(A)(2) hereof, the intention being that the Trustee shall ultimately pay from Deposited Cash not more than the final Cost of the Trust Equipment multiplied by the Financing Percentage. The Trustee and the Company shall at any time, if the occasion arises, adjust their accounts accordingly, and the Trustee, upon Request, shall pay from Deposited Cash to the Company, if the Company shall not be in default under the terms hereof or of any supplement hereto, a sum equal to the amount, if any, by which the sum of (i) all Deposited Cash at the date of such Request and (ii) the final Cost of Equipment theretofore delivered to the Trustee multiplied by the Financing Percentage exceeds the principal amount of Trust Certificates theretofore issued and outstanding hereunder.

SECTION 4.4. SUPPORTING DOCUMENTS; RATIO OF COST OF TRUST EQUIPMENT TO TRUST CERTIFICATES. The Trustee shall not pay out any Deposited Cash, or make any payments by the use of advance rental, against the delivery of any of the Trust Equipment, unless and 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, (iv) in the case of used Equipment, that the estimated remaining useful life of the Equipment as determined by the chief mechanical officer in the Company's operating department or an independent appraiser and the depreciation percentage to be used in computing the Fair

Value thereof are as specified therein, and (v) that such Trust Equipment has been marked in accordance with the provisions of Section 5.6 hereof;

(b) An invoice or invoices or other reasonable evidence from the builder, rebuilder or seller evidencing the Cost of such Trust Equipment, or an Officer's Certificate stating (i) that the Company, as the builder or rebuilder, has incurred the Cost specified pursuant to Section 4.4(a), or (ii) in the case of used Equipment, the manner in which the Cost and estimated useful life were determined;

(c) A bill or bills of sale for such Trust Equipment from the builder, rebuilder, seller or Company, as the case may be, 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 claims, liens and encumbrances; and

(d) An Opinion of Counsel to the effect (i) 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 title to such Trust Equipment in the Trustee, free of all prior claims, liens and encumbrances, and (ii) that in case of any Trust Equipment not specifically described herein, a proper supplement hereto in respect of such Trust Equipment has been duly executed and delivered by the Trustee and the Company and duly filed and recorded in accordance with Section 7.4 hereof.

Any Officer's Certificate pursuant to this Section 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 multiplied by the Financing Percentage applicable thereto shall be less than the aggregate principal amount of Trust Certificates pursuant to Section 2.1 or Section 2.5 hereof, the Company will cause to be sold, assigned and transferred to the Trustee additional Equipment in such amount and of such Cost that the aggregate final Cost of the Trust Equipment multiplied by the Financing Percentage will be at least equal to the aggregate principal amount of Trust Certificates issued hereunder 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.

SECTION 4.5. APPLICATION OF REMAINING DEPOSITED CASH. Subject to the provisions of Section 4.3 hereof regarding payment of Deposited Cash and the last paragraph of Section 4.4. hereof, any Deposited Cash remaining in the hands of the Trustee, after the delivery of all the Trust Equipment to be delivered pursuant to Section 4.1 and Section 4.4 hereof and payment therefor in the manner provided herein, shall be applied by the Trustee toward payment of rentals payable by the Company to the Trustee under Section 5.4(B)(5) hereof.

SECTION 4.6. ACQUISITION DEPOSIT. At any time prior to the issuance of all of the Trust Certificates in the aggregate principal amount authorized to be issued hereunder, at the Request of the Company, the Trustee shall accept deposits of cash for the acquisition of the Trust Equipment in anticipation of the issuance of the Trust Certificates. Such amounts so deposited shall be treated as Deposited Cash for all purposes hereunder, including the acquisition of Trust Equipment. The party making such deposit shall be entitled to the benefits and security of a holder of Trust Certificates hereunder, to the extent of such deposit, except that interest on such deposit shall be limited to amounts specified in such Request, as shall be paid to the Trustee by the Company as rent hereunder. Upon the issuance of the Trust Certificates in anticipation of which such deposits shall have been made, (a) such deposits shall be reimbursed to the party making the same, all as specified in a Request, and (b) the holders of such Trust Certificates shall succeed to and shall have all the rights of such party with respect to the Trust Equipment.

ARTICLE FIVE

LEASE OF TRUST EQUIPMENT TO THE COMPANY

SECTION 5.1. LEASE OF TRUST EQUIPMENT. The Trustee does hereby let and lease to the Company all the Trust Equipment for a term ending on the last date on which the principal of any of the Trust Certificates issued under this Agreement is due and payable.

SECTION 5.2. 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 5.6 hereof, the same shall ipso facto and without further instrument of lease or transfer, pass under and become Trust Equipment subject to all the terms and provisions hereof.

SECTION 5.3. SUBSTITUTED EQUIPMENT SUBJECT HERETO; ADDITIONS TO TRUST EQUIPMENT. In the event that the Company shall, as provided in Sections 4.1, 4.4, 5.9 or 5.12 hereof, 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 and shall be subject to all the terms and conditions hereof in all respects as though it had been part of the Trust Equipment herein specifically described. Any and all additions to, and replacements 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 5.4. RENTAL PAYMENTS; LIMITATION ON TAX LIABILITY. The Company hereby accepts the lease of all the Trust Equipment and covenants and agrees to accept delivery and possession hereunder of the Trust Equipment. The Company further covenants and agrees to pay to the Trustee at its 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 (or provide the Trustee with either a receipt from the builder, rebuilder or seller of the Trust Equipment acknowledging receipt of such sum or an Officer's Certificate stating that the Company, as builder or rebuilder, has incurred such sum as part of the Cost of the Trust Equipment or, in the case of used Trust Equipment then owned by the Company, an Officer's Certificate stating the Cost of such Trust Equipment, or an Officer's Certificate or other evidence that such sum is not payable), 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 5.9 or Section 5.12 or the last paragraph of Section 4.4 hereof) and the portion of such Cost to be provided out of the net proceeds of the sale of the Trust Certificates, the intention being that, when all such Trust Equipment shall have been delivered to the Company as agent for the Trustee, the Company shall have paid or incurred or shall pay to the Trustee (or provide the Trustee with the above-referenced receipt or Officer's Certificate or other evidence with respect to such payment), as advance rental hereunder, a sum equal to the amount by which the aggregate Cost of such Trust Equipment exceeds such net proceeds of the sale of the Trust Certificates. The payment by the Company of such advance rental shall be 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 issued; and

(2) Contemporaneously with the delivery to the Trustee of the documents required by Section 4.4 hereof in respect of any delivery of any of such Trust Equipment, a sum (or a receipt from the builder, rebuilder or seller acknowledging receipt of such sum or an Officer's Certificate stating that the Company, as builder or rebuilder, has incurred such sum or, in the case of used Trust Equipment then owned by the Company, an Officer's Certificate stating the Cost of such Trust Equipment, or an Officer's Certificate or other evidence that such sum is not payable) equal to the portion of the Cost of such delivered Trust Equipment, if any, not to be then paid out of Deposited Cash as provided for in Section 4.2 hereof.

(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 thereupon at time of purchase) in connection with any purchase, sale or redemption by the Trustee of Investment Securities;

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

(3)(a) The amounts of the interest payable on the Trust Certificates, when and as the same shall become payable; and (b) interest at the interest rate payable on the Trust Certificates from the due date, upon the amount of any installments of rental payable under this subparagraph (3) and the following subparagraphs (4), (5), and (6) which shall not be paid when due, but only to the extent legally enforceable;

(4) As a sinking fund for the Sinking Fund Certificates, if any, on or before each sinking fund redemption date, an amount equal to the sinking fund payment, including any optional sinking fund payment specified pursuant to the form of Sinking Fund Certificates issued, required in respect thereof;

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

(6) The premium, if any, due upon the redemption of any Trust Certificate; and

(7) In case any Refunding Certificates shall be issued pursuant to Article Ten hereof, prior to or at the time of such issuance, an amount which, when added to the net proceeds of the sale of such Refunding Certificates, will equal the aggregate principal amount of such Refunding Certificates.

Notwithstanding the provisions of subparagraph (4) above, the Company may credit, at its option, in lieu of making all or any part of any cash rental payment in respect of the Sinking Fund Certificates as provided in subparagraph (4), pursuant to a Request delivered to the Trustee on or before the 45th day next preceding the sinking fund redemption date on which such rental payment is due, against such rental payment any Sinking Fund Certificates not previously so credited and not redeemed pursuant to the mandatory sinking fund, which are specified (as to serial numbers and principal amounts thereof) in such Request. The Company shall, on or before the 30th day next preceding the sinking fund redemption date on which such rental payment is due, deliver to the Trustee for cancellation (if not theretofore delivered to the

Trustee) all such Sinking Fund Certificates so specified. The amount of the rental payment toward which any Sinking Fund Certificate is to be credited shall be reduced by an amount equal to 100% of the principal amount of such Sinking Fund Certificate.

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 the holder of any Trust Certificate any tax, assessment or governmental charge required by any present or future law of the United States of America or any state, county or municipality, or any taxing authority thereof, to be paid on behalf of, or withheld from the amount payable to, the holder of any Trust Certificate. In addition, 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, provided that the rights or interests of the Trustee or of the holders of the Trust Certificates will not be materially endangered thereby and the Company shall have provided the Trustee with an Opinion of Counsel to such effect.

SECTION 5.5. TERMINATION OF LEASE; UNCLAIMED MONEYS. At the termination of the lease provided herein or at the termination of this Agreement and after all payments due or to become due from the Company hereunder shall have been completed and fully made to the Trustee, (1) such payments shall be applied and treated as purchase money and as the full purchase price of the Trust Equipment, (2) any moneys remaining in the hands of the Trustee after providing for the payment in full of all outstanding Trust Certificates and after paying the expenses of the Trustee, including its reasonable compensation, shall be paid to the Company, (3) title to all the Trust Equipment shall vest in the Company, and (4) 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.

Upon Request, any moneys held by the Trustee after termination of the lease as provided in this Section 5.5 which shall have been deposited or are held for the payment of the principal amount of or premium, if any, or interest on any Trust Certificates remaining unclaimed for two years shall (unless otherwise required by mandatory provisions of law) be repaid by the Trustee to the Company, and all liability of the Trustee with respect to such moneys shall thereupon cease and the holders of such Trust Certificates shall thereafter be entitled to look only to the Company for payment thereof; provided, however, that the Trustee, before being required to make any such repayment may, at the expense of the Company, cause notice that said moneys have not been claimed and that after a date specified therein, which shall be not less than 30 days after the date of publication, any unclaimed balance of such moneys then remaining upon deposit with the Trustee will be repaid to the Company, 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. in no event shall the holders of such Trust Certificates be entitled to interest upon such moneys whether held by the Trustee or so repaid to the Company.

SECTION 5.6. MARKING OF TRUST EQUIPMENT; PERMISSIBLE MARKINGS. 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 on each side of such unit the reporting marks assigned to the Company (or its Affiliates) and a unique road number for such unit listed in Schedule A hereto or an appropriate supplement hereto.

In case any of such marks shall at any time be removed, defaced or destroyed before the termination of the lease provided for herein, the Company shall promptly cause the same to be restored or replaced. The Company shall not change, or permit to be changed, the numbers of any of the Trust Equipment at any time covered hereby (or any numbers 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 7.4 hereof.

The Trust Equipment may be lettered with the name, initials or insignia of the Company, or of any Affiliate or any sublessee 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 of the Company, or such Affiliate or sublessee therein. 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 the Request of the Company, consent to the placing of the name of any specified person, association or corporation upon any unit of the 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 5.7. MAINTENANCE OF TRUST EQUIPMENT; REPORTS. The Company agrees that it will maintain and keep all the Trust Equipment in good order and proper repair at its own cost and expense.

The Company agrees to furnish to the Trustee, whenever required by the Trustee, and on or before April 30 in every calendar year commencing with the year 1997, and during the continuance of the lease provided for herein, an Officer's Certificate dated the preceding December 31, stating (1) the amount, description and numbers of all the Trust Equipment that may have suffered a Casualty Occurrence since the date of the last preceding statement (or the date of this Agreement in the case of the first statement), (2) the amount, description and numbers of all the Trust Equipment then undergoing repairs, other than running repairs, or then withdrawn from use for such repairs, and stating that, in the case of all 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 5.6 hereof have been preserved,

or that such Trust Equipment when repainted or repaired has been again marked as required thereby, (3) the amount, description and numbers of all Trust Equipment then covered hereby and showing the Trust Equipment then in actual service, and (4) 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 5.8. POSSESSION OF TRUST EQUIPMENT; ASSIGNMENTS. The Company, so long as it is not in default hereunder, shall be entitled to the possession and quiet enjoyment of the Trust Equipment from and after the delivery thereof to the Company, and the use thereof upon the lines of railroad owned or operated by the Company (either alone or jointly with another) or by any 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 only upon and subject to all the terms and conditions of this Agreement.

The Company shall not, without first obtaining the written consent of the Trustee, assign or transfer its rights hereunder or transfer the Trust Equipment or any part thereof except to an Affiliate (and then only subject to this Agreement and without releasing the Company from its obligations hereunder), and the Company shall not, without such written consent, except as provided in this Section 5.8, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment; provided, however, that the Company, so long as it shall not be in default under the terms of this Agreement, shall be entitled to sublet the Trust Equipment or any part thereof under a sublease which expressly provides (i) that the rights of the sublessee in and to such Trust Equipment shall be subject to the rights of the Trustee in and to such equipment, including the rights of the Trustee upon the happening of an Event of Default hereunder and (ii) that such Trust Equipment may be lettered or marked for the convenience of identification of the leasehold interest of the sublessee therein only in accordance with the provisions of Section 5.6 hereof. The Company shall deliver to the Trustee a copy of any such sublease promptly after its execution.

An assignment or transfer to a railroad company or other purchaser that shall acquire, directly or indirectly, all or substantially all the lines of railroad of the Company, and that, by execution of an appropriate instrument satisfactory to the Trustee, shall assume and agree to perform each and 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 this covenant.

SECTION 5.9. CASUALTY OCCURRENCES; RELEASE AND REPLACEMENT OF TRUST EQUIPMENT. Whenever any of the Trust Equipment shall be lost, stolen, destroyed

or irreparably damaged, or otherwise be rendered permanently unfit for use from any cause whatsoever (such occurrences being herein called **"Casualty Occurrences"**), the Company shall promptly, upon becoming aware of such Casualty Occurrence, deliver to the Trustee an Officer's Certificate describing such Trust Equipment and stating the Fair Value thereof on the date of such Casualty Occurrence.

When the aggregate Fair Value of Trust Equipment suffering Casualty Occurrences for which no deposit of cash or transfer of additional Equipment has been made as hereinafter provided exceeds $500,000, the Company, on or prior to the Rent Payment Date next succeeding the delivery of such Officer's Certificate (or, if the next Rent Payment Date shall be less than 60 days from such delivery, on the second succeeding Rent Payment Date) shall:

(i) transfer or cause to be transferred to the Trustee additional Equipment having an aggregate Cost at least equal to such aggregate Fair Value and having a remaining useful life at least equal to the period remaining until the final maturity of the latest maturing Trust Certificate, together with an Officer's Certificate specifying the units of Equipment to be transferred and the Cost thereof and the certificates, invoices, bills of sale and Opinions of Counsel provided in Section 4.4 hereof; or

(ii) deposit with the Trustee an amount in cash equal to the aggregate Fair Value; or

(iii) transfer or cause to be transferred to the Trustee additional Equipment as provided in clause (i) and cash such that the aggregate Cost of such Equipment plus the amount of cash is equal to such aggregate Fair Value.

Any money paid to the Trustee pursuant to this Section (herein called **"Replacement Funds"**) shall be received and held by the Trustee in trust hereunder pending delivery of additional Equipment, or redemption of Trust Certificates on the applicable date of redemption pursuant to Section 3.1(3), and may be invested and reinvested as provided in Section 8.7 hereof. Upon the filing with the Trustee of a Request and an Officer's Certificate which shall specify the kind and number of units of Equipment to be added hereunder and the Cost thereof or the principal amount of Trust Certificates to be redeemed, or both, such money shall be applied by the Trustee to (a) reimburse the Company for units of Equipment to be added hereunder, upon receipt by the Trustee of certificates, invoices, bills of sale and Opinions of Counsel, all in like manner as is provided in Section 4.4 hereof, or (b) redeem such Trust Certificates as provided in Section 3.1(3) hereof.

Any units of the Trust Equipment that shall have suffered a Casualty Occurrence may be released upon compliance by the Company with the requirements of the second paragraph of this Section with respect thereto, and it is hereby mutually agreed that at any time thereafter until title thereto shall become vested in the Company, the Trustee will release and transfer to the Company or its order 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 suffered

a Casualty Occurrence, and shall specify the Cost and then Fair Value thereof. Such release and transfer shall be "as is", "where is", and without recourse or warranty (except as to the absence of Trustee Liens), and shall include all of the Trustee's right, title and interest in and to such unit, and the Trustee shall execute and deliver all documents reasonably requested by the Company to effect and evidence such release and transfer.

The rights and remedies of the Trustee to enforce any of the rental payments shall not be affected by reason of any Casualty Occurrence.

SECTION 5.10. COMPANY'S INDEMNITIES. The Company covenants and agrees to indemnify the Trustee against any and all claims arising out of or connected with the ownership or use of any of the Trust Equipment, and particularly against any and all claims arising out of the use of any patented inventions in and about the Trust Equipment, and to comply in all respects with the laws of the United States of America and of all the states in which the Trust Equipment, or any units thereof, may be operated, and with all acts, rules, regulations and orders of the Department of Transportation, of the Surface Transportation Board and of all other commissions, boards and other legislative, executive, administrative or judicial bodies or offices 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 provided that the rights or interests of the Trustee or of the holders of the Trust Certificates will not be materially endangered thereby and the Company shall have provided the Trustee with an Opinion of Counsel to such effect. 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 5.11. DEFEASANCE OF TRUST CERTIFICATES. Unless otherwise provided in a Request delivered pursuant to Section 2.1 or Section 2.5, the Company shall be deemed to have paid and discharged all of its obligations under this Agreement and with respect to the Trust Certificates then outstanding, and the Trustee shall treat this Agreement as terminated under Section 5.5 hereof, when:

1) either:

(A) the Company has deposited or caused to be deposited with the Trustee as trust funds in trust for such purpose an amount of cash sufficient to pay and discharge the entire indebtedness relating to such Trust Certificates for principal, premium, if any, and interest on the days on which such principal, premium, if any, or interest is due and payable in accordance with the terms of this Agreement and such Trust Certificates, either to the date of maturity or to the date of redemption thereof, as the case may be; or

(B) the Company has deposited or caused to be deposited with the Trustee as obligations in trust for such purpose such amount of noncallable direct obligations of, or

obligations the principal of and interest on which are fully guaranteed by, the United States government, as will, together with the income to accrue thereon without consideration of any reinvestment thereof, be sufficient, in the written opinion of a firm of nationally recognized certified public accountants delivered to the Trustee, to pay and discharge the entire indebtedness on all such Trust Certificates for principal, premium, if any, and interest on the days on which such principal, premium, if any, and interest is due and payable in accordance with the terms of this Agreement and such Trust Certificates, either to the date of maturity or to the date of redemption thereof, as the case may be;

(2) the Company has paid or caused to be paid all other sums payable hereunder;

(3) such deposit will not result in a default under this Agreement or any other agreement or instrument to which the Company is a party or by which it is bound;

(4) no Event of Default shall have occurred and be continuing on the date of such deposit; and

(5) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction, discharge and defeasance of the entire amount of Trust Certificates at the time outstanding have been complied with.

Any deposits with the Trustee referred to in Section 5.11(1) above shall be irrevocable and shall be made under the terms of an escrow trust agreement in form satisfactory to the Trustee. If any Trust Certificates at the time outstanding are to be redeemed prior to their maturity, whether pursuant to any optional redemption provisions, or in accordance with any mandatory sinking fund requirement, the Company shall make such arrangements as are satisfactory to the Trustee for the giving of notice of redemption by the Trustee, at the expense of the Company.

SECTION 5.12. OBSOLESCENCE; RELEASE AND REPLACEMENT OF TRUST EQUIPMENT. Any units of the Trust Equipment which shall have become worn out, obsolete or unsuitable for use in any respect by the Company may be released, and it is hereby mutually agreed that at any time hereafter until title thereto shall become vested in the Company, the Trustee will release and transfer to the Company or its order 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, obsolete or unsuitable for use in any respect by the Company, shall state the selling price thereof, and shall specify the Cost and then Fair Value thereof. Such release and transfer shall be "as is", "where is", and without recourse or warranty (except as to the absence of Trustee Liens), and shall include all of the Trustee's right, title and interest in and to such unit, and the Trustee shall execute and deliver all documents reasonably requested by the Company to effect and evidence such release and transfer.

No such release shall be made unless and until the Company shall have:

(i) transferred or caused to be transferred to the Trustee additional Equipment having an aggregate Cost at least equal to such selling price or Fair Value, whichever shall be greater, and having a remaining useful life at least equal to the period remaining until the final maturity of the latest maturing Trust Certificate, and delivered an Officer's Certificate specifying the units of Equipment to be transferred and the Cost thereof and the certificates, invoices, bills of sale and Opinions of Counsel provided in Section 4.4 hereof; or

(ii) paid to the Trustee such selling price or Fair Value, whichever shall be greater; or

(iii) transferred or caused to be transferred to the Trustee additional Equipment as provided in clause (i) and cash such that the aggregate Cost of such Equipment plus the amount of cash is equal to such selling price or Fair Value, whichever shall be greater.

Any money paid to the Trustee pursuant to this Section 5.12 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 8.7 hereof. Upon the filing with it of a Request and an Officer's Certificate which shall specify the kind and number of units of Equipment to be added hereunder and the Cost thereof, such money in an amount not exceeding such Cost shall, upon receipt by the Trustee of certificates, invoices, bills of sale and Opinions of Counsel, all in like manner as is provided in Section 4.4 hereof, be applied to pay or reimburse the Company for the Cost of such Equipment.

ARTICLE SIX

REMEDIES IN EVENT OF DEFAULT

SECTION 6.1. EVENTS OF DEFAULT. The Company covenants and agrees 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 any unauthorized transfer or sublease of any of the Trust Equipment, or, except as herein authorized, shall part with the possession of any of the Trust Equipment, and shall fail or refuse either to cause such assignment or

transfer or sublease to be canceled by agreement of all parties having any interest therein 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 of 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 or in any supplemental agreement 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 agreed to or 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 by such trustee or trustees within 60 days after such proceedings shall have been commenced and otherwise in accordance with the provisions of Section 1168 of said Title 11, 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 for the Company or for the property of the Company 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 by such trustee or trustees or receiver or receivers within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier,

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 5.4 hereof and not theretofore paid, whereupon the entire amount of such rentals shall forthwith become and shall be due and payable immediately without further demand, together with interest at the interest rate of the Trust Certificates, to the extent legally enforceable, on any portion thereof then or thereafter unpaid.

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 become and be immediately due and payable.

In case the Company shall fail to pay any installment of rental payable pursuant to Section 5.4(B)(3), (B)(4) or (B)(5) hereof when and as the same shall have become due and payable hereunder and such default shall have continued for a period of 30 days, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the rentals so due and unpaid and the recovery of reasonable costs of collection, 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 other obligor upon the Trust Certificates wherever situated the moneys adjudged or decreed to be payable.

In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or other obligor upon the Trust Certificates under Title 11 of the United States Code or any other federal or state law relating to bankruptcy or insolvency, or in case a receiver or receivers in equity or reorganization or a trustee or trustees in bankruptcy or reorganization shall have been appointed for the Company or for such other obligor or for its property, or in the case of any other judicial proceedings relative to the winding up or liquidation of the affairs of the Company or for such other obligor, the Trustee, irrespective of whether the rental payments hereunder or the principal of the Trust Certificates shall then be due and payable as herein or therein expressed whether by declaration or otherwise and irrespective of whether the Trustee shall have made any demand or declaration pursuant to the provisions of this Section 6.1, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for 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, if any), and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for all proper charges, expenses or advances made or incurred by the Trustee in accordance with the provisions of this Agreement) and of the holders of the Trust Certificates allowed in such proceedings and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the holders of the Trust Certificates and of the Trustee on their behalf; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized by each of the holders of the Trust Certificates, to pay to the Trustee such amount as shall be sufficient to cover all proper charges, expenses or advances made or incurred by the Trustee in accordance with the provisions of this Agreement.

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 in any trial or other proceedings relative thereto, and any such action or proceedings instituted by the Trustee shall be brought in its own name and as trustee of an express trust, and any recovery of judgment shall be for the ratable benefit of the holders of the Trust Certificates. 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 of the Trust Certificates, and it shall not be necessary to make any holders of the Trust Certificates parties to such proceedings.

SECTION 6.2. REMEDIES. In case of the happening of any Event of Default, the Trustee may by its agents enter upon the railroads and premises of the Company and of any Affiliate or of any 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 car hire, 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 for in Section 6.1 hereof), may sell the same or any part thereof, free from any and 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 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 of the Trust Certificates in the manner herein provided. Upon any such sale, the Trustee itself 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, or as may be required by law, and without gathering at the place of sale any of the Trust Equipment to be sold, and in general in such manner as the Trustee may determine, but so that the Company may and 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, the Company shall cease to have any rights and remedies in respect of the Trust Equipment hereunder, and all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Company, and no payments theretofore made by the Company for the rent or use of the Trust Equipment or any of it 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 any of it, or any cause or right of action at law or in equity in respect of the Trust Equipment against the Trustee or the holders of the Trust Certificates. 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 be and remain liable for the same until such sums shall have been realized which, when added to 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 5.4 hereof (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 or not taken for the enforcement of the remedies contained herein, and the Trustee shall not be liable with respect to any action taken, suffered or omitted in good faith in accordance with such direction; provided, however, that the Trustee shall have the right to decline to follow any such direction if the Trustee, being advised by counsel, determines that the proceedings so directed may not lawfully be taken or if the Trustee in good faith by a trust committee of its officers determines that the proceedings so directed would involve the Trustee in personal liability.

SECTION 6.3. 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 6.1 and 6.2 hereof, all payments made by the Company to the Trustee hereunder after such Event of Default or termination, and the proceeds of any judgment collected from the Company by the Trustee 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 interest rate of the Trust Certificates on overdue interest to the extent legally enforceable, and of the principal of all the outstanding Trust Certificates, with interest thereon at the interest rate of the Trust Certificates, to the extent legally enforceable, from the last preceding interest date, 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 among principal or 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 6.4. 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 due and payable, all as provided in Section 6.1 hereof, but before the end of the term of the lease contained herein, all arrears of rent (with interest at the interest rate of the Trust Certificates to the extent legally enforceable), the expenses and reasonable compensation to 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 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, and in every such case, 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 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 6.5. OBLIGATIONS OF COMPANY NOT AFFECTED BY REMEDIES. No retaking of possession of the Trust Equipment by the Trustee, nor 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 the holder of any Trust Certificate, 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 6.6. 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 or sublessee 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 or sublessee 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 convenient point or points reasonably selected by the Trustee. It is

hereby expressly covenanted and agreed 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 6.7. LIMITATIONS ON ACTIONS BY HOLDERS OF TRUST CERTIFICATES. No holder of any Trust Certificate 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 8.5 hereof, 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 action or proceedings pursuant thereto. Neither the provisions of this Section 6.7 nor the provisions of Section 8.5 hereof shall affect or limit in any way the obligations of the Company under its guaranty hereinabove provided or the rights of the holders of Trust Certificates to institute suit for the enforcement of payments due under said guaranty in respect of the Trust Certificates.

SECTION 6.8. REMEDIES CUMULATIVE. The remedies in this Agreement provided in favor of the Trustee and the holders of the Trust Certificates, or any of them, 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 SEVEN

ADDITIONAL COVENANTS AND AGREEMENTS BY THE COMPANY

SECTION 7.1. COMPANY TO MAKE PAYMENTS PROVIDED FOR. The Company hereby covenants and agrees 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 7.2. GUARANTY TO HOLDERS OF TRUST CERTIFICATES. The Company covenants, agrees and guarantees that the holder of each of the Trust Certificates shall be paid the principal amount thereof and premium, if any, thereon, 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 and of this Agreement (and, if not so paid, with interest thereon at the interest rate of the Trust Certificates to the extent legally enforceable), and shall be paid interest thereon in like money at the rate specified therein from the date of such Trust Certificate to the date of maturity thereof, at the times and place and otherwise as expressed in the Trust

Certificates (and, if not so paid, with interest thereon at the interest rate of the Trust Certificates 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 premium, if any, and interest thereon, in substantially the form hereinbefore set forth. The guaranty so endorsed shall be signed in the name and on behalf of the Company by the manual or facsimile signature of the Chairman of the Board, the Chief Executive Officer, the President, any Vice President, the Treasurer or any Assistant Treasurer. In case any officer of the Company whose manual or facsimile signature shall appear on the guaranty shall cease to be such officer of the Company before the Trust Certificates shall have been issued or delivered by the Trustee, or shall not have been acting in such capacity on the date of the Trust Certificates, the guaranty shall nevertheless be as effective and binding upon the Company as though the person who signed the guaranty had not ceased to be, or had then been, such officer.

SECTION 7.3. DISCHARGE OF LIENS. The Company covenants and agrees 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, that if unpaid might become a lien or charge (other than a Trustee Lien) 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, provided that such contest will not materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates and the Company shall have furnished the Trustee with an Opinion of Counsel to such effect.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and not delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

SECTION 7.4. PAYMENT OF EXPENSES; RECORDING. The Company covenants and agrees to pay the expenses incident to the preparation and execution of the Trust Certificates to be issued hereunder, or in connection 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 Surface Transportation Board in accordance with Section 11301 of Title 49 of the 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 of the Trust Certificates 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 such filing, registration and recording, and an Opinion or Opinions of Counsel with respect thereto.

SECTION 7.5. FURTHER ASSURANCES. The Company covenants and agrees 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 EIGHT

THE TRUSTEE

SECTION 8.1. ACCEPTANCE OF TRUSTS. The Trustee hereby accepts the trusts imposed upon it by this Agreement and covenants and agrees to perform the same as herein expressed, but no implied covenants shall be read into this Agreement against the Trustee.

SECTION 8.2. APPLICATION OF RENTALS. The Trustee covenants and agrees to apply and distribute the rentals received by it under Section 5.4(B) hereof (other than sums restored to Deposited Cash from rentals pursuant to Section 5.4(B)(1)(b) hereof) 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 5.4(B).

SECTION 8.3. DUTIES CONCERNING REGISTRATION, EXCHANGE AND TRANSFER OF TRUST CERTIFICATES. The Trustee shall cause to be kept at its Principal Office for registration of transfer and exchange of Trust Certificates or at its agency in Salt Lake City, Utah (which agency may be an office of the Company in said city), books for the registration, exchange and registration of transfer of the Trust Certificates; and upon presentation for any such purpose the Trustee shall exchange or cause to be exchanged, or register or cause to be registered the transfer of, as the case may be, as hereinbefore provided, under such reasonable regulations as it may prescribe, any of the Trust Certificates.

SECTION 8.4. INSURING OR TAKING POSSESSION OF TRUST EQUIPMENT UPON INDEMNITY; 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 of the Trust Certificates 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 security interest of the Trustee in the contracts assigned to it pursuant to Section 4.1 hereof. 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 Section 4.4 hereof, or, as the case may be, under Section 5.9 or Section 5.12 hereof, and shall

not be required to make any further investigation of or inquiry concerning the matters covered thereby.

SECTION 8.5. NO OBLIGATION TO ENFORCE TRUST UNLESS REQUESTED AND INDEMNIFIED. 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 expense 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.

SECTION 8.6. 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 default or 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 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 8.7. MONEY HELD BY TRUSTEE; INVESTMENTS IN INVESTMENT SECURITIES. 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 save as may be agreed upon between the Trustee and the Company.

Interest, if any, allowed by the Trustee upon any money received by it under the provisions hereof and any interest (in excess of accrued interest paid from Deposited Cash, Replacement Funds or money deposited pursuant to Section 5.12 at the time of purchase) or other profit accruing upon any investment of Deposited Cash, Replacement Funds or money deposited pursuant to Section 5.12 as permitted by this Section 8.7 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 or under any supplement hereto.

At any time, and from time to time, if there shall be no default under the terms of this Agreement or of any supplement hereto, the Trustee, on Request, shall invest and reinvest Deposited Cash, Replacement Funds and money deposited pursuant to Section 5.12 held by it in Investment Securities at such prices, including any premium and accrued interest, as are set forth in such Request, such Investment Securities to be held by the Trustee in trust for the benefit of the holders of the Trust Certificates.

The Trustee shall, on Request, or the Trustee may, in the event funds are required for payment against delivery of Trust Equipment or prepayment or redemption of Trust Certificates, sell such Investment Securities, or any portion thereof, and restore to Deposited Cash, Replacement Funds or money deposited pursuant to Section 5.12, as the case may be, the proceeds of any such sale up to the amount paid for such Investment Securities, including any premium and accrued interest.

The Trustee shall restore to Deposited Cash, Replacement Funds or money deposited pursuant to Section 5.12, as the case may be, out of rent received by it for that purpose under the provisions of Section 5.4(B)(1)(b) hereof, an amount equal to any expenses incurred in connection with any purchase, sale or redemption of Investment Securities and also an amount equal to any loss of principal incident to the sale or redemption of any Investment Securities for a sum less than the amount paid therefor, including accrued interest. 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 Investment Securities.

SECTION 8.8. NO LIABILITY FOR TRUST EQUIPMENT; MAY ACT THROUGH OTHERS; NO RESPONSIBILITY FOR RECITALS, ETC.; COMPENSATION; OWNING TRUST CERTIFICATES; 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 willful 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 in any way 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.

The Trustee shall be entitled to receive payment of all its expenses and disbursements hereunder or in connection with the enforcement hereof, 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 and may act as Trustee under other instruments under which obligations of the Company or any Affiliate are outstanding.

Any moneys at any time held by the Trustee hereunder shall, until paid out or invested by the Trustee as herein provided, be held by it in trust as herein provided for the benefit of itself and the holders of the Trust Certificates.

The Trustee may appoint a paying agent, which may be the Company, for the payment of principal, premium, if any, and interest hereunder. Any paying agent so appointed shall execute and deliver to the Trustee an instrument in which such paying agent shall agree with the Trustee: (i) that it will hold all sums, held by it as agent of the Trustee for the payment of the principal of and premium, if any, and interest on the Trust Certificates, in trust for the benefit of the holders of the Trust Certificates; (ii) that it will pay such sums to the holders of the Trust Certificates at such times and in such manner as the Trustee shall direct; (iii) that it will give immediate written notice to the Trustee of any failure by it to comply with any such direction; and (iv) that it will immediately repay, upon demand by the Trustee, any sums held in trust by it pursuant to clause (i) of this paragraph.

SECTION 8.9. RESIGNATION BY TRUSTEE; APPOINTMENT OF SUCCESSOR TRUSTEE. If at any time the Trustee or any successor trustee shall resign or shall otherwise desire to divest itself of title to the Trust Equipment, and to terminate its duties and obligations and rights hereunder and under the Trust Certificates, it shall so notify the Company in writing, and the Company shall thereupon designate in writing to the Trustee a national bank or a state bank or a trust company, qualified as below specified, to serve until a successor is appointed by the holders of Trust Certificates as hereinafter provided, to which may be assigned the entire right, title and interest of the Trustee or such successor trustee in the Trust Equipment, and in which may be vested the rights, powers, duties and obligations of the Trustee hereunder and under the Trust Certificates. Upon the transfer and delivery of all moneys, any Investment Securities in which any of said moneys may then be invested, and Trust Equipment held by the retiring trustee, and the execution by the retiring trustee of such instruments of transfer as may be reasonably requested by the successor trustee, and upon acceptance by the successor trustee of the assignment of the trust, the retiring trustee shall be relieved and discharged of all the title, rights, powers, duties and obligations of the trust hereunder and under the Trust Certificates, and the same shall become vested in such successor trustee, and every provision hereof applicable to the retiring trustee shall apply to such successor trustee with like effect as if such successor trustee had been originally named herein in the place and stead of the Trustee. In the event that the Company shall fail to designate such a successor trustee by instrument in writing delivered to the retiring trustee within 14 days from the time of receiving such notice in writing from the retiring trustee, the retiring trustee may thereupon designate such successor trustee or apply to any court of competent jurisdiction for the appointment of a successor trustee. The foregoing provisions are, however, subject to the right of the holders of a majority in principal amount of the then outstanding Trust Certificates by an instrument in writing to appoint any successor trustee, if such appointment is made within one year from the date of the giving of such notice to the Company. The Company shall execute all writings recognizing the transfer of title as aforesaid and all instruments of further assurance or otherwise as reasonably may be requested by the successor trustee in the premises and will do and perform any and all acts necessary to establish and maintain the title and rights of the successor trustee in and to the Trust

Equipment. Every successor trustee shall be a national bank, or a state bank or trust company, having trust powers, having a capital and surplus aggregating at least $100,000,000, 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 8.10. MERGER, CONVERSION OR CONSOLIDATION OF TRUSTEE. Any corporation resulting from any merger, conversion or consolidation to which the Trustee or any successor to it shall be a party, or any corporation in any manner succeeding to all or substantially all of the corporate trust business of the Trustee or any successor trustee, provided such corporation shall be a corporation organized under the laws of the United States of America or of any state thereof, and shall have a capital and surplus aggregating at least $100,000,000, 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.

SECTION 8.11. TRUST CERTIFICATES DEEMED NOT OUTSTANDING. In determining whether the holders of the requisite aggregate principal amount of Trust Certificates have concurred in any direction, notice, request, consent or waiver under this Agreement, Trust Certificates which are owned by the Company or an Affiliate shall be disregarded and deemed not to be outstanding for the purpose of any such determination, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, notice, request, consent or waiver, only Trust Certificates which the Trustee knows are so owned shall be so disregarded. Upon request of the Trustee, the Company shall furnish to the Trustee promptly an Officer's Certificate listing and identifying all Trust Certificates, if any, known by the Company to be owned or held by or for the account of the Company or an Affiliate; and the Trustee shall be entitled to accept such Officer's Certificate as conclusive evidence of the facts therein set forth and of the fact that all Trust Certificates not listed therein are outstanding for the purpose of any such determination.

ARTICLE NINE

MISCELLANEOUS

SECTION 9.1. EXECUTION OF INSTRUMENTS BY HOLDERS OF TRUST CERTIFICATES; PROOF OF 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 of 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

accordance with, such reasonable regulations as may be prescribed by the Trustee or in such manner as shall be satisfactory to the Trustee.

SECTION 9.2. RIGHTS LIMITED TO PARTIES AND HOLDERS OF TRUST CERTIFICATES. Nothing expressed or implied herein is intended or shall be construed to confer upon or to give to any Person, other than the parties hereto and the holders of the Trust Certificates, 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 of the Trust Certificates.

SECTION 9.3. 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 permitted assigns.

SECTION 9.4. SUPPLEMENTAL AGREEMENTS; TERMINATION. The Company and the Trustee without the consent of the holders of the Trust Certificates may from time to time and at any time enter into an agreement or agreements supplemental hereto for the purpose of making any provisions in regard to matters or questions arising under this Agreement as shall not adversely affect the interests of the holders of the Trust Certificates then outstanding and may, in the event no Trust Certificates have been issued and are outstanding under this Agreement, amend, supplement or delete any of the provisions of this Agreement or terminate it in whole or in part. Except as the context otherwise requires, the term "Agreement" means this Agreement as supplemented pursuant to this Section.

SECTION 9.5. 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, and in the case of other communications, by first-class mail, (a) to the Company, at 1700 East Golf Road, Schaumburg, Illinois 60173-5860, Attention: Vice President - Finance or at such other address as may hereafter be furnished to the Trustee in writing by the Company, and (b) to the Trustee, at its Principal Office at 79 South Main Street, Salt Lake City, Utah 84111, Attention: Corporate Trust Department, or at such other address as may hereafter be furnished to the Company in writing by the Trustee. An affidavit by any person representing or acting on 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 9.6. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

SECTION 9.7. DATE EXECUTED. This Agreement shall be deemed to have been executed on the date of the acknowledgment thereof by the officer of the Trustee who signed it on behalf of the Trustee.

SECTION 9.8. EFFECT OF HEADINGS. The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 9.9. GOVERNING LAW. The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights provided under Section 11301 of Title 49 of the United States Code. Any reference herein to any particular statute shall mean and include any statute successor thereto with respect to the same subject matter.

SECTION 9.10. LEGAL HOLIDAYS. In any case where the date of any interest payment on or the maturity of any Trust Certificates is, at the place where payment is to be made, a legal holiday or a day on which banking institutions are authorized by law to close, then such payment may be made on the next succeeding day which is not a legal holiday or a day on which banking institutions are authorized by law to close, and no interest shall accrue for the period after such nominal date.

IN WITNESS WHEREOF, the Company and the Trustee have caused their names to be signed hereto 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.

FIRST SECURITY BANK,
NATIONAL ASSOCIATION, as Trustee

By: _____
Name: Brett R. King
Title: Assistant Vice President

[Seal]

ATTEST:

By: _____
Name: Greg A. Hawley
Title: Vice President

BURLINGTON NORTHERN
RAILROAD COMPANY

By: _____
Name: PAUL J. WEYANDT
Title: Assistant Vice President - Finance

[Seal]

ATTEST:

By: _____
Name: Craig N. Smetko
Title: Assistant Secretary

SCHEDULE A

Description of Equipment

No. of Units	Description
360	Aluminum coal cars, Johnstown America Corporation, builder; lettered BNSF and numbered 667971 to 668327 (both inclusive) and 699125 to 699127 (both inclusive).
332	Coil steel gondola cars, National Steel Car Limited, builder; lettered BN and numbered 686533 to 686864 (both inclusive).
130	Drop bottom ore (taconite) cars, Johnstown America Corporation, builder; lettered BN and numbered 98100 to 98189 (both inclusive) and lettered BNSF and numbered 601140 to 601179 (both inclusive).

STATE OF UTAH)
) SS:
COUNTY OF SALT LAKE)

On the 13TH day of SEPTEMBER, 1996, before me personally appeared Brett R. King, to me personally known, who, being by me duly sworn, says that (s)he is a Assistant Vice President of FIRST SECURITY BANK, NATIONAL ASSOCIATION, that the seal affixed to the foregoing instrument is the corporate seal of such bank, that the instrument was signed and sealed on behalf of the bank by authority of its Board of Directors, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of the bank.

NOTARY PUBLIC
JANICE BRYANT
405 South Main 2nd Fl
S.L.C., UT 84111
COMMISSION EXPIRES
SEPT. 14, 1997
STATE OF UTAH

Notary Public

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

On the 16TH day of SEPTEMBER, 1996, before me personally appeared PAUL J. WEYANDT, to me personally known, who, being by me duly sworn, says that (s)he is an ASST VICE PRESIDENT - FINANCE of BURLINGTON NORTHERN RAILROAD COMPANY, that the seal affixed to the foregoing instrument is the corporate seal of such corporation, that the instrument was signed and sealed on behalf of the corporation by authority of its Board of Directors, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of the corporation.

"OFFICIAL SEAL"
BONNIE REMLEY
Notary Public, State of Illinois
My Commission Expires Dec 12, 1999

Notary Public