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17102
RECORDATION NO. FILED 1425

DEC 6 1990 8:57 AM 0-340A001

December 6, 1990

\$15.00 filing fee

Dear Mr. Strickland:

On behalf of Harris Trust and Savings Bank, I submit for filing and recording under 49 U.S.C. Section 11303(a) and the regulations promulgated thereunder, executed counterparts of a primary document, not previously recorded, entitled Equipment Trust Agreement ("ETA"), dated as of November 1, 1990.

The parties to the enclosed ETA are:

Harris Trust and Savings Bank, as Trustee -
For index purposes - Lessor
P. O. Box 755
Chicago, Illinois 60690

The Atchison, Topeka and Santa Fe Railway Company -
For index purposes - Lessee
80 E. Jackson Boulevard
Chicago, Illinois 60604

Dec 6 8 57 AM '90
MOTOR OPERATING UNIT

The said ETA covers, among other things, the leasing of those certain one hundred and twenty (120) locomotives as identified in Schedule A thereto, and the issuance of trust certificates not exceeding \$164,528,875.

The units of equipment covered by the ETA are those one hundred twenty (120) locomotives identified in Schedule A thereto.

A short summary of the ETA to appear in the ICC Index is as follows:

"Lease of 120 locomotives."

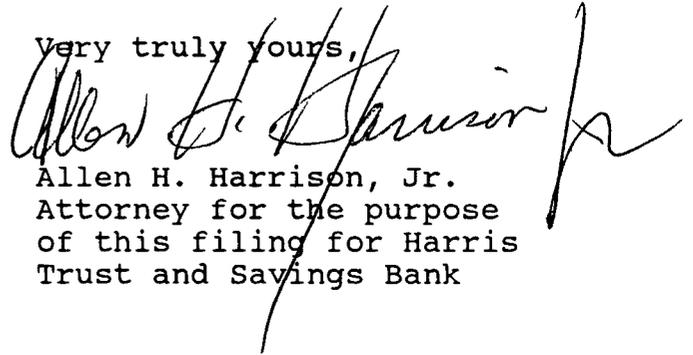
Enclosed is a check in the amount of fifteen dollars (\$15.00) in payment of the filing fee.

NEW REC. NO.

A. Harrison

Once the filing has been made, please return to bearer the stamped counterparts of the ETA not needed for your files, together with the fee receipt, the letter from the ICC acknowledging the filing, and the two extra copies of this letter of transmittal.

Very truly yours,



Allen H. Harrison, Jr.
Attorney for the purpose
of this filing for Harris
Trust and Savings Bank

Honorable Sidney L. Strickland, Jr.
Secretary
Interstate Commerce Commission
Washington, D.C. 20231

Enclosures

AHH/iw

BY HAND

EQUIPMENT TRUST, SERIES V
Dated November 1, 1990

SCHEDULE A

<u>No. of Units</u>	<u>Description</u>	<u>Estimated Costs</u>	
		<u>Per Unit</u>	<u>Total</u>
13	GP60M, 3800 H.P., four axle, diesel-electric locomotives General Motors Corporation (Electro-Motive Division), builder. Nos. 147, 149-151, 153-159, 161 and 162.	\$1,396,560	\$18,155,280
47	GP60M, 3800 H.P., four axle, diesel-electric locomotives; General Motors Corporation (Electro-Motive Division), builder. Nos. 100-136, 138-146, 160.	1,393,700	65,503,900
15	Dash 8-40BW, 4000 H.P., four axle, diesel-electric locomotives General Electric Company, builder. Nos. 530, 532, 534, 536, 538, 540, 542, 544, 546, 548, 550, 552, 554, 556, 558.	1,354,942	20,324,130
15	Dash 8-40BW, 4000 H.P., four axle, diesel-electric locomotives; General Electric Company, builder. Nos. 500, 502, 504, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 528.	1,350,017	20,250,255
30	Dash 8-40BW, 4000 H.P., four axle, diesel-electric locomotives; General Electric Company, builder. Nos. 501, 503, 505, 507, 509, 511, 513, 515, 517, 519, 521, 523, 525, 527, 529, 531, 533, 535, 537, 539, 541, 543, 545, 547, 549, 551, 553, 555, 557, 559.	<u>1,343,177</u>	<u>40,295,310</u>
120	TOTAL UNITS		<u>\$164,528,875</u>

Interstate Commerce Commission
Washington, D.C. 20423

12/6/90

OFFICE OF THE SECRETARY

Allen H. Harrison, Jr.

Wilmer, Cutler & Pickering

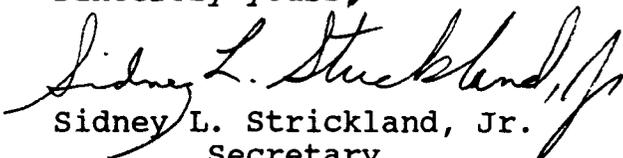
2445 M. Street N.W.

Washington, D.C. 20037

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 12/6/90 at 9:05am, and assigned recordation number(s). 17102

Sincerely yours,


Sidney L. Strickland, Jr.
Secretary

REGISTRATION NO **17102** FILED 1425

DEC 6 1990 - 9 02 AM

INTERSTATE COMMERCE COMMISSION

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
EQUIPMENT TRUST SERIES V

EQUIPMENT TRUST AGREEMENT
Dated as of November 1, 1990

Between

HARRIS TRUST AND SAVINGS BANK,
as Trustee,

and

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

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SCHEDULE A

EQUIPMENT TRUST AGREEMENT

This Equipment Trust Agreement, dated as of November 1, 1990 (the or this "Agreement"), by and between HARRIS TRUST AND SAVINGS BANK, an Illinois corporation, as Trustee (hereinafter called the Trustee) and THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a Delaware corporation (hereinafter called the Company),

WITNESSETH:

WHEREAS, words and phrases not otherwise defined herein shall have the meanings assigned thereto in Article Two of this Agreement; and

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

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

WHEREAS, The Atchison, Topeka and Santa Fe Railway Company Equipment Trust Certificates, Series V (hereinafter called "Trust Certificates"), are to be issued and sold in one installment in an aggregate principal amount not exceeding \$164,528,875 (the "Total Authorized Issue"), and the net proceeds of such sale, together with such other cash, if any, as may be required to be deposited by the Company as hereinafter provided, will constitute a fund to be equal to the aggregate principal amount of Trust Certificates so issued and sold, to be known as The Atchison, Topeka and Santa Fe Railway Company Equipment Trust, Series V, and to be applied by the Trustee from time to time in all or part payment of the Cost of the Trust Equipment, the remainder, if any, of the Cost thereof to be paid out of Advance Rentals to be paid by the Company as provided herein; and

WHEREAS, the texts of the Trust Certificates and the guaranty to be endorsed on the Trust Certificates by the Company are to be substantially in the forms hereinafter set forth; and

WHEREAS, it is desired to secure to the Holders of the Trust Certificates the payment of the principal thereof and dividends and interest thereon as hereinafter provided.

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

ARTICLE ONE

FORM OF TRUST CERTIFICATE AND GUARANTY

SECTION 1.1. Form of Trust Certificates and Guaranty. The Trust Certificates and the guaranty to be endorsed on the Trust Certificates by the Company are to be substantially in the following form:

PURSUANT TO THE EQUIPMENT TRUST AGREEMENT,
THE EQUIPMENT TRUST CERTIFICATES ARE BEING
ISSUED TO FINANCE NOT EXCEEDING 100%
OF THE COST OF THE TRUST EQUIPMENT

No. VR _____

\$ _____

Private Placement Number 414630 C# 8

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

Equipment Trust Certificates, Series V

Total Authorized Issue: \$164,528,875

9.96% Trust Certificate
due August 1, 2006

HARRIS TRUST AND SAVINGS BANK, Trustee

Dividends at the Rate of 9.96% Per Annum
Payable Semiannually

THE HARRIS TRUST AND SAVINGS BANK, as Trustee (hereinafter called the Trustee) under an Equipment Trust Agreement, dated as of November 1, 1990 ("Agreement"), by and between the Trustee and THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY (hereinafter called the "Company"), hereby certifies that _____ or registered assigns, is entitled to an interest in the principal amount of _____ Dollars in THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY EQUIPMENT TRUST, SERIES V, payable at its principal office in the City of Chicago, State of Illinois in fifteen (15) equal annual installments of principal on each August 1 from and including August 1, 1992 to and including the final due date stated above, and to payment of dividends on said principal amount semiannually on February 1 and August 1 of each year, beginning as of August 1, 1991 at the rate per annum specified in the heading hereof (computed on the basis of a 360-day year consisting of twelve 30-day months) from the date hereof, until said due date, at said office of the undersigned, with interest on any overdue principal and, to the extent that it shall be legally enforceable, on overdue dividends at the dividend rate specified above plus 1%, 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 Rental or other moneys received by the undersigned and applicable to such payment under the provisions of the Agreement. Notwithstanding the provisions of the preceding sentence, in the case of payments of principal and dividends on this Trust Certificate, the undersigned, upon request of the registered Holder hereof, will, subject to timely receipt of Rental payments under the Agreement, mail its check to such registered Holder at his address shown on the registry books maintained by the undersigned, or, upon the request of the Holder for wire transfer, will wire immediately available funds to the account of such registered Holder at such bank as it may designate by notice in writing to the Trustee prior to the date that payment is due. Upon payment in full of the principal and dividends and, to the extent that it shall be legally enforceable, interest on overdue payments of principal and dividends on this Trust Certificate and upon

written request of the Trustee or the Company to do so, the registered Holder hereof shall surrender this Trust Certificate to the Trustee.

This Certificate is one of an authorized issue of Trust Certificates in an aggregate principal amount not exceeding the Total Authorized Issue set forth above, and issued or to be issued under the Agreement, under which certain railroad equipment leased to the Company (or, in lieu thereof, as provided in the Agreement, cash or obligations defined in the Agreement as "Investments") is held by the Trustee in trust for the equal and ratable benefit of the Holders of the Trust Certificates issued thereunder. Reference is made to the Agreement (a copy of which is on file with the undersigned at its principal office in the City of Chicago, State of Illinois) for a more complete statement of the terms and provisions thereof, to all of which the registered Holder hereof, by accepting this Trust Certificate, assents.

The Trust Certificates are issuable in minimum denominations of \$100,000 and any larger integral multiple of \$1,000, as fully registered Trust Certificates, and the several denominations of Trust Certificates are interchangeable upon presentation thereof at the principal office of the undersigned, but only in the manner, subject to the limitations and upon payment of the charges provided in the Agreement.

Subject to the provisions of Section 3.5 of the Agreement, this Trust Certificate is transferable by the registered Holder hereof, in person or by duly authorized attorney, on the books of the undersigned upon surrender hereof to the undersigned at its said office accompanied by appropriate instruments of assignment and transfer, duly executed by the registered Holder hereof in person or by such attorney, in form satisfactory to the undersigned, and thereupon a new Trust Certificate or Certificates of the same maturity and rate and in authorized form and denominations will be issued to the transferee in exchange herefor. Prior to due presentment for registration of transfer, the undersigned and the Company shall be entitled to deem and treat the registered Holder hereof as the absolute owner for the purpose of receiving payment of principal and dividends and, to the extent that it shall be legally enforceable, interest on overdue payments of principal and dividends and for all other purposes and shall not be affected by any notice to the contrary.

The Trust Certificates are not subject to redemption in whole or in part except as may be expressly permitted by the terms of the Agreement.

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

This Certificate shall not be deemed a promise to pay of the Trustee and shall not be valid unless manually signed by a Vice President of the Trustee and its corporate seal affixed or imprinted hereon and attested to by an Assistant Secretary of the Trustee.

IN WITNESS WHEREOF, the Trustee has caused this Certificate to be signed by the signature of one of its Vice Presidents and its corporate seal to be hereunto affixed and to be attested by an Assistant Secretary.

Dated as of

HARRIS TRUST AND SAVINGS BANK,
as Trustee

(Corporate Seal)

By _____
Vice President

ATTEST:

Assistant Secretary

GUARANTY

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, for a valuable consideration, hereby unconditionally guarantees to the registered Holder of the within Trust Certificate the prompt payment of the principal of said Certificate, and of dividends thereon at the rate specified in said Certificate, with interest at said dividend rate plus 1% on any principal from and after the due date thereof and (to the extent that it shall be it shall be legally enforceable) interest at said dividend plus 1% on any unpaid dividends from and after the due date thereof until such principal and dividends shall be paid in accordance with the terms of said Certificate and the Equipment Trust Agreement referred to therein.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY

By _____

ARTICLE TWO

DEFINITIONS

SECTION 2.1. Definitions. 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:

"Advance Rentals" shall mean the amounts payable by the Company to the Trustee as Advance Rentals under Sections 5.2 and 6.4(A).

"Affiliate" of any corporation shall mean any corporation which, directly or indirectly, controls or is controlled by, or is under common control with, such corporation. 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, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities or by contract or otherwise.

"Applicable Dividend Rate" shall mean the rate of 9.96% per annum (computed on the basis of a 360-day year consisting of twelve 30-day months) all as is specified in the Trust Certificates.

"Casualty Occurrence" shall have the meaning specified in Section 6.7.

The **"Casualty Value"** of any unit of Equipment shall be considered to be the Cost thereof less depreciation accrued on such Equipment on each August 1, commencing August 1, 1992, at 1/15th of the Cost thereof per annum.

"Company" shall mean The Atchison, Topeka and Santa Fe Railway Company and any successor or successors thereto.

"Cost", when used with respect to Equipment, shall mean the actual cost thereof, which Cost shall not exceed the fair value thereof, invoiced to the Trustee hereunder, which shall be the cost invoiced by the manufacturer of the Equipment to the Trustee, and when used with respect to Replacement Units, shall mean the original cost thereof less depreciation accrued thereon on each August 1 at 1/15th of such original cost per annum, and in any such case shall include only such items as may properly be included in such cost under the Interstate Commerce Commission's Uniform System of Accounts for Railroad Companies, as in effect at the time in question, or to the extent not determined thereby or in case there be no such accounting rules of the Interstate Commerce Commission in effect at such time, sound accounting practice.

"Date of Original Issue" with respect to each Trust Certificate shall mean the date such Trust Certificate is executed and issued to the initial purchasers thereof pursuant to Section 3.1 of this Agreement.

"Deposited Cash" shall mean the aggregate of (a) the proceeds from the sale of the Trust Certificates deposited with the Trustee pursuant to Section 3.1, including any Advance Rentals due therewith, and, when required or indicated by the context, any Investments purchased by the use of such proceeds pursuant to the provisions of Section 9.9, and (b) any sums restored to Deposited Cash from Rentals pursuant to Section 6.4(B)(1)(b) and on deposit with the Trustee.

"Equipment" shall mean initially the one-hundred twenty new locomotives more fully described in Schedule A hereto on the Date of Original Issue and any other new, used or remanufactured locomotives from time to time substituted therefor or supplemented in addition thereto, in either such case, pursuant to Sections 6.7 and 6.10.

"ETC Purchase Agreement" shall mean each of, and **"ETC Purchase Agreements"** shall mean all of, the Purchase Agreements entered into by the Company and the Trustee with the Initial Purchasers, pursuant to which the Initial Purchasers shall purchase the Trust Certificates upon the terms and conditions therein set forth.

"Event of Default" shall mean any event specified in Section 7.1 to be an Event of Default.

"Government 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 is pledged to provide for the payment of interest and principal; provided that such bonds, notes or other direct obligations mature within twelve months from the date of acquisition thereof.

"Holder", when used with respect to Trust Certificates, shall include the plural as well as the singular number and, unless otherwise indicated by the context, shall mean and include the registered owner of a Trust Certificate.

"Initial Purchasers" shall mean the institutional investors named on Schedule I to the ETC Purchase Agreements.

"Investments" shall mean: (a) Government Securities; (b) commercial paper rated at least "P-1" by Moody's Investors Service, Inc. or "A-1" by Standard & Poor's Corporation maturing within 270 days from the date of creation thereof; and (c) bankers' acceptances and certificates of deposit maturing within one year from the date of origin issued by any bank or trust company which is organized under the laws of the United States or any state thereof having at the time of acquisition of such bankers' acceptances or certificates of deposit either: (i) capital and surplus aggregating at least \$100,000,000 and the commercial paper or other short-term debt obligations of such bank or trust company shall be rated at least "P-1" by Moody's Investors Services, Inc. or "A-1" by Standard & Poor's Corporation or the long-term debt obligations of such bank or trust company shall be rated at least "AA" or better by Moody's Investors Services, Inc. or by Standard & Poor's Corporation, or (ii) capital and surplus aggregating at least \$250,000,000 and the commercial paper or other short-term debt obligations of such bank or trust company shall be rated at least "P-1" by Moody's Investors Services, Inc. or "A-1" by Standard & Poor's Corporation or the long-term debt obligations of such bank or trust company shall be rated at least "A" or better by Moody's Investors Services, Inc. or by Standard & Poor's Corporation.

"Officer's Certificate" shall mean a certificate signed by the Chairman of the Board, the President, the Chief Executive Officer, the Executive Vice President, any Senior Vice President, or any other Vice President of the Company.

"Opinion of Counsel" shall mean an opinion of counsel (who may be counsel to the Company) satisfactory to the Trustee.

"Principal Office" shall mean the office of the Trustee in the City of Chicago, State of Illinois at which its corporate trust business shall from time to time be conducted.

"Purchase Date" shall have the meaning specified in the ETC Purchase Agreements.

"Rental" shall mean the rental payments required by Section 6.4(B).

"Replacement Funds" shall have the meaning specified in Section 6.10.

"Replacement Units" shall mean have the meaning specified in Section 6.7.

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

"Total Authorized Issue" shall mean an aggregate principal amount of not exceeding \$164,528,875 of Trust Certificates executed and issued under Section 3.1.

"Trust Certificate or Certificates" shall mean the trust certificates issued under Section 3.1 hereof and any other trust certificates issued hereunder in an authorized transfer, exchange or replacement therefor.

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

"Trustee" shall mean HARRIS TRUST AND SAVINGS BANK, an Illinois corporation, and, subject to the provisions of Article Nine, any successor as trustee hereunder.

All references herein to Articles, Sections and other subdivisions refer to corresponding Articles, Sections and other subdivisions of this Agreement; and the words herein, hereof, hereby, hereto, hereunder and words of similar import refer to this Agreement as a whole and not to any particular Article, Section, paragraph or subdivision hereof.

ARTICLE THREE

TRUST CERTIFICATES AND ISSUANCE THEREOF

SECTION 3.1. Original Issuance of Trust Certificates. Upon the initial issuance and sale of any Trust Certificates hereunder, the amount equal to the net proceeds of the Trust Certificates so issued and sold shall forthwith, upon issuance thereof, be deposited in cash with the Trustee. The Company shall forthwith, if necessary, deposit with the Trustee any Advance Rental payable by the Company to the Trustee under Section 6.4(A)(1) hereof. Thereupon, without waiting for the recording or filing of this Agreement or of any other instrument respecting the Trust Equipment but upon satisfaction of the conditions contained in Section 7 of the ETC Purchase Agreements, the Trustee shall as the Company shall direct by Request, execute and issue Trust Certificates in the aggregate principal amount thereof so to be issued and sold hereunder.

The aggregate principal amount of all Trust Certificates which shall be executed and issued by the Trustee under this Section shall not exceed the Total Authorized Issue, and the aggregate principal amount represented by all the Trust Certificates shall be payable as hereinafter set forth.

SECTION 3.2. Interests Represented by Trust Certificates; Dividends; Maturities. Each of the Trust Certificates shall represent an interest in the principal amount therein specified in the trust created hereunder. The principal amount of each Trust Certificate will become due and payable in fifteen (15) equal annual installments of principal on August 1, in each year from and including August 1, 1992 to and including August 1, 2006. Each Trust Certificate shall be dated as of the Date of Original Issue and will bear dividends on the unpaid principal amount thereof at the Applicable Dividend Rate, payable semiannually on February 1 and August 1, while outstanding, beginning August 1, 1991. Trust Certificates which shall be executed and delivered by the Trustee in accordance with the provisions of Section 3.5 and 3.6 hereof shall be dated, and shall bear dividends from, the Date of Original Issue or the dividend payment date to which dividends shall have been paid next preceding or coinciding with the date of such execution and delivery, whichever is later to occur.

The principal, dividends and interest at the applicable dividend rate plus 1% on overdue payments of principal and dividends shall be payable at the Principal Office or agency of the Trustee 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 hereof. All monies received by the Trustee pursuant to Section 6.4(B)(3) and (4) shall be applied first to interest due and owing on overdue payments of principal and dividends, second to dividends and third, to principal. Notwithstanding the provisions of the preceding sentence, the Trustee, upon request of the registered Holder of a Trust Certificate, will, subject to timely receipt of Rental payments under Section 6.4(B), mail on the day each such payment is due its check to such registered Holder at his address shown on the registry books maintained by the Trustee or at such other address as may be directed in writing by such Holder prior to the date the payment is due, or, upon request of the Holder for wire transfer, will initiate a wire by 11:00 a.m., Chicago, Illinois, time, of immediately available funds to the account of such registered Holder at such bank as it may designate by notice in writing to the Trustee prior to that date. The Company agrees to make its Rental payments pursuant to Section 6.4(B) at such times and in such funds as will enable the Trustee to comply with this Section 3.2. The Company and the Trustee acknowledge and agree that the ETC Purchase Agreements constitute the request of each of the Initial Purchasers for all payments in respect of the Trust Certificates to be made by wire transfer at the address of each such Initial Purchaser set forth in Schedule I to the ETC Purchase Agreements.

Upon payment in full of the principal, dividends and interest on the Trust Certificates and upon written request of the Trustee or the Company to do so, the Holders of the Trust Certificates shall surrender the same to the Trustee.

SECTION 3.3. Forms of Trust Certificates and Guaranty. The Trust Certificates and the guaranty to be endorsed on the Trust Certificates by the Company as provided in Section 8.2 shall be in substantially the respective forms set forth in Article One hereof.

SECTION 3.4. Execution by Trustee. The Trust Certificates shall be signed in the name and on behalf of the Trustee by the manual signature of its President, or one of its Vice Presidents and its corporate seal shall be affixed or imprinted thereon and attested by the signature of one of its Assistant Secretaries. In case any officer of the Trustee whose signature shall appear on any of the Trust Certificates shall cease to be such officer of the Trustee before the Trust Certificates shall have been executed and issued 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, authenticated and delivered as though such person had not ceased to be, or had then been, such officer of the Trustee and shall be as effective and binding as though such person had not ceased to be, or had then been acting as, such officer of the Trustee.

SECTION 3.5. Trust Certificates; Denominations; Registration; Owners Thereof; Transfer or Exchange of Trust Certificates. The Trust Certificates shall be issuable in minimum denominations of \$100,000 or any larger integral multiple of \$1,000 and shall be numbered from RV-1 consecutively upward; shall be registered, as to both principal and dividends, in the name of the Holders thereof; shall be transferable in whole or in part upon presentation and surrender thereof for registration of transfer at the Principal Office of the Trustee in the City of Chicago, State of Illinois, accompanied by appropriate instruments of assignment and transfer, duly executed by the registered Holder of the surrendered Trust Certificate or Trust Certificates or by his attorney duly authorized in writing, shall be dated as of the date of issue unless issued in an authorized exchange or substitution for another Trust Certificate or Trust Certificates bearing unpaid dividends from an earlier date, in which case they shall be dated as of such earlier date, shall have the guaranty on such transferred Trust Certificate executed by the Company and shall entitle the registered Holder to dividends and installments of principal and interest from the date thereof. The Trust Certificates to be exchanged shall be surrendered at the Principal Office of the Trustee in the City of Chicago, State of Illinois.

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

Anything to the contrary herein notwithstanding, the parties hereto and any agent of the Trustee 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.

The Trustee shall cause to be kept at its Principal Office in the City of Chicago, State of Illinois books for the registration and transfer of the Trust Certificates and, upon presentation of the Trust Certificates for such purpose, the Trustee shall register any transfer as hereinabove provided.

For any registration of transfer, exchange or discharge from registration, 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 dividends and

installments of principal and 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, such Trust Certificates shall be so dated that neither gain nor loss in dividends or principal shall result from such exchange, substitution or transfer.

Except pursuant to a Request, the Trustee shall not be required to transfer or exchange any Trust Certificate for a period of five business days next preceding any dividend payment date.

SECTION 3.6. Replacement of Mutilated or Lost Trust Certificates. In case any Trust Certificate shall become mutilated or defaced or be lost, stolen or destroyed, then on the terms herein set forth, and not otherwise, the Trustee, upon Request, shall execute and deliver a new Trust Certificate of like dividend rate, tenor, maturity and date, and bearing the same or a different 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. 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 reasonable 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 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 reasonably required by the Trustee and by the Company in their discretion, and shall pay all expenses and charges of such substitution or exchange, provided, however, that if the Holder of such Trust Certificate is one of the Initial Purchasers of the Trust Certificates (or an Affiliate thereof), or is a bank, insurance company, pension fund, fraternal benefit society, endowment or other organization or financial institution that regularly acquires debt securities for investment having a minimum capital and surplus of at least \$50,000,000, the written undertaking of such Holder delivered to the Trustee and the Company shall be sufficient security and indemnity under this Section 3.6. 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, destroyed or stolen 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.

ARTICLE FOUR

EARLY REDEMPTION OF TRUST CERTIFICATES

No prepayment or redemption of the Trust Certificates may be made except to the extent and in the manner expressly provided in this Agreement.

SECTION 4.1. Redemption of Trust Certificates. The Trust Certificates shall not be redeemable prior to their maturity except in the event of a Casualty Occurrence as described in Section 6.7 hereof. Any such redemption shall be made pro rata among all outstanding Trust Certificates as provided in Section 4.2.

SECTION 4.2. Certain Prepayments. The Trustee, if the Company so requests, shall apply all or a portion of Replacement Funds as defined in Section 6.10 to

the payment thereunder, at par, in a minimum principal amount of \$250,000 or larger multiples of \$50,000, of the Trust Certificates together with accrued dividends to the date of prepayment. All such payments shall be applied pro rata among all Holders of outstanding Trust Certificates and in each case first against the final maturities of such Holder's outstanding Trust Certificates and then, against the annual installments required by Section 3.2 in the inverse order of the due dates of such annual installments.

Notice of payments pursuant to this Section 4.2 shall be delivered by the Company to the Trustee and the Holders of the Trust Certificates by mailing such notice of payment in the manner provided in Section 10.5 to the Trustee and each such Holder at the last address of such Holder as it appears in the register of Trust Certificates not less than 30 nor more than 60 days prior to the date fixed for payment.

ARTICLE FIVE

ACQUISITION OF TRUST EQUIPMENT BY TRUSTEE; DEPOSITED CASH

SECTION 5.1. Acquisition of Equipment by Trustee. The Company, as soon as may be reasonably practicable, and in any event no later than the Purchase Date, shall cause to be constructed and shall cause to be sold, assigned, transferred and set over unto the Trustee, as trustee for the Holders of the Trust Certificates, the Equipment described in Schedule A hereto.

To that end, the Company hereby assigns to the Trustee all of its rights, title and interest under the contract or contracts entered into by the Company for the construction of such Equipment; provided that there shall be excluded from such assignment the drawings prepared by General Motors Corporation (Electro-Motive Division) of its GP60M Model Locomotive and the drawings prepared by General Electric Company of its Dash 8-40BW Model Locomotive furnished by each such manufacturer to the Company pursuant to such contracts and expressly required by the terms thereof to be held confidential by Company. Said Equipment shall be delivered to the Company, which is hereby designated by the Trustee as its agent to accept such delivery, and an Officer's Certificate as to such delivery and acceptance shall be conclusive evidence of such delivery.

In the event that the Company shall deem it necessary or desirable to procure for the transportation services of the Company, and to include in the trust hereby created, other equipment similar to the Equipment in addition to or in lieu of any units of the Equipment specifically described in Schedule A hereto (prior to the acceptance of such Equipment by the Trustee or its agent or agents), or in the event that any unit of the Equipment described in Schedule A hereto shall suffer a Casualty Occurrence as defined in Section 6.7 prior to such acceptance, the Company may cause to be sold to the Trustee other new locomotives of the same make or model as those described in Schedule A hereto to be substituted under the trust, whereupon such other equipment shall become Equipment hereunder, and to that end the Company, upon entering into a contract or contracts for the construction of such other equipment, shall assign to the Trustee all its rights, title and interest under the said contract or contracts.

SECTION 5.2. Payments Out of Deposited Cash. Concurrently with the purchase of the Trust Certificates by the Initial Purchasers on the Purchase Date pursuant

to the ETC Purchase Agreements, which shall be the date on which the Equipment shall have been delivered to and accepted by the Trustee or its agent pursuant to Section 5.1, the Trustee shall (subject to the provisions of Section 5.3) pay, upon Request, to the manufacturer or manufacturers of the delivered Trust Equipment out of Deposited Cash then held by the Trustee, together with such additional sums, if any, paid by the Company to the Trustee in Advance Rentals that are necessary to provide for payment in full of, the aggregate Cost of such Trust Equipment as specified in the Officer's Certificate furnished to the Trustee pursuant to Section 5.3(a). The Company covenants that, contemporaneously with any such payment by the Trustee out of Deposited Cash, it will pay to the Trustee such necessary amounts, if any, of Advance Rentals.

SECTION 5.3. Supporting Papers. The Trustee shall not pay out any Deposited Cash against the delivery of any of the Trust Equipment unless and until it shall have received:

(a) An invoice or invoices from the manufacturer or manufacturers and an Officer's Certificate which shall state (i) that such Trust Equipment is Equipment as herein defined, (ii) that the Cost of such Trust Equipment is the amount specified in the related invoice and (iii) that such Trust Equipment was delivered to the Company, as agent for the Trustee, and has been plated or marked in accordance with the provisions of Section 6.6 hereof;

(b) A bill or bills of sale of such Trust Equipment from the manufacturer or manufacturers thereof to the Trustee, which bill or bills of sale shall contain a warranty or guaranty to the Trustee that the title to the Trust Equipment described therein is free from all liens and encumbrances (including any leasehold interest therein);

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

(d) Written direction from Special Counsel to the Initial Purchasers to the effect that the conditions set forth in Section 7 thereof have been satisfied; and

(e) In case of any Trust Equipment not specifically described herein, an Opinion of Counsel that a proper supplement hereto in respect of such Trust Equipment has been duly executed by the Trustee and the Company, and duly filed and recorded in accordance with Section 8.4 hereof.

Any Officer's Certificate pursuant to this Section 5.3 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.

SECTION 5.4. Ratio of Cost of Trust Equipment to Trust Certificates. If the aggregate final Cost of the Trust Equipment shall be less than 100 percent of the aggregate principal amount of Trust Certificates issued hereunder, the Company will at its option either (a) cause to be purchased or constructed and transferred to the Trustee by supplement hereto, subject to all the terms of this Agreement, additional equipment of the type described in Section 5.1 in such amount and of such Cost that the aggregate final

Cost of the Trust Equipment will be at least 100 percent of the aggregate principal amount of Trust Certificates issued hereunder or (b) pay to the Trustee (in addition to all other amounts to be paid by it under the provisions of this Agreement) as additional rent such amount, if any, as shall, when added to:

(i) The aggregate final Cost of such of the Trust Equipment as shall have been transferred to the Trustee under this Agreement; and

(ii) Any net proceeds from the sale of Trust Certificates, together with any Advance Rental paid to the Trustee, held by the Trustee after payment of the aggregate final Cost of such Trust Equipment so transferred and delivered;

equal 100 percent of the aggregate principal amount of Trust Certificates issued hereunder.

SECTION 5.5. Interest on Moneys Received by Trustee. Interest, if any, allowed by the Trustee upon any moneys received by it under the provisions hereof and any interest (in excess of accrued interest paid from Deposited Cash at the time of purchase) or other profit accruing upon any investment of Deposited Cash as permitted by Section 9.7 hereof 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.

SECTION 5.6. Application of Surplus Deposited Cash. Any Deposited Cash remaining in the hands of the Trustee after the delivery of all the Trust Equipment to be delivered pursuant to Section 5.1 and Section 5.3 hereof and payment therefor in the manner provided herein shall, upon Request by the Company, be applied by the Trustee in the manner as described in this Article Five toward the purchase of additional Equipment included as Trust Equipment in accordance with Section 5.1 and Section 6.2 hereof or to the payment of Rentals under Section 6.4(B)(4) hereof.

ARTICLE SIX

LEASE OF TRUST EQUIPMENT TO THE COMPANY

SECTION 6.1. Lease of Trust Equipment. The Trustee does hereby let and lease all the Equipment to the Company from and after the date hereof, for a term not to exceed 16 years ending at midnight on August 1, 2006.

SECTION 6.2. Inclusion of Additional or Substituted Equipment. In the event that the Company shall, as provided in Section 5.1 or Section 5.4(a) or in Section 6.7 and 6.10 hereof, cause to be purchased, constructed or manufactured and transferred to the Trustee other road-haul locomotives in addition to or in substitution for any of the Equipment herein specifically described, such other road-haul locomotives shall be included as part of the Trust Equipment by supplement hereto executed by the Company and the Trustee and to be filed with the Interstate Commerce Commission 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.

SECTION 6.3. Equipment Subjected Hereto by Delivery. As and when any Equipment shall from time to time be transferred and delivered to the Company as agent

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

SECTION 6.4. 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 as hereinbefore provided; and the Company covenants and agrees to pay to the Trustee (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, rents 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 and whether or not at the time any thereof shall have been delivered to the Company):

(A) The Company shall pay to the Trustee, as hereinafter provided, as Advance Rental hereunder, sums which shall be equal to the difference between the Cost of the Trust Equipment (other than Trust Equipment subjected hereto pursuant to Sections 6.7 and 6.10 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 shall pay to the Trustee, as Advance Rental hereunder, a sum equal to the amount, if any, by which the aggregate Cost of such Trust Equipment exceeds such net proceeds of the sale of the Trust Certificates. The Company agrees to pay such Advance Rental as follows:

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

(2) Upon delivery of any of such Trust Equipment, a sum equal to the portion of the Cost of such delivered Trust Equipment not paid out of Deposited Cash as provided for in Section 5.2 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, 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 Investments;

(2) Any and all taxes, assessments and governmental charges upon or on account of the income or property of the trust

or of this Agreement, which the Trustee, as such, may be required to pay;

(3) The amounts of the dividends payable on the Trust Certificates, when and as the same shall become payable, and, to the extent it shall be legally enforceable, interest at the Applicable Dividend Rate plus 1% from the due date upon the amount of any dividends which shall not have been paid when due until the same shall be paid in full; and

(4) The installments of principal of the Trust Certificates, when and as the same shall become payable, whether upon the date of maturity or otherwise under the provisions thereof or of this Agreement, and interest at the Applicable Dividend Rate plus 1% from the due date of any installment of principal which shall not have been paid when due until the same shall be paid in full.

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 any government or taxing authority of the United States of America or of any state, county, municipality or other taxing authority to be paid on behalf of, or withheld from the amount payable to, the Holder of any Trust Certificate. The Company shall not be required to pay any tax, assessment or governmental charge so long as it shall in good faith and by appropriate legal proceedings contest the validity thereof, unless in the judgment of the Trustee (acting at the written direction of the Holders of at least 51% of the outstanding principal amount of the Trust Certificates) the rights or interests of the Trustee or of the Holders of the Trust Certificates may be materially endangered thereby.

SECTION 6.5. Termination of Lease. At the termination of the lease provided herein and after all payments due or to become due from the Company hereunder or under the ETC Purchase Agreements or under the Company's guaranties endorsed on the Trust Certificates shall have been completed and fully made (a) such payments shall be applied and treated as purchase money and as the full purchase price of the Trust Equipment, (b) any moneys remaining in the hands of the Trustee after providing for all outstanding Trust Certificates and after paying the expenses of the Trustee, including its reasonable compensation, shall be paid to the Company, (c) title to all the Trust Equipment shall vest in the Company, and (d) the Trustee shall execute for recordation 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 the 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 which shall have been deposited or are held for the payment of the principal amount of or dividends on any Trust Certificates remaining unclaimed for six years after the date of maturity of such Trust Certificates or the date such dividends were due and payable, as the case may be, shall be repaid by the Trustee to the Company, and all liability of the Trustee with respect to such

money shall thereupon cease and the Holders 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 shall, at the expense of the Company, give 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 such notice, any unclaimed balance of such moneys then remaining upon deposit with the Trustee will be repaid to the Company. In no event shall the Holders of such Trust Certificates be entitled to interest upon such money whether held by the Trustee or so repaid to the Company.

SECTION 6.6. 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 upon each side of such unit, by a metal plate or otherwise, the following words, in letters not less than one inch high:

**OWNERSHIP SUBJECT TO A SECURITY AGREEMENT
FILED WITH THE INTERSTATE COMMERCE COMMISSION**

Such marking shall be readily visible and shall indicate plainly the Trustee's ownership of each unit of the Trust Equipment. In case, prior to the termination of the lease provided for herein, any such marking shall at any time be removed, defaced or destroyed, the Company shall promptly cause the same to be restored or replaced. The Company shall not change or permit to be changed, the 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 previously shall have been filed with the Trustee by the Company and which shall be filed and recorded as provided in Section 8.4 hereof.

The Trust Equipment may be lettered "ATSF" or "SANTA FE", and may bear the circle and cross emblem of ATSF in any of its forms, and may be lettered with the name or initials of any railroad company which is permitted to use such equipment as hereinafter provided, or may be lettered in some other appropriate manner for convenience of identification of the leasehold interest of the Company therein. The Trust Equipment may also be numbered for convenience of identification and bear identifying symbols and lettering of the Company. 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 which might be interpreted as a claim of ownership thereof by the Company or by any person, association or corporation other than the Trustee.

SECTION 6.7. Maintenance of Trust Equipment; Casualty Occurrences. The Company agrees that it will, at its own cost and expense, maintain and keep all of the Trust Equipment in good order and proper repair and at all times in compliance with any applicable standards set by the Federal Railroad Administration, the Association of American Railroads or the U.S. Department of Transportation (it being understood and agreed that any part or component added to any unit of Trust Agreement to meet any such applicable standards shall be deemed to be an accession to the Trust Equipment), unless and until it becomes worn out, lost, stolen, destroyed, irreparably damaged or physically unsuitable or shall be permanently requisitioned or permanently taken over by any governmental authority under the power of eminent domain, or otherwise (each such occurrence, except for any requisition which by its terms is indefinite or does not exceed

the final maturity date of the Trust Certificates, being hereinafter called a "Casualty Occurrence"). Whenever any unit of the Trust Equipment shall suffer a Casualty Occurrence, the Company shall deliver to the Trustee an Officer's Certificate describing such unit and stating the then Casualty Value thereof and shall either (a) deposit with the Trustee an amount in cash equal to the Casualty Value of such unit; or (b) cause to be transferred to the Trustee additional new, used or remanufactured road-haul locomotives ("Replacement Units"), free from all liens and encumbrances, having a Cost and remaining service life at least equal to the then Casualty Value and remaining service life of the unit of Equipment having suffered the Casualty Occurrence and deliver to the Trustee, in respect of such Replacement Units, certificates, bills of sale and Opinions of Counsel, all in like manner as provided in Section 5.3 hereof, and in addition, an Officer's Certificate describing such Replacement Units and stating the Cost and the then Casualty Value thereof and cause Schedule A hereto to be supplemented and such supplement to be duly filed with the Interstate Commerce Commission all in accordance with applicable law; or (c) prepay a pro rata amount of the Trust Certificates at par plus accrued dividends pursuant to Section 4.2 of this Agreement. With respect to any Replacement Unit added to the Trust pursuant to this Section 6.7 and Section 6.10, the Casualty Value of any such Replacement Unit added to the Trust shall be deemed to be the Casualty Value of the unit of Equipment having suffered the Casualty Occurrence. The rights and the remedies of the Trustee to enforce or to recover any of the Rental payments shall not be affected by reason of such Casualty Occurrences. Cash deposited with the Trustee pursuant to this Section 6.7 shall be held and applied as provided in Section 6.10.

SECTION 6.8. Reports. The Company covenants and agrees to furnish to the Trustee and each Holder of Trust Certificates, whenever required by the Trustee or any such Holder, and at least once in every calendar year following the calendar year in which occurs the first delivery of any of the Trust Equipment and during the continuance of the lease provided for herein, an Officer's Certificate stating (a) 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, (b) 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 the plates or marks required by Section 6.6 hereof have been preserved, or that the same when repainted or repaired have been again plated or marked as required thereby, and (c) such other information as to the condition and state of repair of the Trust Equipment as the Trustee or any Holder of the Trust Certificates may reasonably request.

SECTION 6.9. Possession of Trust Equipment; Assignments; Mergers. The Company, so long as an Event of Default shall not exist and be continuing hereunder, shall be entitled to the possession of the Trust Equipment from and after delivery thereof to the Company, and the use thereof, whether under lease or otherwise, upon the lines of railroad owned or operated by the Company (either alone or jointly with another) or by any Affiliate of the Company (either jointly or with another), or upon lines over which the Company or any such 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 carriers in the usual interchange of traffic with the Company and upon connecting and other carriers over which through service may from time to time be afforded to the Company, but only upon and subject to all the terms and conditions of this Agreement and only if in the case of the use of the Trust Equipment in interchange or through service in Mexico, such use is incidental to the business of the Company.

The Company shall not, without first obtaining the written consent of the Trustee, acting at the written direction of the Holders of at least 51% of the outstanding principal amount of the Trust Certificates (which consent and direction shall not be unreasonably withheld if the Trustee's lien on the Trust Equipment is and shall continue to be adequately secured), assign or transfer its rights hereunder, or sublet the Trust Equipment or any part thereof, except in any such case to either an Affiliate of the Company or to a permitted assignee or sublessee as hereinafter provided, in any which case such assignment, transfer or sublease shall be for use of the Trust Equipment within the United States and, following recordation or deposit of this Agreement and all supplements hereto, if any, and any other relevant documents and agreements with the Registrar General of Canada and publication of notice of such deposit, all in accordance with Section 86 of the Railway Act of Canada, Canada and shall be expressly made subject and subordinate to all the provisions of this Agreement and the rights and remedies of the Trustee hereunder; and the Company shall not, without such written consent, except as provided in the first paragraph of this Section 6.9, 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, without first obtaining the written consent of the Trustee, to sublet the Trust Equipment or any part thereof to another Class I railroad company or to General Electric Company, a New York corporation, or General Motors Corporation, a Delaware corporation and, with the prior written consent of the Trustee, acting at the written direction of the Holders of at least 51% of the outstanding principal amount of the Trust Certificates (which consent and direction shall not be unreasonably withheld if the Trustee's lien on the Trust Equipment is and shall continue to be adequately secured), to sublet the Trust Equipment or any part thereof to any other corporation, in any such case under a sublease for use of the Trust Equipment within the United States or (upon recordation of this Agreement with the Registrar General of Canada pursuant to Section 86 of the Railway Company Act) Canada. Any sublease shall expressly provide (a) that the rights of the sublessee in and to such Trust Equipment shall be subject and subordinate to the rights of the Trustee in and to such Trust Equipment, including the rights of the Trustee upon the happening of an Event of Default hereunder, and (b) 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 6.6 hereof, and, notwithstanding any sublease as contemplated herein, the Company shall remain liable as a principal and not as a guarantor or surety for the performance of its obligations under this Agreement and the ETC Purchase Agreements and in respect of the guaranties on the Trust Certificates. The Company shall deliver to the Trustee a copy of any sublease promptly after its execution. In each instance where the Trustee is to act at the written direction of the Holders under this paragraph, the Trustee shall advise the Holders by written notice specifying in detail the matter for which the Trustee's action or consent is requested by the Company. Unless a Holder objects in writing to the Trustee within 45 days of the giving of said notice (which writing shall specify the grounds for such objection), the Holder shall be deemed to have directed the Trustee by written direction to approve the action or consent so requested by the Company.

The Company will not merge, consolidate, or sell, assign or transfer all or substantially all of its property to any other corporation unless the survivor is the Company or the survivor of such merger or consolidation or such transferee (a) shall be a corporation organized under the laws of the United States of America or a state thereof, (b) shall be a "railroad" within the meaning of Section 101(33) (or any successor provision) within the meaning of the Bankruptcy Reform Act of 1978, as amended, (c) shall expressly

assume in writing all the obligations and liabilities under the Agreement and as guarantor of the Trust Certificates, and (d) after giving effect to any such merger, consolidation, sale, assignment or transfer, no Event of Default shall exist under the Agreement. Upon satisfaction of these conditions, and only these conditions, any merger, consolidation or sale of assets shall be permitted and there will be no requirement that the Trust Certificates be prepaid; provided, however, an assignment or transfer to a railroad of all or substantially all the lines of railroad of the Company, which, 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 if, after giving effect to any such assignment or transfer, the terms and provisions contained in the first sentence of this third paragraph of Section 6.9 shall have been satisfied.

In the event that prior to the expiration of the term of this Agreement, the use of any unit of Trust Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period ending on or before the final maturity of the Trust Certificates, the Company's duty to pay Rentals in respect thereof and to perform all of its obligations hereunder and under the ETC Purchase Agreements and the guaranties endorsed on the Trust Certificates shall continue for the duration of such requisitioning or taking. The Company shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession.

SECTION 6.10. Release and Replacement of Trust Equipment. Any units of the Trust Equipment which shall have been the subject of a Casualty Occurrence 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 any such units of the Trust Equipment upon the satisfaction of the terms and conditions of Section 6.7 and this Section 6.10 with respect to such units. No such release shall be made unless and until the Company shall have paid to the Trustee an amount equal to such Casualty Value of such Trust Equipment, caused to be transferred to this Trust Replacement Units or prepaid a pro rata amount of the Trust Certificates, in any such case as provided for in Section 6.7.

Any money paid to the Trustee pursuant to this Section 6.10 or Section 6.7 hereof (the "Replacement Funds") shall, so long as no Event of Default shall have occurred and be continuing, be applied, in whole or in part, as the Company shall direct by a Request filed with the Trustee, to one of the alternatives described in clauses (a) or (c) of Section 6.7 hereof. Anything herein contained to the contrary notwithstanding, the deposit of Replacement Funds with the Trustee pursuant hereto shall not be deemed or construed to relieve the Company of its obligations with respect to the payment in full of installments of principal and dividends and interest on overdue payments of principal and (to the extent that it shall be legally enforceable) dividends at the Applicable Dividend Rate plus 1% or in respect of its obligations under the guaranties endorsed on the Trust Certificates.

So long as no Event of Default shall have occurred and be continuing, any money paid to the Trustee pursuant to Section 6.7 or this Section 6.10 shall be invested, pending its application as hereinabove provided, in Investments as provided in Section 9.9 hereof.

The Company will cause any Replacement Units to be marked as provided in Section 6.6. Any and all such Replacement Units shall constitute accessions to the Trust

Equipment and shall be subject to all of the terms and conditions of this Agreement as though part of the original Trust Equipment delivered hereunder and shall be included in the term "Trust Equipment" as used in this Agreement. Title to all such Replacement Units shall be free and clear of all liens and encumbrances and shall be taken initially and shall remain in the name of the Trustee subject to the provisions hereof, and the Company shall promptly execute, acknowledge, deliver, file and record all such documents (including the filing with the Interstate Commerce Commission in accordance with Section 11303 of the Interstate Commerce Act of an appropriate supplemental agreement describing such Replacement Units) and do, or cause to be done, any and all such acts as may be necessary to cause such Replacement Units to come under and be subject to this Agreement and to protect the title of the Trustee to such Replacement Units. Unencumbered title to all such Replacement Units shall be warranted in like manner as the units of Trust Equipment replaced.

Whenever the Company shall file with the Trustee, pursuant to the provisions of this Section 6.10, a Request to apply Replacement Funds to or toward the Cost of a Replacement Unit or Units of Equipment, the Company shall file therewith in such number of counterparts as may reasonably be requested:

(a) an Officer's Certificate certifying (1) that such Replacement Unit or Units is or are Trust Equipment as defined herein and has or have been marked as required by the provisions of this Section 6.10, (2) the aggregate Cost of such Replacement Unit or Units, (3) that the Cost of such Replacement Unit or Units is or are at least equal to the Casualty Value of the unit of Trust Equipment which has been the subject of the related Casualty Occurrence and (4) that the remaining service life of each such Replacement Unit or Units is individually at least equal to the remaining service life of such unit of Trust Equipment immediately prior to the same having been the subject of such Casualty Occurrence; and

(b) an Opinion of Counsel for the Company (1) that title to such Replacement Unit or Units is vested in the Trustee free and clear of all liens and encumbrances and that such Replacement Unit or Units has or have come under and become subject to this Agreement, (2) that a Supplement to this Agreement has been duly filed with the Interstate Commerce Commission in accordance with Section 11303 Interstate Commerce Act and (3) this Agreement, as so supplemented, constitutes a valid and perfected security interest in such Replacement Unit or Units.

If an Event of Default shall have occurred and be continuing, all money then held by the Trustee pursuant to this Section 6.10 shall be applied by the Trustee as if such money were money received upon the sale of Equipment pursuant to Section 7.3.

In order to facilitate the sale, or other disposition of any unit of Trust Equipment suffering a Casualty Occurrence, the Trustee shall upon Request, after compliance by the Company with requirements of Section 6.7 and this Section 6.10, execute and deliver to the Company's vendee, assignee or nominee, a bill of sale (without warranties) for such unit, and such other documents as may be required to release such unit from the terms and scope of this Agreement, in such form as may be reasonably requested by the Company.

SECTION 6.11. Indemnification by the Company; Compliance with Laws. The Company covenants and agrees to indemnify the Trustee and each Holder of the Trust Certificates 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 unit thereof, may be operated, and with all lawful acts, rules, regulations and orders of the Interstate Commerce Commission and of all other commissions, boards and other legislative, executive, administrative or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including without limitation all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; provided, however, that the Company may in good faith contest the validity of any such law, act, rule, regulation or order, or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the Holders of the Trust Certificates. 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. The indemnification obligations of the Company under this Section 6.11 shall survive the termination of this Agreement and the payment in full of the Trust Certificates.

SECTION 6.12. Insurance. The Company will, at all times while this Agreement is in effect and at its own expense, cause to be carried and maintained in full force and effect in such amounts and with such terms (including co-insurance, deductibles, limits of liability and loss payment provisions) as are customary under the Company's risk management programs and in keeping with risks assumed by corporations of established size and reputation engaged in substantially the same businesses and similarly situated: (a) public liability insurance (including Federal Employer Liability Act coverage) against loss or damage for personal injury, death or property damage suffered upon, in or about any premises occupied by it or occurring as a result of the ownership, maintenance or operation by it of any automobile, truck or other vehicle or services rendered by it; and (b) all risk property insurance on the Trust Equipment; provided, however, that the Company may self-insure with respect to any or all of the above as is customary under the Company's risk management program; and provided further, that any such self-insurance will be comparable to self-insurance provisions generally applicable to other locomotives owned or leased by the Company. The Trustee and the Holders of the Trust Certificates shall be named as additional insureds under the Company's liability insurance. In the event of any insured property loss, the payment for such loss shall be made directly to the Company.

ARTICLE SEVEN

REMEDIES IN EVENT OF DEFAULT

SECTION 7.1. Events of Default. The Company covenants and agrees that in case:

(a) the Company shall default in the payment of principal of the Trust Certificates payable hereunder for more than 5 days after the same shall have become due and payable; or

(b) the Company shall default in the payment of any part of the Rental (including payments constituting dividends or interest, but excluding payments covered by clause (a) above) or in the payment of any part of the Advance Rental for more than 10 days after the same shall have become due and payable; or

(c) the Company shall make or suffer any unauthorized assignment or transfer of its rights hereunder or shall make or permit any unauthorized use, 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 upon immediately becoming aware of any such unauthorized assignment, use, transfer or sublease to deposit with the Trustee a sum in cash equal to the Casualty Value of the Trust Equipment so assigned, used, transferred, 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, use or sublease and the recovery of possession by the Company of such Trust Equipment); or

(d) the Company shall, for more than 30 days after the Trustee or any Holder of the Trust Certificates shall have demanded, in writing addressed to the Company, performance thereof, fail or refuse to comply with any other of the terms and covenants hereof or of the ETC Purchase Agreements on its part to be kept and performed, or to make provision satisfactory to the Trustee or such Holder, as the case may be, for such compliance; or

(e) the lease provided for herein shall be terminated by operation of law; or

(f) the guaranty of the Company in respect of any Trust Certificate shall cease to be in full force and effect for any reason whatsoever, including, without limitation, a final determination by any governmental body or court which is not subject to further administrative or judicial appeal that such guaranty is invalid, void or unenforceable or the Company shall contest or deny in writing the validity or enforceability of its obligations under any such guaranty; or

(g) any material representation, warranty, certificate or financial statement made or furnished in connection with the sale of the Trust Certificates is shown to have been materially inaccurate, as of the date when made, with respect to the financial condition or operations of the Company and its consolidated subsidiaries taken as a whole.

(h) a petition for reorganization under Title 11 of the United States Code, as now constituted or as hereafter amended, shall be filed by or against the Company and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective within 60 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 of the obligations of the Company under this Agreement and the obligations of the Company under the

Company's guaranties endorsed on the Trust Certificates shall not have been duly assumed in writing pursuant to a court order or decree, by a trustee or trustees appointed (whether or not subject to ratification) in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 60 days after such appointment, if any, or 60 days after commencement of such proceedings, whichever shall be earlier, and otherwise in accordance with the provisions of 11 U.S.C. §1168, or any successor provision; or

(i) 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 extension (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 60 days from the commencement of such proceedings (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all of the obligations of the Company under this Agreement and under the guarantees 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 60 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 in the case of any Event of Default pursuant to Section 7.1(a) or (b), and upon the written request of the Holders of at least 33% in principal amount of the then outstanding Trust Certificates in the case of all other Events of Default, shall, by notice in writing delivered to the Company, declare to be due and payable forthwith the entire amount of any Rental and any Advance Rental, but not including any Rental required for the payment of dividends accruing after the date of such declaration, payable by the Company as set forth in Section 6.4 hereof and not theretofore paid. Thereupon the entire amount of such Rental and Advance Rental shall forthwith become and shall be immediately due and payable without further demand, together with interest at the Applicable Dividend Rate plus 1%, to the extent it shall be legally enforceable, on any portion thereof overdue; and the Trustee shall be entitled to recover judgment for the total amount so becoming payable by the Company, and to collect judgment out of any property of the Company wherever situated.

In addition, in case one or more Events of Default shall happen, the Trustee in case of default in payment of principal, dividends or interest, upon the written request of the Holders of not less than 25% in principal amount of the then outstanding Trust Certificates and upon written request of the Holders of not less than 33% in principal in case of all other Events of Default, 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 forthwith become and shall be due and payable without further demand, together with interest at the Applicable Dividend Rate plus 1%, to the extent it shall be legally enforceable, on any portion thereof overdue.

In case the Company shall fail to pay, or cause to be paid, any installment of Rental payable pursuant to Section 6.4B(3) or B(4) hereof when and as the same shall have become due and payable hereunder and such default shall have continued for a period of 10 days or 5 days, respectively, 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 and other sums so due and unpaid and/or for the payment of sums due and owing pursuant to the guaranties endorsed on the Trust Certificates 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 or Advance 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 7.1, 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 Rental and any unpaid Advance Rental, but not including Rental required for the payment of dividends accruing after the date of payment of the accelerated Rental, 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 make payments to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to 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 at any trial or other proceedings relative thereto, and any such action or proceedings instituted by the Trustee shall be brought in its own name 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 7.2. Remedies. In case of the happening of any Event of Default, the Trustee shall have and may exercise all rights of a secured party in Article 9 of the Uniform Commercial Code of any applicable jurisdiction and may by its agents enter upon the railroads and premises of the Company and of any sublessee or user of the Trust Equipment and take possession of all or any part of the Trust Equipment and withdraw the same from said railroads and premises, retaining all payments which up to that time may have been made on account of Rental for the Trust Equipment and otherwise, and shall be entitled to collect, receive and retain all unpaid per diem, mileage or other charges of any kind earned by the Trust Equipment or any part thereof, and may lease the Trust Equipment or any part thereof, or with or without retaking possession thereof (but only after declaring due and payable the entire amount of Rentals payable by the Company as provided in Section 7.1 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 then outstanding Trust Certificates hereunder 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 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 or remedies in respect of the Trust Equipment hereunder, but 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 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 interests hereunder. 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 Rental and Advance Rental then or thereafter due and payable, and the Company shall be and remain liable for the same until such sums shall have been realized as, with the proceeds of the lease or sale of the Trust Equipment, shall be sufficient for the discharge and payment in full of all the items mentioned in Section 6.4 hereof (other than dividends or 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 to direct which of the proceedings above provided for or any other proceedings permitted at law or in equity shall be taken for the enforcement of the remedies contained herein.

SECTION 7.3. 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 7.1 and 7.2 hereof, all payments made by or for the Company to the Trustee hereunder after such Event of Default, and the proceeds of any judgment collected from the Company by the Trustee hereunder, and the proceeds of every sale or lease by the Trustee hereunder of any of the Trust Equipment, together with any other sums which may then be held by the Trustee under any of the provisions hereof shall be applied by the Trustee to the payment in the following order of priority: (a) to all proper charges, expenses or advances made or incurred by the Trustee in accordance with the provisions of

this Agreement, (b) to the dividends then due, with interest on overdue dividends at the Applicable Dividend Rate plus 1%, to the extent it shall be legally enforceable, and to the principal of all the outstanding Trust Certificates 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 on all Trust Certificates, applied first to dividends and interest and second to principal, (c) to all other charges, expenses, advances or sums due and owing from the Company in accordance with the provisions of this Agreement, the ETC Purchase Agreements or the guaranties endorsed on the Trust Certificates, and (d) the remainder thereof to the Company.

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 7.4. Rescission of Acceleration. If at any time after the principal of the Trust Certificates shall have been declared and become due and payable or if at any time after the entire amount of Rental and Advance Rental shall have been declared and become due and payable, all as in Section 7.1 hereof provided, but before August 1, 2006, all arrears of Rental and Advance Rental (with, to the extent that it shall be legally enforceable, interest upon any overdue Rental and Advance Rental at the Applicable Dividend Rate plus 1% on the respective portions of such Rental and Advance Rental allocable to the outstanding Trust Certificates), the expenses and reasonable compensation of the Trustee, together with all expenses of the trust occasioned by the Company's default, and all other sums which shall have become due and payable by the Company hereunder or under the ETC Purchase Agreements or in respect of the guaranties endorsed on the Trust Certificates (other than the principal of Trust Certificates and any other Rental or Advance Rental which shall not at the time have matured according to its terms) shall be paid by or for 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 and thereof 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 directed in writing by the Holders of at least 51% of the then outstanding principal amount of the Trust Certificates which shall not have matured (other than by declaration) according to their terms, shall by written notice to the Company rescind the acceleration which shall have resulted from such declaration or declarations and the consequences of such acceleration, but no such rescission shall extend to or affect any subsequent acceleration or impair any right consequent thereon.

SECTION 7.5. Obligations Not Affected by Remedies. No retaking of possession of the Trust Equipment by the Trustee, or any withdrawal, lease or sale thereof, nor any action or failure or omission to act against the Company or in respect of the Trust Equipment, on the part of the Trustee or on the part of 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 in respect of the guaranties 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 dividends on the Trust Certificates.

SECTION 7.6. Delivery of 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 of the Company 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 railroad 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 of the Company until the Trustee shall have leased, sold or otherwise disposed of the same, and for such purpose the Company agrees to furnish, or cause to be furnished, without charge for rent or storage the necessary facilities at any convenient point or points selected by the Trustee. The Company agrees to maintain and keep the Trust Equipment in good order and proper repair all as provided in Section 6.7 hereof and to maintain the insurance required by Section 6.12 hereof after possession of the Trust Agreement has been demanded by the Trustee until such Trust Equipment has been delivered to the Trustee for disposition. 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 7.7. Trustee to Give Notice of Default. The Trustee shall give to the Holders of the Trust Certificates notice of each Event of Default hereunder actually known to a responsible officer of the Corporate Trust Department of the Trustee immediately upon such officer so learning of the same.

SECTION 7.8. Control by Holders of Trust Certificates. The Holders of not less than 51% in aggregate unpaid principal amount of the then outstanding Trust Certificates, by written direction executed and delivered to the Trustee, shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee or exercising or refraining from exercising any trust or power conferred on the Trustee; provided, however, that the Trustee shall have the right to decline to follow any such direction (a) if the Trustee shall be advised by counsel that the action so directed may not lawfully be taken or (b) if the Trustee shall be advised by counsel that the action so directed may involve it in personal liability unless it shall have received a reasonably satisfactory indemnity therefor. The Trustee may take any other action deemed proper by the Trustee which is not inconsistent with any such direction given hereunder.

SECTION 7.9. Unconditional Right of Holders of Trust Certificates to Sue for Principal and Interest. Notwithstanding any other provision in this Agreement, the right (which, it is understood, shall exist) of any Holder of any Trust Certificate to receive payment of the principal of, and dividends and interest on, such Trust Certificate on or after the respective due dates expressed in such Trust Certificate, or to institute suit for the enforcement of any such payment or the guaranty thereof by the Company on or after such respective dates, shall not be impaired or affected without the consent of such Holder, except no such suit shall be instituted if and to the extent that the institution or prosecution thereof for the entry of judgment therein would, under applicable law, result in the surrender, impairment, waiver or loss of the title reserved under this Agreement upon any property subject hereto.

SECTION 7.10. Remedies to be Cumulative. The remedies in this Agreement provided in favor of the Trustee and the Holders of the Trust Certificates 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 EIGHT

ADDITIONAL COVENANTS AND AGREEMENTS BY THE COMPANY

SECTION 8.1. 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 Rental and Advance Rental and of the other amounts provided for herein.

SECTION 8.2. Guaranty to Holders of Trust Certificates. The Company absolutely and unconditionally covenants, agrees and guarantees that the Holder of each of the Trust Certificates shall receive the principal amount of such Trust Certificates thereof in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, when and as the same shall become due and payable, in accordance with the provisions thereof or of this Agreement (and, if not so paid, with interest thereon at the Applicable Dividend Rate plus 1% to the extent it shall be legally enforceable) and shall receive dividends thereon in like money at the rate specified therein from the date specified therein to the date of maturity or earlier redemption, if any, of such Trust Certificate, at the times and place and otherwise as expressed in the Trust Certificates (and, if not so paid, with interest thereon at the Applicable Dividend Rate plus 1% to the extent it shall be legally enforceable); and the Company further covenants and agrees to endorse upon each of the Trust Certificates, at or before the issuance and delivery thereof by the Trustee, its guaranty of the prompt payment of the principal thereof and of the dividends thereon, in substantially the form hereinbefore set forth. Said guaranty so endorsed shall be signed in the name and on behalf of the Company by the manual signature of one of its authorized officers. In case any officer of the Company whose signature shall appear on said guaranty shall cease to be such officer before the Trust Certificates shall have been issued and delivered by the Trustee, or shall not have been acting in such capacity on the date of the Trust Certificates, such guaranty shall nevertheless be as effective and binding upon the Company as though the person who signed said guaranty had not ceased to be, or had then been acting as, such officer.

SECTION 8.3. 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 which if unpaid might become a lien or charge upon or against any of the Trust Equipment, except upon the leasehold and residual interests of the Company therein; but this provision shall not require the payment of any such debt, tax, charge, assessment, obligation or claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings, unless such contest will in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the Holders of the Trust Certificates.

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 8.4. Payment of Expenses; Filing and Recording. The Company covenants and agrees to pay the expenses (including the reasonable attorneys' fees and expenses of Chapman and Cutler, Wilmer, Cutler & Pickering and McCarthy Tétrault, special counsel, special Interstate Commerce Commission counsel and special Canadian counsel, respectively, to the Holders of the Trust Certificates) incident to the preparation and execution of the Trust Certificates to be issued hereunder or connected with the preparation, execution, recording and filing hereof and of any instruments executed under the provisions hereof with respect to the Trust Equipment and in connection with any amendments, waivers or consents pursuant to the provisions hereof, including without limitation any amendment, waiver or consent resulting from any work-out, restructuring or similar proceeding relating to the performance by the Company of its obligations under this Agreement, the ETC Purchase Agreements or pursuant to the guaranties endorsed on the Trust Certificates. The Company with all convenient speed will cause this Agreement and all supplements hereto to be duly filed and recorded with the Interstate Commerce Commission in accordance with 49 U.S.C. 11303, or any successor provision thereto. 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 8.5. 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.

SECTION 8.6. Repurchase of Trust Certificates. Neither the Company nor any Affiliate thereof, directly or indirectly, may repurchase or make any offer to repurchase any Trust Certificates unless the offer has been made to repurchase Trust Certificates, pro rata, from all Holders of the Trust Certificates at the same time and upon the same terms. Neither the Trustee nor any Affiliate thereof, directly or indirectly, may purchase or make any offer to purchase any Trust Certificates. In case the Company or any Affiliate thereof repurchases any Trust Certificates, such Trust Certificates shall thereafter be cancelled and no Trust Certificate shall be issued in substitution therefor.

SECTION 8.7. Payment Notwithstanding Acquisition of Trust Certificates by Company. The Company covenants that it will make payment of the Rental and Advance Rental on account of the Trust Equipment as provided in this Agreement notwithstanding that any of the Trust Certificates shall have been acquired by the Company or any of its Affiliates or shall not have been presented for payment; provided that if the Company or any of its Affiliates has so acquired any of the Trust Certificates, the amount of the Rental Payments payable by the Company pursuant to Section 6.4(B)(4) shall be reduced by an amount which is the same percentage of such required Rental payments as the percentage that the principal amount of the Trust Certificates acquired by any such

person is of the aggregate principal amount of outstanding Trust Certificates immediately prior to such acquisition.

ARTICLE NINE

THE TRUSTEE

SECTION 9.1. 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.

SECTION 9.2. Duties and Responsibilities of the Trustee. In the case an Event of Default has occurred and is continuing which has not been cured or waived in writing, as herein provided, and of which the Trustee has knowledge, the Trustee shall exercise such of the rights and powers vested in it by this Agreement and use the same degree of care and skill in its exercise as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

No provision of this Agreement shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own wilful misconduct, except that

(a) prior to the occurrence of an Event of Default and after the curing of all Events of Default which have occurred, the duties and obligations of the Trustee shall be determined solely by the express provisions of this Agreement, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Trustee;

(b) the Trustee shall not be liable for any error of judgment made by it in good faith, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts or that its action or inaction was contrary to the express provision of this Agreement;

(c) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in aggregate principal amount of the then outstanding Trust Certificates relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred upon the Trustee under this Agreement; and

(d) the Trustee shall not be liable for any action taken by it in good faith in accordance with any direction or request by a Holder or Holders of the Notes with which the Trustee is required by the provisions hereof to comply.

SECTION 9.3. Application of Rentals. The Trustee covenants and agrees to apply and distribute the Rental and Advance Rentals received by it under Section 6.4 hereof (other than sums restored to Deposited Cash from Rental and Advance Rentals

pursuant to Section 6.4(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 said Section 6.4(B).

SECTION 9.4. Insuring or Taking Possession of Trust Equipment Upon Indemnification; Recording; Reliance on Documents. The Trustee shall not be required to undertake any act or duty in the way of insuring, taking care of or taking possession of the Trust Equipment or to undertake any other act or duty under this Agreement until fully indemnified by the Company or by one or more of the Holders of the Trust Certificates against all liability and expenses. The Trustee shall not be responsible for the filing or recording or refiling or re-recording of this Agreement or of any supplement hereto. 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 the Trust Equipment, the Trustee may rely upon and shall be fully protected by the certificates, bills of sale and Opinions of Counsel to be furnished to it under Section 5.3 hereof, as the case may be, and shall not be required to make any further investigation of or inquiry concerning the matters covered thereby.

SECTION 9.5. Limitations on Actions by Holders of Trust Certificates. No Holder of any Trust Certificate shall have any right to institute any suit, action or proceeding for the execution and enforcement of the trust hereby created unless, after the aforesaid request in writing by the Holders of not less than 51% (except as may be otherwise provided herein) in principal amount of the then outstanding Trust Certificates shall have been made to the Trustee, and after indemnity reasonably satisfactory to it shall have been provided, and after 10 days shall have elapsed after receipt by the Trustee of such request, it shall decline, fail or neglect to institute any proceedings pursuant thereto. Neither the provisions of this Section 9.5 nor the provisions of Section 9.6 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 9.6. Assumption of No Default; Reliance 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 a responsible officer of the Corporate Trust Department of the Trustee has actual knowledge of such default or is notified in writing of such default by any of the Holders of the then outstanding Trust Certificates or by the Company, which in the case of any such notice shall distinctly specify the event of default or Event of Default desired to be brought to the attention of the Trustee. The Trustee shall not incur any liability to anyone in relying conclusively on, and in acting upon, any notice, consent, order, certificate, warrant or other paper or instrument reasonably believed by it to be genuine or authentic and to be signed by the proper party or parties.

SECTION 9.7. Money Held by Trustee; Authorized Investments. Any money at any time paid to or held by the Trustee hereunder shall constitute trust funds for the purpose for which they were paid or are held, shall be segregated from other money of the Trustee in its individual corporate capacity, and shall be held or deposited under such conditions as may be prescribed by law for trust funds, and the Trustee will allow interest upon any such moneys held by it in trust at the rate generally prevailing among Chicago banks and trust companies or allowed by it upon deposits of a similar character.

At any time, and from time to time, if at the time there shall be no default under the terms of this Agreement, the Trustee, as requested by the Company, shall invest and reinvest Deposited Cash and Replacement Funds held by it in Investments, at such prices, including any premium and accrued interest, as requested by the Company, such Investments to be held by the Trustee in trust for the benefit of the Holders of the Trust Certificates.

The Trustee shall, as requested by the Company, or the Trustee may, in the event funds are required for payment against delivery of Equipment or in the event funds are required for any redemption or prepayment pursuant to Article 4, sell such Investments, or any portion thereof, and restore to Deposited Cash or Replacement Funds, as the case may be, the proceeds of any such sale up to the amount paid for such Investment, including accrued interest.

The Trustee shall restore to Deposited Cash or Replacement Funds, as the case may be, out of Rentals received by it for that purpose under the provisions of Section 6.4(B)(1)(b) hereof, an amount equal to any expenses incurred in connection with any purchase or sale of Investments and also an amount equal to any loss of principal incident to the sale or redemption of any Investments for a sum less than the amount paid therefor, including accrued interest. The Company, if not in default under the terms hereof, shall be entitled to receive any profit which may be realized from any sale or redemption of Investments.

SECTION 9.8. No Liability for Trust Equipment; Miscellaneous Matters. 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 the manufacturer or manufacturers 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 of its expenses and disbursements hereunder, including reasonable counsel fees, and to receive reasonable compensation for all services rendered by it in the execution of the trust hereby created, all of which shall be paid by the Company.

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 the Holders of the Trust Certificates.

The Company agrees to indemnify the Trustee for, and to hold harmless against, any loss, liability or expense incurred without negligence or bad faith on the part of the one being so indemnified, arising out of or in connection with the acceptance or

administration of the trust hereby created or the authentication and delivery of any Trust Certificates issued hereunder, as the case may be, including the costs and expenses of defending against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

SECTION 9.9. Reports. The Trustee shall, at least once in each year, render to the Company a statement of its said trust and of the accounts relating thereto, and covering such matters as the Company may reasonably require, and the Company may from time to time examine the books and accounts of the Trustee relating to the Trust Certificates, to this Agreement and to the acts of the Trustee hereunder.

SECTION 9.10. Resignation by Trustee; Removal of Trustee; Appointment of Successor Trustee. If at any time the Trustee or any successor to it in the trust hereby created shall 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 and the Holders of the Trust Certificates in writing not less than 90 days prior to the effective date of such termination and the Holders of at least a majority in principal amount of the then outstanding Trust Certificates may remove the Trustee or any successor to it in the trust hereby created by written notice delivered to the Trustee and to the Company, and in any such case, the Company shall within 10 business days thereafter designate in writing to the Trustee and the Holders of the Trust Certificates a bank, a trust company or other comparable financial institution, 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 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 Investments held by the Trustee hereunder 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, but not until, acceptance by the successor trustee of the assignment and 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 party of the first part. In the event that the Company shall fail to designate such a successor trustee by instrument in writing delivered to the retiring trustee within 10 business days from the time of receiving such notice in writing from the retiring trustee, the retiring trustee may thereupon designate such successor trustee. The foregoing provisions are, however, subject to the right of the Holders of at least 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 bank, trust company or comparable financial institution organized under, or having a branch duly qualified to conduct business as a bank, trust company or financial institution under, the laws of the United States of America or any of the states thereof and having a capital and surplus aggregating at least the equivalent of U.S. \$250,000,000, if there be such bank,

trust company or comparable financial institution willing and able to accept the trust upon reasonable and customary terms and duly qualified to act as such trustee.

SECTION 9.11. Merger, Conversion or Consolidation of Trustee. Any corporation resulting from any merger 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 business of the Trustee or any successor trustee, provided such corporation shall be a bank, trust company or other comparable financial institution organized under, or having a branch duly qualified to conduct business as a bank, trust company or financial institution under, the laws of the United States of America or any of the states thereof, and shall have a capital and surplus aggregating at least the equivalent of U.S. \$250,000,000, 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 9.12. Trustee's Liens. The Trustee covenants and agrees, for the benefit of the Company and the Holders from time to time of the Trust Certificates, to keep the Trust Equipment free and clear at all times of any Trustee's lien, claim or encumbrance.

SECTION 9.13. Trust Certificates Owned by Company or Trustee Deemed Not Outstanding. In determining whether the Holders of the requisite principal amount of the Trust Certificates have concurred in any direction, request or consent under this Agreement, Trust Certificates which are owned by the Company or by any other obligor on the Trust Certificates or by the Trustee or by any Affiliate of any of the foregoing shall be disregarded, except that for the purpose of determining whether the Trustee shall be protected in relying on any such direction, request or consent, only Trust Certificates which the Trustee knows are so owned shall be disregarded.

ARTICLE TEN

MISCELLANEOUS

SECTION 10.1. Execution of Instruments by Holders of Trust Certificates; Proof Thereof and of Holding Trust Certificates. Any request or other instrument provided by this Agreement to be signed or executed by Holders of Trust Certificates may be in any number of concurrent instruments of similar tenor, and may be executed by such Holders in person or by an agent or attorney appointed by an instrument in writing. Proof of the execution of any such request or other instrument, or 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 the following manner, viz.:

(a) The fact and date of the execution by any person of any such request or of any other instrument in writing may be proved by the affidavit of a witness to such execution, or by the certificate of any notary public or of any other officer authorized to take acknowledgments of deeds to be recorded in the state where the acknowledgment may be taken, certifying that the person signing such request or other instrument acknowledged to him the execution thereof. Where such execution is by an officer of a corporation or

association or a member of a partnership on behalf of such corporation, association or partnership, such certificate or affidavit shall also constitute sufficient proof of his authority.

(b) The ownership of Trust Certificates shall be determined by the registry books to be kept as provided in Section 3.5 hereof.

SECTION 10.2. Limitation of Rights. Nothing expressed or implied herein is intended or shall be construed to confer upon or to give to any person, firm or corporation, other than the parties hereto and the Holders 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 of the Holders of the Trust Certificates.

SECTION 10.3. 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 respective successors and assigns, including any subsequent Holders of the Trust Certificates.

SECTION 10.4. Amendments, Waiver and Termination. Any Event of Default which shall have occurred and be continuing hereunder pursuant to Section 7.1 hereof may only be waived with the written consent of at least 51% of the Holders of the then outstanding principal amount of Trust Certificates and any other provision of this Agreement or the Trust Certificates may be amended or waived as provided in a written direction of the Holders of at least 51% of the outstanding principal amount of the Trust Certificates with the consent of the Company and the Trustee; provided, however, that without the consent of each Holder of the Trust Certificates, no such amendment or waiver shall (a) change the amount of principal, change the amount or dates of payment of installments of principal, change the rate or change the time of payment of interest with respect to the Trust Certificates, or affect the time or amount of any required redemption or prepayment of principal thereof, (b) change the amount of or change the time of payment of any Rental or Advance Rental payable under this Agreement or release or provide for the release of any of the Trust Equipment or any other property or cash held by the Trustee in trust, otherwise than as expressly permitted by the present terms of this Agreement, (c) change the percentage of the aggregate unpaid principal amount of Trust Certificates then outstanding, the Holders of which are required to approve any amendment or to effect any waiver, (d) release any Trust Equipment from this Agreement which has been accepted and settled for under Article 5, otherwise than as specifically contemplated by the provisions hereof, (e) modify any of the provisions of this Section 10.4 or Section 8.2 hereof and (f) amend Sections 7.1(h) and (i) hereof. In the event the Company desires to propose an amendment or waiver which, in the reasonable judgment of the Company and the Trustee, shall not be materially adverse to any Holder of a Trust Certificate, then the Trustee may give each Holder written notice thereof, which notice shall specify in detail any such proposed amendment or waiver and state clearly that such amendment is not in the judgment of the Trustee, materially adverse to any Holder of a Trust Certificate and is proposed to become effective 45 days after the giving of such notice unless any Holder gives written notice to the Trustee of its objection to such proposed amendment or waiver within the 45-day period following such notice from the Trustee. Such amendment or waiver shall become effective only at the expiration of such 45-day period. If such proposed amendment or waiver is objected to in writing (which writing shall specify the grounds for such objection) at or prior to the end of such 45-day

period by any Holder of a Trust Certificate, it shall not become effective except upon the written direction of the Holders of at least 51% of the outstanding principal amount of the Trust Certificates as aforesaid. Except as the context otherwise requires, the term "Agreement" means this Agreement as supplemented pursuant to this Section 10.4. True and correct copies of any amendment or waiver shall be promptly delivered by the Company to all Holders of the Trust Certificates.

SECTION 10.5. Notices. All demands, notices and communications hereunder shall be in writing, telexed, telegraphed, telecopied or sent by other means of recorded electronic communication (with a copy of any such communication promptly mailed by registered or certified mail or overnight courier, prepaid) to (a) in the case of the Company, at its office in the City of Chicago, Illinois, or such other address as may hereafter be furnished to the Trustee in writing by the Company, (b) in the case of a Holder, at the address shown upon the books for the registration of the Trust Certificates maintained at the Trustee's Principal Office, and (c) in the case of the Trustee, at its office in the City of Chicago, Illinois, or 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 behalf of the Company or the Trustee as to such mailing, having the receipt of the prepaid courier attached, shall be conclusive evidence of the giving of such demand, notice or communication. A copy of any notice served or presented to the Trustee or the Company shall be sent to each of the Holders of the Trust Certificates.

SECTION 10.6. Counterparts. This Agreement has been simultaneously 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 10.7. Date of Execution. 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. This Agreement shall be effective as of the date and year first above written.

SECTION 10.8. Effect of Headings. The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 10.9. Illinois Law to Govern. The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. 11303.

SECTION 10.10. Legal Holidays. In any case where the date of any dividend payment or date of payment of any required installment of principal or date of redemption or prepayment in whole or in part of the Trust Certificates or date of payment of premium, if any, or the maturity date of any Trust Certificates or the date of any notice required by the Agreement is, at the place where payment is to be made or notice is to be given (or, in the event of wire transfers requested pursuant to Section 3.2, the place to which such wire transfers are to be made), a legal holiday or a day on which banking institutions are authorized by law to close, then payment of the dividends, principal amount or premium, if any, as the case may be, 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 dividends or interest shall accrue for the period after such nominal date.

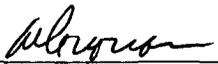
SECTION 10.11. Severability. Should any part of this Agreement for any reason be declared invalid, such decision shall not affect the validity of any remaining portion, which remaining portion shall remain in force and effect as if this Agreement had been executed with the invalid portion thereof eliminated and it is hereby declared the intention of the parties hereto that they would have executed the remaining portion of this Agreement without including therein any such part, parts or portion which may, for any reason, be hereafter declared invalid.

IN WITNESS WHEREOF, the Company and the Trustee have caused their names to be signed hereto by their respective officers thereunto duly authorized and their respective corporate seals, duly attested, to be hereunto last affixed on the third of December, 1990.

HARRIS TRUST AND SAVINGS BANK,
as Trustee

By 
Vice President

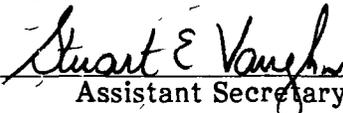
ATTEST:


Assistant Secretary

THE ATCHISON, TOPEKA AND
SANTA FE RAILWAY COMPANY

By 
Its President and Chief Operating Officer

ATTEST:


Assistant Secretary

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 3rd day of December, 1990, before me personally appeared R. G. MASON, to me personally known, who, being by me duly sworn, says that he is Vice President of Harris Trust and Savings Bank, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on the date hereof on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

_____ *J. Muzquz*

My Commission expires on July 12, 1993

[NOTARIAL SEAL]
"OFFICIAL SEAL"
T. Muzquz
Notary Public, State of Illinois
My Commission Expires 7/12/93

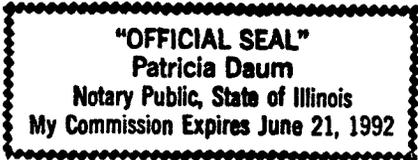
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 30th day of November, 1990, before me personally appeared M. R. Haxby, to me personally known, who, being by me duly sworn, says that he is ~~President and Chief Operating Officer~~ of The Atchison, Topeka and Santa Fe Railway Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on the date hereof on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Patricia Daum

My Commission expires on June 21, 1992

[NOTARIAL SEAL]



EQUIPMENT TRUST, SERIES V
Dated November 1, 1990

SCHEDULE A

<u>No. of Units</u>	<u>Description</u>	<u>Estimated Costs</u>	
		<u>Per Unit</u>	<u>Total</u>
13	GP60M, 3800 H.P., four axle, diesel-electric locomotives General Motors Corporation (Electro-Motive Division), builder. Nos. 147, 149-151, 153-159, 161 and 162.	\$1,396,560	\$18,155,280
47	GP60M, 3800 H.P., four axle, diesel-electric locomotives; General Motors Corporation (Electro-Motive Division), builder. Nos. 100-136, 138-146, 160.	1,393,700	65,503,900
15	Dash 8-40BW, 4000 H.P., four axle, diesel-electric locomotives General Electric Company, builder. Nos. 530, 532, 534, 536, 538, 540, 542, 544, 546, 548, 550, 552, 554, 556, 558.	1,354,942	20,324,130
15	Dash 8-40BW, 4000 H.P., four axle, diesel-electric locomotives; General Electric Company, builder. Nos. 500, 502, 504, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 528.	1,350,017	20,250,255
30	Dash 8-40BW, 4000 H.P., four axle, diesel-electric locomotives; General Electric Company, builder. Nos. 501, 503, 505, 507, 509, 511, 513, 515, 517, 519, 521, 523, 525, 527, 529, 531, 533, 535, 537, 539, 541, 543, 545, 547, 549, 551, 553, 555, 557, 559.	<u>1,343,177</u>	<u>40,295,310</u>
120	TOTAL UNITS		<u>\$164,528,875</u>